ADDENDUM TO 2020 GHEITI OIL & GAS REPORT

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ADDENDUM TO 2020 GHEITI OIL AND GAS REPORT

Introduction

This addendum report is produced as supplementary information to the 2020 Ghana Extractive Industry Transparency Initiative (EITI) report, covering the oil and gas sector. It is intended to address gaps identified by the MSG through its review of the main report and feedback from some of its key stakeholders, including the country team at the EITI International Secretariat.

The addendum provides clarity on the policy context of some of the disclosures, where such clarification is necessary to help stakeholders better appreciate the issues at stake.

Finally, the addendum documents efforts by the MSG to address specific EITI implementation challenges to improve the quality and relevance of the initiative going into the future.

Level of Fiscal Devolution (EITI)

The level of financial devolution in the Oil and Gas Sector is depicted in the table below:

Table 1: Revenue Streams, Allocation and Classification

Revenue Stream	Budget Record	Allocation	National Revenue Classification	International Classification
Royalty	Yes	Petroleum Holding Fund	Taxes on Income & Property	1415E1
Corporate Tax	Yes	Petroleum Holding Fund	Taxes on Income & Property	1112E1
Dividends[1]	Yes	Petroleum Holding Fund	Non-Tax Revenue	1412E2
Permit Fees (Including Renewals)	No	IGF (Petroleum Commission)	Non-Tax Revenue	114521E
Environmental Fees	No	IGF (Environmental Protection Agency)	Non-Tax Revenue	116E

[1] MIIF is engaging the Ministry of Finance to re-align dividends accruing to the State from the mining sector to the Fund, in line with Section 27 of Act 978, as amended.

Revenue Stream	Budget Record	Allocation	National Revenue Classification	International Classification
Property Rate	No	IGF (Local Authority)	Tax Revenue[2]	113E
Surface Rental	Yes	Petroleum Holding Fund	Non-Tax Revenue	114521E
Data License Fees	No	IGF (Petroleum Commission)	Non-Tax Revenue	114521E
Training Fees	No	IGF (Petroleum Commission)	Non-Tax Revenue	114521E
Technology Support	No	IGF (Petroleum Commission)	Non-Tax Revenue	114521E

Contract and License Allocation: Transfer of Interest

Section 2.2.1.6 of the GHEITI Oil and Gas Report (2020) provided information on the transfer of interests in the fiscal year 2020. The MSG has noted the need to include additional information as to whether the divestment followed due procedures as specified in the relevant legislations.

The MSG's checks with the relevant institutions and documentation on the transaction confirm as follows:

Table 2 :Compliance Checks for Divestments of Anadarko's Interests in Jubilee and TEN Fields

Regulatory requirement (Sections 16-18 of Act 919)	Compliance	Remarks
The contractor or licensee is required to seek written approval from the Minister responsible for Energy. Regulation 27 of L.I. 2359 provides guidance on the content of the request for approval.	Complied	14th September, 2021
The Minister may seek the advice of the Petroleum Commission	Complied	Even though the advice is optional,

[2] Property rate is classified as a tax revenue but collected by the local authority in accordance with Section 146 the Local Governance Act, 2016 (Act 936).

Regulatory requirement (Sections 16-18 of Act 919)	Compliance	Remarks
		on this occasion it was sought
GNPC expresses willingness to exercise its right of pre-emption	Complied	22nd September 2021
The Minister, the Commission and the National Oil Company (NOC) are to be notified where a contractor has entered into an agreement to dispose of all or part of the interest of that contractor under a petroleum agreement	Complied	
The NOC will notify the contractor of its decision as to whether or not to exercise its pre-emption right	Complied	

Report on direct negotiations

The main report states that five blocks in the Eastern Basin and Block GH_WB_04 in the Western Basin were awarded to China National Offshore Oil Company (CNOOC) and KOKA Energy Ghana Limited, respectively through direct negotiations in 2020. In the process leading to the award of these blocks, the MSG observed that the Ministry of Energy adhered, to a large extent, to the provisions that pertain to the award of blocks through direct negotiations in the Petroleum (Exploration and Production) Act 2016, Act 919 and the Petroleum (Exploration and Production)(General) Regulations, 2018, LI 2359.

As required by law, the Ministry published the blocks or contract areas and the reasons for engaging in direct negotiations for them in two state newspapers (the Daily Graphic and Ghanaian Times) and gazetted the same. Two publications, one for eleven Eastern Basin blocks and the other for the Western Basin block, were made on 25th August, 2020.

The decision to license Block GH_WB_04 was based on Section 10(5) of Act 919 because the block was offered for licensing through competitive tender during the 2018/2019 oil and gas licensing round but did not become the subject of a Petroleum Agreement. Section 10(5) of Act 919 stipulates that "where all or part of the area offered for tender in a public tender process has not become the subject of a petroleum agreement, but the Minister determines that it is in the public interest for that area to be subjected to a petroleum agreement, the Minister may initiate direct negotiations with a qualified body corporate for a petroleum agreement."

Given the prospectivity of the block and the potential to increase reserves and petroleum revenue for the country's economic development, the Minister found it expedient to license it through direct negotiation after no bid was received for it during the competitive tender process.

The publication on the Eastern Basin blocks indicated that the Eastern Basin has a very narrow Shelf due to the effect of the Romanche Fracture Zone putting most of the Blocks in deep and ultra-deep waters. The water depths of the blocks severely test the limits of modern technology and would require research and development to optimally develop and exploit discovered resources at such depths. For these reasons, the Ministry decided to engage in direct negotiations for the Eastern Basin blocks.

The MSG understands that only a few companies globally have the expertise to operate in such waters and complex terrains as the Eastern Basin, and these companies were the Ghana government's targets. Following the publication, CNOOC was the only company that submitted an application for five blocks and since it satisfied the requirements of the law and was confirmed to have met the technical and financial criteria, the Ministry commenced negotiations with them.

The MSG, however, noticed that the publications did not contain the names of the potential contractors as required by Regulation 19(6) of LI 2359. The Ministry's explanation for this occurrence was that this approach enabled them to identify the suitable companies for the activities envisaged in these blocks and saved time and resources that would have been expended engaging different companies to achieve the same purpose.

MSG's view of block award processes in Ghana

Globally, competitive bidding is the preferred process for awarding oil blocks because it is deemed to be more transparent and allows resource owners to get the best terms, and engage highly competent companies for the extraction of the country's hydrocarbon resources.

However, Ghana's maiden oil and gas licensing round did not yield the desired results despite the Ministry of Energy following the provisions of the law to the letter during the 2018/2019 licensing round. The prolonged period of time (over two years) spent negotiating with the successful bidders for petroleum agreements for their respective blocks marred the efforts of the Ministry and the licensing round committee. As mentioned in the main report, the covid 19 pandemic affected the negotiations. This notwithstanding, the MSG is of the view that the process could have been much shorter and would advise the government to adopt more innovative approaches to fast-track petroleum agreement negotiations while striving to achieve the best terms for the State.

Considering that the direct negotiation process is only used under exceptional circumstances, the MSG deems it appropriate. It is capable of achieving the same results as the competitive bidding process.

Table 3: Compliance Checks for Direct Negotiation

Regulatory requirement (Sections 10(6-9) of Act 919)	**Compliance**	**Remarks**
The Minister shall publish an invitation to tender or an invitation for direct negotiations in the *Gazette* and in at least two state-owned daily newspapers	Complied	25th August 2020
A body corporate who wishes to submit a bid or participate in negotiations shall submit an expression of interest to the Minister, as prescribed.	Complied	KOKA Energy and CNOOC applied for one block[3] and five blocks[4], respectively.
Where the Minister receives more than one expression of interest, a tender process in accordance with subsection (3) shall be undertaken	Not applicable	None of the blocks received more than one expression of interests
Despite subsection (3), the Minister may, in consultation with the Commission, determine that a petroleum agreement may be entered into by direct negotiations without public tender, where direct negotiations represent the most efficient manner to achieve optimal exploration, development and production of petroleum resources in a defined area		

[3] KOKA Energy - GH_WB_04

[4] CNOOC - GH_EB_03, GH_EB_04, GH_EB_05, GH_EB_13 & GH_EB_14

Table 4: Financial Relationship between the State and SOE

SOE	Key Indicators	Government Transfers to SOE?	Dividends payments to the Government	Retained Earnings	Reinvestments in subsidiaries, JVs, and Associates	Third Party Financing? – Loans and bonds held by SOEs	Loans and guarantees to Government/ Parastatal?
GNPC	Is there a Statutory basis	Yes (Section 16 of PNDCL 64)	Yes (Section 6(d) of PRMA)	Yes (Section 12 of PNDCL 64)	Yes (Section 3 of PNDCL 64)	Yes (Section 15 of PNDCL 64)	No
	Was there any Payment in Fy 2020?	Yes (GNPC AFS, 2020)	No	Yes (GNPC AFS, 2020)	No (GNPC AFS, 2020 - Notes 19-20)	Yes (GNPC AFS, 2020 - Note 30)	Yes

Explanation to Table 4.12: Unilateral Declarations for 2020 EITI Reports

The 2020 GHEITI report has no payments recorded against data licensing fees for Vitol, PetroSA and Anadarko. Follow-up checks with the Petroleum Commission have confirmed that indeed no such payments were received during the period under review. The MSG further reviewed public information of the three companies, including annual financial statements and reports, however information identified for the companies was not relevant to the period under review.

The MSG has taken note of the three companies' persistent refusal to disclose payments as part of the EITI process in Ghana and has brought this to the attention of the EITI Champion. The EITI Champion's intervention has so far been unsuccessful to get the companies to provide data. The MSG has subsequently brought this to the attention of the EITI International Secretariat seeking their intervention at the Board level to get the companies to comply with the disclosure requirements at the country level.

Explanation to Table 4.10: Surface Rental and Corporate Tax Payments in 2020

Surface rental was paid by Eni Ghana, which is the operator of the OCTP block on behalf of the partners, including Vitol. As of 2020, Vitol is not in a tax paying position as they are still recovering their tax losses.

Sale of State's Share of Production and Other Revenues Collected In-Kind(#4.2)

Under section 4.2 of the 2020 GHEITI Report, the MSG has provided information on the sale of the State's share of production in Jubilee, TEN and Sankofa fields. The MSG has noted some gaps in terms of information on Bill of Lading date, oil grade and pricing option, among others. Full details on the first trades by GNPC in 2020 has therefore been published and accessible via https://www.gheiti.gov.gh/site/index.php?option=com_phocadownload&view=category&download=439:validation-addendum-2020-gheiti-reports-2020-gnpc-first-trades-of-crude-oil&id=71:summary-data&Itemid=54

The MSG has reviewed the detailed information of the first trades in 2020, and has noted that all sales were under term contracts executed before 2020 between GNPC and the buyers - UNIPEC, Litasco and GEMCORP.

On the Litasco Sales Agreement, the MSG observed that the NOC has not published the document on its website. Representatives of the Company on the MSG have been asked to impress upon their management to publish the documents. Furthermore, the MSG has brought the issue to the attention of the Minister of State at the Ministry of Finance who also doubles as the EITI Champion to engage the management of GNPC to disclose the contract.

Transportation Revenues

In the 2020 GHEITI Oil and Gas Report, the MSG provided data on revenues related to the transportation of gas from the Gas Processing Plant (GPP) to Takoradi. The following provides additional information on the key arrangements for the transportation of gas:

- There are two main gas transportation pipelines, including from GPP to the Western Power Enclave in Aboadzi (110km) and from the GPP to the Tarkwa-Prestea Mining Enclave (75km).
- The gas pipelines are owned and operated by the Ghana National Gas Company Limited (GNGC)
- GNGC charges transmission tariffs for the use of the pipelines which stood at US$0.728 per metric tonne in 2020.
- Volumes for the transported commodities stood at 66,544,061.20 MT which translates to US$48,444,076.20
- GNGC did not receive any payment from GNPC in 2020 in respect of gas transmission.

The MSG noted that the accrued transportation revenue of US$48,444,076.20 though met the materiality threshold, however the basis for reconciliation is purely cash basis and not accrual basis. Hence the amount has been disclosed but not reconciled. Furthermore, Ghana Gas is indebted to GNPC and the two parties have agreed to settle the transportation revenues when they reconcile their indebtedness. The MSG plans to monitor developments with respect to how the transportation revenues will be settled by GNPC and will report the same in subsequent reports.

Data Timeliness

The MSG observed under Requirement 4.8 of its 2020 Oil and Gas Report that the data used for the compilation of the report falls within the permissible time lag stipulated by the EITI. The MSG, however, takes this opportunity to outline steps being undertaken to improve on the timeliness of its reporting:

- Migrating from the periodic reporting to real time disclosures through mainstreaming. To this end, a Mainstreaming Feasibility Study has been undertaken by the MSG and reporting entities with identifiable gaps are being supported to address the same.
- Meanwhile, the MSG seeks to produce multi year reports to bridge the gap between the reporting years
- Adopting flexible reporting allowed the MSG to include forward looking disclosures that covered years beyond the fiscal year under review.

Beneficial Ownership Disclosure

In the 2020 GHEITI Oil and Gas and Mining Reports respectively, the MSG provided information on the update of beneficial ownership disclosure policy in Ghana; statistics on the number of companies filed in the extractive sector and details of beneficial owners for in-scope companies. This section presents MSG's considerations and actions taken to confirm the reliability of BO information obtained from the Office of the registrar of Companies (ORC).

- GHEITI's MSG has worked collaboratively with ORC on BO implementation in Ghana since 2015, including the development of relevant legislations, BO data collection forms and more importantly data verification and reliability measures
- Based on multiple discussions under the Ghana Opening Extractive Programme (OEP) GHEITI is aware of the current level of verification measures implemented by the ORC, specifically the verification of beneficial owners' particulars with the National Identification Card's database. Whiles this represent the first step to enhance accuracy in BO data collection, the MSG understands that there are plans to improve BO data verification after companies have files details of their beneficial owners
- During the development of the 2020 Reconciliation report, GHEITI requested for BO and legal owners' information of both inscope companies and all companies in the extractive sector from ORC

- The MSG further confirmed the legal ownership information, and where available, beneficial ownership information of in-scope companies with publicly available information including companies annual financial statements and annual reports, stock exchange filings, among others.
- In addition, under the OEP, the MSG has supported multiple case studies conducted by civil society representatives and journalists on verification and use of BO data in Ghana. For instance, a case study into the BO filings of sampled mining services companies showed some conformity between BO information submitted by the same company in Ghana and that of the UK, even though there were some discrepancies in the particulars of beneficial owners between Ghana's BO register and that of the UK's Persons with Significant Control Register.
- Based on the reasons mentioned above, the MSG's view is that the data is fairly reliable