

Reviewing half a decade of EITI implementation in Ghana's mining sector: achievements, challenges and what can be learned from it

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1. Introduction

There are several reasons why Ghana constitutes an important case to be considered in any account of the Extractive Industry Transparency Initiative (EITI) and mining. For one, Ghana was one of the first countries to adopt the voluntary initiative in 2003 and, in fact, constitutes the first candidate country to deal with the mining sector only. Second, Ghana extended its EITI reporting requirements to the sub-national level at an early stage and thus offers important insights in terms of good practices of extending EITI to sub-national revenue flows. Against this background, this paper analyses the achievements and challenges of EITI implementation in Ghana. As of 2008, our findings are twofold: on the one hand, substantial achievements have been made in increasing transparency of the country's mineral revenue flows and most EITI criteria have been fulfilled. On the other hand, however, there remain important challenges that need to be addressed. The most important of these are the improvement of the sub-national implementation of the scheme, the timely publication of EITI audit reports – a central feature of any well-functioning EITI process – and the extension of the initiative's scope to the Minerals Development Fund (MDF), which is currently not being covered by EITI in Ghana.

This paper is based on interviews with government, industry and civil society representatives, whose support in writing this paper has been immense.¹

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2. Background

Ghana has always been well-known for its mineral abundance, with the first discovery of gold dating back more than five centuries. Today, the extractive sector continues to play an important role for the growth and development of the country, with mining accounting for about 35 percent of total foreign exchange earnings and 5.5 percent of Ghana's GDP. Government revenue from the mining sector accounts for about 2.5 percent of GDP. Gold remains the most important mineral and the country's largest export earner after cocoa and timber. Other natural resources include manganese, diamond and bauxite.

Since the 1980s, the Ghanaian government has progressively privatized the mining industry and now plays a mainly regulatory role. The Minerals and Mining Act of 2006 increased fiscal incentives for foreign investments and has kept the minimum royalty rate at three percent. At present, the industry is dominated by thirteen large-scale mining companies from South Africa, Australia, Canada and the United States, with the largest of them being the gold producers Gold Fields, Newmont, AngloGold Ashanti and Golden Star Resources.² In addition, over three hundred small-scale mining companies operate in the country.

In Ghana, efforts to increase transparency in the revenue flows of the country's extractive sector did not commence with the government's commitment to participate in EITI. Prior to 2003, members of the Chamber of Mines voluntarily disclosed information about their royalty, tax and ground rent payments to the Chamber, which then published the information in national and local newspapers; similarly, information on payments was also reported to the Minerals Commission. This information, however, referred only to the payments made by companies and did not include the

² While private companies operate in the gold, bauxite and manganese sector, the diamond industry is dominated by a state-owned enterprise.

independent audit or reconciliation of payments undertaken under current EITI practices. Hence, while transparency in the extractive sector in Ghana has not started from scratch with EITI, the initiative has led to a much higher degree of transparency in mineral revenue flows than previous efforts.

3. Reviewing EITI Implementation in Ghana: Achievements and Challenges

Ghana announced its intention to adopt the Extractive Industry Transparency Initiative (EITI) in 2003 and thus constitutes an early participant from whom extensive lessons can be drawn. While significant improvements have been made in increasing the transparency of the country's mining revenue flows through participation in the program, the initiative's implementation also leaves room for improvements and points to several important challenges that need to be addressed.

Ghana's 2003 commitment to participate in the Extractive Industry Transparency Initiative was spearheaded by the Ministers of Finance and Mines. Under their auspices, two central bodies were created to promote the implementation of the scheme, with the first being the National Steering Committee (NSC), the governing board of EITI in Ghana. Chaired by the Ministry of Finance, the NSC reflects the multi-stakeholder character of the initiative by bringing together various government, industry and civil society representatives.³ The second body is the GHEITI Secretariat, which holds responsibility for implementing, monitoring and evaluating the national program and, as such, enforces the decisions made by the NSC. While the Secretariat was first set up within the Ministry of Mines, it was later relocated to the Ministry of Finance to ensure

³ As of 2008, government agencies represented in the NSC include the Ministry of Finance and Economic Planning, the Ministry of Mines, Forestry and Lands, the Minerals Commission, the Internal Revenue Service (IRS) and the Office of the Administrator of Stool Lands (OASL). The industry is represented by the Chamber of Mines, while ISODEC (an umbrella organization for about twenty regional CSOs) acts on behalf of civil society.

better and faster availability of funding. This relocation facilitated the day-to-day operation of the secretariat, but has subsequently also led to concerns from civil society and other domestic stakeholders who demand more autonomy and criticize the secretariat's embeddedness within the Ministry, as EITI issues may not be completely insulated from government politics. After the formal EITI structure was set up, an independent aggregator was chosen to conduct the audit and disclosure of revenues and payments, to check the adherence to international accounting standards and to formulate recommendations to improve the EITI process.

Today, nearly half a decade after the government announced its commitment to EITI, Ghana's achievements in implementing the scheme have been substantial. In addition to increasing the transparency of mining revenue flows, the initiative has managed to bring together major stakeholders and has raised the country's credibility in furthering its good governance agenda. In regard to EITI guidelines, the implementation process in Ghana has also been well-established and has made considerable progress towards fulfilling the six EITI criteria. Since 2003, three audit reports have been published, which have created a much higher degree of transparency in the revenue flows of the country's extractive sector. As postulated by the EITI criteria, the reports provide an independent and credible audit of the following transfers: (i) payments made by companies, (ii) revenues received by the government, and (iii) disbursements made by the government to local communities affected by mining activities.⁴ Like Nigeria, Ghana has also chosen to disaggregate the published payments by company and revenue type.

Second, as demanded by the initiative's criteria, the reports also include the reconciliation of these transfers and indicate possible discrepancies. Here, the results are as follows: while the reports find that in general payments and revenues have been well accounted for, they also indicate deviations in payments and receipts of corporate

⁴The first audit report was published in 2007 and covers January to June 2004, with July to December 2004 being covered by a second report published later in the same year. By April 2008, the third audit report was released analyzing data for January to December 2005.

taxes, dividends and ground rents in 2004 and 2005. Moreover, the reports find several shortcomings in the disbursements of mining benefits to local communities (a point that will be elaborated later). In addition to distributing the audit reports at workshops and other events, an EITI website has also been launched in 2007 to make the audit reports, the workplan and related documents available to the general public.⁵

Third, the EITI process in Ghana also fulfills the requirements of active civil society involvement and complete industry participation – both of which constitute clear strengths of the implementation strategy developed by the NSC.⁶

Despite these achievements, however, the implementation of EITI in Ghana also leaves room for improvements and points to three major challenges that need to be addressed. The first of these challenges is to ensure that the initiative's implementation is moved forward in a quick and timely manner. In the past, this has not always been the case. While the government decided to join EITI as early as 2003, it was not until 2006 that the independent aggregator was chosen, and not until 2007 that the first audit report was actually published by the aggregator. More importantly, this delay, which is often attributed to inadequate funding, has contributed to the three year time lag that continues to exist in documenting mining revenue flows (e.g. the 2008 audit report covers data for 2005). Arguably, this lag reduces the ability of parliament and civil society stakeholders to enhance government accountability and improve development outcomes from benefits paid by the extractive industry and hence needs to be urgently addressed.

The second challenge of EITI in Ghana is its application to the sub-national level, which has been voluntarily adopted by the government. Recently, much of the public debate over mining has focused on the industry's impact on local communities. To compensate

⁵ www.geiti.gov.gh

⁶ Companies participating in the audits for the years 2004 and 2005 provided 99 percent of all mining revenues to the government of Ghana – a contribution that we believe fulfils the criteria of complete industry participation.

districts for the impacts of the more negative aspects of mining activity Ghanaian law stipulates that nine percent of mining royalties are to be allocated to the communities from which the minerals are extracted.⁷ The disbursement procedure consists of two stages. In the first stage, the Internal Revenue Service (IRS) transfers the appropriate share of revenues to the Head Office of the Administrator of Stool Lands (OASL), which then forwards the funds to its regional offices. In the second stage, the regional OASL offices distribute the money to the actual beneficiaries in the mining communities – that is, district assemblies, traditional authorities and stools. To extend EITI reporting requirements to the sub-national level and to improve the transparency of disbursement flows, specific reporting templates were designed for the district assemblies.⁸ These, apart from capturing all receipts, also record the utilization of funds on the local level. In practice, however, extending EITI to both stages of the disbursement process is hampered by several obstacles. Firstly, the audit report for the year 2004 indicates that there existed shortages in the payments made from the IRS to the Head Office of OASL. Although these shortages were not significant compared to the overall amount, they imply that mining communities were being deprived of development funds by the government. Moreover, the reports show that some of the disbursements were significantly delayed or split into two transfers.

More importantly, however, there seem to be particular problems in increasing transparency in the second stage of the disbursement process - that is, the payments going from the regional OASL offices to district assemblies, stools and traditional authorities. For one, not all of the local beneficiaries are captured by the EITI reporting process. The reporting templates, which capture the receipt and utilization of

⁷ In Ghana, mineral royalties are distributed as follows: 80 percent go to the Consolidated Fund (the term to describe the general state account), 10 percent are dedicated to the Minerals Development Fund, which shall assist the development of the mining sector in the Ghana, one percent goes to the Administrator of Stool Lands for administrative purposes and the remaining nine percent of royalties are allocated to the local districts that provide the minerals.

⁸ The practice of extending EITI to the sub-national level reflects the Ghanaian understanding that local districts act as independent 'agents of development' whose revenue receipt and utilization should be transparent.

disbursements, are only completed by district assemblies and not by the stools or traditional authorities, which receive 45 percent of the revenues earmarked for local communities. Hence, the audit reports can only refer to transfers that go to district assemblies and do not contain any information on how much the other stakeholders receive at what point in time.

Secondly, while transparency in disbursement flows is limited to the payments made to district assemblies, only a few assemblies are in fact captured by the audit reports, with many left out. The most recent audit report for the year 2005, for instance, only lists disbursements made to two district assemblies, while at the same time there existed eight major mining sites in the country.⁹ According to the independent aggregator, the underlying reason for this limited scope is that most district assemblies do not possess bank accounts or budgets and hence do not have the necessary information to fill out the reporting templates. Clearly, this significantly limits the scope of EITI in Ghana and should be addressed so that all district assemblies can be covered by the audit reports. In addition, where bank accounts and budgets existed, the reconciliation of disbursements was rather difficult, as the regional OASL offices did not provide accurate information on the sources of the revenues nor the formulae with which the disbursed amounts were calculated.

These shortcomings of the sub-national implementation suggest that more needs to be done to improve EITI in Ghana. Payments going to stools and traditional authorities should be captured by the audit reports and all recipient district assemblies should be covered to provide full transparency of the revenue flows to local communities.

A third challenge of EITI in Ghana is to extend the scope of the initiative to the Minerals Development Fund (MDF) to which 10 percent of all mineral royalties are allocated. While the purpose of the MDF is to assist the development of the Ghanaian mining sector, neither are the revenues that flow into it currently being covered by EITI nor is the

⁹ The two districts covered by the report are Obuasi Municipal Assembly and the Wassa West District Assembly.

use of funds. Given the large share of royalties that go into the Fund, this weakness should be urgently addressed to increase the overall transparency of mining revenue flows in Ghana.¹⁰

4. The future of EITI in Ghana

¹⁰ A more general question – although not directly related to the mandate of EITI – is what broader effect EITI has for improving good governance and accountability in the country. That is, how does improved transparency affect the utilization of revenues? In Ghana, the implementation of EITI draws a mixed picture. On the one hand, civil society is actively involved in reporting on EITI issues, which has significantly increased accountability. On the other hand, however, legislators – who could use the released data for influencing revenue spending and pressure for improved government accountability – are not involved much in the EITI process. While most MPs lack basic information on the country's participation in the initiative, the legislature is also not represented in the National Steering Committee (NSC) that governs the initiative's implementation.

There are a number of future challenges that constitute important opportunities for improving and reinvigorating EITI in Ghana. The previous chapter has already identified three major challenges which relate to the current state of the scheme: First, ensuring the quick and timely implementation of the initiative, with specific emphasis on addressing the three-year time lag that continues to exist in documenting revenue flows; second, improving the sub-national implementation of EITI; and third, to extend EITI to the royalties flowing into the Minerals Development Fund (MDF).

In addition to these three, another big challenge will be to incorporate the oil and gas industry into the EITI scheme as there have been recent discoveries of significant amounts of offshore oil and gas. This necessitates the extension of EITI reporting coverage and stakeholder representation. Here, a fundamental decision needs to be made and institutional arrangements need to be prepared. Interviewees suggested that a good start could be to invite the two main International Oil Companies (IOCs) in Ghana, Tullow Oil and Kosmos Energy, to sit on the NSC, and to possibly extend this membership to the Ghana National Petroleum Corporation (GNPC). If more oil companies come to Ghana and are willing to join GHEITI, it may also become necessary to establish an industry association or chamber which can represent all oil companies accordingly.

Similarly, the 2008 decision to extend the scope of EITI to the forestry sector has yet to be implemented, which again requires a discussion on the scope of reporting and representation of stakeholders in the NSC. It should be noted, that this extension of EITI will pose formidable challenges for the capacity of existing EITI structures as it entails the inclusion of numerous smaller companies that operate in the forestry sector.

In addition to these major challenges, domestic stakeholders have also cited the need to improve communication (especially within the NSC) and to further implement the recommendations made by the independent aggregator. Lastly, there have also been voices demanding a more formal discussion on whether or not Ghana should follow Nigeria's path of providing a legal backing to EITI.

5. Lessons Learned

Since Ghana first joined the EITI it has been cited as a good performer in implementing the scheme. Not only was Ghana the first candidate country to deal with mining only, it also extended EITI reporting requirements to the sub-national level at an early stage in the process. The extensive experience with EITI in Ghana provides a number of lessons for other countries yet to sign on to the EITI scheme.

The first of these lessons is that the sub-national implementation of EITI should be dealt with early on in the process. Despite the current problems with improving the transparency of revenue flows to local communities, Ghana has planned and communicated the sub-national implementation right from the beginning which proved to be a great advantage. Once the formal EITI structure was set up, four types of reporting templates were designed, with one aimed specifically at capturing revenue flows at the district level. Part of the weakness of the current sub-national implementation seems to be that the reporting templates are only considered by district assemblies and not by the stools and traditional authorities, who also receive significant amounts of disbursements from the government.

The second lesson to be drawn is that the EITI process should be moved forward in a quick and timely manner. In Ghana, progress has been slow, particularly in the early years of EITI implementation. While the government decided to join EITI in 2003, the first audit report was not published until 2007 and the aggregator not chosen before 2006. This initial delay has not only slowed down the overall implementation process but has also contributed to a three-year time lag in documenting revenue flows, which clearly limits the initiative's potential for increased accountability.

Third, as stakeholder engagement is a key indicator for ensuring the successful implementation of EITI, another lesson is to make sure stakeholders are committed to the initiative. In Ghana, government commitment was reflected in both public statements

as well as in the use of country resources to fund the implementation of EITI. In addition to the government, commitment has also been strong from civil society and the extractive sector. Civil society has been raising public awareness and driving the discussion through its voice, knowledge and capacity. CSO representatives must make sure to be a legitimate voice by reaching out to a broader set of CSOs and seek their opinions. Represented by the Chamber of Mines, the major mining companies in Ghana have also been supportive from the very beginning. Generally, in order to ensure commitment much attention should be paid to effective communication within the NSC, so that the different expectations and working mentalities of civil society, government and industry are taken into account.

Last, but not least, an important lesson is that the EITI process should remain manageable, both in terms of decision-making and implementing capacities. The EITI experience in Ghana has demonstrated that the focus should not be on building extensive governance structures but on finding the simplest way to move the initiative's implementation forward in a quick and timely manner. Hence, while discussing the size of the steering committee may be useful to ensure the proper operation of the body, it should not be granted too much attention in light of the numerous challenges that constitute important opportunities to further improve EITI in Ghana.

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