REPORT ON THE LAUNCH OF THE 2012/13 GHANA EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (GHEITI) REPORTS FOR MINING, OIL AND GAS SECTORS

Mensvic Hotel, Accra

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1.0 EXECUTIVE SUMMARY

The National Steering Committee of the Ghana Extractive Industries Transparency Initiative in collaboration with the Ministry of Finance on February 10th, 2015, launched the 2012/13 EITI audit reports on mining, oil and gas.

The 2012/13 EITI report was guided by the dictates of the new EITI reporting Standards which requires implementing countries to report not only on the aggregation and reconciliation made by extractive companies to government and government's receipts from extractive companies but also to disclose information about how licenses are awarded; to disclose the government's policy on disclosure of contracts that govern mineral extraction including relevant legal provisions actual disclosure practices and any reforms that are planned or underway; to disclose the state's participation in the industry and to disclose the beneficial ownership structure of extractive companies operating in the country.

Among the significant findings from the mining sector report were: artisanal and small-scale mining accounted for 34% of gold production in 2012/13; there was no mineral royalty disbursement to District Assemblies in 2013; the Minerals Commission lacked an online cadastral system; for 2012/13 Prestea Sankofa Ltd made no royalty payments; and the tax authorities GRA to investigate the merger of Adamus Resources Ltd and Endeavour Mining for a possible capital gains tax liability.

On the oil and gas sector, the lack of an online repository for the sector; the lack of benchmark returns on the Petroleum Funds; the open door licenses regime and the lack of public access to contracts; allocations from Annual Budget Funding Amount (ABFA) on capacity building is broad and status of progress on projects funded from the ABFA are not published; the use of different methodology for the computation of revenue streams by GNPC and GRA were among the observations made in the 2012/13 report on the sector.

The ceremony consisted of introductory statements from the Hon. Ministers of Finance, Lands and Natural Resources, Petroleum, and the Chairman of the Steering Committee of GHIETI. This was followed by presentations on findings of the report from the consultant Messrs Boas and Associates and analysis of the 2012/13 report by the Natural Resource Governance Institute on how EITI reports helps to address stakeholder questions across the extractive value chain.

2.0 PARTICIPATION

Participants included representatives of the National Steering Committee from Ministry of Petroleum, Ministry of Lands and Natural Resources, Minerals Commission, Petroleum Commission, GNPC, Oil & Gas Exploration and Production Forum, Chamber of Mines, Civil Society Organizations, the Media and other stakeholders in the Mining Oil and Gas industry and the Ministry of Finance as the Coordinating Ministry.

3.0 OPENING STATEMENTS

Mr. Franklin Ashiadey, the Coordinator for the Ghana EITI read a speech on behalf of the Chief Director who doubles as the Chair of the Steering Committee of GHEITI. In his address, he welcomed participants and emphasized the difference in the 2012/13 EITI reports from the previous ones, since they were produced under the revised EITI standard adopted in Sydney Australia in May, 2013. He also noted that the new reporting requirements of the EITI encourages more reliable and more usable information, as well as better linkages to wider country reforms. The revised EITI standard also included transparency of government spending and budgets in general. Mr. Ashiadey reiterated that, as the EITI reports are the cornerstone of the EITI implementation, the expectation is for it to be produced accurately, comprehensively and more importantly to be accessible by the public. He finally concluded by naming some direct and indirect contributions of the EITI in good governance in the country. First, he emphasized that the EITI is establishing an emerging standard for reporting of natural resource revenues by both companies and government and also providing a model of multi stakeholder dialogue on critical issues of policy.

The second speech was delivered on behalf of the Hon. Minister of Finance (MoF) by the chairman for the Ghana EITI, Major MS Tara (Rtd), Chief Director for the MoF. In his keynote address he emphasized that, over the past decades, contribution of the mining sector to government revenues and to the economy at large has been increasing steadily. However, the sector's contribution to Ghana's total tax revenues declined from 27 per cent in 2012 to 19 per cent in 2013 and to 11 per cent in 2014. This decline was as a result of the fall in the international price of gold. Total mineral royalties receipts from the mining sector in 2014, amounted to GH¢470,356,948 and total corporate tax from mining in 2014 was GH¢441,235,058. The Foreign Direct Investments into the minerals and mining sector from 1983 to 2013 amounted to US$13.7 billion with total gold production at all- time high of 4.3 million ozs.

Again, the total volume of crude oil produced from the Jubilee field in 2014 was 37,201,691 barrels which represents a 42.6 per cent over 2011 production levels with an average daily production of 101,922 barrels. In terms of revenue contribution, the sector has contributed approximately US$978.87 million. The increasing decline in the prices of crude oil as from June 2014 has had a negative impact on the revenue generation from the export of crude oil.

It was re-emphasized in the address that government would not only ensure that the allocation of revenues best promote sustainable development but would also ensure that extractive resources are prudently managed and utilized for the benefit of the people, especially those immediately and negatively impacted by the activities of the extractive sector activities.

Transfer pricing in the extractive sector, which is sophisticated and complex in nature, is one major challenge the revenue institutions must overcome because of its negative effect on revenue collections. This has a potential of eroding the tax base since most of the extractive companies operate internationally and extend their dealings with affiliated companies. This complicates the task of tax administration and creates a challenge that requires specific skills. Although the tax law has legal provisions to address the issue, these provisions are insufficient.

In his conclusion, he declared the 2012 and 2013 Ghana EITI reports duly launched and announced that the EITI reports have become public documents now and that everybody should educate him or herself on the contents.

3.0 REMARKS

Honorable Ministers from the various extractive industries took turns at the podium to give their remarks on the newly launched Ghana EITI 2012 and 2013 reports.

The Honorable Minister of Lands and Natural Resources in a speech read on his behalf took the first stand stating that his ministry subscribes to the EITI's aim of improving transparency and accountability in the management of revenues from natural resources, as a tool to facilitate the management of revenues to promote sustainable socio-economic development. In recent times, the statistics show that while employing some 32,000 people in the large scale mining sub-sector and over 1,000,000 in small scale mining, the sector has contributed an average of 40 per cent of government revenue collected by the Ghana Revenue Authority and about 17.5 per cent of Ghana's total corporate tax earnings. In 2014, export revenues from the mineral sector, which was a major contributor to Ghana's foreign exchange earnings, amounted to over US$5 billion, it stated.

The statement by the Honorable Minister for Petroleum, Hon. Emmanuel Armah – Kofi Buah (MP) expressed the keen interest of the Ministry in the GHEITI's activities with the purpose of ensuring transparency and accountability in the exploitation, production and utilization of petroleum resources.

4.0 PRESENTATIONS

4.1 2012/2013 GHEITI Reconciliation Report- Oil/Gas Sector

4.1.1 Objectives of EITI

- Improve Development Outcomes from payments made to Governments by the Extractive Industries.
- Reduce Potential for Corruption and large scale Embezzlement of these payments.
- Stimulating debates on the uses of these benefits.

4.1.2 Scope of Work

Revenue streams considered under the report include:

- Royalty,
- Surface Rental,
- Profit (Corporate) tax,
- Initial (Carried) Interest,
- Additional Participating Interest.

These revenue streams are those received by the government of Ghana, and in accordance with Act 815 paid into the petroleum holding.

Basis for selected companies:

- Companies that were in active production of oil in 2012/2013 and their joint venture partners.ie. Jubilee Field Partners and the Saltpond Offshore Producing Company.

Accounting basis:

- Cash Basis

4.1.3 Observations: Lack of an On-Line Repository Petroleum Sector

The petroleum Commission does not have an online repository, where information for the Petroleum Sector such as ownership of blocks, coordinates or allocation as well as annual payments made by upstream petroleum companies are found.

4.1.4 Recommendation

The Petroleum Commission is advised to establish as quickly as possible an online repository where the information on upstream Petroleum block are found. Such information will enhance transparency and improve the efficiency of the operations of the Commission.

- Licensing Regime and the Publication of Contracts

The ministry of energy and petroleum awards oil blocks/licenses using the open door negotiated process. This is not an open process and may lead to awarding oil blocks to inefficient operators; details of these negotiations are not made available to the public.

It was recommended that, to ensure transparency and efficient management of the petroleum resources, the Ministry of Energy ad Petroleum should introduce Licensing rounds including bidding and also make available on its website details of contracts with its operators.

- Crude Oil Production and Lifting- Under Lifts/ (Over Lifts)

In 2012, 79,686 barrels of oil lifting exceeded production and in 2013, 460,702 barrels exceeded production.

The PRMA does not address reporting on production spill-over or stocks but focus on reporting inflows or outflows related to funds. It was therefore recommended that Sections 15 and 48 should be reviewed to include stocks to ensure government report on revenue oil and non-revenue oil.

- GNPC Expenditure

The amount of unspent cash by GNPC from its allocation is quite large at $141.7 million as at the end of 2013. This consists of unspent cash from the allocation in 2013. GNPC attributed this to procurement delays. This is also the result of decreasing amounts of equity funding payments.

It was therefore recommended that GNPC publishes its investment plan to inform the public of its financing requirement.

- ABFA Expenditure

Allocation of ABFA for capacity building is very broad and the breakdown of this expenditure has not been provided. Moreover, the stages of completion of various public projects funded with ABFA are not published to track the progress of on-going work and their potential development impacts.

It was recommended that the government must report on the detailed expenditure from ABFA and the status of the project compilation.

- Performance of the Ghana Petroleum Funds

It was recommended that, to effectively monitor the performance of the Ghana Petroleum Funds, it is necessary to adhere to the provisions of section 30(1) C, by developing an investment guide.

In the conclusion, it was stated that it was important for the Petroleum Commission to establish an on line repository for the sector to enhance transparency and improve the efficiency of the operations of the sector.

4.2 2012/2013 GHEITI Reconciliation Report- Mining Sector

The 2012/2013 GHEITI Reconciliation Report-Mining Sector was delivered by Mr. K. Asafo Aidoo on the Mining industry. The following were stated in the presentation;

4.2.1 Mining Benefits

1. Mineral right licenses
2. Ground rents
3. Property rates
4. Mineral royalties
5. Corporate taxes
6. Dividends.

4.2.2 Reconciliation- Highlights

- Total collection in 2012 exceeded that of 2013.
- Corporate tax receipts exceeded royalty in both 2012 and 2013.
- Small scale and artisanal mining accounted for 34% of total gold exports in 2012 and 2013.

4.2.3 Challenges in Implementation

1. The high turnover of staff within the Mining companies and District Assemblies also posed a lot challenges. Staff members with understanding of the process left the job of their companies in the middle of the process. Mining Companies are advised to widen out EITI process to more staff members and also encourage more staff members to attend EITI workshop.
2. The SAP IT solution did provide some impetus especially in the initial data gathering. It is recommended that the capacity of the Administrators be enhanced for it to realize its full potential.

4.2.4 Recommendation-Cadastral System of Accessing Mineral Right Licenses Information

In order to ensure transparency and the effective management of mineral rights licenses, an online cadastral system should be fully implemented by the Minerals Commission. This should include information on coordinates of concessions and transfers of mineral rights and fees paid.

4.2.5 Recommendation- Ascending Prominence of Small Scale Gold Exports In Ghana

Attempts should be made to obtain some revenue from small scale mineral/gold producers. The rate of extraction of gold by the small scale and artisanal miners means the state is at a loss without any commensuration in revenue. To reduce the loss to the state by ASM operators, some revenue collection scheme should be designed such as the collection of royalties may be instituted at the point of export.

In 2012, no royalty was paid by OASL to the Asante Akyem District Assembly though the Owerri Mines produced revenue of $17.8 million. Again, no royalty was paid by Prestea Sankofa Ltd though the company produced 21,237oz of gold in 2012 at total revenue of US$36,012,936 of which royalty payable is GHC 3,239,466.68.The GRA should therefore investigate and advice OASL accordingly as unpaid royalties affect impacted communities. GRA is also to meticulously review the merger of Adamus Resources and Endeavor Mining as the merger was completed months after the commencement of gold operations in Ghana with the possibility of capital gains tax liability.

In conclusion it was sited that though the level of cooperation has improved, archiving and reporting compliance remain surmountable challenges to the reconciliation exercise. The GRA is requested to follow up on the Adamus Resources merger for possible capital gains tax and finally the emergence of the small scale and artisanal mining sector in Ghana requires new policy direction with regards to recognition, coordination with resultant state benefits.

4.3 Ghana's 2012/13 EITI Report Analysis

The final presentation was on “how EITI report help answer stakeholder questions across the extractive value chain.”

The speaker commended government for its efforts aimed at improving transparency and accountability in extractives. The interest of CSOs, media and the citizenry in the sector has also increased more especially following the discovery and production of oil.

GHEITI reports attempts to answer some questions posed by stakeholders along the extractive value chain such as whether government is getting a fair share of its resources from contracts negotiated; how transparent are the allocation of licenses; what are the fiscal regimes in the sector; sub national revenues from extractives and its utilization and how effective are CSOs in their oversight roles among others. While GHEITI reports may not provide adequate information to answer some of the questions posed it identifies areas where more transparency is needed and further raises important questions about our resource revenue management. Below highlights some policy recommendations from GHEITI reports:

1. Allocation of rights

- Not an open process and may lead to awarding oil blocks and mining contracts to inefficient operators.
- Ministry of Petroleum and Minerals Commission should introduce open bidding and tendering process to make licensing system more transparent and efficient.
- Online cadaster/ repository with information on coordinates, size, fees paid, rights transfers, etc. should be introduced to improve transparency.
- Contract details should be published by both commissions to increase transparency and also aid civil society and media to conduct further analysis and play effective oversize roles.

2. Revenue Collection

- Mineral royalty collection should be expanded to cover small scale mineral producers – according to the report 34% of gold production of the 2012/2013 were from small scale producers

- Royalty system can be differentiated between small scale and large mining operators

3. GNPC

- GNPC's overall expenditures are not fully disclosed, such as CSR expenditures
- Given the high reported unspent cash of about 141.7million dollars, GMPC should publish its investment plans to justify their unspent cash. Other expenditures on CSR should also be published

4. Sub national transfers

- Substantive delays in the disbursement of mineral royalties from the OASL to the MMDAs- in 2013, GHEITI report indicated that no royalties were disbursed to MMDAs
- Royalty should be disbursed on time without any delays to ensure smooth continuation of MMDAs projects.
- There should be a mineral revenue distribution and management act to ensure greater transparency and accountability.

5. Revenue management

- PRMA does not address reporting on spill-over or stocks and hence stocks are not expressed in revenue terms-2012 liftings exceeded production by 79,686 barrels and 460,702 in 2013.
- Reconciliations of annual reports on petroleum fund from MOFEP should include stocks as "non-revenue oil."
- ABFA expenditures should be disaggregated further to enable tracking of projects.

6. HIGHLIGHTS OF ISSUES DISCUSSED

- It was clarified that corporate tax receipts exceeded royalty in both 2012 and 2013. This was so because most of the companies have utilized capital allowances granted them as a result of their initial investment.

- The participants mentioned that since small scale and Artisanal Mining accounted for 34% of gold production in 2012 and 2013, a new modality aimed at earning some revenues from the sector should designed and introduced to boast government revenue.

- On the status of the Mineral Development Bill which was drafted in 2009, information gathered was that the Bill had been reviewed by both cabinet and the Attorney Generals Department and will soon lay it before Parliament for debate and promulgation. As such, the legal basis under which disbursements from the Minerals Development Fund were made was described as questionable.

- An issue was raised on the fact that GNPC overall expenditures are not fully disclosed with much emphasis on the Corporate Social Responsibility Expenditures. A representative from the GNPC disagreed with the assertion and explained that the GNPC has always published it financial expenditure reports.

6.0 CONCLUSION

On the whole, the cooperation granted by the participating institutions and stakeholders was apt and satisfactory. Mr. Franklin Ashiadey, the Coordinator for the Ghana EITI gave his closing remarks by appreciating the efforts of all participants for making the launching ceremony a success. As next steps he explained that to ensure that all stakeholders affected by the findings/recommendations of these reports are adequately informed of the content therein, the GHEITI secretariat and the National Steering Committee will be organizing dissemination workshops in selected districts in the mining areas.