2014 GHANA EITI RECONCILIATION REPORT

SUMMARY ANALYSIS

MINING SECTOR

Introduction

The Extractive Industry Transparency Initiative (EITI) is a global benchmark for transparency and accountability in the natural resource sector. It emerged out of the World Summit on Sustainable Development in Johannesburg in 2002. Its essence is borne out in the belief that the citizenry of most natural resource-dependent countries have failed to reap the full benefits of the extractive sector because of perceived corruption and mismanagement of revenues from the sector. The EITI process therefore seeks to open up the extractive sector to public scrutiny, and to ensure that the dividends from the sector are publicly accounted for, and distributed in an equitable and just manner.

Overview of Ghana's mineral sector

Ghana has substantial mineral endowment which includes gold, manganese, bauxite, diamond, iron ore, limestone, rock aggregates and other industrial minerals.

Gold mining remains the highest contributor in the sector, with large scale gold mining accounting for over 80 percent by value of the total income from the sector. The minerals Sector accounted for over 16 percent of fiscal receipts by the Ghana Revenue Authority in 2014.

Licensing regime

The mode of awarding licences and concessions in the mining sector is still on 'first come first served' basis.

Fiscal Regime

Ghana's mining sector fiscal regime includes the payment of mineral royalties. The 1986 Minerals and Mining Act pegged royalty at a range of 3 – 12 percent but in 2006, a new Minerals and Mining code, Act 703 revised it to a range of 3 – 6 percent. This has been further revised, upon the recommendation of the Ghana EITI (GHEITI), to a fixed rate of 5% by the Minerals and Mining (Amendment Act) 2010, Act 794. Other elements of the fiscal regime are corporate income tax, also revised upwards from 25 percent to 35 percent. There is also a 10 percent carried interest in favour of the Government of Ghana, but this does not apply to the Newmont development agreement. A 20 percent straight line capital allowance is also provided.

Contribution of Mining to the Economy of Ghana

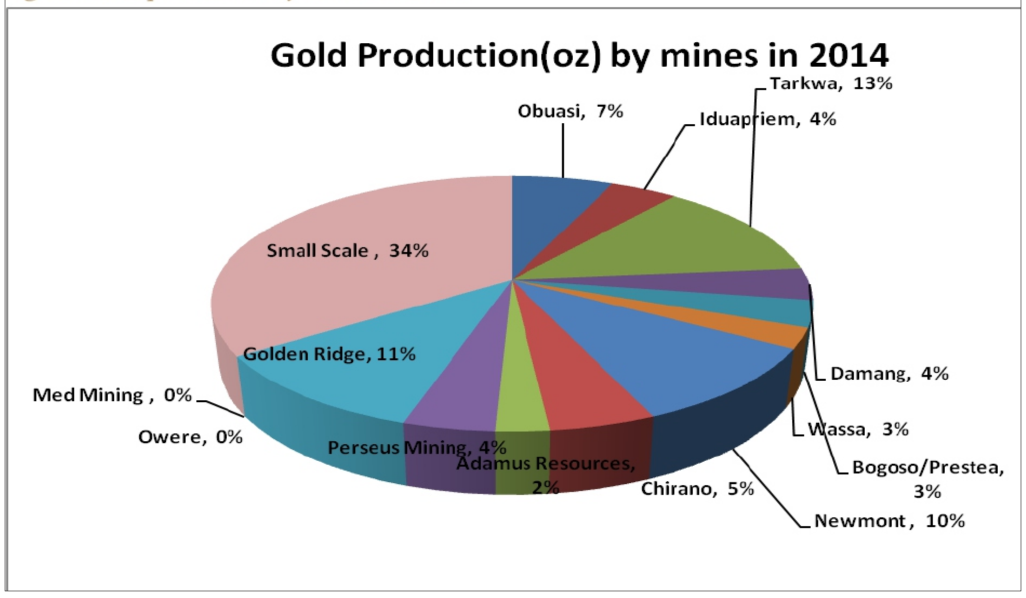
Ghana's total GDP at basic prices in 2014 was GHS 33,522 million. Out of this, mining and quarrying contributed GHS 2,834 million, constituting eight percent of GDP. Mineral export as a percentage of merchandise export was 35 percent.

Total Revenue and Grants for 2014 was GHS 24.75bn. Mining revenue which includes royalties, corporate taxes, dividends and rights fees was estimated as GHS 1.25bn representing 5.0% of the total government revenue in 2014.

Mineral Exports

Total Mineral Exports amounted to US$ 4,516 million in 2014. Total National Merchandise Exports was recorded as US$ 12,983 million. Goldfields, Tarkwa contributed about 15% and 5% of the total mineral export and National Merchandise Exports respectively. Exports from Ghana Bauxite registered 0.6% of the total mineral exports and only 0.22% of the total Merchandise Exports in the same year.

Fig 4.5: Gold production by mines in 2014



Mining's Contribution to Employment

As at 2014, there were 21,670 Ghanaians and 252 Expatriates in employment in large scale operations. The data was provided by the Chamber of Mines. The Ghana Statistical Service, on the other hand, estimates that there are 12 million people in mining-related employment in Ghana with 686,262 of them in the formal private sector of the economy. Of this 192,635 are in mining and quarrying, constituting 28% of formal private employment and 1.6% of the national employment totals.

The Artisanal and Small-scale Mining sub-sector

The ASM sub-sector is largely informal and unstructured. ASM gold and diamond exports in 2014, was about US $ 2bn, constituting 34 percent of total mineral exports and an impressive 14.7% of total Merchandise Export.

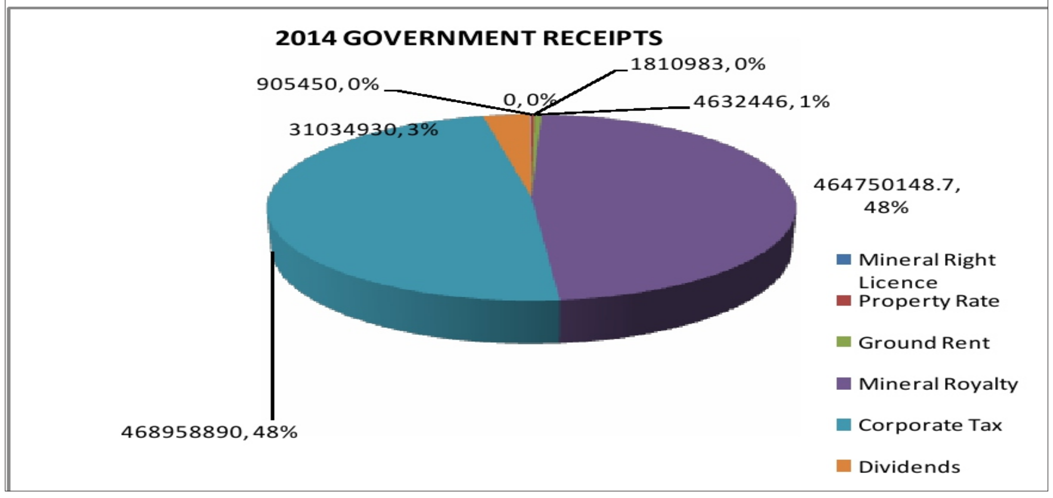
The Minerals and Mining Act,2006 (Act 703) and its accompanying regulations provide the legal basis for mining, with Sections 81 to 99 applying to small scale mining operations only. The law provides that mineral right licenses for small scale operations shall be granted to Ghanaian nationals only and shall not exceed three years but can be renewed for a period of no more than three years for two consecutive terms. Licenses issued to a cooperative shall last for a period of five years but is renewable for a period no longer than five years for two consecutive terms.

All small-scale miners are liable for payment of taxes, royalties and other local imposts levied by MMDAs and other government agencies.

Management and Spending of Mineral Revenues

There is no specific law governing how mineral revenues are managed and spent in Ghana. There are however, clear laws and regulations governing public expenditure management and reporting at the national level. At the District Assembly level, the pattern of expenditure of mineral revenue follows an administrative fiat based on article 267 (6) of the 1992 Constitution.

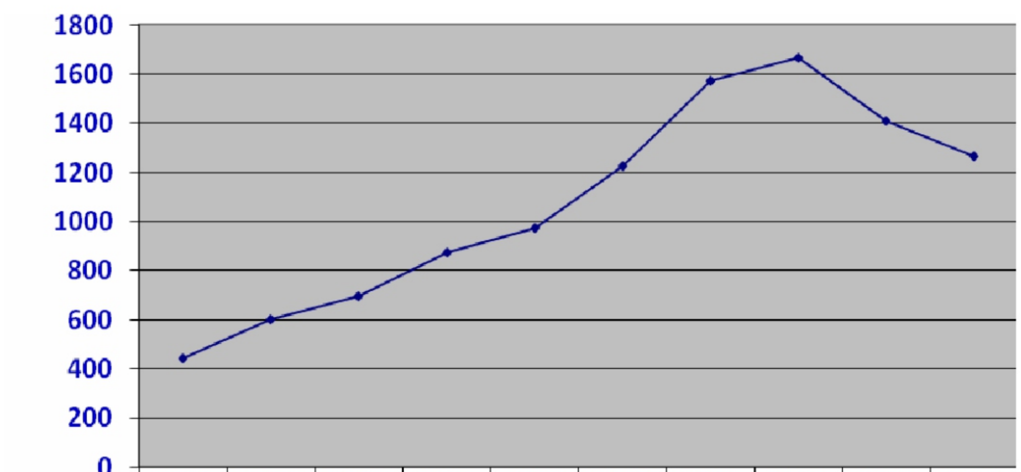
Fig 5.2: 2014 Government Receipts



The Effects of Mineral Price Changes

There has been a sustained period of price increase for gold in the period 2010-2012 when the London price increased from US$1,224 to US$1,668 and another sustained period of price fall from 2012 to 2014 from around $1,450 to less than $1,300. That notwithstanding, the growth of production was strong and so largely compensated in revenue terms for the price decline registered during the period.

Fig. 3.6 Average Gold Price (2005-2014)



	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
US$oz/ton	444.7	603.4	695.3	871.9	972.3	1224.5	1571.5	1668.9	1411.2	1266.4

Source: www.kitco.com

Beneficial Ownership Information

All the twelve (12) large scale gold mining companies participating in the reconciliation exercise are publicly listed on Stock Exchanges around the world. Ownership of such companies can therefore be ascertained. There was however a difficulty in tracing the actual beneficial owners especially for companies that are not listed and for those registered in offshore jurisdictions.

Ownership Transfers

AFRICAN QUEEN MINES LTD has entered into a conditional agreement with a Ghana-based resource company to purchase from the company 100 per cent of the shares of the capital stock of its Ghanaian operating subsidiary, AQ Ghana Gold Ltd., for cash and a net smelter royalty.

The terms and provisions of said agreement are subject to the review and approval of the Minerals Commission of Ghana, and formal approval of the Minister of Lands and Natural Resources. Akan Exploration Ltd., the company's joint venture partner, and Newmont Mining Corp., prior owner of the underlying exploration licence, will share in the proceeds of the transaction. GRA should check this transaction for the possibility of capital gains tax obligations

CSR / Social Expenditures

Some extractive companies have established foundations which assist them in the discharge of their corporate social responsibilities.

Though CSR is currently voluntary in Ghana, the Minerals Commission has developed Corporate Social Responsibility Guidelines for mining companies. Guidelines have also been developed for Community Development Agreements (CDA) and some agreements, such as the Ahafo Social Responsibility Agreement between the Ahafo Mine Local Community and Newmont Gold Ghana Ltd; and the agreement between Newmont Gold Ghana Ltd and Ahafo Mine Local Community on Local Employment are in the public domain.

Some Specific Mining Company-Community Foundations

Gold Fields Ghana Foundation

Gold Fields Ghana Ltd established Gold Fields Ghana Foundation in 2004 as a primary vehicle for socio-economic investment in host communities. Gold Field Ghana contributes US$1 out of every ounce of gold produced from Tarkwa and Damang mines to the Foundation. It also beefs up the Foundation's funds with 0.5 percent of its profit before tax income.

AngloGold Ashanti Ghana Foundation

In 2004, AngloGold Ashanti (AGA) and the Government of Ghana entered into an agreement requiring AGA to establish Community Trust Fund at its two operating sites under the 2004 Stability Agreement. AGA contributes 1 per cent of its after-tax profit to the Trust Fund. Prior to the establishment of the Trust in 2012, AGA had made contributions to community development projects of more than 1 per cent of post-tax profits.

Golden Star Development Foundation

Golden Star Resources Ltd established Golden Star Development Foundation (GSDF) in 2008. The Foundation is funded with US$1 for every ounce of gold produced plus 0.1% of pre-tax profit.

Newmont Ahafo Development Foundation

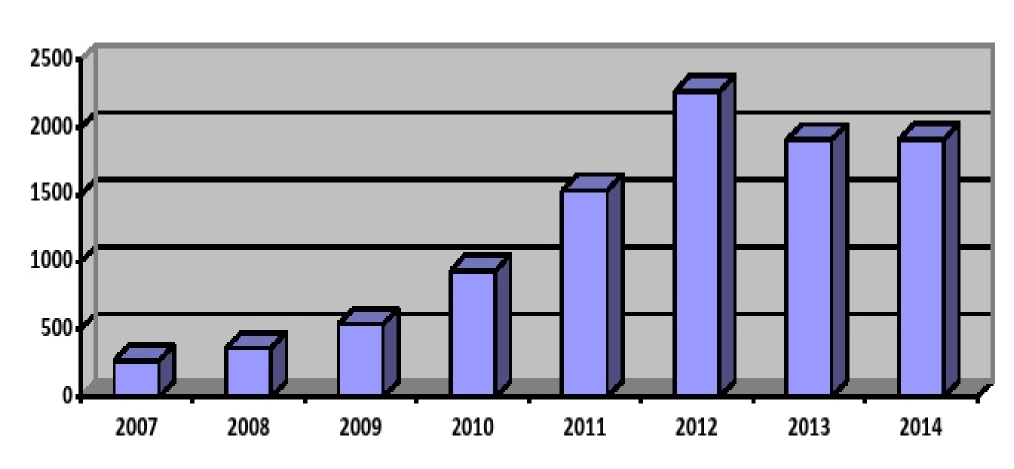
Newmont Ghana Gold Ltd (NGGL) set up Newmont Ahafo Development Foundation (NADeF) in 2008 in fulfillment of the agreement between the company and the 10 mining host communities. At the time of signing the Agreement, NGGL had accrued a total amount of US$857,000 set aside for the foundation since July 2006. NGGL contributes $1 per ounce of gold produced and 1% of net pre-tax annual profit from its operation to support the Foundation. Newmont's contribution to the Foundation as at December 2014 stood at approximately GHS41m out of which GHS23.5m has been committed to developmental and human resource development projects.

OBSERVATIONS & RECOMMENDATIONS FROM RECONCILIATIO EXERCISE

Materiality

In determining which companies to include in the reconciliation of payments / receipts, consideration was given to producing companies with large scale mining leases. This group together contributed 99% of total mineral royalties for 2014, and each had a minimum annual mineral royalty payment of GHS 1,500,000.

Fig. 4.3: Gold Revenue US$ million in (2007-13)



Discrepancy

The 2014 reconciliation had an amount of GHS 972,092,848 as government receipts and company payments of GHS 972,787,529.

Initial reconciliation yielded a net discrepancy of GHS44, 877,385. After the resolution of some discrepancies the final net discrepancy came up to GHS 694,681. This represents 0.07% of reported government receipts.

Corporate Tax

Corporate tax was the biggest revenue stream in 2014 in nominal terms. It accounted for 48% of government receipts, and was paid by six participating companies, namely Ghana Manganese Ltd.; Newmont Gold Ghana Ltd.; Chirano Mines; West Africa Quarries; Goldfields Ghana Ltd.; and Golden Star Resources, Wassa.

Dividends Declaration

Dividend payment accounted for 3% of total receipts.

It is recommended that the Non-Tax Revenue Unit (NTRU) of MoF should reconcile dividends payments during 2012-2015 as there appear to be some discrepancies.

Mineral Royalty

This was the second highest payment in nominal terms. The total amount collected was GHS456,072,133 representing 48% of government receipts.

It was observed that in October 2014 Perseus Mining Ltd set off its tax credit on VAT against the royalty liability resulting in the payment of GHS 410,000 instead of GHS GHS10,686,543.

It is recommended that the GRA takes steps to discourage the practice of off-setting tax against mineral royalty, as it has the potential of denying host mining communities the appropriate royalty disbursement. In the meantime GRA and the OASL are requested to ensure that the host District Assembly and communities receive their due royalty disbursements in respect of the due Perseus Mining royalty.

Payment of Forest royalty

Newmont Golden Ridge Ltd made two forest royalties payments of GHS 1,802,012 for September and October 2014 and GHS 1,012,094 for November 2014 operations.

The Forestry Commission is requested to follow through on payments for mining operations in the Agyenua Bepow forest reserves for the remaining months of the year 2014.

Ground Rent

These are specified amounts payable annually by holders of leasehold grants and other terminable interests in Land transactions.

The amount payable as ground rent for stool lands was revised as per the fees and charges amendment legislation LI 2191 in 2012 from GHS0.50 per square kilometre to GHS36.50, and should have been operational in 2012. However a petition from the Chamber of Mines, triggered negotiations which resulted in the ground rent payable being pegged at GHS15/acre.

During the period of ground rent re-negotiation, companies halted payments pending the outcome. Most mining companies therefore owe ground rent in respect of 2013 and 2014. Only Goldfields (Ghana) Ltd and Ghana Manganese Co. Ltd have paid in full.

The Office of the Administrator of Stool Lands is requested to follow through on the payment of outstanding balances and to retrieve over GHS 12million due in 2014 only.

Mineral Development Fund

A 20 percent share of total royalties collected is set aside, to be paid into a Minerals Development Fund. The Fund, as at 2014 was not backed by law. 10 percent is retained for the purpose of developing the sector and building the required skills and institutional capacity to manage the industry. The other 10 percent is disbursed through the Office of the Administrator of Stool Lands to mining host communities.

In 2014 transfers totaling GHS35,403,184.16 were paid into the Ministry of Lands & Natural Resources (MLNR) sub-Consolidated Fund Account at Bank of Ghana as the share of royalties meant for the Minerals Development Fund. Out of the GHS35,403,184.16, an amount of GHS15,692,470.41 was spent on construction works; GHS4,841,635 was spent on field work; GHS912,884.41 was spent on procurement and consultancy services. The amount disbursed to the OASL for onward remittance to mining host communities was GHS13,956,193.41.

The sharing formula is as follows: the OASL takes one percent to cover its administrative costs; the remaining 9 percent is treated as a whole, and 55 percent of it disbursed to the local government authority as additional funds for development programmes; 25 percent is disbursed to the Stool, and 20 percent to the Traditional Council, for the maintenance of the Stool in keeping with its status.

In 2014, only one tranche of royalty disbursement was made. This was in respect of 2012 mining operations.

The District Assemblies are expected to open dedicated accounts to receive their share of royalties but it was observed that some continue to receive mineral royalty into the main account (normally IGF Account) of the District. Where the districts have designated accounts for royalty receipts, other transactions are also carried through that same account.

It is recommended that delays and irregular disbursement of communities' share of mineral royalty are addressed, as they frustrate budget implementation and could lead to project cost over-runs.

Again, all district assemblies should be compelled to have dedicated bank accounts for mineral royalty receipts.

CONCLUSION

The 2014 GHEITI report has been produced in line with the EITI Standard adopted in 2013, which requires the provision of contextual information to help situate the mining sector within the broader context of national development. The Standard also expands the frontiers of extractive industry transparency to cover contracts, fiscal and budgetary issues. GHEITI is taking urgent steps to implement the recommendations of the report.

This summary version of the report is produced by GHEITI, with technical support from GIZ
The full report is available on www.gheiti.gov.gh

GHEITI GHANA EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE

german cooperation
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