OPENING REMARKS

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GHEITI WORKSHOP ON TRANSFER PRICING RISKS IN THE EXTRACTIVE SECTOR

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Mr. Chairman,

Members of the GHEITI Multi-stakeholders Group,

Partners from the NRGI,

Colleagues from the Ministry of Finance,

Ladies and Gentlemen,

Good Morning and welcome to today's workshop on transfer pricing risks in the extractive sector.

First, let me commend the organisers of the workshop especially the Ghana EITI, the NRGI and also the Tax Policy Unit of the Ministry of Finance for putting together this all important workshop which has its main objective of starting the discussion on the issue of transfer pricing in the extractive sector. The subject, because of its potential of eroding the tax base of the country, has generated a lot of controversy and suspicion between Government, the extractive industry and Civil Society Organisations over the years. The subject is an important one and it goes to the heart of our revenue mobilization efforts not only in the extractive sector but across all the sectors of the national economy.

Mr. Chairman, large proportion of government revenue comes from the country's natural resource endowments such as gold, oil and gas and forests. These resources are not only a major source of government revenue, but also the basis for economic growth and development in the medium to long term. So the contribution of the country's extractive sector especially the minerals sector to the economy in terms of foreign exchange earnings and Gross Domestic Product (GDP) is not in doubt but what is doubt is whether that is all we can get from the sector. This is the question most Ghanaians ask. So exploring ways of enhancing these revenues in all forms is top priority of Government.

Mr. Chairman, Distinguished Ladies and Gentlemen, however, our revenue institutions are challenged when it comes to extractive sector tax administration, in particular when it comes to the monitoring of minerals production figures, verification of market prices, costs of extractive companies operations, cash flows , profits assessment, tax auditing, and above all transfer pricing.

Transfer pricing is very sophisticated and complex in nature. It happens whenever two companies that are part of the same multinational group trade with each other especially with prices that are not market prices. It is estimated that about 60 percent of international trade happens within, rather than between, multinationals: that is, across national boundaries but within the same corporate group.

Transfer pricing is a large source of loss of tax revenues especially from developing countries which have weaker tax authorities in terms of capacity to enforce the rules. Estimates vary as to how much tax revenue is lost by governments due to transfer mispricing. Global Financial Integrity in Washington estimates the amount at several hundred billion dollars annually.

Transfer pricing is not, in itself, illegal or necessarily abusive. What is illegal or abusive is transfer mispricing, also known as transfer pricing manipulation or abusive transfer pricing.

Ladies and Gentlemen, as you will be hearing from the resource persons throughout this workshop, examples of transfer pricing cases abound but let me give you a very popular case of the extractive sector which was reported in Tanzania. In January 2008, Members of the Tanzania Presidential Mining Review Commission visited Resolute Goldmine in Nzega, Western Tanzania. At the time Gold Prices were around US$1200/ounce but the company was selling at US$530/ounce. The Company told the Commission that they hedged at that price. Later it was found out that they were selling to a sister company offshore. This denied Tanzania the

Government millions of dollars as royalty (at the time royalty was 3% charged at netback value) as well as tax revenues. The mine was closed in 2012 after exporting US$3.5 billions value of gold and paid corporate tax only once since 1997 when it started operations.

For Multi National Enterprises, an effective tax avoidance scheme satisfies their shareholders while keeping them within the technical boundaries of legality. Any attempt to plug the loopholes that prevent tax avoidance is met by cries from companies that it would lead to job cuts.

Here, in Ghana one common area of abuse in the extractive sector that is normally sited is mispricing of goods especially machinery used in the extractive industry where machinery used by the enterprise in one country and has exhausted its capital allowance deductions is shipped to a branch in Ghana at a higher price thereby lowering the company's tax liabilities. This was also fuelled by the general capital allowance regime we had at the time where companies were allowed to technically write off 110% of the cost of machinery in 2 years. Thank God effective 2012, the capital allowance regime has been changed to 20% annual depreciation allowance over a 5year period to reduce this kind of abuse.

Mr. Chairman, all in all, transfer pricing might negatively affect revenue collections. The fact of the matter is that most extractive companies operate internationally and have extended dealings with affiliated companies, which increases opportunities for transfer pricing and potentially lowers the tax liability. This further complicates the task of tax administration and creates a challenge that requires specific skills. To deal with the problem of Transfer Pricing, in Ghana, in September 2012, Transfer Pricing Regulation was passed to give effect to the transfer pricing provision under section 70 of Act 592. In addition, practice Notes were developed together with the Transfer Pricing Annual Return Form .These were attempts to address the issues of transfer pricing but the question is are these provisions sufficient?

I am however, confident that this workshop will explore some of these legal issues and provide some recommendations on the way forward.

We do recognize that we need to strengthen the capacity of tax administrators on how to recognize the transfer pricing opportunities in extractive sector operations and stronger capacity to detect and respond to this problem.

Let me conclude by assuring all extractive sector stakeholders that efforts to strengthening the institutional framework for extractive sector tax administration and auditing are ongoing and we would not relent till we finally get it right.

On that note I thank you for your kind attention and wish you a successful workshop.