

DRAFT
REPORT ON GHANA EXTRACTIVE
INDUSTRIES TRANSPARENCY
INITIATIVE (GHEITI) TECHNICAL
ROUND TABLE WORKSHOP

HELD AT

GREENLAND HOTEL, SWEDRU

7TH – 9TH SEPTEMBER, 2011

1.0 INTRODUCTION

The GHEITI Secretariat of the Ministry of Finance and Economic Planning organized a one day technical roundtable workshop to discuss and validate the 2009 EITI Audit reports by Boas and Associates. The workshop was attended by members of the National Steering Committee, Representatives of the District Assemblies where mining activities take place, representatives from some mining companies, Office of the Administrator of Stool Lands (OASL), Non-Tax Revenue Unit of the Ministry of Finance and Economic Planning and the Ghana Revenue Authority (GRA). (*Full attendance list is attached as appendix 1*) The workshop was chaired by Mr. Roger Angsomwine of the Office of the Vice President and a member of the GHEITI Steering Committee.

1.1 Objectives of Workshop

The aim of the workshop was to validate the 2009 EITI Audit reports as well as discuss the findings and recommendations contained in the reports. It was also to afford the relevant institutions the opportunity to respond to the issues highlighted in the reports.

1.2 Remarks by Chief Director of Ministry of Finance

Mr. Enoch H. Cobinnah, Chief Director of MoFEP and Chair of GHEITI National Steering Committee gave a brief remark in which he welcomed all members to the technical round table workshop to validate the draft 2009 EITI Audit reports.

He mentioned that the mining sector in Ghana is very complex with very provocative issues; however he appreciates the platform GHEITI creates to discuss all the sensitive issues confronting the sector.

He added that personally, he was disappointed with the sector's contribution to the economy as a whole and more importantly to communities in which they operate. For this and many other challenges confronting the sector, it is important that stakeholders discuss the issues dispassionately.

Touching on the role of Civil Society Organizations, he commended them for participating in the process not only as watch-dogs but also as partners for development. He was particularly pleased at the significance contributions made during the development and passage of the Petroleum Revenue Management Act (PRMA).

He concluded by stating that the achievements of compliance status for GHEITI should motivate stakeholders to ensure that impressive performance of GHEITI in mining is replicated in the oil and gas sector as well. He also thanked all participants for their time and wished them a fruitful workshop.

2.0 PRESENTATIONS

Three presentations were made. Full texts of presentations are attached as appendices 2-4 as follows respectively;

- a. Principles and Criteria of EITI by Mr. Amponsah Tawiah - Minerals Commission.
- b. The Ghana EITI Experience so far by Dr. Steve Manteaw - PWYP/ISODEC-Ghana.
- c. Highlights of 2009 EITI Audited reports by Mr. Boa Amponsem (Aggregator) - Boas and Associates.

3.0 DISCUSSIONS, QUESTIONS AND COMMENTS

3.1 QUESTIONS AND ANSWERS

(i) Question: Given the environmental impact of mining, has any research on cost benefit analysis been done to establish the environmental impact assessment in the mining communities?

Answer: Mr. Amponsah Tawiah answered that environmental cost benefit analysis is an issue that has to be looked at. He admitted that extraction of mineral resources has some negative impact on the environment hence the need for a comprehensive cost benefit analysis. He added that the Minerals Commission would take steps to engage the services of a consulting firm to undertake these services.

He, however, explained such a study is worth considering and suggested that a study to assess the environmental impact of mining could perhaps be tackled under the Natural Resources and Environmental Governance (NREG) programme since the activity is beyond the scope of EITI.

(ii) Question: Has the EITI taken care of galamsey operations because it affects company operations, dividend and royalty payments to government?

Answer: EITI deals with payments and receipts of mining sector benefits to government. However, small scale miners do not fall within the revenue streams captured under the EITI reporting templates. Galamsey operations in Ghana are illegal and EITI does not deal with illegal groups.

(iii) Question: How do the Ghana EITI Secretariat and the EITI Multi-Stakeholder Group (MSG) make all the information about the GHEITI activities accessible to the Ghanaian public?

Answer: The GHEITI Secretariat has a well developed communication strategy to guide us in communicating information on our activities to the public. We do this through the following:

- (a) Organize a lot of sensitization workshops and community fora (in local dialect) in the mining communities;
- (b) Publish and distribute a lot of EITI reports, Quarterly Newsletters and flyers on EITI issues to the District Assemblies, communities;
- (c) Organize sensitization workshops for CSOs and the media (both the electronic and print media) to be able to understand and articulate EITI issues; and
- (d) Organize a programme to officially launch GHEITI Audit Findings by the Aggregator where all key stakeholders including the development partners and media are invited to participate.

(iv) Question: Does government or companies have any reservation about full disclosure of mining contracts signed?

Answer: It was explained that neither government nor companies have any problem with contract disclosures. However, the copies of the contracts are normally sent to Parliament which is a representation of the people for ratification. According to some of the participants, making the documents available to members of the Select Committees may constitute public disclosure.

(v) Question: What is the status of the guidelines being developed for the District Assemblies on the utilization of mineral royalties since the issue of discretionary use of the funds by Assemblies is still recurring in the reports?

Answer: It was explained that the draft guidelines has been developed and it was being discussed by the various stakeholders for their inputs before it would be finalized. Therefore, the guidelines would soon be operational and all Assemblies would be expected to spend the share of their mineral royalties in accordance with the guidelines. The EITI Coordinator further informed members that some of the recommendations in the previous reports have been implemented and the implementations of others are still ongoing.

3.2 COMMENTS

(i) Expand the scope of Ghana EITI: There is the need to expand the scope of Ghana EITI to encompass all other issues affecting us as a people because according to the participants the EITI under current arrangement is just an initiative.

The Chief Director of Ministry of Finance also alluded to the fact that the current scope of the EITI is limited and suggested the need to constitute a working group to bring a proposal on the way forward for the consideration and adoption by the MSG.

Contributing to the discussion, the GHEITI Coordinator, Mr. Franklin Ashiadey explained that though he shared some of the sentiments expressed by the participants, there is the need for members to be reminded that the EITI is an international initiative governed by global standard and has its own rules, values, principles and criteria across all EITI implementing countries. He added that a small group made up of CSOs, government and companies would be constituted to look at the Chief Director's suggestion.

(ii) Increase government equity stake in the mining/oil companies: It was suggested that, the 10% government free carried interest should be increased.

To this end, it was proposed that the MSG through the MoFEP, MLNR and the MoEn should put up a joint Cabinet Memorandum for Cabinet and the Economic Management Team (EMT) to consider a decision regarding the need to increase government's stake in the companies.

(iii) Speed up the passage of the Mineral Development Fund (MDF) Bill: Participants expressed concern about the delay in the finalization and passage of the MDF bill which according to them primarily accounted for why the amount paid into the MDF account is far less than the 10% of the total collections as indicated in the report. It was, however, explained that the process to finalize the Bill is ongoing and soon be submitted to Cabinet for approval.

(iv) Encourage the use of the information technology (IT) solution in EITI reporting: The participants indicated the need to encourage the Assemblies, companies and government agencies to capture and report on their data using IT solution. However, it was agreed that for now institutions should use both manual reporting system and IT-based solution. A complete shift to the application of the IT solution should be a gradual process because most of the agencies are not used to the new system even though they have been given some training.

In view of the above, it was suggested that all the parties should show more commitment towards the use of the new system and that more resources should be provided to the GHEITI Secretariat to help train the relevant institutions more.

(v) Mode of Corporate tax payment: Some companies carry losses for the next five years. This is one of the factors that contribute to the non payment of corporate tax. There is the need to maximise revenue and therefore issues about corporate tax should be properly addressed.

4.0 CONCLUSION

In conclusion, the Coordinator, Mr. Franklin Ashiadey thanked all the participants for their fruitful discussions. He informed the participants that the GHEITI Secretariat

will develop an action plan to carry out the various recommendations. He added that some of the comments and suggestions will be put together in a report. The work shop ended at 4:30pm.

APPENDIX: 1 LIST OF PARTICIPANTS

1. Franklin Ashiadey - Ministry of Finance
2. Duodu Acheampong - Jomoro District Assembly
3. Roger Angsomwine - Office of the Vice President
4. Kwasi Twum Addo - Ministry of Energy
5. Steve Manteaw (Dr.) - Publish What You Pay/ISODEC
6. Asafo Aidoo Kojo - Boas and Associates
7. Allan Lassey - GIZ
8. B. C. D. Ocansey - Ghana Revenue Authority
9. M. Bash Abdul Razak - Ministry of Finance
10. Gad Akwensivie (Dr.) - Office of Administrative Stool Lands
11. Sulemanu Koney - Ghana Chamber of Mines
12. Chris Afedo - Ghana Revenue Authority
13. Kojo Asafo Aidoo - Boas and Associates
14. Victoria Benson - Ministry of Finance
15. Frank Turkson - Ghana Chamber of Mines
16. Doreen Asare - Ministry of Finance
17. Hannah Owusu Koranteng - WACAM
18. Kweku Boa Amponsem - Boas and Associates
19. J. B. Okai - Ministry of Energy
20. Amponsah Tawiah - Minerals commission
21. Philomena Johnson - National Catholic Secretariat
22. Seidu Adams - Ministry of Finance
23. J. W. Koomson - Ministry of Finance
24. Ebenezer Arthur - Stool Lands, Sunyani
25. Geoffrey Osafo Osei - Stool Lands, Kumasi
26. Ruth M. Paintsil - Stool Lands, Cape Coast
27. Patrick Amoah - OASL, Sekondi
28. Edmund T. Tagoe - OASL, Sekondi

29. Eugene Koranteng - OASL, Kumasi
30. Simon Peter Commeh - OASL, Headquarters
31. Raymond Ganyo - OASL, Koforidua
32. Gladys Klutse - OASL, Koforidua
33. Peter Enesah - OASL, Cape Coast
34. Kwabena Agyei - OASL, Sunyani
35. Alex Henaku Owosu - OASL, Cape Coast
36. Eric Yeboah - DA, Kumasi
37. Frank Sarpong - MoFEP
38. Stephen Acheampong - Minerals Commission, Accra
39. Moses Montty - Ghana Chamber of Mines, Accra
40. E. S Awuku - OASL, Eastern Region
41. Kwame Osei - MOFAMC, Kumasi
42. Joseph Ababio - Asutifi District Assembly
43. James Amoah - Prestea Huni Valley District Assembly
44. Victoria Affum - Bekwai Municipal
45. Joseph B. Tetteh - Amase West District Assembly
46. Effa Frempa - Adansi North
47. Joe Nsiah - Ghana Bauxite Company Ltd
48. David Tama Dadzie - Abosso Goldfields Ltd
49. Kennedy Obiri-Yeboah - Noble Gold Bibiani Ltd
50. Kingsley Siaw - Goldfields Ghana Ltd

Appendix: 2 Principles and Criteria of EITI by Mr. Amponsah Tawiah - Minerals Commission

In a presentation made by Mr. Amponsah Tawiah on the principles and criteria of EITI, he stated among other things that the EITI seeks to ensure that;

- i. Prudent use of natural resource wealth is an important engine for economic growth and contributes to sustainable development and poverty reduction, but if not managed properly, can create negative economic and social impacts;
- ii. Management of natural resource wealth for the benefit of a country's citizens is of the sovereign governments, to be exercised in the interests of their national development; and
- iii. Public understanding of government revenues and expenditure could help public debate and inform choice of appropriate and realistic options for sustainable development among others.

According to the presentation, EITI is a process and not an event and has a minimum global standard that allows for Local peculiarities and National focus. Ghana has made a lot of progress because of the collective resolve of government, industry, civil society and development partners, to ensure that the initiative is implemented successfully. He concluded by mentioning that transparency must translate into improved livelihoods for the poor communities where these resources are extracted. More resources from the extractive industry must translate to more schools, more infrastructure, improved health care, more employment, less conflict and less poverty.

Appendix: 3 The Ghana EITI Experience so far by Dr. Steve Manteaw-PWYP/ISODEC-Ghana

2.2 The Experience of Ghana EITI so far and the Role of CSOs in GHEITI Implementation: Dr. Steve Manteaw noted in his presentation that from the onset, Civil Society engagement was marginal as ISODEC was the only organization represented on the National Steering Committee. He added that after the formation of the National Steering Committee, a Terms of Reference (ToR) on the mandate of the Committee was spelt out and adopted. A work programme was thereafter

prepared and implemented which included template development and adoption. A massive sensitization was undertaken to get inputs from stakeholders for the finalization of the templates which was originally designed for the oil sector.

An aggregator was appointed after a tendering process. The Aggregator produced the 2004 to 2008 reports. Now the 2009 reports have been produced.

Initially, the GHEITI was not guided by any communication strategy but now it has a very effective communication document which will guide us in the dissemination of these reports. The essence of EITI is not just churning out reports but securing critical stakeholder engagements around the reports to chart a course for addressing adverse findings in them. The approach has been to hold a meeting such as the Swedru workshop, and give the relevant sector MDAs, the companies and any one cited in the report to respond to the findings.

Through the GHEITI process, stakeholder dialogue has been enhanced. It has also helped in adopting a consensus-building approach to extractive sector policy initiatives, institutional weaknesses highlighted, revision of the royalty rate, guidelines for use of mineral royalties at the district level.

Furthermore, it has provided a great deal of lessons for the emerging oil and gas sector. Several of the provisions in the Petroleum Regulatory Bill (PRM) and the E&P bills are informed by the experiences of GHEITI and other lessons drawn from the mining sector.

The EITI therefore remains an incomplete balance sheet, but presents opportunities for addressing some revenue management and utilization concerns. However, legislation will sustain commitment and ensure that GHEITI is not abandoned midstream. He recommended an enactment of a legislation to back the GHEITI process.

Appendix: 4 Highlights of 2009 EITI Audited reports by Mr. Boa Amponsem (Aggregator) - Boas and Associates

(a) Objectives of the Aggregated Reports

In a presentation by the Aggregator, Mr. Kweku Boa Amponsem, he highlighted the objectives of the aggregated/reconciled reports as to;

- Collect, analyze and aggregate payments made by mining companies to Government of Ghana;
- Reconcile mining companies' submissions of mining benefits payments to those received by Government; and
- Utilize lessons learnt from the Reconciliation/Aggregation to enhance transparency in payments, receipts, disbursements (including Mineral Development Fund) and utilization of these benefits.
- Ascertain correctness of disbursements to the District Assemblies and MDF.
- Check the utilization of the funds to the District Assemblies and MDF.

The mining benefits that were considered in the reports are Mineral right licences (reconnaissance, prospecting and mining lease), Ground rent, Property rates, Mineral royalties, Corporate taxes, Dividends

The time period is between January and December 2009 and the reports are aggregated on cash basis. Ten (10) selected mining companies were in active production of minerals in the year 2009 and together contributed up to 99% of the mineral royalties paid in the year.

(b) Methodology

The approach used was administration of questionnaires accompanied by one-on-one discussions, collection of data relating to the payments and receipts of mining benefits from mining companies and Government Agencies', analysis of the correctness of payments, aggregation and reconciliation and examining disbursements and utilization of mining benefits.

(c) Significant Findings and Recommendations

(i) Mineral Royalty Disbursements

Government retains Eighty per cent (80%) and of the remaining Twenty per cent (20%) is paid to the OASL and the MDF in the following proportions as follows.

10% is paid to OASL for disbursement to the District Assembly, the traditional Council and the stool, after administrative expenses have been taken care of. 10% is paid to the MDF for research and special projects.

(ii) Utilization

Obuasi and Tarkwa Municipal Assemblies had budgets for utilizing mineral royalty receipts. These Assemblies had dedicated Bank Accounts for royalty receipts.

(iii) Corporate tax

Goldfields Ghana Ltd which had paid corporate tax for over a period of five years did not pay any corporate tax in 2009 due to capital allowance resulting from the acquisition of fixed assets.

Corporate tax receipt may be difficult to be budgeted for, as it is heavily impacted upon by the acquisition of fixed assets by companies.

It was recommended that there should be information on the development plans of extractive companies in order for government to effectively plan on its revenues. In order to ensure regular receipts of corporate tax, the capital allowance regime should be amended to remove the 80% first year allowance. Using a capital allowance regime which allows writing the cost over say five (5) years would be more appropriate.

(iv) Omission in Disbursements

The disbursement relating to the period January –February 2009 was made in July 2009. Subsequently the release of November 2009 was in relation to the period May to July 2009. The disbursement for the period March to April 2009 was omitted.

Judging from the fact that the major mining companies made royalty payments in April 2009, the District Assemblies were denied substantial funds on timely basis.

It was recommended that the OASL and the District Assemblies should monitor and scrutinize disbursements and indicate as quickly as possible any lapses therein. In particular they should keep records on the periods that disbursements relate to.

(v) Discordance between Head Office and Regional OASL releases

Some regional OASL offices did not release funds to District Assemblies in tandem with releases from the Head Office. For example the Tarkwa Nsuaem District Assembly received payments on four occasions.

It was recommended that the Regional OASL offices should be encouraged to pay promptly all amounts due to District Assemblies.

(vi) Mineral Development Fund

Actual lodgments of GH 2,690,520.19, made into the MDF account in 2009 was far lower than 10% of relevant collections amounting to GHS70,150,668 by the IRS.

There were indications that payments from the account were specifically tailored to lodgments. Therefore lodgments made found their way out for specific payouts.

It was recommended that in the interim, an oversight agency should be appointed to run the Fund prior to the appointment of a substantive Fund Manager. Also, there is still the need for reconciliation of inflows and outflows especially with regards to the 10% mineral royalty payment ceded to the Fund account.

(vii) Challenges

Some challenges encountered included the following:

- High staff turnover in some companies/agencies meant new contact persons had to be established.

- There were undue delays in the submission of data by some companies, whilst others initially refused to endorse the reporting templates.
- Some organizations applied accruals instead of actuals in the completion of templates.
- Reporting Currency: Some companies report in dollars though Reporting currency is Ghana cedi.