Extractive Industries Transparency Initiative Ghana

MINUTES OF TECHNICAL WORKSHOP ON THE FINDINGS AND RECOMMENDATIONS IN THE 2021/ 2022 MINING, OIL & GAS SECTOR REPORTS

Start Time: 09.00 am **Closing Time: 03.00 pm** **Date: 5th October, 2024**

In Attendance:

MSG

SRN	NAME	INSTITUTION
1	Steve Manteaw	Publish What You Pay
2	Benjamin Aryee	Ministry of Lands and Natural Resources
3	Callistus Nero	Ministry of Energy
4	Linda Tamakloe	Ghana National Petroleum Corporation
5	Zuleika Mate	ENI
6	David Kofi Owusu	Petroleum Commission
7	Adam Muhazu	Minerals Income Investment Fund
7	Gabriel Gaanu	Ghana Revenue Authority
8	Clarence Bosompim Coleman	Office of the Administrator of Stool Lands
9	Muhazu Adams	MIIF
10	Ernest Asiedu Odei	Precious Minerals Marketing Company
11	Allan Lassey	Tullow Oil
12	Francis Samanhyia	ENI
13	Kwabena Mensah(PhD)	GIADEC
14	Baffour Asare	Ghana National Petroleum Corporation
	Christopher Nyarko	Ghana Chamber of Mines
	Lawrene Boahene	Ghana Revenue Authority

OTHER MEMBERS

S/N	NAME	INSTITUTION
1	Mohammed Abubakar	Precious Minerals Marketing Company
2	Francis Arthur	Ghana National Petroleum Corporation
3	Sam Kofi Agbetsiefi	Environmental Protection Agency
4	Sebastin Tiah	Natural Resource Governance Institute
5	Isaac Ansah	Ghana National Petroleum Corporation
6	Derek Akohene	Precious Minerals Marketing Company
7	Ernest Asiedu Odei	Precious Minerals Marketing Company
8	Carl -Davis Apadse	Ghana National Gas Limited Company
9	Stephen Collins Hespelt	CEDA
10	Davis Sefa Adjei	NRGI

Secretariat

SRN	NAME	INSTITUTION
1	Adwoa Fraikue	Ministry of Finance
2	Victoria Benson	Ministry of Finance
3	Joycelyn Smith	Ministry of Finance
4	Theresa Naa Adjeley	Ministry of Finance
5	Gordon Mante	Ministry of Finance
	Andy Haizel	Ministry of Finance
6	Sarfoah Dorothy Korang	Ministry of Finance

1	***Welcome and Opening of the Meeting*** Dr. Steve Manteaw, Co-Chair of GHEITI, opened the meeting by emphasizing the importance of avoiding the production of the GHEITI report becoming a mere ritual. He expressed the concern that GHEITI reports should not simply be filed away without implementation. Dr. Manteaw pointed out that efforts had been made to

	ensure that the findings and recommendations from these reports informed meaningful reforms. He highlighted that in 2016, Ghana received an award for utilizing the EITI framework to initiate significant policy reforms in the extractive sector. This recognition underscored Ghana's commitment to deliberately ensuring that recommendations from GHEITI reports were acted upon effectively, ultimately benefiting the extractive sector. Dr. Manteaw noted that the meeting would focus on discussing the recommendations, addressing pertinent issues, and gathering feedback from the relevant institutions in order to ensure that these recommendations were not only acknowledged but also implemented in a constructive manner.
Purpose:	The objective of the meeting was to discuss the findings and recommendations from the 2021/2022 GHEITI Reports, with a focus on ensuring that these recommendations are effectively acted upon. The meeting aimed to facilitate a constructive dialogue among relevant institutions to address the identified issues, gather feedback, and ultimately promote meaningful reforms in the governance of Ghana's natural resource sector. Additionally, the meeting reviewed progress made on the findings and recommendations from the 2020 GHEITI Reports. This included evaluating the implementation status of those recommendations, identifying any challenges faced, and highlighting any successes achieved. The objective was to ensure that lessons learnt from the 2020 reports continue to inform and improve governance within Ghana's extractive sector.

Action Item 1	**FINDINGS AND RECOMMENDATIONS OF THE 2020 GHEITI MINING REPORT**
Issues raised and Decisions taken:	**1. Issue:** **Discrepancies in royalty disbursement from the Minerals Income Investment Fund (MIIF) to the Mineral Development Fund (MDF).** a) MIIF indicated that, as far back as 2013, they had to make 20% disbursement to the MDF, whiles the remaining funds is transferred from the MDF to other parties. But the MIIF Act stipulates that, they should transfer the minerals royalties directly to the MDF. MIIF indicated that it takes advice from MoF before disbursement to MDF. b) Co-chair responded that any liability accrued by the Ministry of Finance in the transfer of these royalties automatically becomes a liability to MIIF. **Key Actions:** i. GHEITI to draft a letter to the Ministry of Finance detailing the outstanding amount owed.

ii. The Ministry of Finance and the Ministry of Lands and Natural Resources to collaborate on the transfer modalities for mineral royalties to the Office of the Administrator of Stool Lands (OASL).
iii. GHEITI to issue a follow-up letter addressed to the Minister of Finance to confirm and communicate this decision.
iv. Alternatively, a representative from civil society organizations (CSOs) can collaborate with mining communities to consider legal action to recover the owed amount.

2. **Issue:**
Ghana's Withholding Tax levels, compared to Togo's, led to gold smuggling and compliance issues.

a) In 2016, Ghana attempted to implement Section 85(2) of the Income Tax Act, which led to increased smuggling and a subsequent decline in compliance. It is essential for Ghana to align its tax levels with those of Togo to address this issue effectively. The costs associated with transporting goods through illegal routes to Togo are substantial.
To combat smuggling, it is crucial for authorities to enhance enforcement measures and collaborate with the immigration authority. Currently, the law mandates that all gold must be exported through Kotoka International Airport; however, a significant volume of gold is reportedly crossing Ghana's borders illegally.

Key Actions:
i. GHEITI to ensure the development of assayer facilities in Burkina Faso, Togo, and Côte d'Ivoire to facilitate proper gold assessment.
ii. GHEITI to outline a structured follow-up process regarding the establishment of assayer facilities, detailing responsibilities and timelines.
iii. GHEITI to assess and document lessons learnt from past consequences of smuggling and regulatory challenges to inform future strategies.
iv. GHEITI to determine and communicate the next steps needed for the implementation of assayer facilities and enhanced monitoring at major exit points.
v. GHEITI to provide recommendations that complement the initiatives of the Precious Minerals Marketing Company (PMMC) to address the issue of gold smuggling.

3. **Issue:**
Ensuring the MCAS records all mineral licenses beyond gold.

a) Earlier this year, the Minerals Commission extended an invitation to GHEITI to discuss the Mineral Cadastre Administration System (MCAS). The objective of this meeting was to identify any additional information that should be incorporated into the MCAS to enhance its functionality and effectiveness.

b) The recommendations made during this meeting aim to ensure that MCAS not only serves as a comprehensive resource for managing mineral licenses but also reflects accurate and up-to-date information regarding all licenses granted, including those beyond gold. Ensuring that the system is fully equipped to handle these elements is crucial for promoting transparency and efficiency within the mining sector.

Key Actions:

i. GHEITI to follow up on the upgrades to the MCAS to ensure that license transfers and terminations are accurately recorded.
ii. GHEITI to draft and send a formal letter to the Commission detailing the next steps regarding the upgrades and functionalities of the MCAS.
iii. The Commission to ensure that all licenses granted beyond those related to gold should be incorporated into the MCAS to maintain comprehensive records.

4. **Issue:**
ASM data inadequately captured, affecting royalty revenue accuracy.

a) The GHEITI reports must encompass data on all royalty revenues, not just those associated with gold. Currently, specific information regarding Artisanal and Small-scale Mining (ASM) is not being effectively captured.
b) While the Taxpayer Center at the Ghana Revenue Authority (GRA) is responsible for collecting data on ASM activities, the absence of a dedicated team focusing on this area presents significant challenges in acquiring comprehensive information. Addressing this shortfall is essential for enhancing the accuracy and depth of the reporting.

Key Actions:

i. GRA should have a dedicated mining desk which has adequate data on mining.
ii. Strengthen cooperation with the Taxpayer Center at the Ghana Revenue Authority to streamline data collection processes for ASM revenues.

5. **Issue:**

Earmarked Capping and Realignment Funds Weightings assigned, impacting MDF allocations were missing in Governments budget statements.

a) The Earmarked Capping and Realignment Funds Act may make Section 3(a) of the MDF Act 912 impractical, potentially reducing the Fund's impact on mining communities. The Act requires the Budget Statement to include weightings assigned by the Minister for finance, but these weightings were missing in the 2018 and 2019 budget statements, especially during shortfalls in MDF allocations in 2017.

Key Actions:

i. GHEITI to follow up from Mr. Prosper, Ministry of Finance on the Capping of the Earmarked and re-alignment funds.
ii. GHEITI to include the Capping of the Earmarked and re-alignment funds in the next GHEITI report.

6. **Issue:**

Variation of Royalty rates for mining companies

Key Actions:

i. GHEITI to put comments of discussions into a document that can be presented to policy makers to be included in the end of year retreat.
ii. Establish a legal framework that enshrines the bases for negotiating royalty rates, ensuring consistency and fairness.

7. **Issue:**

Royalty Payment

Key Actions:

i. GHEITI to seek legal opinions to compare L.I. 1349 and L.I. 2173 to understand their passages, implications for the payment of mineral royalties.
ii. Mr. Ben Aryee to engage the Minister of Lands and Natural Resources (MLNR) regarding the outstanding issue of monthly royalty payments, as stipulated by EITI recommendations, despite the law indicating quarterly payments.
iii. The GHEITI Multi-Stakeholder Group (MSG) should prioritize engagement with the tax policy unit of the Ministry of Finance on the new Harmonized Bill for the extractive sector as part of the 2025 activities.
iv. A joint effort is needed by MLNR and the Ministry of Finance (MoF) to amend Legislative Instrument (L.I.) 1349, which currently mandates quarterly royalty payments.
v. Recognize that the primary legislation for the petroleum sector must be established before developing a framework for managing petroleum revenue, with ongoing revisions being led by the MLNR.
vi. All relevant issues concerning royalty payments and legacy recommendations should be compiled into an issue paper to be presented to the next Minister for discussion and action.
vii. Assess and document the potential practical challenges the Ghana Revenue Authority (GRA) may face if a harmonized royalty rate is implemented.

	8. Issue: **Discrepancies in Mineral Revenue Reporting:** **Key actions:** i. OASL to officially write to GHEITI on the next steps it has taken to ensure that all receipts are accurately attributed to the correct fiscal years. **9. Issue:** **Value of Gold Export** **Key actions:** i. GHEITI to include data on co-inhabitant minerals in the next GHEITI report. ii. GHEITI to include a concise summary highlighting the key aspects of refinery agreements relevant to revenue collection. iii. GHEITI to provide a breakdown of different revenue streams (e.g., royalties, taxes, fees) to illustrate the sources of revenue.
Action Item 2	**FINDINGS AND RECOMMENDATIONS OF THE 2020 GHEITI OIL & GAS REPORT**
Issues raised and Decision taken:	**1. Quasi Fiscal Expenditures** **Key actions:** • GHEITI to engage GNPC on potentially new QFEs. • All disclosures must be captured under the quasi-fiscal expenditures in the EITI report. • There should be a proper documentation of the amount paid by MoF. **2. Submission of data.** It is recommended that the introductory section of the GHEITI report includes a statement regarding companies that failed to submit data for the report. The language should acknowledge that the refusal to provide information may suggest a potential lack of transparency. Furthermore, it is advised that these companies be publicly named during the report launch to emphasize accountability and encourage future compliance. **3. Surface rental payments** GRA has exchange of information desk where interactions with companies who have defaulted in paying surface rental are being made. Madam Laurene from GRA to provide data on efforts GRA has made to get amount due so far to GHEITI **4. Capping of the Earmarked and re-alignment funds**

	Key actions: • GHEITI to develop a table on the statutory reports on capping of the re-alignment and earmarked funds. • GHEITI to write to Ministry of Finance on the capping of this fund. **5. Evaluation of GNPC's Performance** **Key actions:** • GHEITI to do a brief on the reasons why GNPC is not where it ought to be. • It is recommended that a comprehensive evaluation of the block sizes and the quality of data available be conducted to ensure that accurate and positive signals are sent to potential investors. This assessment should prioritize identifying areas for improvement and include actionable recommendations to enhance the overall attractiveness of investment opportunities in the sector.
Action Item 3	**FINDINGS AND RECOMMENDATIONS FROM THE GHEITI 2021-2022 REPORTS**
Issues raised and Decision taken:	**1. Update on MIIF's Criteria for Partner and Project Selection** MIIF is to share their established criteria for selecting partners and projects in which they invest with GHEITI for publication on their website. Some criteria have already been made available on MIIF's website. MIIF has finalised its ESG policy to ensure responsible sourcing and has also introduced traceability measures. **Key actions:** • GHEITI to include a link to these criteria in the next GHEITI report. • MIIF should collaborate with PMMC on traceability to effectively allocate revenue benefits accruing to specific areas. **2. Royalties Payments** **Key actions:** • GHEITI to make recommendations and deliberate on the Representation of government interest. • GHEITI should write to Minister of Finance to comply with the MIIF law on the royalty payment. • GHEITI to liaise with MIIF with the disclosure of payments of royalties to the Ministry of Lands and Natural resources. • Royalties of Bauxite should be used to support GIADEC activities. • The Ministry of Lands and Natural Resources should work with its Minister to streamline its own laws on mining of lithium. • MIIF should do a write up on the mislodgements of royalty payments. **3. GNGLC Gas Aggregatorship** **Key actions:** • GHEITI to include in its 2025 activities the recommendation that the Cabinet's decision to appoint GNGC as the new gas aggregator cannot

	be fully implemented.
Next Steps:	1. Discuss Follow-Up Actions: Convene a meeting to review GHEITI's recommendations and identify necessary follow-up actions. 2. Establish Timelines: Set clear timelines for the implementation of the agreed-upon recommendations. 3. Agree on Recommendations: Determine which recommendations will be prioritized and included in the upcoming issue paper. 4. Incorporate GNGC: Ensure that Ghana National Gas Limited Company is included as the gas aggregator in next year's issue paper. 5. Prepare for Handover: Organize documentation of the recommendations not acted upon to ensure they are passed on to the next political party for deliberation.
Closing	In concluding the meeting, Dr. Steve Manteaw emphasised the importance of accountability and the need for action regarding GHEITI's recommendations. He highlighted that prioritising these recommendations is crucial for meaningful progress. Dr. Manteaw noted that any recommendations that remain unaddressed would be forwarded to the next political party for further deliberation, which underscores the necessity for proactive engagement from all stakeholders involved. He also expressed gratitude to all participants for their valuable contributions and insights during the meeting. Dr. Manteaw acknowledged the collective commitment to advancing their shared goals and emphasised the importance of collaboration in driving future efforts. The closing statements reinforced the need for continued cooperation and enthusiasm as the group moves forward with their initiatives.