

GIZ-Programme: Good Financial Governance Programme Ghana
Project Title: Good Financial Governance (Short Term Expert Pool)
Project number: 12.2108.4-006.00
Contract number: 81156699

Ghana Extractive Industries Transparency Initiative in Ghana (GHEITI):

Ten Years of Achievements: 2004-2013

Short Term Report: Mission Report
Submitted by the Consortium
Particip GmbH (lead) and Ernst & Young Ghana

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Acronyms and Abbreviations

CA	Contribution Analysis
CEPS	Customs Excise and Preventive Service
CSO	Civil Society Organisation
DA	District Assembly
EITI	Extractive Industries Transparency Initiative
GHEITI	Ghana Extractive Industries Transparency Initiative
GRA	Ghana Revenue Authority
IRS	Internal Revenue Service (now GRA)
ISODEC	Integrated Social Development Centre
LTU	Large Taxpayers Unit (in GRA)
MC	Minerals Commission
MDF	Mineral Development Fund
MDTF	Multi-Donor Trust Fund
MLNR	Ministry of Lands and Natural Resources
MOF	Ministry of Finance
MSG	Multi-Stakeholder Group
NRGI	Natural Resources Governance Institute (formerly RWI)
NSC	National Steering Committee (GHEITI's MSG)
OASL	Office of the Administrator of Stool Lands
PRMA	Petroleum Revenue Management Act
RR	Reconciliation Report
RWI	Revenue Watch Institute
TA	Traditional Authority
TOC	Theory of Change
TOR	Terms of Reference
WB	World Bank

1 Executive Summary

The Extractive Industries Transparency Initiative (EITI) is an international compact between governments, companies and civil society organizations working to promote transparency and improved governance in the gas, oil and mining industry.

Ghana was one of the first countries to join EITI. After 10 years of activities, Ghana's EITI (GHEITI), with financial support from Germany's GIZ, commissioned this study to identify results achieved and lessons learned, and provide recommendations for the future.

Document Review

The document review provided the following findings and conclusions:

- The Validation report from 2010 provides good documentation on the political and organisational support for GHEITI, the innovative work done and early achievements, but notes delays and irregular production of the Reconciliation Reports (RRs).
- GHEITI's published Work Plans and Budgets adhere to EITI guidelines in terms of presentation. While the plans cover 2 or 3 years, none of them have overlapping years and those seen during the mission covered 6 of the 10 years 2005-2014 (the team subsequently received work plans covering more years). While the NSC has annual retreats that analyse last year's achievements and plan the coming year's events, this was not systematically reflected in the Work Plans, so issues like roll-over of incomplete tasks could not be fully ascertained.
- GHEITI began publishing Annual Reports as of 2008 on a regular and timely basis. They provided a narrative of the year's activities, and as of 2012 began to critically assess performance. With the 2013 report, prepared under new EITI guidelines, there were financial statements looking at budgets and actual expenditures, a more analytical assessment of results, and an appendix table that systematically reviewed the recommendations from the 2010-2011 RRs published in 2013, and what the follow-up to these had been. Till 2013, this systematic link between the Work Plans/Budgets and the Annual Reports was often missing. There remains some scope for explanation of priorities of activities and follow-through from one year to the next on key issues and tasks.
- The documentation from National Steering Committee (NSC) meetings is good in terms of presenting the substance of issues discussed, but unclear in terms of decisions and responsibilities for follow-up/follow-through. Apart from the core discussions on the RRs there is limited continuity across meeting minutes so it is difficult to track issues that nonetheless continue across time, such as experiences with the various dissemination events, the idea of investing in regional information centres, etc.
- More important is the lack of clear identification of the minutes across time. It is not possible to be certain that all minutes were seen, and that all decisions were recorded. There is no formal approval/sign-off of minutes, so in particular decisions involving use of GHEITI funding may not always have proper NSC approval documented. Actual *expenditures*, however, always go through MoF's procurement and disbursement systems such that all GHEITI funds are managed, accounted for and audited.

- GHEITI has a contents-rich web-site at www.gheiti.gov.gh where in particular the various RRs can be found and downloaded, and also the last five of the 7 Newsletters produced during the years 2010-2014. When it comes to news items from media, this is very sparse and does not appear systematic, and the publication of records from important GHEITI events such as Community Forums or Validation workshops is also not consistent. The general approach to publication on the web-site is thus not clear in terms of what the publication policy is or which target groups GHEITI is trying to reach with its materials dissemination (again see GHEITI comments to this point in the main report).

The GHEITI Reconciliation Reports, RRs

The team was to pay particular attention to the GHEITI Reconciliation Reports, RRs:

- The Reconciliation Reports, RRs, are the core Output of the GHEITI system and process. There have been annual RRs for the mining sector since 2004, for the oil and gas sector since 2010.
- The data are comprehensive, covering all relevant firms representing 99% of collected royalties, are made publicly available in comprehensive publications, are based on data verified through independent audits, with civil society actively engaged in the process.
- The TORs for the reconciliation exercises have been impressively comprehensive and consistent since the first 2004 report, asking about the cost picture, the management of revenues once they have entered public coffers, and the redistribution of the requisite funds to local administration and communities.
- The financial reconciliation results during the first 6 of the 8 completed exercises showed no significant deviations, while the one for the last two years 2010 and 2011 have gaps of about 10% of reported payments. This is in large part attributed to lack of time to verify, due to short timeline for the exercise, and high turn-over of accounting staff in the mining companies – issues that have been raised also in previous reports.
- The NSC has contracted several years' reconciliations under the same contract on several occasions: the 11 mining and 2 oil and gas reconciliation exercises have been carried out under 5 contracts. This means that data availability is unpredictable, can be several years late compared to the period to which they refer, and thus are of less value to other accountability bodies and policy groups that require timely data for analysis and policy recommendations. This is being addressed as the 2013 report was published December 2014¹.
- The five contracts have all been won by the same company, which raises the question if GHEITI should have a limit on the number of consecutive contracts that the same firm can be allocated, a rule that a number of other national EITI bodies have put in place².

¹ Delays have been caused by several factors: the need to build understanding of process and situation in the early studies and hence analyse and finalise before the subsequent ones; challenges with securing funding from the EITI multi-donor trust fund; the political transition in 2009 that held back decisions.

² It should be noted that the procurement of the Aggregator has been in full compliance with Ghana's public procurement law. The issue is thus not a legal one, but a "good practice" of term limits.

- The RRs have contained a large number of important findings and recommendations: (i) both companies and public agencies have at times been slow in providing data and not always providing all data requested; (ii) the companies' estimates of mining income has been affected by exchange rates used, timing of price setting, the claims on fineness of the gold and the quantities of minerals exported; (iii) the independence and veracity of public verification was found wanting in several respects; (iv) the laws and rates used to tax the extractive industries were in a number of cases criticised; (v) the management of some of the revenue streams such as to the Mineral Development Fund and the redistribution of royalty payments by the Office of the Administrator of Stool Lands to local authorities contained weaknesses; (vi) the ability of the aggregator to address some of the questions in the TOR was not really possible because complete data on costs and capital allowances were not always forthcoming.
- The RRs, using criteria proposed by Revenue Watch Institute, are seen as very good when it comes to materiality specification, data reliability, coverage of the sector, and the disaggregation of data. They could be improved when it comes to the regularity of publication and the timeliness of the data, the analysis of discrepancies during the last two years, and overall accessibility of the information.
- **Bottom line:** GHEITI RRs are solid, reliable, comprehensive and quite innovative in their contents, but appears irregular and slow in their publication. The underlying data on costs of production and thus claimed taxable income evidently remain inadequate in a number of cases and would seem to require strong government support for their collection.

GHEITI Results at Local Level

GHEITI has paid considerable attention to local level implications of its work:

- GHEITI has identified six Results it wants to produce at local level. It can document important improvements against these as shown in the summary table below:

Expected Results	Identified Results
Outcome: Royalty disbursement publicly disclosed	Yes.
Outcome: Royalties disbursed to communities in timely manner	Yes and No: distribution better structured and more timely but no funds since end 2012 due to the fiscal crisis.
Outcome: Reduced opportunity for corruption and waste	Yes, to an important extent.
Impact: Increased accountability	No evidence that local accountability has improved.
Impact: Reduced tension and conflict	Varies, though weight of GHEITI role difficult to assess.
Impact: Affected communities empowered	Yes, but due to ability to link up with national networks, not so much locally.
Unexpected impact: New channel for local-national dialogue created	GHEITI community forums constitute unique arenas for public action at community level.

- The degree of *attribution* varies. Improved transparency and timeliness of royalty disbursements are clearly due to GHEITI's RRs, and the reduced opportunities for waste and corruption are also due to RRs documenting the systemic weaknesses regarding royalty revenues directed to local level. When it comes to reduced tension and conflict, the

role of GHEITI varies from one location to another, so here GHEITI *contributes* along with other actors and social processes. The empowerment dimension the team did not really have much time to verify, but local actors are empowered by GHEITI data in large part because they are part of national networks where they can bring in their concerns – networks that themselves are part of GHEITI (such as WACAM and PWYP). This latter point links up with an important but not expected Impact, and that is that GHEITI has in fact established a new channel for local-national dialogue that is important for more continuous local empowerment and accountability development.

- The underlying Theory of Change (TOC) for these results to become possible along with the implicit assumptions were identified. When testing the assumptions, the critical one of local accountability being built did not hold due to existing power structures not responding to local concerns. Thus actors take their grievances directly to the GHEITI through their CSO representatives. The *consequence* of this modified TOC is that GHEITI/NSC should (i) put in place more structured recording of local grievances, (ii) establish a feed-back mechanism to communities for tracking progress; (iii) establish links to the EPA on environmental concerns; (iv) produce indicators for social and environmental dimensions (“externalities”) of extractive activities for inclusion in the reconciliation reports; (v) verify if the Mining Law and Law on Compensation are being adhered to as intended, or if revisions are required in order to address community concerns.

GHEITI Results at National Level

GHEITI is recognised for the important achievements regarding national level results:

- GHEITI has identified seven Results it wishes to produce at national level, and can point to important improvements for a number of these, as shown in the table below:

Expected Results	Identified Results
Outcome: Tripartite collaboration for extractive industries developed	Yes. GHEITI NSC is a very functional mechanism that has agreed a long list of solutions and largely achieved them. .
Outcome: Accurate monitoring of extractive industries payments in place	Yes, much better, due both to the RRs and better inter-institutional collaboration based on GHEITI proposals.
Outcome: Reduced opportunity for corruption and waste of public funds	Not clear. The <i>wastage</i> may be reduced due to better revenue tracking but little if anything is known about corruption and changes to this. However, revenue <i>loss</i> has been reduced through RR's identifying uncollected revenue such as capital gains taxes with sector asset transfers.
Impact: Increased accountability at all levels of government	Yes to some extent. GHEITI has supported legislation at <i>national</i> level but at <i>local</i> levels not much has changed.
Impact: Increased foreign investment	Unclear. While Ghana has experienced increased inflows of investments and GHEITI's work may have contributed, documented links still remain to be identified
Impact: Reduced poverty (through better use of extractives revenues)	Improvement in local revenue use will be the most direct short-term effect. This should be discernible over the coming years. Macro effects will likely only come with petroleum revenues, though direct links to GHEITI may be difficult to establish.

- Regarding *attribution* of results, the tripartite collaboration and accurate monitoring of EI tax payments are clearly due to GHEITI's work. On the wastage side, there may be some improvements, and the RRs have in particular identified un-collected revenues, an issue that subsequently was addressed. In order to address corruption, GHEITI would have to invest in analysing what mechanisms and practices lead to wastage and enable corruption. Without this, GHEITI will presumably not be able to address or influence these issues.
- The three desired Impacts are all quite high level concerns where GHEITI can only hope to influence and contribute. What could be useful is if GHEITI sets itself some reasonable targets in the field of Accountability, where it has the most credibility and ability to actually influence (when it comes to foreign investment and poverty reduction, GHEITI's voice will necessarily be limited). Perhaps building on the experiences from local level, a medium-term strategy for strengthening various accountability mechanisms and situations could become an important part of future work programmes.

GHEITI's Structure and Governance

- The GHEITI Secretariat is hosted by the Ministry of Finance, which provides staff, office space and basic operational support. The National Coordinator is a senior MOF staffer who has been in place since the beginning, representing an important continuity and stability, but also underlines the need for the Secretariat to have documentation and a hand-over process in place to ensure that this memory is not lost when a new National Coordinator takes over.
- GHEITI administration is flexible and focused on its main products and responsibilities, though institutional memory should be strengthened by formalising meeting minutes and other documentation of decisions and results better.
- The acquisition of SAP software to simplify and standardise collection and analysis of the reconciliation data has made the reconciliation exercises faster and cheaper. But SAP itself is costly, and simpler databases may prove more cost-effective, especially if GHEITI extends its work to new sectors and smaller-scale producers.
- The NSC, which today counts 22 members as per GHEITI's own web-site, consists of 15 persons from the public sector, 4 from industry and 3 from civil society. Each constituency has one vote, so in that sense the NSC is balanced in its membership.
- The public sector members represent all the important public agencies, in some instances with a senior official and a junior official as alternate and the person usually present in meetings. This co-optation model has proven successful in that all important public agencies thus are party to, have a stake in and are committed to GHEITI reports, findings and implementation.
- The industry representatives rotate among the companies. The three CSO representatives have remained the same over the period, providing continuity and knowledge, but also vulnerability to them leaving. The CSO constituencies in 2013 put in place succession strategies for ensuring well-managed hand-overs.
- GHEITI has organised a continuous set of trainings, workshops, participation in regional and global EITI events that has kept it well-informed about what is happening at

international levels while continuously upgrading the skills of the NSC members and Secretariat. Given the already high level of knowledge that NSC members brought with them as they joined the NSC, this has led to a high level of analysis and discussions around the RRs and GHEITI activities in general.

- A number of the national events have involved large numbers of other stakeholder representatives, ensuring that Ghana has a broader community – including members of Parliament – that are knowledgeable about EITI and GHEITI's own work and results.
- What is missing is a link to the research community that can produce more rigorous knowledge about the larger societal results and opportunities that the extractives industry represents, and where actual impacts remain largely unmapped so far³.

Recommendations

Based on the above results and findings, the following are the team's key recommendations:

- GHEITI should develop a *medium-term strategy* with a *results framework* for the key dimensions of its work, in particular increased *accountability* in the extractive sector. The results framework, using *SMART objectives*, should enable GHEITI to critically track own performance, but also define (i) its *target audiences* and (ii) *strategic partnerships* for *sector reforms*, and present intended *Outcomes* for these ambitions.
- It may use the more open *EITI Standard* and the extractives sector *value chain* as a tool for identifying strategic objective, using *Theory of Change* approaches to justifying strategic choices made. It should rely on the more open *Contribution analysis* rather than *Attribution chains* when explaining expected results.
- The medium-term strategy needs to be operationalised through *rolling three-year action plans*, with *budgeted priorities* and linked-in *communications strategy*. Included in the action plan should be the programming of *annual reconciliation exercises*, such that time delays of data are minimised and RR publication dates are predictable.
- GHEITI may wish to use the NRG's *Natural Resources Governance Index* for monitoring own performance, identifying which sub-dimensions of the Index it wishes to focus on, thus being able to rely on internationally "best practice" standards and reliable data, as well as comparative statistics with societies Ghana believes are relevant to compare with.
- GHEITI may wish to verify with *international rating bureaus* the extent to which GHEITI's work is used for setting the *country's credit rating*. GHEITI may in particular check if there are variables that GHEITI itself can influence that are of particular interest or importance for such credit ratings.
- GHEITI should review its internal procedures regarding *documentation of deliberations and decisions*, the *structure and solidity of its institutional memory*, and how it will ensure continuity and quality in the face of likely changes in NSC membership and GHEITI Secretariat. This is particularly important in light of potential expansions of

³ The draft GHEITI Bill will evidently address a number of these concerns.

GHEITI's transparency and accountability concerns into new sectors or more in-depth in existing sectors: smaller-scale mining enterprises; supply industry to oil and gas sector.

- GHEITI needs to review its strategy regarding *interaction with local authorities and communities*, to ensure continuity, focus on key issues and strategic regions, and see if the idea of three permanent regional information centres is the best choice or if a more flexible and perhaps research-intensive model may be more appropriate.
- The use of the *SAP database* needs to be reviewed in light of probable long-term costs and benefits, the potential for expanding the use of the SAP platform into other areas of public finance management, and the likely challenges the use of SAP will face if GHEITI incorporates less capital-intensive sectors and actors.

2 Background and Introduction

The Extractive Industries Transparency Initiative (EITI) is an international compact between governments, companies and civil society organizations working to promote transparency and improved governance in the gas, oil and mining industry. Initially a pilot with a handful of countries, the EITI has grown to over 45 participating countries in 2014.

EITI is based on the implementation of a core set of Principles. These were operationalized in a set of requirements that a country should fulfil in order to be considered in *compliance* with the Principles. At a minimum this required (i) full disclosure by extractive industries of all business-related payments made to government; (ii) complete accounting by governments of all such revenues received; (iii) public participation in the verification of the revenue streams, and (iv) public accounting for any discrepancies found between amounts reportedly paid and those received.

The *purpose* of the initiative is to encourage greater transparency in the extractive sector. The expectation – essentially the theory of change (TOC) underlying the EITI – is that this will enable citizens to make informed demands for the efficient and sustainable use of revenues generated through the exploitation of natural resources.

2.1 Ghana's EITI Programme

Ghana signed on to the EITI in 2003. The Ghana Extractive Industries Transparency Initiative (GHEITI) has been one of the pioneer countries in implementing the initiative in the mining sector. As noted in the Validation Report (IDL Group 2010, p. 43):

- Ghana was the first EITI country to deal with the mining sector, as the other early candidate countries were focused on the oil and gas sector. Since then a number of other mining countries have joined EITI and benefited from some of Ghana's lessons.
- Ghana was the first country to extend EITI to a sub-national level, looking at ground rent payments and the flow of royalty payments back to sub-national bodies.

In 2010, with the 2007 discovery of commercially viable oil and gas resources, the country extended its reporting also to this sector. Ghana has participated fully in all EITI activities both regionally and internationally.

The instrument used for verifying company payments and government receipts are the annual *reconciliation reports*, **RRs**. GHEITI has produced nine such reports over the years, covering mining revenues from 2004 through 2011 and oil revenues for 2010-2011. These reports are disseminated and discussed across the country, including in regional and community based forums.

GHEITI's highest decision-making body is the National Steering Committee (NSC) which currently consists of 23 representatives from government, civil society and industry. The GHEITI Secretariat that supports the NSC in its work is housed in the Ministry of Finance, which also provides most of the funding for EITI implementation. Additional funding has been provided by the World Bank-administered EITI Multi-Donor Trust Fund (MDTF) and Germany's Development Cooperation agency, GIZ, and it is the latter that has provided the funding for this review.

Box 2.1: GHEITI Milestones

- **2003:** The Government announces its commitment to EITI at a public event in Tarkwa mid-year
 - **January 2005:** The multi-stakeholder group, the National Steering Committee, is constituted.
 - **September 2006:** Draft of the first Reconciliation Report, covering January-June 2004, produced
 - **January 2007:** GHEITI organises first national workshop for Government, civil society and industry. The draft of Ghana's first Reconciliation Report is presented and discussed.
 - **February 2007:** RR for January-June 2004 approved, published **September 2007**.
 - **October 2007:** Ghana is accepted as an **EITI Candidate Country**.
 - **January 2010:** First validation exercise begins, validation report approved **June 2010**.
 - **August 2010:** Reconciliation Reports for 2006, 2007 and 2008 approved and published.
 - **October 2010:** Ghana is declared an **EITI Compliant Country**.
 - **August 2011:** Reconciliation Report for 2009 approved and published.
 - **February 2013:** RRs for 2010, 2011, covering also oil and gas, approved and published.
- Coming Deadlines:**
- **31 December 2014:** RRs for 2012, 2013 must be approved, based on the new EITI Standard.
 - **1 October 2015:** Deadline for next Validation.

Table 2.1: Values and Reporting of GHEITI Reconciliation Reports 2004-2011 (USD)

Period covered	Publication Date	Sectors Covered	GoG revenues	Company Payments	No of firms
2004	September 2007	Mining	27,020,000	24,010,000	8
2005	March 2008	Mining	44,654,642	44,137,186	8
2006	August 2010	Mining	66,770,000	66,220,000	11
2007	August 2010	Mining	65,820,000	68,780,000	11
2008	August 2010	Mining	89,900,000	89,560,000	11
2009	August 2011	Mining	83,130,000	83,130,000	10
2010	February 2013	Mining, Oil, Gas	212,466,509	192,644,934	17
2011	February 2013	Mining, Oil, Gas	942,698,792	897,710,652	17

Source: <https://eiti.org/Ghana/reports>

2.2 GHEITI Objectives

GHEITI objectives are stated to be (see <http://www.gheiti.gov.gh/site/>):

- *Enhance the demand-side of social accountability by providing public insight into revenues derived from the exploitation of the country's mineral resources;*
- *Create the platform for public debate on the spending efficiency of extractive sector revenues; Identify gaps and weaknesses in resource revenue management and make recommendations to prevent revenue leakage;*
- *Enhance the communication efficiency of GHEITI and ensure that mineral revenue / expenditure information are provided in a timely manner, and in an accessible and comprehensible format;*
- *Guarantee the sustainability of Ghana's EITI by backing it with legislation.*

In a note to the Government, “Memorandum to Cabinet by Hon Minister of Finance and Economic Planning on the revised Institutional Framework for the Ghana Extractive Industries Transparency Initiative (GHEITI)”, dated 2010, GHEITI is more explicit in noting that it expects to achieve the following Impacts:

- **Economic impact:** *Transparency is necessary for economic management and forward planning. For economic management, budget decisions and forward planning, government needs to be able to both accurately monitor its current financial position and make adequately robust projections of future revenues. Transparency in the management of extractive sector revenues will promote forward planning and better economic management. Ghana EITI will ensure that extractive sector revenues especially oil revenues are accurately monitored and used for the benefit of Ghanaians. - Revenue transparency will also act to increase accountability in all levels of government thereby reducing opportunity for corruption and the potential for waste of public funds.*
- **Financial impact:** *Enhancements in transparency are increasingly demanded not only by citizens within the country, but also by international financial institutions, investors and banks, donor organizations and international civil society. Lack of transparency is seen as a major obstacle to the creation of a favourable investment climate, better management of public resources and poverty reduction. Progress on transparency front can be expected to attract increased finance and investment. - Extending EITI to the Oil sector in a timely manner will no doubt send a strong signal to investors, financial institutions and the international community on Government’s commitment to increase transparency and fight corruption.*
- **Social Impact:** *For the communities where extractive activities take place, the availability of accurate information on revenues and other benefits of extractive sector activities are expected to reduce significantly, tensions and conflicts between extractive companies and communities. This will in turn bring about social harmony and stability within the communities.*

These are thus the foundational statements that this review has used for assessing results.

2.3 Objective and Scope of the Review

The *objective* of the assignment is to assess the achievements and challenges encountered in implementing EITI in Ghana, especially regarding *policy* in the extractive sector (see Annex A for complete TOR). The *specific* questions in the TOR are discussed in section 3.2.

2.4 The Deliverables

The review team was to produce three deliverables:

- A *work plan* showing implementation of the task. Scanteam instead prepared a **Pre-Inception Note** that presented the general approach to the task, and subsequently an **Inception Report** that elaborated the methodology, results from a document review, and early versions of annexes that would become part of the final report.
- The main deliverable is the **Final Report** that presents the findings, conclusions and recommendations of the task. The current draft version of this report is based (i) the document review carried out in Oslo and continued during the field work in Ghana, (ii) the field work carried out by the three main consultants during the period 21 September – 23 October, including some short visits outside Accra. At the end of the

mission, the team presented a *Debriefing Note* that provided findings and conclusions as well as key issues for comment and discussion to the NSC.

- Once the team has received the comments to the *Draft Final Report*, the *Final Report* will be finalised for approval by the NSC, and then presented to the full NSC at its convenience.

2.5 Structure of the Report

The *Final Report* is structured as follows:

- **Chapter 3 Methodology and Implementation:** The methodology applied for the review as against the TOR (see Annex A); persons interviewed and documents (Annexes B and C); the strengths and weaknesses of the methodology; and the timeline for the process.
- **Chapter 4 The Reconciliation Reports:** The key instrument for GHEITI implementation has been the annual *Reconciliation Reports*. This chapter looks at the contents and quality of the RRs over time, and how they have been used.
- **Chapter 5 GHEITI Results at Local Level:** This chapter looks at the delivery chain for GHEITI's activities at local (mining community) level, identifying changes that have been achieved, and how these can be explained using a Theory of Change approach.
- **Chapter 6 GHEITI Results at National Level.** GHEITI's most interesting results may be at national level, and this chapter presents these achievements.
- **Chapter 7 GHEITI Structure and Governance:** This chapter addresses the questions in the TOR regarding the Secretariat, the Steering Committee, the support and capacity building activities, and the achievements and challenges for GHEITI as an organisation.
- **Chapter 8 Looking Ahead:** Finally, the report records the Lessons Learned that can be applied by GHEITI in its continued pursuit of excellence.
- **Annex A:** Terms of Reference
- **Annex B:** Persons interviewed
- **Annex C:** Documents consulted
- **Annex D:** Conversation Guide
- **Annex E:** Methodology and Approach
- **Annex F:** Annual Work Plans, Budgets and Reporting
- **Annex G:** Changes to TORs, Mining Reconciliation Reports, 2004-2010
- **Annex H:** GHEITI Meeting Minutes – Summary 2004-2014
- **Annex I:** Reconciliation Reports – Findings and Conclusions

3 Methodology and Approach

This chapter presents an overview of the methodology that has been applied in this study, while the more complete approach is to be found in Annex E.

The team was to identify the main results achieved by GHEITI, and also explain these by looking at dimensions such as effectiveness and efficiency (*internal* GHEITI factors) as well as *external* factors that have contributed.

The standard model for this is a project *delivery chain* where mobilisation of Inputs are used to finance planned activities that lead to the planned Outputs. These are to lead to medium-term Outcomes, which over time may influence larger societal changes, Impacts.

In the case of GHEITI, the team looked at two such chains. The key Output for both is the *Reconciliation Reports*, RRs. These are to inform the public about the revenues that the public sector derives from the extractive industries, and the knowledge and understanding this generates can be considered desirable Outcomes. The question is how this information is used, and here the team distinguishes between local (district, mining community) level and national level, where the Impacts thus are quite different.

Figure 3.1: Project Delivery Chain



Source: Various project development handbooks

This delivery chain Output \Rightarrow Outcome \Rightarrow Impact, while common, is deceptive. It is seldom that one can state with certainty that the Outputs produced – the RRs, for example – are the only or the main factor explaining the Outcomes identified. It becomes even more difficult when one tries to attribute Impact to the particular Outcome. Because of these uncertainties, the team has therefore applied a less stringent approach, so-called Contribution Analysis (CA) (see Annex E). What CA does is present “probable” rather than “absolute” explanations.

Another way of thinking about the results obtained is to use the Value Chain used for extractive (non-renewable) resources (Fig 3.2). This traces GHEITI’s work as it attempts to influence the various steps in the value chain: promoting contract transparency; ensuring full disclosure of all revenues to the public sector; promoting transparency and accountability regarding the actual application of the revenues received.

Figure 3.2: Non-renewable Natural Resources Value Chain



Source: World Bank (2012): “Implementing EITI for impact. A handbook for policy makers and stakeholders”.

The usefulness of this approach is that while the classic EITI RR focused on the third step of collection of revenues, Ghana is now focusing on the following step of *revenue management*. When Ghana’s Petroleum Revenue Management Act (PRMA) was presented to Parliament for debate in 2011, civil society was active and clearly influenced a number of final provisions that cover both revenue and funds management.

As documented in section 2.2 above, GHEITI has a number of statements that present the overall objectives for its work. These are, however, fairly general and do not provide very operational objectives for this evaluation. The evaluation team “de-composed” the statements into monitorable results at Outcome and Impact levels as described above (Figure 3.1). The team has distinguished results at national and local levels.

3.1.1 *Intended Results at National Level*

Given the above, the intended results GHEITI has set for itself at national level are:

- Tripartite transparency framework for extractive industries developed (*Outcome* from EITI process as such);
- Accurate monitoring of extractives revenues, their flow, management and utilisation (*Outcome* from RR reporting);
- Reduced opportunity for corruption and waste of public funds (*Outcome* from RRs);
- Increased accountability at all levels of government (*Impact* from greater awareness and mobilisation);
- Increased foreign finance and investment (*Impact* from greater transparency and credible framework conditions);
- Reduced poverty (*Impact* from improved accountability, planning, management and utilisation of extractives revenues).

3.1.2 *Intended Results at Local Level*

Similarly, the intended results at local level are the ones set out below:

- Royalty disbursements publicly disclosed (*Outcome* from RR reporting);
- Royalties disbursed to communities in timely manner (*Outcome* from RR reporting);
- Reduced opportunity for corruption and waste of public funds (*Outcome*);
- Increased accountability (*Impact* from the mobilisation);
- Reduced tension and conflict (*Impact* from the mobilisation);
- Affected communities empowered (*Impact* from the mobilisation).

4 Document Review

The requested document review focused on GHEITI documents publicly available: the Validation Report, GHEITI's annual reports, publications and newsletters, and formal administrative documents. The Reconciliation Reports (RRs) are discussed in chapter 5.

4.1 GHEITI's Validation Report

The Validation Report (IDL Group 2010) was finalised on 1 June 2010, and recommended Ghana be declared Compliant, which the EITI Board did on 19 October 2010.

The Report noted the many innovative steps that GHEITI has taken in the implementation of EITI (see section 2.1). It pointed to the active dissemination of the report, and the meetings with local authorities and communities in core mining areas and the lively debates. This was possible since the RRs not only looked at aggregate revenue and receipts figures, but also traced the re-distribution of the share of royalties to local authorities.

The Report pointed to the capacity building activities that have taken place and the positive responses from all key stakeholders to GHEITI activities and performance. It listed a number of the major achievements regarding influencing national policies and practices in the extractives field (see chapter 5), and noted the high activity level with regional meetings, community outreach activities, active involvement of different stakeholder groups in information and training activities. The work plans with costings were praised both for their contents and for the consultations that had taken place in their preparation.

The one concern was the delays and irregularities regarding the reconciliation exercises and the publication of the reports.

4.2 GHEITI's Work Plans and Budgets

According to EITI rules, all EITI candidate and compliant countries must make costed Work Plans publicly available. GHEITI's web-site (section 3.3.4) provides both Annual Reports (section 3.3.3) and work plans and budgets. While the reports part of the web-site is fairly complete, there are major gaps regarding the work plans and budgets.

There is one work plan for the three-year period 2006-2008, a work plan for 2009 (that till recently could not be opened), one for the two-year period 2011-2012, and a second two-year work-plan for 2014-2015.

The NSC was constituted in 2005 while The first RR exercise began the year after. The first year one could have expected a work plan was thus 2005. There have therefore been published/costed work plans for 6 of the 10 years with full activities 2005-2014 (Annex F summarises the contents of the Work Plans, the Budgets and the Annual Reports).

The Work plans follow the recommended set-up used by the World Bank-MDTF, with a matrix giving output, activity, timeline, budget/cost (in USD), source of funding, responsibility, expected outcome, and sorted by key Objectives for GHEITI. The detailed and comprehensiveness of the work plans have increased over the years.

The realism in the costing varies by topic. The budgets for the reconciliation exercises are based on the experiences over time, so appear accurate, though it is not possible to verify since no accounts are presented. But the establishment of three regional information centres, which has been on the work plans since 2006 (and still not realised), has gone from USD 10,000 in 2006 to USD 250,000 in 2014-15. This has in part to do with changing pre-conditions – the original budget was based on GHEITI being provided the office facilities and thus only having to equip and run the offices, though the jump in costs reflects a need for clarity on what is to be funded. This links with observations made below (sections 4.3 and 4.4) regarding documentation of decisions and justifications. While a work plan is not expected to provide a detailed rationale for activities selected, an introduction that lays out main objectives and explains priorities in terms of activities to be funded is helpful.

In the documentation it is unclear how plans are carried forward. The first plan covered three years and the others have covered two years but with no overlap. The GHEITI NSC holds an annual retreat where the previous year's achievements and the coming year's tasks are agreed and where, according to NSC members, incomplete tasks are then carried forward. The formal documentation has not reflected these deliberations and decisions, which for monitoring purposes would be very helpful..

4.3 GHEITI's Annual Reports

GHEITI's annual reports cover the years 2007/8-2013 (the report from 2007 is documentation of a major workshop held that year – the first annual report is for 2008). They have been produced at the very end of that same year or during the first couple of months the following year. The *timeliness* of these reports is thus very good. They are furthermore made publicly available on GHEITI's web-site so that interested parties can easily access them.

The reports document the activities carried out, among other things making it transparent which capacity building activities have taken place. The reports also raised issues encountered, where the 2007 workshop report noted the discussions concerning the *voluntary* nature of EITI and thus the issues about companies that were not covered in the early aggregation exercises, and issues regarding reporting from government. The need for training of GHEITI key actors was noted.

The 2008 and 2010 reports note the delays in publishing the RRs, something that the Validation Report also pointed to. The 2009 report refers to challenges regarding grants made available from the World Bank (WB) administered EITI Multi-Donor Trust Fund (MDTF). The report discusses rigidities in implementing the agreement due to the Bank's strict procedures for approval and disbursement of funds. WB supervision missions, on the other hand, pointed to very slow implementation rates that had necessitated two extensions of the project period. The issue of MDTF funding comes up again in the 2012 report that points to the long time it has sometimes taken to contract the aggregator. According to stakeholders, this is again due to procedural hurdles with MDTF funding – though WB staff feel Ghanaian authorities could have been more active in addressing necessary requirements.

While the annual reports 2007-2012 do not contain expenditure statements, the 2013 report is produced under the new guidelines from the EITI, and contains a more comprehensive and analytical report on activities carried out, including a table showing budgeted amounts and actual expenditures for the various activities as well as their status ("completed", "not done"

etc.). Of perhaps greatest interest is the Appendix table showing the implementation status of the recommendations provided in the 2010/2011 RRs.

As overviews of what has been done the Annual Reports provide a good picture in particular with regards to the work on the RRs: discussion of draft reports, verification workshops, outreach/ dissemination in the various parts of the country when reports have been released. There has also been good reporting on the major capacity development and regional/ global engagement activities. As of 2012 the reader gets a more critical view of activities, and as of 2013 a more analytical understanding of results, both in the form of a final section entitled “Impact of GHEITI Activities”, and the Annex table.

But the annual reports have historically not linked up well with the work plans. From the documents covering the period 2006-2011/12 it is therefore not possible to verify which of the planned activities have been carried out at what cost. As of the 2013 report, this is now provided, but till then the realism of budgeting and planning is difficult to assess.

4.4 GHEITI’s Steering Committee Meeting Minutes

The team was provided minutes and reports from about 70 events that have taken place over the period March 2004 through February 2014. These included a number of public events and larger workshops but most of the minutes are from NSC meetings (see Annex H for complete list). The minutes and reports are good records of what took place but do not contain clear *conclusions and decisions* regarding issues looked into. It is difficult to find when a contract for a given reconciliation exercise was contracted and when the task was formally approved for payment. It is clear from the minutes that the NSC has carefully discussed and agreed to the reports but one misses the formal decision that the NSC has approved a deliverable and thus given the head of the GHEITI Secretariat the mandate to pay according to the contract⁴.

The team does not know if it has seen the minutes from all NSC meetings, since there is no numbering or registration system (2009 the minutes were numbered from 1 through 6). All minutes do include attendance lists, and attendance appears good.

Apart from the discussions on the RRs – which are thorough – it is difficult to trace the development of issues over time. Since there are no clear decision notes, there are also few indications of responsibility for handling issues. While it is largely the Secretariat that is to follow up and track developments, a system for identifying/labelling issues – such as the regional information centres – would permit closer performance management⁵.

The minutes have no real formal status as no minutes are cleared or signed/co-signed by members of the NSC as accurate and representative of what was discussed and decided. While the Secretariat is legally covered in its activities by the fact that it sorts under the

⁴ GHEITI notes that all payments go through the MoF payments systems and thus are clearly accounted for. What the team wishes to underline are the responsibilities of the *NSC* as GHEITI’s decision making body. As GHEITI becomes more important, formal documentation becomes increasingly important.

⁵ This can be through a simple numbering system of the minutes and issues at each meeting, which will allow GHEITI leadership to report at the end of the year on implementation and identify the tasks that are to be carried over into the following year in the rolling 3-year plan. This should include follow-up to RR recommendations.

Ministry of Finance, Secretariat staff and the National Coordinator would benefit by having issues like payments of consultants sanctioned through formal decisions that were properly approved through authorized signatures.

4.5 Newsletters and other Media Outlets

GHEITI has produced a total of 7 Newsletters, generally twice a year, where the last five are possible to download from the web-site (Volume 4 from December 2011 contained 36 pages and was therefore published in five parts). They are produced by the NSC's Sub-committee for Dissemination, are easy to read, and distributed during the various GHEITI events. In addition, they are distributed to Parliamentarians and politicians in general; public bodies in the extractive sector; industry players; and civil society including NGOs, CBOs, faith-based groups and academia. The Secretariat notes that it receives positive feedback from readers, but a survey might identify which messages reach which groups, to perhaps improve the effectiveness of this important information vehicle.

GHEITI uses the community gatherings as important arenas for information sharing and discussions; TV news and documentary provide coverage to a wider audience; and other public arenas provide knowledge about GHEITI.

4.6 GHEITI Web-site

GHEITI has a fairly extensive webpage, www.gheiti.gov.gh. In terms of visits ("hits"), it receives a fair number of visitors, with over 38,000 in September 2014 and probably over 35,000 in October, as seen in table 4.1 below:

Table 4.1: GHEITI web-site, number of hits August – October 2014⁶

Month	Hits
August	15 397
September	38 370
1-22 October	28 398
October *	36 300

*: Estimate for complete month. – Source: GHEITI web manager

In terms of the visitors to the site, it is interesting to note how international it is. In October there were hits from 25 different countries, with a further 3 667 from other countries or unidentified sources. Of the approximately 28 400 hits in October, about 8,200 were from Ghana – just under 29% (table 4.2). This is surprising, since one would have thought that GHEITI information would have been of interest mainly to Ghanaians. In fact many of the contacts made are from Ghanaians living abroad. So the Ghanaian diaspora probably accounts for as much as half or more of the searches on the web-site.

⁶ The figures in the table must be used with caution. GHEITI moved its web-site to a new server in August 2014, and the team has not been given data from the previous server. The move took place *during* August, so it is not clear what share of the month the data cover. The October data are for 1-22 October. Assuming a similar amount of traffic the remainder of the month, an estimate for October was added at the bottom of the table.

Table 4.2 shows the source countries for the largest number of hits, where the US and UK are by far the most important countries after Ghana itself – two countries with big Ghanaian communities. The large number of visits by Chinese is presumably linked to their increasing investments in the country, while the large number of visitors from Egypt and South Africa may also be related to business community interest. Most of the visits presumably are looking for the Reconciliation Reports. This would underline the value of making such data public since it may be that foreign investors use such information as part of the data gathering when assessing investment options. It would be interesting if GHEITI was able to pursue this to verify who the visitors are, what they look for, and for what purpose..

Table 4.2: Top 10 countries of origin for the searcher on the GHEITI site in October

Country	Hits
Ghana	8 193
USA	3 623
UK	3 564
China	1 590
Egypt	1 321
South Africa	1 220
Germany	1 023
France	962
Mauritius	746
Australia	479
Top 10 total	22 721

Source: GHEITI web manager.

In terms of the contents of the web-site, it is comprehensive, with a large and well structured *Publications* section that contains the RRs, Annual Reports, Work Plans, Newsletters and other documents.

Under *Latest News*, there is a mixture of news from the newspapers and from GHEITI itself, though neither dates nor the sources of the news are made available. There are 12 pages with news items, the first from 2008.

There are a number of reports on individual GHEITI activities. While GHEITI organises a number of important events –Validation workshops, round tables on drafts RRs and Dissemination Workshops and Community Forums in regions – there are minutes only from some of these. Furthermore, some are posted under *Implementation Reports* while others are under *Workshops*. The policy regarding which reports to make public is thus not clear.

4.7 Findings and Conclusions

- The Validation report from 2010 provides good documentation on the political and organisational support for GHEITI, the innovative work done and early achievements, but notes delays and irregular production of the Reconciliation Reports (RRs).
- GHEITI's published Work Plans and Budgets adhere to EITI guidelines in terms of presentation. While the plans cover 2 or 3 years, none of them have overlapping years and those seen during the mission covered 6 of the 10 years 2005-2014 (the team subsequently received work plans covering more years). While the NSC has annual retreats that

analyse last year's achievements and plan the coming year's events, this was not systematically reflected in the Work Plans, so issues like roll-over of incomplete tasks could not be fully ascertained.

- GHEITI began publishing Annual Reports as of 2008 on a regular and timely basis. They provided a narrative of the year's activities, and as of 2012 began to critically assess performance. With the 2013 report, prepared under new EITI guidelines, there were financial statements looking at budgets and actual expenditures, a more analytical assessment of results, and an appendix table that systematically reviewed the recommendations from the 2010-2011 RRs published in 2013, and what the follow-up to these had been. Till 2013, this systematic link between the Work Plans/Budgets and the Annual Reports was often missing. There remains some scope for explanation of priorities of activities and follow-through from one year to the next on key issues and tasks.
- The documentation from National Steering Committee (NSC) meetings is good in terms of presenting the substance of issues discussed, but unclear in terms of decisions and responsibilities for follow-up/follow-through. Apart from the core discussions on the RRs there is limited continuity across meeting minutes so it is difficult to track issues that nonetheless continue across time, such as experiences with the various dissemination events, the idea of investing in regional information centres, etc.
- More important is the lack of clear identification of the minutes across time, and formal decisions are lacking. There is no formal approval/sign-off of minutes, so decisions involving use of GHEITI funding may not have proper NSC approval documented. Actual expenditures, however, always go through MoF's procurement and disbursement systems so all GHEITI funds are managed, accounted for and audited.
- GHEITI has a contents-rich web-site at www.gheiti.gov.gh where the RRs and the Newsletters can be downloaded. When it comes to news items from media, this is sparse, and the publication of records from important GHEITI events such as Community Forums or Validation workshops is not consistent.

5 The Reconciliation Reports

The core activity of all EITI programs is the publication of the annual Reconciliation Reports, since this is the first and necessary transparency step assumed in any accountability process.

The GHEITI RRs through 2009 cover the mining sector. The first significant petroleum find was the Jubilee field in 2007 with production only beginning towards the end of 2010. In terms of analysing the reconciliation figures, the minerals sector therefore provides a better set of time series data, and therefore these are the ones used here. Both the mining and petroleum reports cover the annual revenues by type of revenue and – in the more detailed tables – also by company.

The first section of this chapter provides an overview of the RRs over time in terms of the structure and the basic findings and recommendations. More complete listing of findings and conclusions by year are provided in Annex I. The two subsequent sections assess the quality of the RRs based on the EITI requirements and from the perspective of the criteria developed by the Revenue Watch Institute (now the Natural Resources Governance Institute, NRGi).

5.1 Structure and Contents of Reconciliation Exercises and Reports

GHEITI's Multi-Stakeholder Group, the National Steering Committee (NSC) was constituted in January 2005. It immediately began preparing for the first EITI reconciliation exercise. The NSC wanted it to be ambitious in terms of the quality and coverage, but at the same time accepted that the reconciliation of mining revenues was a new field to EITI globally and thus there were no examples Ghana could rely for lessons learned. For that reason the NSC first carried out a pilot study that took a historical approach, followed by a first RR covering the first six months of 2004. Based on the experience from these exercises, a reconciliation covering the second half of 2004 was done before carrying out the 2005 exercise as a full-year study, thus structuring a learning exercise for more robust RRs over time.

5.1.1 Structure of Reconciliation Exercises

The first three reconciliations for 2004 and 2005 were done under one contract, with the reports published sequentially with the 2005 report published in March 2008. The reconciliation exercises for 2006, 2007 and 2008 were similarly covered by one contract, while the third contract was for 2009 as a stand-alone exercise. The 2010 and 2011 reports included the oil and gas sector for the first time, and was also one contract (see Box 2.1 and Table 2.1). The 2012 and 2013 reconciliations thus represent the fifth contract for the ten years of reconciliations carried out.

The RRs have thus not been annual events, which is the basic intention with the EITI system⁷. One of the reasons for this has been contracting issues. Ghana early on was approved for funding from the World Bank-administered EITI Multi-Donor Trust Fund (MDTF). One of the tasks to be funded under the first grant of USD 249,000 was the early reconciliations. The

⁷ GHEITI notes that this is not a formal *requirement*, but the purpose of the exercise is to make available relevant information – where timeliness of the data clearly is an important consideration.

issue was the procurement of the actor to carry out the reconciliation, the Aggregator (sometimes referred to as the Administrator or Reconciler). Ghanaian authorities saw this exercise both as a capacity building opportunity but also were concerned that a national company that was familiar with the Ghanaian situation be in charge. In the end, Ghana decided that it would fund the reconciliation itself. This required mobilising the funding but also led to considerable delays in implementing the exercise.

When the second round of reconciliations was to be undertaken, the NSC had a discussion on whether it was sensible to go ahead with new reviews if major issues identified in the previous studies had not been addressed – one risked coming up with the same findings since there obviously had been no time to rectify the weaknesses identified. In the end it was decided that the financial reconciliation work should go ahead in any case, not least of all because Ghana risked not being eligible for validation if the RRs were not produced on time. But this was one of the reasons for the delay with the second set of reconciliations.

While all contracts have been publicly announced, all of them have been won by the same Ghanaian company, Boas and Associates, largely based on the accumulated knowledge that the company has built over time implementing the exercises.

5.1.2 Contents of Reconciliation Exercises

One of the notable aspects of the Ghana RRs in the mining sector is how comprehensive and complete even the first Terms of Reference (TOR) for the exercise were. Annex G shows the TORs for the first exercise in 2004, for 2007 and then from 2011 which is the last one carried out under the old EITI regulations (the 2012 and 2013 reconciliations are being done under the new EITI Standard and thus contain some adjustments necessitated by the change in the EITI-defined framework conditions). The TORs from 2004 not only ask for a verification of the various revenue streams paid by the industry but also the investments and costs/tax deductions claimed by the companies, a major undertaking. The aggregator was furthermore to assess the reasonableness of production levels, and if revenues appear compatible with these. Finally, the aggregator was to trace the relevant revenue streams to local authorities in line with the law.

The TORs for the subsequent exercises have, with some minor edits, addressed the same issues. The advantage of this is that the mining sector RRs are thus compatible across time.

5.1.3 Revenue Reconciliation

As was seen in table 2.1, total revenues from the EI have grown rapidly, from about USD 25 million in 2004 to nearly USD 90 million four years later, in 2008, all from the mining sector (page 3). The subsequent year, total revenue fell in part due to the financial crisis that led to a drop in the demand for raw materials, including gold which is Ghana's most important mineral. But as of 2010 the oil and gas revenues became important. While production only really began in the second half of that year, total revenues were over USD 200 million, jumping to a total of over USD 940 million in 2011, according to Government records.

Table 5.1 presents a simplification of the aggregate figures from the various annual exercises of the mining sector.

Table 5.1: Aggregate reconciled figures, 2004-2011 in GHS: Payments as reported by companies, deviation as estimated in the reports by the aggregator as the difference between company reports and government receipt records.

	Results 2004		Results 2005		Results 2006		Results 2007	
Mining revenues	Payments	Deviation	Payments	Deviation	Payments	Deviation	Payments	Deviation
Mineral Right Licenses	0	0	0	0	0	0	0	0
Ground Rent	0	0	4 119	117	7 024	0	1 630	5
Property Rate	210 809	0	253 103	0	701 393	2 129	801 411	83 400
Mineral Royalties	20 724 347	7 923	23 293 296	0	31 869 687	-321 397	42 708 266	1 871 506
Corporate Tax	500 643	0	9 760 320	462 548	20 830 991	0	15 573 250	0
Dividends	3 145 872	0	6 854 002	8 454	8 025 480	830 928	4 818 442	965 000
TOTALS	24 581 671	7 923	40 164 840	471 119	61 434 575	511 660	63 902 999	2 919 911
Discrepancy rate in percent								
	0,0 %		1,2 %		0,8 %		4,6 %	

	Results 2008		Results 2009		Results 2010		Results 2011	
Mining revenues	Payments	Deviation	Payments	Deviation	Payments	Deviation	Payments	Deviation
Mineral Right Licenses	0	0	0	0	0	0	0	0
Ground Rent	11 040	0	0	0	0	0	134 290	-134 290
Property Rate	829 234	2 256	918 626	4 853	608 311	221 740	674 523	-192 431
Mineral Royalties	62 449 870	1 189 439	96 611 308	-6 889	147 848 789	2 605 116	211 708 024	6 443 338
Corporate Tax	30 675 205	-1 562 374	17 501 130	1	118 821 551	6 428 182	425 833 002	73 992 763
Dividends	1 417 128	0	2 476 818	-1 012	3 746 830	18 693 382	55 291 126	-11 278 254
TOTALS	95 382 477	-370 679	117 507 882	-3 047	271 025 481	27 948 420	693 640 965	68 831 126
Discrepancy rate in percent								
	-0,4 %		0,0 %		10,3 %		9,9 %	

Source: Boas and Associates, various reconciliation reports

It shows the total reported payments by revenue category from all firms in a year, while the following column shows the difference between this figure and the figure reported as revenue income by government (in the RRs the revenue figures are broken down by company). It is this deviation figure that is central to the formal reconciliation exercise – if there is a difference between what the companies report and the government has registered, and what may cause these discrepancies. As can be seen, the absolute revenue values have increased. But the composition of revenues has also changed considerably: while royalties have kept increasing, over the last several years the corporate tax has shot up as the depreciation allowances that have kept the tax rates low have been exhausted.

Regarding the reconciliation itself, there has been no clear trend regarding the differences identified. The team looked at the discrepancies as a percentage of the payments recorded by the companies against the revenues recorded by government. As seen in table 5.2, during the first six of the eight years the average deviation has been about one percent, whereas the last two years this jumped to ten percent. The 2010-2011 report notes the substantive differences but claims that the time limit on the reconciliation exercise did not allow for a more careful verification of some of the figures. The aggregator therefore recommended that the national agencies and companies be asked to review the identified discrepancies. The aggregator notes that one reason for the problems was that data collection took place at the end of the calendar year when accounting staff are busy with end-of-year audits and other mandatory exercises. Another problem was high turn-over of accounting staff in the mining companies, which meant that data first submitted was not always the information requested, so the aggregator had to ask again to ensure correct data.

5.1.4 Report Findings and Recommendations

The annual reconciliation reports contain a large number of findings and conclusions, and the subsequent year's report sometimes reports on the follow-up that has taken place. These findings and conclusions, including from the first oil and gas study, are attached as Annex I.

Some of the issues had to do with the process itself: both mining companies and public agencies were slow in providing data, did not respond to all the questions in a timely manner etc. There were issues with the quality of the data: the exchange rates used when setting the income from gold sales; the timing of the price setting; the verification of the fineness of the gold mined and exported; the verification of quantities mined, etc.

But there were also findings regarding the functioning of public institutions regarding the good management of revenues and their usage – in particular the return of parts of the royalty payments to the local authorities in mining communities.

There were questions about the independence and veracity of the verification mechanisms and staff from the Customs Excise and Preventive Service (CEPS), since rotation was very infrequent (some CEPS officers had remained with the same mine as long as nine years), and thus there were concerns that CEPS officers might be too close to the mining companies' management that they were to supervise.

On the revenue side, most of the taxes paid vs. revenues received figures were possible to reconcile, except for the last two years. But these figures are based on the audited accounts prepared by the companies. The RRs have raised a number of issues regarding how the

companies arrive at the figures, but also on the laws and rates that the national authorities have passed regarding taxing the extractive industries, and how the laws are implemented.

Already the first RR noted the extremely low ground rents and non-adjustments of mineral rights licenses. This is an important issue when it comes to local tax mobilisation and benefits to local communities from the extractive industries. The capital allowance rules were proposed changed to flat five-year rates (20% each year), the royalty rate was seen as being complicated to arrive at and a fixed-rate approach was proposed.

Questions were raised about management of some of the revenue streams. There was a lack of consistency in the disbursements between the Office of the Administrator of Stool Lands (OASL) to OASL district offices, and from these offices to District Assemblies. There were concerns regarding insufficient communications between Ghana's Revenue Authority (GRA) and the OASL for ensuring correct figures. There were questions about how funds going through the Mineral Development Fund were handled.

In a number of the reports, the aggregator returns to the problem that it is difficult to get more than just the minimal information. Some of the questions in the TOR require fairly comprehensive data, such as on capital allowances and operating costs, which are central to how a company calculates its net taxable profit. In the oil and gas field, the rule of "thin capitalisation" is now supposedly settled through the Ghana Revenue Authority's (GRA) views on the matter: a local subsidiary of an international company is not permitted to take on excessive debt from other parts of the firm as a source of high interest payments back to the mother company. But many other issues remain regarding intra-firm transactions, as this is identified internationally as a major source of illicit financial flows. While this is not explicitly parts of the EITI/GHEITI agenda, this is clearly a dimension of the EI that many actors would like to shed some more light on, and the TORs for the GHEITI reconciliations essentially open up for this.

5.2 Assessing the Reports: EITI Requirements

The EITI has set criteria for the national reconciliation reports in order to ensure that the EITI as a process remains credible and legitimate. These criteria are listed below.

5.2.1 *Publication of all Data: Accessible, Comprehensive, Understandable*

The Reconciliation Reports produced over the years have been *accessible* as they have been made available both over the net and in a fairly large number of printed reports. GHEITI has had a programme of active dissemination of the reports in the mining districts, where members of the NSC have participated in a series of meetings that have often taken place across several days (discussed further later on in this report).

The data are comprehensive in that they report by company by revenue stream. At the same time, because the number of mining companies is limited, the figures are not overwhelming. The language by and large is easy to understand, though as with any accounting report one needs to be more than average interested in the topic to plough through each RR.

5.2.2 *Data based on Independent Audits: Company and State Figures*

All data reported were based on company and state agency audited statements that were then provided in the approved templates. The data were verified against the audited

financial statements and annual reports of the companies. Figures regarding taxes and other payments made had to be documented with receipts, and were then compared with the equivalent numbers registered by the relevant public office. The laws under which company taxes were assessed are referred to.

5.2.3 Data Aggregated by Independent Aggregator

All the reconciliation exercises have been carried out by the same independent audit company. All contracts have been put out to public tender, and having the same aggregator run the exercise means that the considerable experience and understanding that this firm has accumulated ensures consistency over time. Other national EITI bodies have put limits on the number of times a given company can consecutively be awarded such contracts to avoid any appearance of undue influence by the client over time.

5.2.4 All Firms Covered, including State Companies

The selection of companies included in the mining reports was based on level of payments made. The first RR from 2004 notes that they included the eight companies that represented 99% of all royalty payments. The remaining 1% came from about 50 companies largely in the stone quarrying industry spread around the country. Small-scale and artisanal companies do not pay royalties and have therefore so far not been included.

While new commercial mining operations have opened since the first RR was produced, these have been included to the extent that the size merits inclusion.

In the oil and gas sector, all significant companies were included in the 2010 and 2011 RRs.

The coverage of the extractives sector has therefore been comprehensive.

5.2.5 Civil Society Actively Engaged

A key concern for EITI has been whether civil society is able to engage freely and without restrictions in the national EITI process. Three criteria are suggested to verify this:

a. Effective participation in the design, monitoring and evaluation of the EITI

It is clear that the civil society representatives on the NSC have been active and important parties to the discussions within the GHEITI regarding all aspects of the GHEITI process, including regarding this assessment of GHEITI performance.

b. Harassment and intimidation of civil society representatives

Civil society representatives confirm that there is no intimidation or harassment of CSO representatives within the GHEITI system. There have been issues at community level, but these confrontations have been more direct between companies and CSOs raising issues regarding environmental degradation, perceived breaches of contracts etc. But there have never been incidents of intimidation due to an organisation's engagement in GHEITI.

c. Restrictive legislation

There are no laws that restrict CSO engagement in the GHEITI.

5.2.6 Work Plan for Reconciliation Cycle Fully Funded, Publicly Available

Only three work plans were publicly available, all of them multi-year (three or two years), yet they cover only 6 of the 10 years addressed by this review⁸. There was at least one year gaps between each of the three reports so it was not possible to see if activities not completed in one period were carried over and finalised in the subsequent period. As with many other countries' work plans, while there is a budget attached to at least the most important activities, it does not mean that the funding is guaranteed. Some activities foreseen funded by government or the World Bank MDTF ended up not being implemented as foreseen, though whether due to lack of funding, lack of implementation progress, or non-compliance with requirements has not been possible to verify.

5.2.7 Summing Up – EITI Criteria

When looking at the Reconciliation Reports based on the EITI criteria, the findings can be summarised in the table below using a “star” rating scheme:

Table 5.2: GHEITI Reconciliation Reports against EITI Criteria

EITI Criteria	Performance ⁽¹⁾
Publication of all data: accessible, comprehensive, understandable	***
Data based on independent audits	***
Data aggregated by independent aggregator	***
All firms covered, including state companies	***
Civil society actively engaged	***
Work plan for reconciliation cycle fully funded, publicly available	*

(1): ***: Excellent - **: Acceptable - *: Poor

5.3 Assessing the Reports: Revenue Watch Institute Criteria

Through a series of short documents and a “live” dataset, in 2011 the Revenue Watch Institute (RWI) presented ten Quality Indicators that were then used to assess the EITI reconciliation reports from a number of countries (Gillies 2011):

5.3.1 Regularity of Publication

Ideally, EITI implementing countries are to publish a report every year. RWI defined Regularity as the number of reports relative to the number of implementing years. Ghana has indeed published reports for all years, but at uneven intervals (see next point).

5.3.2 Timeliness of Reports and Data

This refers to the time lag between the year for which the data refer, and when these data were published. While Ghana has always remained within the time limit set by EITI – a maximum of a two year lag – the “bunching” of publications means that for some years the data have been borderline regarding timeliness. GHEITI continues to present two years of

⁸ Subsequent to the mission, the team was provided an additional work plan which is now also on the web-site

reconciliations at a time, which according to RWI criteria is not satisfactory though in line with EITI standards.

5.3.3 Materiality – Specification

The materiality condition for inclusion in the mining sector has been clear from the first report, where the companies included were responsible for 99% of royalty payments.

In the oil and gas field, all companies and their joint venture partners that were involved in oil and gas production in the three fields that were producing commercially during 2010 and 2011 were included. Exploration companies, for example, were therefore not included since they did not pay any revenue stream to the state. The materiality specifications have therefore been clear, consistent and good.

5.3.4 Data Reliability

Data are based on the audited accounts and statements from both public agencies and private companies, and data reliability is therefore considered very good.

5.3.5 Coverage

Revenue streams have been broken down by company, by nature of the revenue, and also includes quantities so that revenue streams can be used to verify reasonableness of revenue streams. The coverage is thus very good.

5.3.6 Discrepancies

Revenue discrepancies are identified, but in several of the reports the aggregator points to lack of time as a problem for identifying source and rectifying possible mis-classifications or erroneous data. This is particularly noticeable in the 2010 and 2011 RRs. The problem was primarily that the process started late and thus not providing sufficient time to identify and address possible error sources. What is notable with the 2010 and 2011 gaps, however, is that Government figures are *higher* than the company figures, and at least one source for this is the lack of verified payments from one of the companies.

5.3.7 State-Owned Enterprises

The only state-owned enterprise that is relevant is the Ghana National Petroleum Corporation, GNPC, which has not begun generating revenue till now.

5.3.8 Disaggregation

Data are disaggregated by company, year, and implicitly by commodity since most mines produce only one mineral, though in one gold mine the RR notes that some silver is also mined but does not pay taxes on this, an anomaly the RR says Government needs to correct. The oil and gas sector provides the same level of disaggregation.

5.3.9 Comprehensibility

RWI looks at four dimensions: (i) if the RR contains an executive summary – which all GHEITI reports do; (ii) clear indication of currencies used – which again is clear in the RRs, (iii) written explanation of key findings and recommendations – which are well defined and easy to identify in the RRs; and (iv) clear definition of terms – which may be a weak spot.

Another dimension that could have been included, is clarity of language, where GHEITI RRs use clear and straight-forward language.

5.3.10 Accessibility

The accessibility of the reports is good, the active dissemination in mining communities a big plus. The dissemination through the media, however, appears much less successful – a challenge faced by many national EITI bodies: reconciliation reports generally are not very “newsy” items, and some more thinking needs perhaps to go into how to provide media with better material.

5.3.11 Summing Up – RWI Criteria

When using the RWI criteria, the findings are summarised in the table below:

Table 5.3: GHEITI Reconciliation Reports against RWI Criteria

RWI Criteria	Performance
Regularity of publication	**
Timeliness of reports and data	* / **
Materiality – specification	***
Data reliability	***
Coverage	***
Discrepancies	**
State-owned enterprises	n.a.
Disaggregation	***
Comprehensibility	***
Accessibility	** / ***

(1): ***: Excellent - **: Acceptable - *: Poor

5.4 Findings and Conclusions

- The RRs, are the core Output of the GHEITI system and process. There have been annual RRs for the mining sector since 2004, for the oil and gas sector since 2010.
- The data are comprehensive, covering all relevant firms representing 99% of collected royalties, are made publicly available in comprehensive publications, are based on data verified through independent audits, with civil society actively engaged in the process.
- The TORs for the reconciliation exercises have been impressively comprehensive and consistent since the first 2004 report, asking about the cost picture, the management of revenues once they have entered public coffers, and the redistribution of the requisite funds to local administration and communities.
- The financial reconciliation results during the first 6 of the 8 completed exercises showed no significant deviations, while the one for the last two years 2010 and 2011 have gaps of about 10% of reported payments. This is in large part attributed to lack of time to verify and high turn-over of accounting staff in the mining companies – issues raised also in previous reports.

- The *periodicity* of RRs is problematic. The NSC has contracted several years' reconciliations under the same contract on several occasions: the 11 mining and 2 oil and gas reconciliation exercises have been carried out under 5 contracts. This means that data availability is unpredictable, can be several years late and thus of less value to accountability bodies and policy groups that require timely data for analysis and decisions. This is being addressed as the 2013 RR was published December 2014
- The five contracts have all been won by the same company, which raises the question if GHEITI should have a limit on the number of consecutive contracts that the same firm can be allocated, a rule that a number of other national EITI bodies have put in place.
- The RRs have contained a large number of important findings and recommendations: (i) both companies and public agencies have at times been slow in providing data and not always providing all data requested; (ii) the companies' estimates of mining income has been affected by exchange rates used, timing of price setting, the claims on fineness of the gold and the quantities of minerals exported; (iii) the independence and veracity of public verification was found wanting in several respects; (iv) the laws and rates used to tax the extractive industries were in a number of cases criticised; (v) the management of some of the revenue streams such as to the Mineral Development Fund and the redistribution of royalty payments by the Office of the Administrator of Stool Lands to local authorities contained weaknesses; (vi) the ability of the aggregator to address some of the questions in the TOR was not really possible because complete data on costs and capital allowances were not always forthcoming.
- The RRs, using criteria proposed by Revenue Watch Institute, are seen as very good when it comes to materiality specification, data reliability, coverage of the sector, disaggregation of data, and accessibility. They are acceptable or poor when it comes to the regularity of publication, timeliness of data and the analysis of discrepancies the last two years.
- **Bottom line:** GHEITI RRs are solid, reliable, comprehensive and innovative in contents, but too irregular and slow in their publication. The underlying data on costs of production and thus claimed taxable income evidently remain inadequate in a number of cases and would seem to require strong government support for their collection.

6 GHEITI Results at Local Level

GHEITI has to an unusual extent engaged with the local mining communities and more recently also the areas where oil and gas related activities will take place. As described in section 3.2.2, there are a number of Outcomes and Impacts that GHEITI wishes to achieve.

6.1 Theory of Change

A Theory of Change (TOC) lays out how one expects societal change to happen as a result of a specific policy intervention. This is used to understand and measure the effectiveness of governance intervention (a presentation of Theories of Change and the relevance to GHEITI is included as Annex E). Basically, a TOC says **what** an intervention sets out to achieve, and **how** these achievements will be reached. Based on the objectives GHEITI has set for its local level work, the assumed TOC can be seen to be:

Through GHEITI's community-level dissemination activities and media coverage, community members will be informed about the exact amounts of mineral royalties due to their districts, and start participating in the planning of the use of this money. This will lower tension between companies and communities, and reduce the opportunity for corruption and waste of public funds.

The team used this to test the various assumptions underlying the TOC, finding that most of the assumptions largely held but a fundamental one concern building local accountability does not seem to hold (see Annex E where this material is presented).

Using the objectives statements that GHEITI has presented (section 2.2), the team then looked at the results achieved, presented in table 6.1:

Table 6.1: Intended and Identified Results (Outcomes and Impacts) at Local Level

Expected Results	Identified Results
Outcome: Royalty disbursement publicly disclosed	Yes. When the OASL disburses funds to the districts, they announce it in papers and on local radio for everyone to know.
Outcome: Royalties disbursed to communities in timely manner	Yes and No. Funds distribution was becoming better structured and more timely as a result of RR findings, though since the end of 2012 there has not been any disbursement of mineral royalties to the districts due to the country's fiscal crisis .
Outcome: Reduced opportunity for corruption and waste of public funds	Yes, to an important extent. (i) The RRs document royalties paid and the Aggregator has verified the quantities upon which royalties are estimated, narrowing possibilities for mis-calculations, (ii) GHEITI has contributed to the standardisation of royalty rate so a possibility for reducing royalty payments has been removed, (iii) the publication by OASL of royalty funds distributed to local authorities has probably reduced mis-directions of these funds.
Impact: Increased accountability	No evidence was found or heard that indicated that local accountability had improved. On the contrary, the interest and participation at GHEITI meetings was because local actors do not trust local authorities to take seriously and respond to local views – corrective instructions have to come from the top.
Impact: Reduced tension and conflict	To some extent. Some places GHEITI-promoted dialogue has reduced tensions, in other places tensions continue or even grow as issues are not being addressed satisfactorily (typically eviction

	from land or environmental), in some areas with new small- or medium scale mining operations tensions are claimed to be increasing.
Impact: Affected communities empowered	Yes. The GHEITI community platforms, the GHEITI media work and the active CSOs on local level ensure that there is knowledge in affected communities. Local CSO members have been given training to understand the issues better, and feel empowered to raise the concerns of their communities through their CSO networks to the CSO representatives on the GHEITI NSC, to demand better performance and accountability.
Unexpected impact: New channels for local-national dialogue established	The GHEITI community forums constitute unique platforms for citizens to put forward their concerns regarding externalities of the mining industry (social and environmental costs). They nurture a firm belief that GHEITI is the only possible entity that is capable of addressing their concerns in an efficient way.

What can be seen from the above is thus that GHEITI does have important results to point to, basically due to the live visits to concerned and affected communities. While some of the results may be somewhat tenuous, this is largely due to what is the weakest part of the GHEITI approach so far – that the meetings are periodic and *ad hoc* in that they occur in connection with the publication of reports. Since RR publications are not annual and predictable events, this means that the interaction with communities is intermittent. There is no structured means for follow-up after such a meeting, as there is not even a guarantee that there will be another such public meeting in that community: as GHEITI spreads its area of concerns also to oil and gas and new mining communities, the meetings also have to be geographically more spread out.

One of the answers to this has been the idea of setting up three regional information centres that can act as local intermediaries with GHEITI centrally. It is not clear that this will actually address this issue, something that will be returned to in chapter 8.

6.2 Modifying the Theory of Change

During the field visits the team met only a few stakeholders, but the statements heard were similar across the three communities and stakeholder groups; do not seem to be controversial; and are consistent with the impressions provided by other observers at national level. Basically, the view is that conditions for local empowerment are often lacking. While there is some *answerability* at local level, there is no *accountability*: local communities may often get answers to their inquiries, but when they point out inappropriate behaviour or decisions, there are no corrective steps taken or sanctions imposed. One example given was that the local consultation processes that are to take place before action plans for the use of mining revenues are developed, are not working in a way that reflects the communities' needs and concerns. Decisions are taken by a small group locally, without the population having possibilities to affect these in a substantive way.

Local communities therefore have found that it makes more sense to push issues “up the ladder” to national level, which is largely done in two ways. The first is to participate in the GHEITI events and present their grievances and proposals there, requesting that they be taken back to Accra for consideration. And they document issues by getting answers to questions from local authorities and send this documentation to GHEITI via their CSO representatives on the NSC. The hoped-for result is that bodies that have national decision

making mandates and powers will formulate rules or policies that address the issues and which local actors will then have to respect and implement. The classic example is the use of royalty payments locally, where national guidelines are now being readied for country-wide implementation.

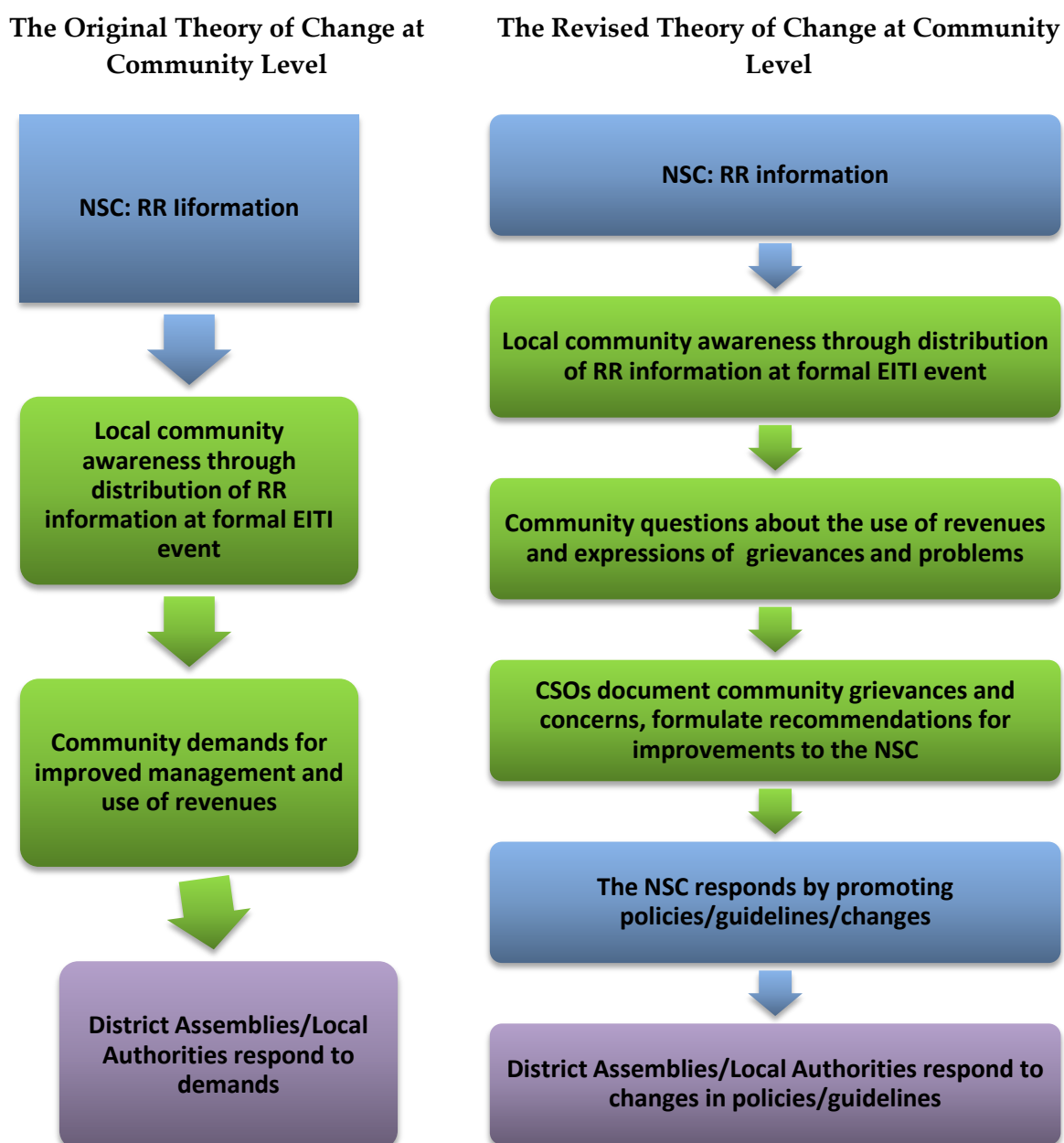
Based on these findings, the adjusted Theory of Change for GHEITI in terms of its impact at local level could then be formulated as follows, where the new text is bolded:

*Through GHEITI's community-level dissemination activities and media coverage, community members will be informed about the exact amounts of mineral royalties due to their districts. **Taking advantage of the arenas established by GHEITI, local communities are enabled to raise their concerns directly with NSC members and forward supporting documentation, for GHEITI to propose and support nation-wide changes regarding local extractives revenues that districts, chiefs, councils and companies will have to respect.***

The original and modified TOC can be visualised as in figure 6.1 below. With the adjusted TOC, GHEITI may then wish to adjust some of its activities:

- The Secretariat should record and present GHEITI-relevant grievances presented during dissemination events to the NSC for information, deliberation and decision, as appropriate.
- For those issues that the NSC decides should be addressed by GHEITI, the NSC should decide a plan of action/ follow-up, and have a structured means for providing feed-back to the communities regarding progress.
- Many want GHEITI to include social and environmental dimensions ("externalities") in its reporting on extractives. These are areas where many actors believe only GHEITI will be able to produce results. Ideas suggested included:
 - Undertake, or push for others to undertake, a full analysis of total social costs and benefits of extractives in order to address the concerns systematically;
 - Establish formal relations with the Environmental Protection Agency (EPA), to pass on environmental grievances and have a structured dialogue/feed-back link;
 - Produce a set of monitorable social and environmental indicators to include in the annual R reporting. Specific points: (i) To what extent do companies adhere to and follow the environmental provisions in the Mining Law. Does this law need revision (see Box 6.1 on Colombia's EITI)? (ii) To what extent do companies adhere to and follow up the Law on Compensation. Does this law need revision?

Figure 6.1: Assumed and Adjusted GHEITI Theory of Change at local levels

**Box 6.1: Including Environment in the EITI in Colombia**

In many countries the environmental costs on local communities of mining is a huge problem. This is the case in both Colombia and Guatemala, which are looking into how to include questions on environment into their EITI process. In Colombia, civil society was firm in the demand: “*There will be no civil society participation in an EITI in Colombia without environment being part and parcel of the initiative*”. Tough negotiations followed, where the companies insisted that environmental issues could not be included. The government mediated the following compromise: “*A technical sub-committee will explore and suggest a methodology to systematize environment-related payments and investments made by the mining companies. The technical group will start working as soon as the EITI has reached its candidature, and the work shall be accomplished no later than 30 June 2015*” (Minutes, Colombia EITI MSG meeting 14 August 2014). Following this agreement, the EITI Colombia sent their candidature to the EITI Board, and was accepted EITI Candidate as of 15 October 2014. With that, they will become the first national EITI that integrate environment in their initiative.

6.3 Findings and Conclusions

- GHEITI has identified six Results it wants to produce at local level. It can document important improvements against these as shown in the summary table below:

Expected Results	Identified Results
Outcome: Royalty disbursement publicly disclosed	Yes.
Outcome: Royalties disbursed to communities in timely manner	Yes and No: distribution better structured and more timely but no funds since end 2012 due to the fiscal crisis.
Outcome: Reduced opportunity for corruption and waste	Yes, to an important extent.
Impact: Increased accountability	No evidence that local accountability has improved.
Impact: Reduced tension and conflict	Varies, though weight of GHEITI role difficult to assess.
Impact: Affected communities empowered	Yes, but due to ability to link up with national networks, not so much locally.
Unexpected impact: New channel for local-national dialogue created	GHEITI community forums constitute unique arenas for public action at community level.

- The degree of *attribution* varies. Improved transparency and timeliness of royalty disbursements are clearly due to GHEITI's RRs, and the reduced opportunities for waste and corruption are also due to RRs documenting the systemic weaknesses regarding royalty revenues directed to local level. When it comes to reduced tension and conflict, the role of GHEITI varies from one location to another, so here GHEITI *contributes* along with other actors and social processes. The empowerment dimension the team could not verify, but local actors are empowered by GHEITI information because they are part of national networks where they can bring in their concerns (WACAM, PWYP). This links up with an important but not expected Impact, which is that GHEITI has established a new channel for local-national dialogue that is important for continuous local empowerment and accountability development.
- The underlying Theory of Change (TOC) for these results to become possible along with the implicit assumptions were identified. When testing the assumptions, the critical one of local accountability being built did not hold due to existing power structures not responding to local concerns. Thus actors would take their grievances directly to the GHEITI through their CSO representatives. The *consequence* of this modified TOC is that GHEITI/NSC should (i) put in place more structured recording of local grievances, (ii) establish a feed-back mechanism to communities for tracking progress; (iii) establish links to the EPA on environmental concerns; (iv) produce indicators for social and environmental dimensions ("externalities") of extractive activities for inclusion in the reconciliation reports; (v) verify if the Mining Law and Law on Compensation are being adhered to as intended, or if revisions are required in order to address community concerns.

7 GHEITI Results at National Levels

As described in section 3.2.1, GHEITI has also a set of Outcomes and Impacts that it would like to deliver at national level. The TOC at national level can be expressed as:

Through developing a tripartite transparency framework for extractive industries and generating high-quality reconciliation reports whose contents are widely disseminated, GHEITI will ensure that extractives revenues are accurately monitored and accounted for so opportunities for corruption and waste of public funds are reduced, accountability at all levels of government is increased, economic planning and management is improved, thus allocating resources to the benefit of the Ghanaian people, creating a more credible and predictable environment for foreign investment and contributing to reducing poverty.

Annex E presents the assumptions and the testing of these for the national level TOC.

7.1 National Level Results

Regarding national level results, these can be grouped into three categories: policy and framework changes; fiscal changes; and institutional and organisational changes.

7.1.1 Policy and Framework Changes

GHEITI has contributed both to general policy changes in the forms of bills passed by Parliament, and legal instruments passed by government such as formal guidelines. Table 7.1 gives an overview of the policy and general framework changes that GHEITI has contributed to. The first column shows the policy/framework change proposal. If the proposal originally was raised in a Reconciliation Report, the first year the proposal was made is given in parenthesis. If the initiative was not from an RR or not from GHEITI itself, this is then noted. The Parliamentary Acts were either revisions of existing legislation taking into account new circumstances (such as the Internal Revenue Act) or legislation addressing new fields of public responsibility (the Petroleum Revenue Management Act, PRMA). In these cases, GHEITI would intervene as an “interested party” but with the legitimacy that GHEITI as a well-informed and credible collaborative party had. In these cases it is clear that the legislation or particular contents of it cannot be *attributed* to GHEITI. But stakeholders were also clear that GHEITI as a body and GHEITI’s constituencies were active proponents and important supporters for aspects dealing with transparency and accountability of extractives revenues matters, and thus *contributed* in important respects⁹.

Table 7.1: Changes to policies and frameworks

Policy change	GHEITI achievements
GHEITI should consider the transformation of the initiative from being a voluntary commitment to being formalised by law (2004)	The GHEITI Bill has been drafted and is before Parliament (2014)

⁹ Documenting the extent to which GHEITI has contributed to legislative changes was not possible as the team did not meet Parliamentarians, and thus not able to check how members of Select Committees view these issues.

Petroleum Revenue Management Act (PRMA) 2011: Contributed to having the PRMA debated, improved, passed	GHEITI members actively lobbied Parliament largely through their constituencies for the structural clarity, provisions addressing oversight and control
Petroleum Exploration and Production Bill: Contributed with suggestions for changing particular provisions	GHEITI members lobbied Parliament for the structural clarity, provisions addressing oversight and control
Internal Revenue Act: Contributed with suggestions for changing particular provisions such as the Capital gains tax	The Internal Revenue Amendment Act (No. 2) 2013, Act 871 has amended the provisions of the Internal Revenue Act to tax such gains from the upstream petroleum sector.
Guidelines, Use of Local Royalty Revenues: Ensuring that royalty funds are used for development projects in locality and not recurrent expenditures or outside mining areas (2004)	Guidelines drafted by Minerals Commission through broad consultation by Feb 2011, now with Ministry of Local Government and Rural Development for finalisation, implementation by local authorities (2014)
Guidelines, Private sector CSR: Giving local authorities/ communities a voice in how the extractive companies apply their local CSR funds	Guidelines drafted by Minerals Commission through broad consultation by January 2012, being discussed with the parties before finalisation (2014)
Minerals Commission should refer all changes in the ownership of mineral right licenses to the IRS for capital gains tax payment (2004)	The Commission informs the GRA as appropriate since 2009 when the Multi-Agency Revenue Task Force was established to exchange information between the Minerals Commission and extractive sector Revenue Agencies.
Verify the fineness of gold in-country (2004)	A laboratory to verify purity of gold exported is to be constructed at the airport – unclear when it will be operational (2014)

Sources: Reconciliation reports, interviews

7.1.2 Fiscal Changes

GHEITI's main achievements are probably in the field of fiscal changes. Most of these have been based on RR findings and recommendations. Because most proposals have addressed ways in which Ghana as a society and the various revenue collecting agencies can increase the revenue streams to the public coffers, the political acceptance and administrative interest in these proposals has been positive and strong, enabling an impressive list of fiscal changes to be passed and implemented, as reflected in table 7.2:

Table 7.2: Changes to fiscal policies and frameworks

Policy change	GHEITI achievements
Royalty rates variable, too low: Royalty rates varied 3-6% depending on cost calculations, in general ended up 3%. Proposal for flat 5% rate (2007)	Mineral and Mining Act 2006 amended by Parliament 17 March 2010 to a 5% flat royalty rate
Concession Ground Rent revised: The rental rates at GHS 0.50/km ² was much too low and should be adjusted up (2006)	Rate increased by OASL Aug 2012 with effect Jan 2013 to GHS 3.788/km ² . Not yet paid as miners object to scale of cost increase with falling minerals prices

Corporate Tax Rate increased from 25% to 35%	GHEITI proposal to MOF which included in budget speed to Parliament 16 Nov 2011 and passed by Parliament 1 February 2012
Capital Allowances reduced from first-year 80% and subsequent 25% on a reduced balance method, to a five-year flat 20% allowance rate	GHEITI proposal to MOF which included in budget speed to Parliament 16 Nov 2011 and passed by Parliament 1 February 2012
Capital Allowances no longer to be included in the operating costs when calculating taxes (2006)	Mining Revenue Task Force, established in part due to GHEITI, agreed end 2008
Determination of operating cost: IRS/GRA, Minerals Commission should assess companies' operating costs, establish benchmark costs for key inputs (2008)	There is currently an on-going study by the Minerals Commission on the development benchmark operational cost for mining operations in Ghana.
Thin capitalisation, oil & gas sector: To avoid large interest costs on investment funds lent by company HQ there should be loan limits also in this sector (2011)	New Income Tax Bill, replacing Internal Revenue Act, has provision for a debt: equity ratio of 3:1 that will address this
Ring fencing oil & gas projects: Oil companies carry over costs from one project to another, so revenue streams are reduced, delayed. Proposal is to ring-fence each operation as in the mining sector (2011)	GRA foresees production-area ring-fencing in new Income Tax Bill
Local revenue management: (i) OASL reg'l offices to distribute payments to local authorities when received from HO, (ii) when royalties cover several districts/stools, computation of shares should be public, (iii) DAs should prepare budgets and establish bank accounts for receiving royalty funds (2005, 2006))	All issues being addressed, although unevenly across districts. The need for the Guidelines regarding how to spend royalty funds is clearly great.

Sources: Reconciliation Reports; GHEITI Annual Report 2013; Boas & Associates, "Progress Report, Implementing Recommendations of EITI Reports", April 2009; E-mail from GHEITI National Coordinator 03 Nov 2014.

7.1.3 Organisational and Structural Changes

The Reconciliation Reports have flagged a number of weaknesses in how the public sector was organised to manage the mining revenues in particular. Because some of the revenue streams were managed by different public agencies, the need for better coordination and information sharing became quite apparent. These issues were therefore noted already in the early reports.

Other concerns had to do with the information sharing down to local level, as has been extensively commented in the previous chapter, but which had to be addressed from the top of the OASL structure. More specific issues like the need to rotate CEPS staff more often since a number of them were remaining at the same mining site for many years were also raised and basically acknowledged and attempted addressed by the agency.

In this area, it is in fact possible to largely *attribute* the changes that have taken place to the specific issues identified and the recommendations made by the GHEITI reports.

Table 7.3: Changes to institutional and organisational arrangements

Policy change	GHEITI achievements
Inter-sectoral communications: Need structured info sharing GRA, Minerals Commission, OASL, other agencies to ensure consistent, comprehensive, correct information on extractives revenues (2006)	Working group established that has put in place procedures for sharing of data. Early issue was reconciliation OASL-IRS on royalties. Continuous process.

Create mining desk in LTU/GRA: To strengthen, professionalise tax collection, all mining operations should report to a dedicated mining desk in the Large Taxpayer Unit in IRS/ GRA (2004)	Mining desk set up, oil and gas desk likewise later on
OASL must inform about royalty payments to local authorities, distribute funds on more predictable basis, do away with payments in tranches (2006, various years)	OASL has improved procedures, transparency on royalty payments, ensured speedier disbursements to local levels
Rotate CEPS staff: Customs Excise and Preventive Service officers at mines should be rotated as some stay at same mine for many years (2004)	CEPS recruited more staff but rotation rate not noted in later reports

Sources: Reconciliation Reports; GHEITI Annual Report 2013; IDL Group (2010) "Validation Report", interviews.

7.1.4 Summing Up

When we look at the results produced across the three dimensions at national level, the list of likely and probable achievements is quite considerable.

When we allocate these along the delivery chain – to the intended Outcomes and Impacts listed at the beginning of the chapter – we get a picture of what GHEITI has achieved so far, as presented in table 7.4.

Table 7.4: Intended and Identified Results (Outcomes and Impacts) at National Level

Expected Results	Identified Results
Outcome: Tripartite collaboration for extractive industries developed	Yes. The GHEITI NSC is seen by its members as a very functional collaborative mechanism that has agreed a long list of recommendations/ policy changes/ fiscal reforms/ organisational improvements in the sector; has come up with practical proposals; and has seen a large number of these be approved and implemented.
Outcome: Accurate monitoring of extractive industries payments in place	Yes, much better. Through the proposals regarding better inter-institutional collaboration, more publication of revenues and strong support for improved laws for transparent management of extractives revenues
Outcome: Reduced opportunity for corruption and waste of public funds	Not clear. The <i>wastage</i> may be reduced due to better revenue tracking but little if anything is known about corruption and changes to this. However, revenue <i>loss</i> has been reduced through RR's identifying uncollected revenue such as capital gains taxes with sector asset transfers.
Impact: Increased accountability at all levels of government	Yes to some extent. GHEITI has supported legislation at <i>national</i> level but at <i>local</i> levels not much has changed.
Impact: Increased foreign investment	Unclear. While Ghana has experienced increased inflows of investments and GHEITI's work may have contributed, documented links still remain to be identified
Impact: Reduced poverty (through better use of extractives revenues)	Improvement in local revenue use will be the most direct short-term effect. This should be discernible over the coming years. Macro effects will likely only come with petroleum revenues, though direct links to GHEITI may be difficult to establish.

7.2 Modifying the Theory of Change

When going back to the TOC underlying the work done at national level by GHEITI, the major clarification to the TOC that should be noted – and it is not really a change – is the understanding that the *political process* cannot be assumed to be based on public welfare concerns by decision makers. Rather what the process has shown is the importance of political mobilisation and legitimacy that has allowed GHEITI to exercise such influence.

What seem to be important explanatory factors are: (i) GHEITI has over time received strong visible political support from national leadership, (ii) GHEITI is housed in MOF and can rely on the prestige and collateral influence that this lends to GHEITI, (iii) GHEITI's Reconciliation Reports with all their findings and recommendations are printed as MOF publications and thus carry the imprimatur of the central public body when it comes to public finances; (iv) officials from key public institutions sit on the NSC and are able to both provide guidance on how to improve likelihood of passage, and subsequently also support the decision within the own organisation, (v) the various constituencies on the NSC together make up an important lobbying force for whatever changes GHEITI wants to promote, and are able to lobby the political system through these different access channels: from within public administration, through industry representatives, and through civil society.

GHEITI as a body is of course not only aware of this but has deliberately structured itself in this way to accomplish these political results, a point discussed in the next chapter.

7.3 Findings and Conclusions

- GHEITI has identified seven Results it wishes to produce at national level, and can point to important improvements for a number of these, as shown in the table below:

Expected Results	Identified Results
Outcome: Tripartite collaboration for extractive industries developed	Yes. GHEITI NSC is a very functional mechanism that has agreed a long list of solutions and largely achieved them. .
Outcome: Accurate monitoring of extractive industries payments in place	Yes, much better, due both to the RRs and better inter-institutional collaboration based on GHEITI proposals.
Outcome: Improved forward planning and economic management in place	Not really. GHEITI has focused on the revenue mobilisation step in the extractive industries' value chain (figure 3.2).
Outcome: Reduced opportunity for corruption and waste of public funds	Not clear. The <i>wastage</i> may be reduced due to better revenue tracking but little if anything is known about corruption and changes to this.
Impact: Increased accountability at all levels of government	Yes to some extent. GHEITI has supported legislation at <i>national</i> level but at <i>local</i> levels not much has changed.
Impact: Increased foreign investment	Unclear. No obvious evidence either way.
Impact: Reduced poverty (through better use of extractives revenues)	Unlikely. No data or even "stories" tie EI revenue to poverty reduction results.

- Regarding *attribution* of results, the tripartite collaboration and accurate monitoring of EI tax payments are clearly due to GHEITI's work. On the wastage side, there may be some improvements, and the RRs have in particular identified un-collected revenues, an issue

that subsequently was addressed. In order to address corruption, GHEITI would have to invest in analysing what mechanisms and practices lead to wastage and enable corruption. Without this, GHEITI will presumably not be able to address or influence these issues.

- The three desired Impacts are all quite high level concerns where GHEITI can only hope to influence and contribute. What could be useful is if GHEITI sets itself some reasonable targets in the field of Accountability, where it has the most credibility and ability to actually influence (when it comes to foreign investment and poverty reduction, GHEITI's voice will necessarily be limited). Perhaps building on the experiences from local level, a medium-term strategy for strengthening various accountability mechanisms and situations could become an important part of future work programmes.

8 GHEITI's Structure and Governance

GHEITI has a classic structure with a tripartite multi-stakeholder group, the NSC, as the decision-making body, and a small Secretariat headed by a National Coordinator that services the NSC and the larger organisation and takes care of the day-to-day administration and management of GHEITI activities.

8.1 GHEITI Secretariat

GHEITI has a small secretariat consisting of a National Coordinator and 2 assistants. In addition comes the person who handles the web-site and some of the IT systems that GHEITI relies on. The Secretariat is supported by other Divisions of the Ministry: the Accounts Department, the Procurement Division, the Public Relations Division and the World Bank Unit.

8.1.1 *GHEITI Staff*

The GHEITI Secretariat is fully staffed by civil servants from the Ministry of Finance (MOF). The Ministry thus has assumed the full costs of staffing the GHEITI Secretariat, the office space and running costs of this, and some of the general operating costs of the Secretariat.

The National Coordinator is a senior economist with long experience from MOF and the larger public finance field. He has been in post since the Secretariat was established, and thus has an unrivalled overview of the history, issues and achievements of GHEITI.

The two assistants are more junior staff. The staff filling these positions have rotated some over the years, so while they constitute an important part of the Secretariat, their career paths are such that they are less likely to stay on as a continuous capacity.

The fourth staff member is on the Ministry's IT staff. She handles GHEITI's web-site and thus the publications that are put out there, such as the Newsletters. She is also responsible for rolling out and managing the new reconciliation data collection software that has been introduced over the last couple of years (section 8.1.4). She is formally a member of the National Steering Committee, largely to ensure that the NSC can be fully updated on the changes on the IT-front and keep her aware of decisions that need to be implemented within her field of responsibility.

8.1.2 *GHEITI Administration*

The administration of GHEITI is thus small, especially in light of the attention being given to interacting with the field and the careful deliberations around the reconciliation reports. The NSC invests considerable time in addressing these tasks carefully. The Secretariat has to provide the logistics and the preparatory work to ensure that these activities can successfully go ahead, and this has taken a lot of the Secretariat's time.

The focus on servicing these substantive tasks is commendable. As was noted in chapter 4, this has meant that a number of the formal aspects of administering a semi-public body suffer. Minutes from NSC meetings do not contain formal decision notes, and there is no easily accessible electronic archive of key documents. There is no formal approval of the Minutes, so what is seen are the minutes as prepared by the Secretariat.

There are sub-committees of the NSC that play an important role, such as on procurement matters. The team did not see minutes from sub-committee meetings, including on the key decisions regarding contracts for services such as legal advice on the GHEITI Bill, the procurement of the aggregator, etc. The team has subsequently been informed that formal procurement records exist.

To ensure a more professional administration of this complex body some minor changes are needed, especially because so much of the institutional memory now resides with a few individuals on the NSC and the Secretariat. There should be documentation and procedures in place that ensure a smooth transition to any changes in personnel within GHEITI.

8.1.3 GHEITI Reconciliation Reports

One of the consequences of the GHEITI Secretariat sitting inside the MOF, and GHEITI as such being a government-managed process, is that the GHEITI Reconciliation Reports are published as MOF publications. This carries with it important political and administrative weight, particularly within the public sector, but also vis-a-vis non-state actors: the reconciliation reports are not simply something that has been discussed and signed-off by a tripartite collaborative body but has been approved by the central ministry responsible for the country's public finances.

There is thus a formal *imprimatur* on the RRs that provides the Secretariat and in turn the RR Aggregator considerable leverage when turning to private companies and public agencies and requesting the data necessary for the RR.

8.1.4 GHEITI Reconciliation Software

As with all reconciliation exercises, the data collection, validation and verification process is time consuming and tedious. In principle it should be easy for a private company to simply transfer the data from its internal management systems to the Excel sheets provided by GHEITI. In practice it is not always so simple, not least of all because larger companies tend to work on an accrual basis whereas GHEITI wants data on a cash-payment basis – that is, all transactions are recorded when they take place, not as per the period for which they are valid. On the public agency side equivalent problems exist since they record events as they happen, which is not necessarily the period the transaction in principle should correspond to. One of the greater headaches for the RR Aggregator has therefore been to get the timeline right regarding transactions, but also to figure out local currency values of transactions recorded in USD, as some taxes are to be paid in USD since the revenues are generated in foreign exchange¹⁰.

Another problem has been that many accounting staff in mining companies remain in post for short periods. Since the reconciliation exercises in Ghana have occurred every other year,

¹⁰ A company may make a tax payment end of December that may for example be royalties for September-October. The government may not record receiving the payment till early January. The payment may have been made in USD, but recorded in GHS on the revenue side. The company, the public agency and the Administrator have to figure out the correct periodicity and how the recorded GHS amounts correspond to the USD payment. While not difficult or complex issues as such, they can require a lot of work to address properly.

the RR Aggregator has spent a considerable amount of time explaining to new accounting staff exactly which data are required for the exercise to be carried out properly.

Germany/GIZ thus agreed to fund the acquisition and installation of SAP software as the platform that all actors engaged in the RR exercise should use. The idea is that once an agreed-upon package is in place, the package itself will contain a number of checks and explanations that should simplify data entry. Furthermore, with SAP installed on a MOF server, MOF can administer the process centrally, allowing each actor to have its own work sector where it can enter and test the data before verifying and submitting formally to the reconciliation exercise. This allows the companies and public agencies to space out the work according to their own work schedules, as long as they respect submission deadlines.

SAP, a Germany-based company, provides one of the world's most sophisticated database systems that can be scaled-down to specific needs due to its modular structure. It is also a software package used by many multilateral companies exactly because it can be scaled up to address multiple projects in multiple countries with many different activities, divisions, tax regimes etc accounted for. According to the IT manager in MOF, using SAP has turned out not to be a big issue for many of the mining and oil and gas companies exactly because that is the platform they already use for managing the company. What is basically required is thus to port the requisite data from their own database to the GHEITI database.

Funding for SAP began in 2010, and the system was in principle in place by 2013, though even in 2014 some de-bugging had to be done. At the time of the mission, there were 12-13 mining companies, 15 district assemblies and oil companies, and six public bodies apart from MOF itself that are on the system – a total of around 35 actors.

GIZ has recorded a total of EUR 590,000 so far spent on this system. The team has not been provided an estimate of future costs, but systems like SAP normally require licensing of each site through annual fees. These can add up to considerable sums depending on the number of actors linked up to the system and the kinds of pricing deals the user has been able to negotiate. Neither of these parameters have been made available to the team.

For the 2012-2013 RR, the Aggregator was using the SAP system for the data collection. This task had just been concluded as this report was being finalised. The Aggregator saw a number of advantages to the system. But problems such as new accounting staff not fully understanding the data requirements remained, so the Aggregator still had to visit and verify a number of the participating companies. The challenge of getting public agencies to provide their own data also remains.

While the Aggregator sees that the data collection and validation work has been simplified, the question remains whether this was a cost-efficient use of the sums involved. The key concern this team tried to raise with MOF was the extent to which the GHEITI platform could be useful for larger public finance management processes such as general budgeting, accounting and auditing. MOF hosts the centralised payments (and thus procurement control) system for the public sector, which is evidently run on an Oracle platform – the big competitor to SAP. While staff claimed that the two database management systems can “talk” with each other, the GHEITI and payments systems have not been designed within a larger integrated financial management information system (IFMIS) architecture. The extent to which the SAP database thus can be useful for other components of an expanding Ghana IFMIS is therefore unclear. While any database system can be developed and expanded, the

general experience is that this can be quite costly and require a lot more work than is originally thought.

Another issue is the lifetime costs of a system that is based on sophisticated core elements that can only be maintained and updated by the system owner. Along with the annual license costs, these issues raise questions about spending nearly EUR 600,000 so far on the software, installation and training of a shared database system that probably could be handled by an off-the-shelf mid-size software package with some local adaptations. While this is a water-under-the-bridge observation, GHEITI may wish to have a discussion on the longer-term costs of the SAP database, since NSC members spoken with did not seem to be very well informed about possible implications of the current database platform.

8.2 The National Steering Committee

GHEITI was originally established by a Cabinet decision that defined its mandate. This was modified through a Memorandum to Cabinet submitted by the Minister of Finance and Economic Planning in April 2010 in order to include also the oil and gas sector in addition to the mining sector as part of GHEITI's remit. (see www.gheiti.gov.gh/site/index.php?option=com_content&view=article&id=207%3Athe-revised-institutional-framework-for-the-ghana-extractive-industries-transparency-initiative-gheiti&catid=34%3Aabout-us&Itemid=1).

The Memorandum proposed an enlarged NSC, to accommodate representatives from the oil and gas sector across the three constituencies. The expanded NSC consists of 20 members, which are listed by organisation/function (op. cit., p. 4).

The GHEITI web-site lists 22 NSC members. The differences are that the GHEITI web-site list (i) includes 3 rather than 2 representatives from MOF, where the third person is the IT manager, (ii) includes 3 rather than 2 representatives from the Ghana Revenue Authority, (iii) includes 2 rather than 1 representative from the Office of the Vice President, (iv) but is missing one representative from the District Assemblies in the areas of the oil find (www.gheiti.gov.gh/site/index.php?option=com_content&view=article&id=82&Itemid=59).

These differences are not of significance but reflect the somewhat informal practices that can be found in several areas of GHEITI's activities and administration.

While the GHEITI NSC includes the three constituencies that all multi-stakeholder groups must, the composition is somewhat unique in terms of numbers of representatives, which varies a lot across constituencies. This is addressed by the NSC formally only having three votes, one from each constituency. In this sense the three carry equal weight in terms of formal decision-making.

Furthermore, during the interviews, representatives from all three constituencies stated that once in an NSC-meeting, the future of Ghana was the most important issue at hand for all members: Ghana first, constituency second. All members also pointed to the importance of listening to each others' realities, in order to find solutions acceptable to all three stakeholder groups. In this way, the NSC has developed a successful approach to collective action within a sector that often faces some difficult choices and opposing agendas.

8.2.1 *The Government Constituency*

This is by far the largest constituency in terms of representatives on the NSC. Of the 22 members, 13 can be seen to represent national authorities while one represents local government (as pointed out above, there should be a second District Assembly representative from the oil find area). The Ghana National Petroleum Corporation, GNPC, can be seen on the one hand to represent the state in that it is to defend the public interest in the oil and gas sector, but also has its foot in the private sector as it moves towards becoming a more commercial operator though owned by the state.

Depending on how one counts, one can therefore consider the government constituency to have 14 or 15 of the 22 positions on the NSC.

The two ministries with two or more representatives on the NSC – MOF and the Ministry of Energy – as well as the Office of the Vice President that also has two representatives, have named a top civil servant as one representative, while it is the more junior person from that agency who normally attends the NSC meetings. In practice these public institutions have a policy of having a representative and an alternate, where the alternate attends most meetings and then briefs the high-level representative and gets authorisation to present policy positions when necessary. The high-level representative will attend or sanction key meetings or decisions, so is in fact involved and lends real authority to the deliberations.

Having senior civil servants formally sit on the NSC is important, however, because it lends a lot of weight to the final decisions of the NSC. When the MOF through its Chief Director signs off on a report that points to weaknesses in performance or organisation of another public body, leadership in that body is likely to take note and respond.

It should also be noted that these representatives to the NSC attend as a function of their formal position. When the former Chief Director of MOF left and a new Chief Director was appointed, this also meant that the new Chief Director became Chair of GHEITI.

This underlines the GHEITI NSC model as a smart “co-optation model”. All public sector actors that are important for the implementation of GHEITI are members of the NSC and thus part of the process of defining the terms of reference for the reconciliation tasks – which have always been quite comprehensive and included non-financial issues surrounding the collection and management of extractives revenues. In this way bodies such as the Ghana Revenue Authority or the Office of the Administrator of Stool Lands not only are co-responsible for defining the task to be done, but are also involved in the discussions on the findings and recommendations of the reconciliation exercises. When the RR points to lack of information dissemination by the OASL to local communities as an issue, the OASL of course is aware of the issue, has participated in the discussions around the analysis that led to the conclusion, and thus is both in a better position to implement but also is under considerable pressure from the peers in the NSC to ensure compliance.

This approach of full involvement and transparency vis-a-vis relevant public agencies is thus a consistent application of the collaborative approach to identifying issues and solutions that the overarching tripartite constituency model represents. While it can be labelled as co-optation, it is fundamentally an inclusive and participatory approach, and one that actually functions according to intentions.

8.2.2 *The Private Sector Constituency*

The private sector is represented by the Ghana Chamber of Mines and a mining company on the mining side, and two of the larger oil companies from the oil and gas sector – a total of 4 representatives. While the Ghana Chamber of Mines is a permanent presence, the three company representatives are s/elected on a rotational basis among the companies.

Industry representatives act as important players in both directions. They clearly represent and voice the concerns of industry within the NSC. But they also act as important facilitators between GHEITI and individual companies when it comes to things like the reconciliation exercise. When the oil and gas industry was included for the first time for the 2010 exercise, a number of oil companies reacted the same way companies often do: why should they have to provide information that has already largely been provided to government, why should they have to spend time re-doing the data into a format that is not useful to them, and why should they release data into the public domain that in parts may be considered sensitive or proprietary information? – One of the oil companies on the NSC then took it upon itself to organise an informational and experience sharing event with oil companies and other stakeholders to walk through what the EITI is, the principles behind the GHEITI reconciliation exercise, etc. This was evidently quite helpful to get oil companies to participate in the exercise on a more constructive basis.

8.2.3 *The Civil Society Constituency*

Civil society has only three representatives on the NSC. One represents the transparency and accountability community, and in particular the local Publish What You Pay (PWYP) coalition. The second one represents civil society organisations in local mining communities, while the third comes from the oil and gas coalition. They thus provide considerable breadth of coverage in terms of civil society engagement, and hence also have clear constituencies to relate to. The team heard how the central CSO representatives reflected the views that had been presented in the field.

The persons who sit on the NSC have been the same representatives throughout. This presents both a strength and a potential weakness for civil society. It means that the civil society representatives have very solid experience and knowledge about GHEITI, and have been able to pursue a consistent and persistent agenda and point of view within the NSC, an opportunity they clearly have exploited. The CSO representatives are acknowledged to be highly knowledgeable about EITI and the sector in general. They are seen to have been very active with respect to promoting ideas and suggestions, some of which are seen as typical civil society positions, but also recognised as coming up with constructive solutions to difficult issues. While the smallest constituency in terms of numbers on the NSC, they have clearly been visible and voluble (one industry representative, in jest, suggesting that not only should votes be equally distributed, but so should speaking time as well!).

The challenge is that the actual knowledge and involvement of civil society becomes highly concentrated around the three individuals. The underlying constituencies have now put in place transition procedures, to ensure smooth hand-overs. But the CSOs may also consider the “alternate” policy of the public sector, having alternates sitting on the NSC who are expected to be the formal representatives in the future.

8.3 GHEITI Capacity Development and Results

The GHEITI annual reports have always included information on major capacity development activities, such as national workshops, sector skills training, regional trainings, participation in global EITI meetings.

More formal trainings have included the so-called Summer Schools that GIZ and RWI have co-sponsored since 2009. These are two week events in Accra for EITI-related persons from across Anglophone Africa, and has achieved considerable recognition as an important event. Ghanaians have of course participated in significant numbers, including NSC members.

Trainings have been organised at UK universities and EITI-related persons have been sent for training at the eight-week Petrad courses in Norway, and training sessions in connection with World Bank MDTF missions and when EITI International Secretariat staff have visited.

The discussions and dissemination of the RRs have been major capacity building events as well, where draft reports have been the subject of day-long workshops of the entire NSC, sometimes also with external resource persons present. When the oil and gas sector was included in the GHEITI RRs, the NSC and GHEITI Secretariat put considerable effort into upgrading its own understanding and knowledge of the petroleum sector.

A number of the national events and workshops have included a much extended group of stakeholders, including members of Parliament, other CSOs, industry officials etc. This has enlarged the community in Ghana that is knowledgeable about EITI and its objectives, how GHEITI works and its results, and built networks of common understanding that clearly has been useful when GHEITI has wanted to put forward proposals or supported new ideas.

GHEITI thus has a very competent and active NSC and Secretariat. This is in large part due to the continuity of key personnel, both on the NSC and the National Coordinator. But it is also due to the fact that members of the NSC already had quite high levels of knowledge and skills when they joined the NSC, as well as strong commitment to the task. The capacity development has thus been built on existing high levels of competency. This is reflected in the high quality of reporting, analysis and discussions around the RRs, as well as the innovative steps – and thus risks – that the NSC has been willing to take over the years.

What is missing, however, is a more systematic link-up with the research community, for more evidence-based and methodologically rigorous knowledge production. There are a number of issues surrounding real benefits to local communities, to measuring the total social cost-benefit picture of extractive activities under different circumstances, and in particular original research on distributional effects within local societies and between various segments of local populations such as between traditional versus formal authority; between local leaders and their constituencies; longer-term effects of capital-intensive activities in low-capital settings and the gender-distributional effects on the derived demand for labour; and so on.

8.4 Findings and Conclusions

- The GHEITI Secretariat is hosted by the Ministry of Finance, which provides staff, office space and basic operational support. The National Coordinator is a senior MOF staffer who has been in place since the beginning, representing an important continuity and

stability, but also underlines the need for the Secretariat to have documentation and a hand-over process in place to ensure that this memory is not lost when a new National Coordinator takes over.

- GHEITI administration is flexible and focused on its main products and responsibilities, but is so informal that key minutes and other documentation of decisions and results means the formal institutional memory is weak.
- The acquisition of SAP software to simplify and standardise collection and analysis of the reconciliation data has made the reconciliation exercises faster and cheaper. But SAP itself is costly, and simpler databases may prove more cost-effective, especially if GHEITI extends its work to new sectors and smaller-scale producers.
- The NSC, which today counts 22 members as per GHEITI's own web-site, consists of 15 persons from the public sector, 4 from industry and 3 from civil society. Each constituency has one vote, so in that sense the NSC is balanced in its membership.
- The public sector members represent all the important public agencies, in some instances with a senior official and a junior official as alternate and the person usually present in meetings. This co-optation model has proven successful in that all important public agencies thus are party to, have a stake in and are committed to GHEITI reports, findings and implementation.
- The industry representatives rotate among the companies. The three CSO representatives have remained the same over the period, providing continuity and knowledge, but also vulnerability to them leaving. The CSO constituencies in 2013 put in place succession strategies for ensuring well-managed hand-overs.
- GHEITI has organised a continuous set of trainings, workshops, participation in regional and global EITI events that has kept GHEITI as a body well-informed about what is happening at international levels while continuously upgrading the skills of the NSC members and Secretariat. Given the already high level of knowledge that NSC members brought with them as they joined the NSC, this has led to a high level of analysis and discussions around the RRs and GHEITI activities in general.
- A number of the national events have involved large numbers of other stakeholder representatives, ensuring that Ghana has a broader community – including members of Parliament – that are knowledgeable about EITI and GHEITI's own work and results.
- What is missing is a link to the research community that can produce more rigorous knowledge about the larger societal results and opportunities that the extractives industry represents, and where actual impacts remain largely unmapped so far.

9 Summing Up and Looking Ahead

GHEITI can record a number of impressive results, but also faces some challenges.

9.1 Transparency Performance

One of the key tasks for this assessment was to establish the extent to which GHEITI has contributed to improved transparency in the sector. The RRs have data on the mining sector as of 2004, thus providing a dataset for a ten-year period. While the mining industry itself had provided data on its revenue payments even before GHEITI was established (Williams and Van Alstine 2014, p. 29), it was only with the first GHEITI RR that a comprehensive picture was established.

The two transparency indicators that the team believed would be useful were (i) the share of industries covered as against all those that ought to be included, given the materiality threshold defined, and (ii) revenues recorded as a share of total mining sector revenues.

As noted in section 5.2.4, the RRs have in fact covered the entire universe of relevant mining companies as of the first RR from 2004. That is, the transparency in terms of including all the relevant mining companies jumped to 100% as of the first report, and has remained there since. RRs have also covered 99% of mining sector revenues already as of the first report.

The finding is hence that GHEITI has succeeded in providing virtually 100% coverage and transparency on mining sector revenues as of its first report. There is then no potential for further improvement using these indicators (unless and until GHEITI for example decides to include small and medium scale mining operations with a lower materiality threshold).

The team then turned to other data sources to see if these could provide other avenues for tracking changes to sector transparency, since the country clearly is struggling with transparency and corruption issues: Ghana is number 61 out of 175 countries included in Transparency International's 2014 *Corruption Perceptions Index* (CPI), scoring only 48 out of 100 possible points (see <http://www.transparency.org/cpi2014/results>).

But Ghana currently ranks as number 15 from the top out of 58 countries in the NRGIs 2012 *Natural Resources Governance Index*, and thus is the highest-ranked African country (see <http://www.resourcegovernance.org/rgi>). The NRGIs index is relevant since it focuses on the extractives sector only. The score of 63 which Ghana attained, out of 100 possible, is a composite of four weighted sub-components: (i) institutional and legal setting, where it scored a high 79; (ii) safeguards and quality controls, where it got a still high 73; (iii) the enabling environment, where it got a satisfactory 59; and (iv) reporting practices, which scored a barely satisfactory 51.

Each of these four sub-indexes is in turn aggregates of a series of particular sub-component ratings that include a total of 50 different issues or dimensions. Ghana and other countries are thus potentially ranked on a total of 50 issues to arrive at the final score.

The NRGIs indexes are published every two years, so the next one for 2014 is due late 2015.

For the future, GHEITI may therefore choose to use the NRGIs index as a key tool for tracking own performance. One thing is that it will then be able to rely on an internationally approved and applied tool and methodology, which provides for both greater credibility

and data reliability. This will also allow Ghana to compare itself with those countries it believes are relevant peers. It can track own performance over time using a consistent metric.

But by analysing the 50 constituent dimensions of the index, GHEITI/the NSC might also identify those issues it sees as particularly important, and concentrate its work on improving activities that can improve Ghana's rating on this dimension. The issues that are selected can be based on GHEITI's core concerns, and/or could be influenced by those issues where Ghana scores particularly poorly, or those where GHEITI believes it will have the greatest chance of contributing to improvements, or perhaps some other criteria.

The bottom line is that GHEITI itself does not generate data that can be used to track changes to transparency. It will therefore either have to change/expand its own data capture exercises by expanding the Reconciliation exercises – something that can be done but is probably not advisable – or it can rely on the NRGi index and potentially others that may emerge in the future (there is an increasing number of transparency and accountability initiatives around the world that address various aspects of societal insight and control).

GHEITI can also use the value chain for the sector (figure 3.2) as a starting point for verifying the extent to which it fulfils standard transparency conditions. In figure 9.1 below the five steps in the value chain are shown with then a number of transparency dimensions listed below, coloured by the extent to which GHEITI RRs today appear to address these various concerns. As can be seen, GHEITI does quite well along a number of issues, and can select to continue addressing those questions that it finds of greatest importance to its future work.

9.2 The Reconciliation Process and Reports

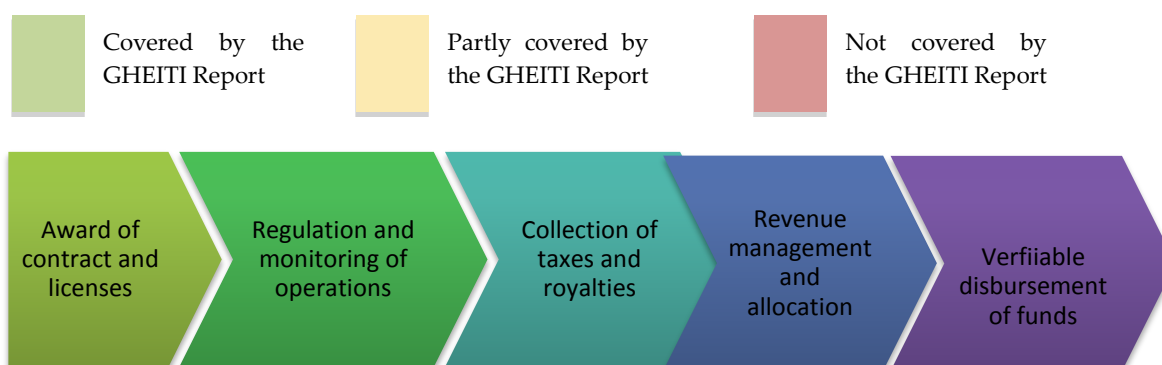
The RRs as they are being produced today score well on the data comprehensiveness and reliability. Accessibility and usability is generally also seen as good.

GHEITI has begun a scoping exercise to look into whether it needs to expand the coverage of the mining reports to include smaller-scale operations. If it decides to do so, it will clearly become a more demanding but perhaps also more relevant exercise regarding some of the challenges local communities are facing. One of the claims heard is that most of the negative externalities being generated in the mining sector do not come from the large-scale international companies but those companies that are operating “just below the radar”. They are small enough not to attract a lot of attention by tax and other authorities but large enough to provoke serious environmental problems, land dislocations etc.

Another expansion would be to include community-level data, if not directly in the Reconciliation Reports, then in a complementary environmental and social impact study. This could be a sample of communities systematically being tracked in-depth over time, or general indicators for all affected localities, or a mix¹¹.

¹¹ The World Bank's *World Development Report* and the UNDP's *Human Development Report* contain a general section with data that are the same across countries and over time, and then a second section that looks more in-depth at particular dimensions. GHEITI might look into producing reports based on this model.

Figure 9.1: Transparency in the GHEITI Report Along the Value Chain



Contracts/ Licenses	Operations/ Production	Fiscal Transparency	Distribution/ Allocation#	Use/ Expenditure
Indicators	Indicators	Indicators	Indicators	Indicators
Criteria for establishing public consent + adherence*	Process/criteria for establishing production volume + adherence	Volume of payments by industry	Distribution/ allocation criteria + adherence	Expenditure reporting criteria + adherence
License award criteria + adherence	Price criteria + adherence	Accuracy of payments by industry	Public access to info on distribution/ allocation criteria + adherence to transparency norm	Reporting enforcement regime adherence
Contract transparency + adherence	Cost deduction criteria + adherence	Receipts by revenue authorities	Distribution/allocation as % of total revenues from industry	
Contract enforcement regime adherence	Environmental costs/benefits + adherence	Fiscal enforcement regime adherence	Public access to information on made transfers + adherence to transparency norms	
	Social costs/benefits + adherence		Transparency enforcement regime adherence	
	Economic costs/benefits + adherence			
	Regulation and monitoring enforcement regime adherence			

Directive C/Dir.3/05/09 on The Harmonization of Guiding Principles and Policies in the Mining Sector. Art. 16, para. 3: "Companies shall obtain free, prior, and informed consent of local communities before exploration begins and prior to each subsequent phase of mining and post-mining operations."

*The **degree of adherence** to formally established rules/norms is another measure for **effectiveness of implementation**. That measure is an indication of a range of explanatory factors such as: the importance of adherence to person-based rules when these contradict impersonal formal rules; the degree to which a patron's interests coincide with formal rules; corruption; degree of implementation capacity (incl. resources).

#Should revenue management be included fully, there is a range of additional areas for transparency, such as planning and budgeting. These factors are important should EITI encompass specific goals such as meeting local needs, civic economic development or innovations for sustainability.

The issue most often raised is timeliness and regularity of reports. GHEITI is moving towards annual reconciliation exercises, which ought to take place at the same time of the year, as close to the end of fiscal years of the companies as possible. The SAP system allows companies to enter draft accounting data as they are produced, and these can be finalised when the audited accounts are ready. Pressure from Government to ensure that this happens may be necessary.

With data in a query-based database, the opportunities to share data become greater. This opens up for research into overall societal costs and benefits of different mining operations, for example, and increasing the number and types of variables to include environmental and community dimension can further expand the uses of the GHEITI database.

9.3 Dissemination and Public Debate

GHEITI spends a lot of resources disseminating the RRs through public meetings, radio appearances, and through mobilising the various networks that are linked in with GHEITI – the PWYP coalition with about 50 CSOs and the Ghana Oil and Gas Platform that evidently includes around 120 CSOs being primary examples.

A number of the national workshops organised by GHEITI have had wider awareness raising objectives on certain issues, such as fiscal policies, where members of Parliamentary Select Committees have participated along with industry officials, CSO representatives etc.

What GHEITI might consider is who their strategic target audiences are. It would seem that national decision makers – Parliamentarians and senior civil servants in relevant public agencies – are one group GHEITI is already addressing, though it may have a more systematic approach, something that annual RRs would allow.

Other target groups may be industry itself. GHEITI may in particular try to include the second-tier businesses: the medium to small scale mining operations, and the supply industry to the offshore oil and gas sector. Ghana has fairly strong “national contents” legislation when it comes to the oil and gas industry – but it is not clear if all the ambitions can be attained within the time limits set. Nor is it clear if the emergent national industry will be in full compliance with the transparency and accountability standards that GHEITI would like to see.

One idea that was presented to the team was that GHEITI ought to target the tertiary level teaching institutions in the country – the colleges, universities and training centres that are preparing tomorrow’s leaders. This is a citizen group that tends to be above average interested in the challenges their society is facing, has the commitment and time to engage, and who are in an institutional setting where they can form the kinds of networks that are important later on if and when they wish to contribute to GHEITI’s agenda.

CSOs are of course another target audience that is already heavily engaged in particular through their umbrella organisations PWYP and the Oil and Gas platform. The spread in the issues that the CSOs are committed to means this is a heterogeneous community, but a key one to provide useable and clear information to. A survey to identify what they believe would be of greatest use to them may generate some interesting ideas.

GHEITI is already heavily committed to local authorities and communities, but again might wish to become clearer on what it wants to achieve. It is not obvious, for example, that the

idea of establishing three permanent regional information centres is the best use of scarce financial and human resources. The idea that individuals or groups will make much use of such centres is doubtful. Rather GHEITI might think through how it can best ensure more continuous dialogue and interaction with certain communities. These can be communities that are facing particular problems, communities that show particular promise of successfully addressing some issues and therefore would be good users of external support – there are presumably a rather long list of criteria that could be envisaged. The point is that GHEITI should have a better idea of what it expects to deliver as a result of investing resources in a given locality, how it can ensure a minimum of continuity, which actors it will ally itself with to make this happen, to what extent for example the research community could come in and contribute, how it intends to track results. The possibilities but also challenges are large, but that is all the more reason for thinking through what the objective of the GHEITI dissemination and interaction activities at local level should be.

9.4 GHEITI and Reform Processes

One of the main thrusts of the EITI system internationally is to have EITI processes link up with other societal actors and reform processes, to maximise the results that a limited national EITI body can hope to contribute to.

GHEITI has already a long list of important achievements to point to, and this has largely come about due to smart networking, using the relationships and credibility established with national decision makers and senior officials.

GHEITI is formally represented on the Public Interest and Accountability Committee (PIAC) by its National Coordinator, and GHEITI reports have been used by PIAC in its own advocacy work. Other programs and actors that GHEITI may consider linking up with is the *Oil for Development* program, but in particular the World Bank's support to the extractives sector. While GHEITI has received funding from the World Bank administered EITI MDTF, the Bank also provides financial and technical assistance including for sector reform processes. Some of these GHEITI would maybe wish to become involved in, to contribute to those processes it agrees with and influence those that it sees as not being fully in line with its own objectives.

The issue here is that when GHEITI sets its objectives and defines its ambitions, these should be explicitly related to other actors and processes, so as to maximise its own ability to influence the dynamics of the extractives sector in the direction it wants.

9.5 GHEITI's Structure and Governance

GHEITI has a classic administrative and governance structure and system, but where some aspects could or should be revised:

- GHEITI should develop a medium-term strategy with operational targets both in terms of direct Outputs but also medium-term Outcomes. The strategy may be structured in part according to target audiences GHEITI wishes to reach. The intended results should be provided in the form of a Results Framework with SMART Objectives/indicators (Specific, Measurable, Achievable, Realistic and Time-bound) and where some thought to the Theory of Change behind the various deliverables could be presented. GHEITI

should be realistic and talk about Contributions rather than Attributions when it comes to Outcomes, but pay particular attention to how to track transparency and accountability. There should be baseline data for the key indicators so that GHEITI can monitor its own performance over time.

- The strategy can be concretised through developing rolling three-year activity plans with budgets (that is, the plan is renewed every year by adding on one year ahead, and recording what was achieved in the year just ended and how the coming three-year actions will build on this). The medium-term strategy should guide the priorities and budget allocations in the activity plans. The Annual Reports would summarise achievements in line with the EITI guidelines, and provide input to the next three-year plan.
- The communications and dissemination activities should thus be important elements of the strategy and three-year activity plans. Targeting various audiences and having some means for tracking use and results of GHEITI publications within each will be helpful. Among other things this can be used to verify if assumptions regarding the use of GHEITI materials hold true or if some adjustments may improve their impact.
- GHEITI may wish to revisit its web-site and see if it can identify who uses it and for which purposes. This may lead to adjustments regarding what GHEITI puts out there, or how often it is updated with what kinds of information. Having clarity on who GHEITI wishes to reach may make the web-site more useful to those priority audiences.
- The formal documentation from GHEITI activities – NSC and NSC sub-committee meetings, formal national events – should have a standard format to ensure that dates and numbering is clear. Decisions and follow-on responsibilities should be recorded. The minutes should be formally approved and signed, for example in the subsequent meeting or through an informal “no objection” over the net. Formal approvals – of reports, of contracts – are particularly important. An electronic archive of these documents (signed PDF minutes, for example) should be easily available to the Secretariat for distribution as and when required.
- The NSC may consider rules regarding limits on number of members with speaking rights, and preferably also term limits. GHEITI may wish to consider a system of Representatives and Alternates, where each constituency may be entitled to the same number of seats at the table but where the number of Alternates is not limited so a number of constituency representatives can be invited to take part in the deliberations as and when the issues are pertinent to them.
- The Alternates for the CSO and industry constituencies could be expected to be the ones that take over as Representatives over time, further ensuring continuity. For Government representatives, who may have to change according to career shifts, replacements may be difficult to plan, but should in principle not be a major issue.

As GHEITI celebrates its tenth anniversary – with justifiable pride! – the time has come to formalise and institutionalise some of its processes and structures. With stronger systems and capacities in place, it will furthermore be easier for GHEITI to expand and include new sectors, if that becomes the decision, such as forestry, fisheries, small and medium-scale mining, and possibly look into social and environmental dimensions.

9.6 Recommendations

Based on the above results and findings, the following are the team's key recommendations:

- GHEITI should develop a *medium-term strategy* with a *results framework* for the key dimensions of its work, in particular increased *accountability* in the extractive sector. The results framework, using *SMART objectives*, should enable GHEITI to critically track own performance, but also define (i) its *target audiences* and (ii) *strategic partnerships for sector reforms*, and present intended *Outcomes* for these ambitions.
- It may use the more open *EITI Standard* and the extractives sector *value chain* as a tool for identifying strategic objective, using *Theory of Change* approaches to justifying strategic choices made. It should rely on the more open *Contribution analysis* rather than *Attribution chains* when explaining expected results.
- The medium-term strategy needs to be operationalised through *rolling three-year action plans*, with *budgeted priorities* and linked-in *communications strategy*. Included in the action plan should be the programming of *annual reconciliation exercises*, such that time delays of data are minimised and RR publication dates are predictable.
- GHEITI may wish to use the NRGi's *Natural Resources Governance Index* for monitoring own performance, identifying which sub-dimensions of the Index it wishes to focus on, thus being able to rely on internationally "best practice" standards and reliable data, as well as comparative statistics with societies Ghana believes are relevant to compare with.
- GHEITI may wish to verify with *international rating bureaus* the extent to which GHEITI's work is used for setting the *country's credit rating*. GHEITI may in particular check if there are variables that GHEITI itself can influence that are of particular interest or importance for such credit ratings.
- GHEITI should review its internal procedures regarding *documentation of deliberations and decisions*, the *structure and solidity of its institutional memory*, and how it will ensure continuity and quality in the face of likely changes in NSC membership and GHEITI Secretariat. This is particularly important in light of potential expansions of GHEITI's transparency and accountability concerns into new sectors or more in-depth in existing sectors: smaller-scale mining enterprises; supply industry to oil and gas sector.
- GHEITI needs to review its strategy regarding *interaction with local authorities and communities*, to ensure continuity, focus on key issues and strategic regions, and see if the idea of three permanent regional information centres is the best choice or if a more flexible and perhaps research-intensive model may be more appropriate.
- The use of the *SAP database* needs to be reviewed in light of probable long-term costs and benefits, the potential for expanding the use of the SAP platform into other areas of public finance management, and the likely challenges the use of SAP will face if GHEITI incorporates less capital-intensive sectors and actors.

Annex A: Terms of Reference

Terms of Reference for a short-term assignment under GIZ's Good Financial Governance programme

1 Background

1.1 Rationale

The Extractive Industries Transparency Initiative (EITI) is an International Initiative between governments, companies and civil society groups to promote transparency in the flow of revenues from extractive companies to host country governments based on a set of criteria for transparent reporting on the revenue streams and other benefits.

The purpose of the initiative is to encourage greater transparency in the extractive sector. This would enable citizens to make informed demands for the fair and sustainable use of revenues generated through the exploitation of natural resources.

The Extractive Industries Transparency Initiative (EITI) is one of the governance tools aimed at reducing poverty among natural resource rich countries by improving accountability and transparency in the payments and receipts of natural resource revenues. This is achieved through regular publication and verification of company payments and government receipts from natural resource revenues such as mining, oil and gas sectors among others.

The initiative was launched in 2002 but the indicators for meeting the standard were not established until 2006. The principles of EITI require at a minimum (a) full disclosure by governments of revenues received from the operation of such industries; (b) full disclosure by businesses of payments made to government; (c) proper accounting for and auditing of revenues; and (d) public participation in monitoring and evaluation of revenues and disbursements and in the enforcement of related obligations. The EITI requires transparency in the payments made by companies and revenues received by governments relating to the exploitation of a nation's extractive resources.

Realizing the importance of reducing poverty in natural resource countries through efficient collection and utilization of revenues from the sector, Ghana in 2003, signed onto the EITI and was one of the pioneers to implement the initiative in the mining sector and later extended it to the oil and gas sector in 2010. Since signing on to the Initiative Ghana has participated fully in all EITI activities both regionally and internationally.

The EITI initiative in Ghana is implemented by a Multi-Stakeholder Group (MSG) drawn from Government, CSOs and Mining/Oil and Gas Companies.

Under the EITI rules, Ghana Extractive Industries Transparency Initiative (GHEITI) is required to produce annual reconciliation reports that reconcile the payments by the extractive sector companies to receipts by the government of Ghana.

EITI implementation in Ghana has gathered considerable pace since 2003 and the country has churned out 9 reports over the years covering mining revenues from 2004 to 2011 and oil revenues for the year 2011. These reports have been and continue to be discussed in about 8 regions of Ghana and in some cases referred among best examples across the globe. Apart from the reports having been used as credible and reliable reference materials for policy re-

formulation, it has revealed gaps and lapses in institutional arrangements and challenges with fiscal regimes such as royalties and inadequate ground rent in the mining sector.

1.2 Understanding

The significance of EITI is not disputable. It is crucial for any economy that wants extractive resources to work for the people. Ghana like most implementing countries has gone beyond the minimum standard set by the EITI International. It reports on sub-national disbursement and utilization of mining sector revenues. It also reports on extractive sector production data and company disaggregated data.

Ghana seeks to back the EITI by law, disclosure of all extractive sector contracts will become mandatory, implying that it intends to be transparent not only on extractive sector revenue management but throughout the entire value chain of the extractive industry from the negotiation of contracts to issues of revenue utilization and sustainable development.

Having implemented the EITI in Ghana for the past ten years, it is imperative to examine whether and if any to what extent has the EITI implementation contributed to enhancing transparency and good governance of the extractive sector.

This evaluation will review the progress made by the Initiative in fulfilling its agreed objectives through the planned activities; its relevance to promoting transparency in the extractive sector governance; and to assess the efficiency and effectiveness with which resources have been used to generate results and achieve set objectives with special emphasis on impact and sustainability.

The findings of the evaluation will help the Ghana EITI and the participating institutions to draw lessons for future support to deepen and strengthen debate regarding transparency in the extractive sector. It will also facilitate the measurement of the impact of EITI implementation against the relationship and cooperation among the three key constituencies (Government, CSOs and extractive industries), including the impact of institutional capacity building programmes.

Of the 23 member national multi-stakeholder committee, civil society has only 3 persons representation. It is argued that this under-representation may affect the effectiveness and ability to influence discussions even though this has been rebuffed by many. The evaluation should also seek to establish the effectiveness of civil society engagement in the initiative.

2 Description of the Assignment

2.1 Overall framework for the assignment

The Extractive Industries Transparency Initiative (EITI) is an International Initiative between governments, companies and civil society groups to promote transparency in the flow of revenues from extractive companies to host country governments based on a set of criteria for transparent reporting on the revenue

The Good Financial Governance Programme (GFG) supported by German Development Cooperation covers Technical Assistance to the Government of Ghana in three focal areas of public finance, namely:

1. Tax administration and revenue policy

2. Public financial management (including budget planning and execution)
3. Domestic accountability (including resource governance and external oversight)

Under GFG, a pool of short term experts is made available to assist in corresponding reform initiatives and in cross-cutting issues such as process management and organizational development.

The objective of the GFG aims to make public revenue and budget systems, as well as the management of Ghana's natural resource revenues, more transparent, increasingly rule-based and more effective. Ultimately, GFG aims to contribute that the Government of Ghana (GoG) is in a position to successfully implement its national development strategy (currently GSGDA) and thus to achieve its priority objectives.

Indicators for effective support have been set forth in four main areas, namely:

1. Tax revenues at national level (without the oil/gas sector) increase to 18% of GDP by 2015.
2. Measured against the Open Budget Index, Ghana's budget system is more transparent and open.
3. Enhanced domestic accountability: In 2015, (number x) government bodies (MDAs) report on the implementation of the recommendations made by GAS or PAC on improving public budget management.
4. Transparency of revenue from natural resources: In 2015, the extension of the EITI compliant status to the oil and gas sector will be achieved in a follow-up validation.

This assignment aims to cover the area of Transparency of revenue from natural resources (with corresponding indicator 4).

2.2 Specific Objectives of the Assignment

The specific objective of the assignment is to assess the achievements and challenges encountered in the implementation of the EITI in Ghana in its quest to influence policy decisions regarding the governance of the extractive sector in Ghana. The focus would be on measuring achievements against the benchmark (baseline data), assessing whether the envisaged outputs have been achieved and the contribution of EITI towards the overall objective of enhancing transparency

2.3 Method of work and requested services

An independent assessment is required to evaluate the overall and specific results of EITI and its impact on strengthening transparency and accountability of the resources obtained from the extractive sector. For assessing the performance and impacts of the initiative, the evaluation would identify results that can be attributed to EITI implementation as well as institutional effectiveness with the purpose of contributing towards good governance. The evaluation would seek to address questions relating to the impacts of implementing the EITI on transparency and accountability mechanisms. This should examine the direct benefits/advantages accruing from engaging in the initiative as well as identifying specific

actions required to strengthen effective governance of the sector and make recommendations to strengthen accountability mechanisms.

This will involve consultant interviewing stakeholders to be agreed within institutions within Accra, Tarkwa and Takoradi.

Specifically, the evaluation should investigate and capture baseline/benchmarks for transparency and present achievements of GHEITI against such baseline data.

The assessment should also seek to establish the effectiveness of civil society engagement in the initiative;

- The quality of reports, coverage of its dissemination and scope of dialogue on the reports' findings
- Evaluate the level of contribution of the outputs towards the achievement of GHEITI's goals, objectives and impact;
- Assess the relevance, effectiveness and efficiency of interventions as well as, the sustainability of those results, and the degree of success in the influencing of public policy;
- The impact assessment must also measure any impact on transparency and its contribution towards citizens' ability to demand for accountability;
- Identify major external factors that influenced or impacted on the implementation of GHEITI and evaluate the implication on future implementation;
- Highlight lessons learnt from the decade of implementing the EITI and make recommendations for future strategies to improving the sector governance;
- Finally, the assessment must critically review the roles and responsibilities played by the various institutional players and stakeholders in GHEITI's implementation. The review should be linked to institutional mechanisms and implementation arrangements that were put in place to facilitate the delivery of GHEITI's objectives. The review should also identify capacity strengthening measures put in place for GHEITI secretariat and Steering Committee members to effectively and efficiently implement the Initiative.

The Report should take into consideration the following:

- Geographical scope of the assessment is limited to the implementation of EITI in Ghana
- The annual action/work plans developed by the National Steering Committee /Secretariat during the 10 year period
- The publications and outputs over the period under review
- Capture the roles played by different institutional stakeholders in the implementation of GHEITI
- Assess the impacts and or usefulness of dissemination of GHEITI materials / publications

- Comments gathered shall be incorporated into the report. Also, the consultant(s) shall be available to take part in subsequent workshop(s) to validate the findings (if any is planned).

The consultant will be expected to present a work plan on the order of delivering the entire assignment during inception meeting with key stakeholders- GHEITI Steering Committee, GHEITI Secretariat and GIZ team.

- Provide and present draft interim report at the stipulated period per the Consultants Work plan and as may be agreed on, including a list of all assumptions made in the process including how the assessment was conducted, who was consulted for input, and the results or findings.
- Make a presentation at a stakeholders' workshop detailing findings and recommendations including the expected improvements and efficiencies that would result from any recommendations and provide a high level implementation plan. All supporting documentation and assumptions need to be included in the reports.

2.4 Documents and further background information

To be able to carry out this assessment, it is expected that the consultant reviews relevant documentations prepared by the GHEITI secretariat of Ministry of Finance (MOF) (all available on GHEITI Web site) and the Steering Committee. These may include but not limited to:

- i. Ghana EITI work plans;
- ii. Annual reports;
- iii. EITI reports published over the years;
- iv. Workshop / conference reports;
- v. Publicly available information

Ghana EITI secretariat will facilitate availability of related documentations and setting of related meetings with key stakeholders and identifiable groups including but not limited to:

- GHEITI Steering Committee members
- GHETII secretariat staff
- Ghana Revenue Authority
- Ghana Chamber of Mines
- Exploration and Production Forum (Oil and Gas companies)
- Civil Society Platform for Oil and Gas
- Integrated Social Development Centre (ISODEC)
- Ghana Integrity Initiative
- Revenue Watch Institute
- The Ministries of Finance; Energy; and Lands and Natural Resources
- Three Metropolitan/Municipal/District Assembly (Tarkwa Nsuaem Metropolitan Assembly, Obuasi District Assembly and Adanse South District Assembly)

- Community Based Organizations (Friends of the Nation and WACAM)
- Relevant Development Partners including GIZ, World Bank, DfID etc)

2.5 Deliverables

The consultant shall deliver a well-articulated impact assessment report which presents achievements of GHEITI against such baseline data which will provide the following:

- Summary of the consultation process including how it was conducted, that was consulted for input, and the results or findings.
- Specific recommendations with regards to relevance, effectiveness and efficiency of interventions as well as, the sustainability of those results, and the degree of success in the influencing of public policy
- Based on the recommended intervention model, recommend changes to the organizational and governance structures including applicable steering structure, operational structures, inter-institutional collaboration, reporting responsibilities, etc., with the view of the future and with a view of maximizing innovation, adaptability and accountability.

2.6 Scope and duration of assignment

Geographical scope of the assessment is limited to the implementation of EITI in Ghana and the timeframe for this assignment is 60 days. Assignment to commence by May 2014 and end by July 2014.

3 Consultants Profile

- The applicants must have at least a first degree in economics, international development, development planning, social sciences,
- Formal training in monitoring and evaluation will be an added advantage
- At least 7 years working experience in M&E related issues
- Excellent management and coordination skills, and experience on technical project management
- Deep knowledge of program design or similar frameworks for monitoring and evaluation
- Proven experience in monitoring and evaluation of projects
- Knowledge of extractive sector governance will be an added advantage
- Strong analytical skills including analysis of both quantitative and qualitative data

Annex B: Persons Interviewed

GHEITI Steering Committee

Government representatives

Prof Thomas Akabzaa, Chief Director, Ministry of Energy and Petroleum

Mr. Ellis P. Atiglah, Ministry of Lands and Natural Resources

Mr. Roger Angsomwine, Office of the President-Castle

Mr. Dela Klubi, Ghana Revenue Authority

Mr. B.C.D. Ocansey, Ghana Revenue Authority

Dr. Gad Akwensivie, Office of the Administrator of Stool Lands

Mr. Amponsah Tawiah, Minerals Commission

Private Sector representatives

Mr. Sulemanu Koney, Ghana Chamber Of Mines

Mr. George Sarpong, Director, Corporate Affairs, Kosmos Energy

Civil Society representatives

Dr. Steve Manteaw, Publish What You Pay-Ghana / ISODEC -Ghana

Ms. Hannah O. Koranteng, Wassa Association of Communities Affected By Mining

Ms. Philomena Johnson, ISODEC/IFP

GHEITI Secretariat

Mr. Franklin Ashiadey, National Coordinator, Ministry of Finance

Ms. Victoria Benson, Ministry of Finance

Mr. Bash Abdul Razak, Ministry of Finance

Civil Society Representatives

Mr. Emmanuel Kuyole, Africal Regional Coordinator, Natural Resource Governance Institute

Government Officials

Mr. Dr. Toni Aubynn, CEO, Minerals Commission

Mr. Richard Kofi Afenu, Acting Director, Minerals Commission

Media

Mr. Frederick Asiamah, The Sun

Ms. Laurato Omar, Head Business Reporting, Radio Gold

Mr. Mohammed Suleman, Sub-editor, Public Agenda Newspaper

Other Informants

Ms. Sheila Naah-Boamah, Chief Executive Officer, Student Loan Trust Fund, former Ministry of Finance representative on the NSC

Mr. Kwaku Boa-Amponsem, Managing Partner, Boas and Associates

Mr. Kojo Asafo-Aidoo, Partner, Boas and Associates

Persons Met, Field Visit

Adansi:

Mr. Gilbert Atisu, District Finance Officer, Adansi South District

Prestea:

Mr. Dominic Nyame, Concern citizen

Mr. Hon. Rash Katu, Assembly member

Ms. Hon. Joana Manu, Assembly member

Mr. Fuseini A. Latif, Voices of Tomorrow's Leaders Foundation

Ms. Florence Oparebea Ayeh, Concern citizen

Mr. Eric Kwesi Sherwoode, Concern citizen

Tarkwa:

Mr. Kwaku Agyei, Finance Officer, Tarkwa Nsuaem, Tarkwa

Kenyasi:

Ms. Hajia Ayishetu Abdul-Mumuni, Finance Officer, Kenyasi, Asutifi North, Brong Ahafo

Mr. Eric Addae District Chief Executive, Asutifi North

Mr. Hawa Alhassan, WACAM, Asutifi North, Kenyasi, Brong Ahafo

Mr. Abiba Adusah, WACAM, Asutifi North, Kenyasi, Brong Ahafo

Mr. Abdullah Salifu, WACAM, Asutifi North, Kenyasi, Brong Ahafo

Mr. Adusah Ykubu, WACAM, Asutifi North, Kenyasi, Brong Ahafo

Mr. Maxwell Atuahene, WACAM, Asutifi North, Kenyasi, Brong Ahafo

Ms. Dauda Hafiz Dabeil, Kenyasi Graduate and Students' Union

Ms. Augustine Boateng Agyenim, Omanbotantim

Ms. Hon. Afia Sarpong, Omanbotantim

Ms. Haina Issah, WACAM, Asutifi North, Kenyasi, Brong Ahafo

Ms. Leticia Frimpoma, WACAM, Asutifi North, Kenyasi, Brong Ahafo

Obuasi:

Mr. Asare Bediako, Municipal Finance Officer, Obuasi

Mr. Richard Ellimah, Center for social impact studies,

Mr. Malik Bin Ibrahim, Green Ghana Initiative, PWYP Ghana

Mr. Prince Aboagye, Extractive engagement group, PWYP Ghana

Mr. Muhamed Abdul Rahim, Center for social impact studies, PWYP Ghana

Annex C: Documents Consulted

GHEITI Documents

GHEITI (2013?), “Ghana EITI Regional Conference: Natural Resource Governance – Setting Standards”.

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Annex D: Conversation Guide, field visit

Date:	Location:
Interviewee:	Title: Correspondent/ Organisation:

Role in EITI? How long experience from EITI?

Questions for most stakeholders (from TOR)

1. Evaluate the level of contribution of the outputs towards the achievement of GHEITI's goals, objectives and impact.
 - What have been the most important activities of GHEITI?
 - What have these activities produced/provided?
 - Have the results been as you had expected? Where Yes, what do you believe were the most important factors behind the success? Where No, what can explain the disappointments?
 - Do you believe any improvements seen are permanent (sustainable)? What ensures that the positive results will continue?
 - Are you aware of cases where GHEITI reports have led to citizen or political demand for better accountability? – please provide examples.
 - Has GHEITI made it easier for the public to demand accountability? In what ways?
 - Are media interested in GHEITI's agenda, reports and achievements?
2. Seek to establish the effectiveness of civil society engagement in the initiative.
 - What have the CSO representatives on the NSC brought to the table that would otherwise not have been brought up?
 - Why is it important to have civil society on the NSC?
 - Is it enough to have three representatives from civil society on the NSC?
 - Could the civil society representative work differently to achieve more?
 - Could the steering committee work differently to achieve more?
 - Could the NSC be composed or structured differently to achieve more?

Most of the other issues are for specific stakeholders we know/believe have the level of knowledge/experience to answer these questions:

3. Assess relevance, effectiveness and efficiency of interventions and the sustainability of those results, and the degree of success in the influencing of public policy.
4. Measure any impact on transparency and its contribution towards citizens' ability to demand accountability.

5. Identify major external [and internal] factors that influenced or impacted on the implementation of GHEITI and evaluate the implication on future implementation.
6. Critically review the *roles and responsibilities* played by the institutional players and stakeholders in GHEITI's implementation. The review should be linked to institutional mechanisms and implementation arrangements that were put in place to facilitate the delivery of GHEITI's objectives.
7. Identify capacity strengthening measures put in place for GHEITI Secretariat and Steering Committee members to effectively and efficiently implement the Initiative.

Finally, if time, have informants address the realism of achieving GHEITI's Goals (overarching objectives) through the means established:

Goal 1: *The Extractive Industries Transparency Initiative (EITI) aims to improve development outcomes from benefits paid to governments by the extractive industries.*

Goal 2: *Additionally, the initiative seeks to reduce the potential for corruption and large scale embezzlement of these benefits.*

Activities/Means: The above objectives are to be achieved by enhancing transparency in the payments, receipts, disbursements and utilization of mining benefits.
[Means/strategy]

Annex E: Methodology and Approach

An emerging approach to measuring the effectiveness of various types of governance programmes/initiatives is to provide an explicit Theory of Change (ToC)¹², i.e. a map of how one expects societal change to happen from a certain starting point with a specific programme intervention to attain a wanted state of affairs. While a logical framework graphically illustrates program components and helps stakeholders to identify inputs, activities and outcomes, a TOC links outcomes and activities to explain how and why the desired change is expected to come about, drawing on underlying assumptions¹³.

The standard model used for this is some form of *objectives-oriented planning*, such as the *Logical Framework Approach* (LFA). This can be visualised as a *delivery chain* where mobilisation of Inputs are used to finance planned activities that lead to the planned Outputs. Given certain assumptions and other factors present will then lead to medium-term Outcomes, which over time may influence larger societal changes, Impacts.

In the case of GHEITI, the team looked at two delivery chains, as presented in chapter 3: the Project Delivery Chain (figure 3.1) and the Sector Value Chain (figure 3.2). The key Output in both is the *Reconciliation Reports*, RRs. These are to inform the public about the revenues that the public sector derives from the extractive industries, and the knowledge and understanding this generates can be considered desirable Outcomes. The question is how this information is used, and here the team distinguishes between local (district, mining community) level and national level, where the Impacts thus are quite different.

This delivery chain Output ⇒ Outcome ⇒ Impact, while quite common, is also a little deceptive. It is seldom that one can state with certainty that the Outputs produced – the RRs, for example – are the only or the main factor explaining the Outcomes identified. It becomes even more difficult when one tries to attribute Impact to the particular Outcome.

Box E.1: Clarifying Language, Harmonising Concepts

A number of concepts taken from the OECD-DAC (Organisation for Economic Cooperation and Development – Development Assistance Committee) are used in the Terms of Reference for this task, but not always in the way OECD-DAC recommends. In order to ensure consistency with DAC terminology, the following usage has been made:

- When **planning** interventions, reference is made to **Objectives** for the activities, which are ordered in the delivery chain/hierarchy of **Outputs** ⇒ **Purpose** ⇒ **Goal**.
- When reporting on actual achievements, one speaks of the **Results** that are then ordered in an equivalent results hierarchy of **Outputs** ⇒ **Outcome** ⇒ **Impact**.
- **Objectives** is thus a common concept for the desired future deliverables while **Results** is the equivalent common concept for actual deliverables produced and which are to be measured.

¹² Leeuw, F., and J. Vaessen (2009) *Impact Evaluations and Development: NONIE Guidance on Impact Evaluation*. Washington, DC: NONIE—Network of Networks for Impact Evaluation.

¹³ Center for Theory of Change (2014) What is Theory of Change? [WWW] Accessible from: <http://www.theoryofchange.org/what-is-theory-of-change/> Accessed: 30/11/2014.

- **Efficiency** is equivalent to the Output-Input ratio - a benefit-cost ratio. **Effectiveness** is the degree to which Outputs in fact contribute to Outcomes: Effectiveness asks if we are doing the right things to achieve our objectives, and Efficiency asks if we are doing them right.
- **Sustainability** questions whether the positive longer-term effects will continue when production of Outputs has ceased – that is, is the transparency on extractives revenues likely to continue once GHEITI no longer produces its own annual reconciliation reports (will the authorities from then on publish sufficient data so that there is no longer need for this external watch-dog function?).
- **Relevance** raises the question whether the Outputs are necessary or the best ones for ensuring attainment of the longer-term Impact. That is, if what we really want is greater accountability of the authorities regarding use of revenues from the extractives, will it continue to be necessary to publish industry revenue data? (see DAC (2002), “Revised Evaluation Glossary”, Paris).

Because of these uncertainties, the team therefore applied a somewhat less stringent analytical approach, namely so-called Contribution Analysis (CA) (see Box E.2). This still is based on a so-called Theory of Change (TOC) thinking, where one tries to have an overall understanding of how society functions in the field one is looking at, and then tests this out to see to what extent this TOC really can provide an explanation. What CA does, as explained in the text box, is make this explanation model a little more open and based on “probable” rather than “absolute” explanations.

Box E.2: Contribution Analysis for the GHEITI Review

CA typically involves seven iterative steps to build an evidenced contribution story. In this case, applying CA to looking at the civil society dimension of EITI, it might include the following:

- 1) Set out the cause–effect question(s) which must be addressed (*“technical assistance to local CSO will **increase** their understanding of the issues, thus their **ability** to critically **contribute** to the debate and hence **increase** their voice in the **policy** debates on extractives revenues”*).
- 2) Draw up a reasoned **theory of change**, identifying potential **influencing factors** and outlining the different **links** in the theory of change and the **risks** and **assumptions** associated with them (*“CSOs are engaged in GHEITI because they represent beneficiary interests and thus are committed to investing own resources into becoming better representatives of these beneficiary interests.” “CSOs are weak and may not have the own-time to invest”, “CSOs are weak and thus susceptible to influencing” etc.*).
- 3) Gather existing evidence on the theory of change (i) for **observed results**, (ii) for each of the **links** in the results chain, and (iii) for the other **influencing factors** (*“concerning CSOs on the Steering Committee, what has been their performance, how can this be explained, which other factors beyond GHEITI can explain changes?”*).
- 4) Assemble and assess the **contribution story**, outlining whether an intervention was implemented as planned, what the role of **external factors** was, and whether the **predicted theory of change** and expected **results** occurred (*“what exactly were we able to find out in this country case?”*).
- 5) Seek out additional evidence to reinforce the credibility of the contribution story (*“what did the other **country case** say? What did we learn from the **surveys**? What do **external informants** who know the situation – i.e., EITI Secretariat staff, national parliamentarians, others – say? How do these pieces of information **confirm or contradict** the story line we already have?”*).
- 6) **Revise and strengthen** the contribution story (*“based on the work above, do we need to revise our contribution story regarding GHEITI resources and technical assistance? Would adding the **gender** dimension that is often forgotten add important elements to the accountability story? Should broad **social inclusion** concerns be added to get a more correct picture of accountability?”*).
- 7) In complex settings, assemble and assess the complex contribution story (*“do other transparency and accountability initiatives in-country influence/impact our story line/contribution analysis? If so, how, and how should we **modify** our contribution analysis?”*).

A ToC makes “explicit the preconditions and assumptions embedded in a program’s design, leading to more realistic expectations. It encourages a better sequenced and prioritised approach. It strengthens the focus on behavioural change, moving away from a technocratic and apolitical results chain. Finally, a ToC helps planners identify new entry points for programmes and strategies”¹⁴. However, the theory of change is useful throughout a programme cycle, including for evaluating results and learning:¹⁵

ToCs matter at three different stages of the project cycle: (a) the design stage, where ToCs can be used to focus the design, test assumptions, and communicate with stakeholders on the working modalities and objectives of the programme; (b) the implementation stage, where ToCs guide strategic management, monitoring, and data collection efforts; and (c) the evaluation stage, where ToCs are used as evaluation frameworks and can help explain causal mechanisms and lessons learned.

Rather than locking in on an unreflected understanding of how reasonable changes happen in a certain context, the TOC approach is based on a continuous learning principle as it spells out the assumptions made, which can later be tested. The observed changes can be placed in a larger political economic context and be assessed against the preliminary idea of how change ought to happen on a step-by-step basis, as in a Contribution Analysis.¹⁶ Should the observed changes and their explanatory factors show some original assumptions to be wrong, activities that build on those faulty assumptions can be abandoned and resources redirected to where the evaluation findings show more plausible change factors. However, such corrective action requires that feedback from evaluations be provided while the programme is still running.

This also provides a new definition of success, which focuses on achieving the many different steps towards a larger change. The attainment of each step can be seen as a success towards the change wanted. This is particularly important for longer-term change processes of a complex nature.

GHEITI Theory of Change

There is more than one ToC for EITI. In the new EITI Standard, the ToC has been clearly spelled out. First, *government revenues and company payments* are disclosed and independently assessed in an EITI Report. Second, the report findings are communicated to **create public awareness and debate** about how the country should manage its resources better¹⁷.

It should be noted that the ToC in the Standard says nothing further beyond creating public awareness and debate on improved management resources, but the EITI Principles forming

¹⁴ Johnsen, J. (2012) *Theories of change in anti-corruption work: a tool for programme design and evaluation*. U4 Issue 2012:6. Bergen, Norway: Chr. Michelsen Institute, p. 39.

¹⁵ Ibid.

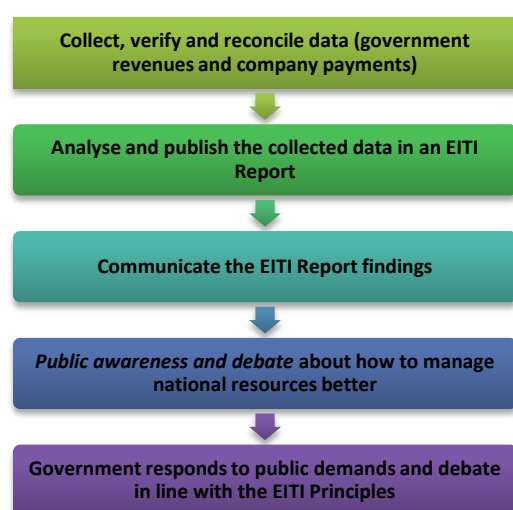
¹⁶ BetterEvaluation (2014) Contribution Analysis [WWW]. Available from: http://betterevaluation.org/plan/approach/contribution_analysis Accessed: 30/11/2014.

¹⁷ EITI International Secretariat (2013) The EITI Standard. Oslo: EITI International Secretariat, p. 8.

part of the Standard do. The EITI Principles, agreed by all stakeholders in 2003, lay out the general aims and commitments by all stakeholders to EITI. There are not only statements of *how* to manage revenues but also for *what* revenues ought to be used. Subsequently, there is an *implicit assumption* that the public awareness and debate will result in changes in favour of the general aims and commitments enumerated in the Principles. If there was no such implicit assumption, there would be no need for public awareness and debate, but rather trust in that wanted change could be achieved with a different theory of change.

However, the theory of change stated in the Standards is a theory that may or may not be correct in real life. Each national governance context has its own political economy for change that national EITIs are subjected to. To find out how change towards achieving the goals (the Principles) actually happens, it is necessary to test the assumption behind the theory of change.

In summary, the stated theory of change in the Standards is as follows:



This theory of change builds on a range of logical assumption:

Assumption 1: There are sufficient resources and capacities to communicate the EITI Report

Assumption 2: The EITI Report findings are perceived as important by the intended audience, once they learn of it.

Assumption 3: There is a clearly identified audience.

Assumption 4: For the identified audience to learn of the EITI Report findings, there is knowledge of how best to communicate with the audience (level of understanding of the subject, language, preferred communication channels, their interests that link to the communicated issues, i.e. understanding of how it concerns them, etc.)

Assumption 5: The audience is interested in debating

Assumption 6: The audience is capable of engaging in public debate

Assumption 7: The audience believes that their participation in public debate is meaningful

Assumption 8: There are platforms or situations that invite to or offer opportunities for debating the particular issues

Assumption 9: The consequences of public debate do not cause too high personal costs, inhibiting participation

Assumption 10: The audience has ideas/understandings of what would amount to better management of resources

Assumption 11: The audience is capable of formulating and expressing demands for change

Assumption 12: Publically expressed demands and public debate¹⁸ matter (is perceived as important) to the government

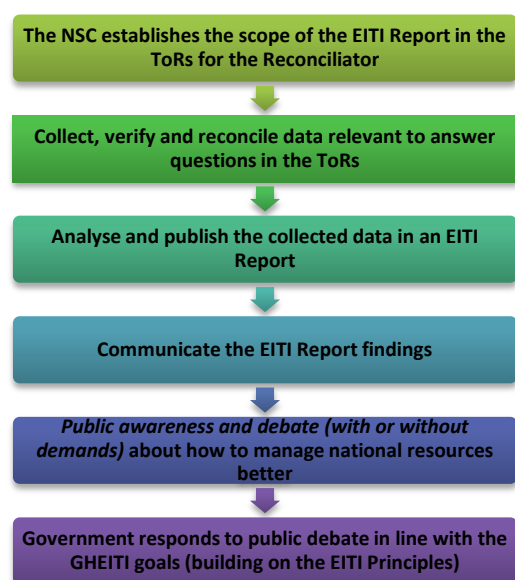
Assumption 13: The government is capable in terms of legal mandate, legal constraints, resources and technical expertise to respond to public demands or public debate.

Testing the assumptions to understand the actual mechanism for change

In order to understand whether the original theory of change is correct, field interviews and interviews at central level asked about the assumptions outlined above. The relevance of having a correct theory of change is not an academic matter, but concerns *the understanding of how to improve effectiveness in achieving the change required for attaining wanted goals*. If the mechanism that is believed to achieve change is wrong, efforts to achieve wanted change will be directed at the wrong or ineffective types of measures, in the wrong forums, or at the wrong audiences. A different aspect -irrelevant for understanding how actual change happens- is what normative demands one has on a change process. It is fully possible to understand how effective change happens, but at the same time accept a less effective approach due to normative demands for *how* that change is achieved. That is a trade-off that becomes transparent once there is a better understanding of how effective change actually happens.

GHEITI has established two goals that are in line with the EITI Principles. One concerns achieving *improved development outcomes* from the revenues received from extractive industries (at national and local levels) and the other concerns *reduction of the potential for corruption and large-scale embezzlement*. These goals are to be achieved by enhancing transparency in the payments, receipts, disbursements and utilization of extractive industry benefits. This does not change the fundamental theory of change in substance:

¹⁸ It is assumed that also policy options, and not only expressed demands, may influence a government response.



The interviews provided the following answers to the accuracy of the assumptions:

Assumption 1: *There are sufficient resources and capacities to communicate the EITI Report.*

The evaluation found that although there are resources and capacities to communicate the EITI report, there is no continuous measurement that provides the Secretariat with information of whether it is enough or how effective the efforts to communicate are.

Assumption 2: *The EITI Report findings are perceived as important by the intended audience, once they learn of it.* From the interviews both as central as well as at local mining community level, it is clear that not all parts of the EITI Report are perceived as important. Whereas the reconciliation of payments and receipts is mildly interesting, the consensus was that what is perceived as most important is the volume of funds transferred to local level and the information on how those revenues have been used.

Assumption 3: *There is a clearly identified audience.* This is a problematic assumption, because while it is clear that there are smaller groups that are keenly interested, it is not clear that GHEITI has been able to identify a real target audience that can be said to represent a substantive social group or segment, and thus unclear the extent to which social actors can be expected to be mobilised around the RR messages.

Assumption 4: *For the identified audience to learn of the EITI Report findings, there is knowledge of how best to communicate with the audience (level of understanding of the subject, language, preferred communication channels, their interests that link to the communicated issues, i.e. understanding of how it concerns them, etc.).* The evaluation could not establish whether there was knowledge of these matters but can confirm that if there is, it has not been used to any greater extent in the communications. Interviewed stakeholders complained of too technical language, weak linkages to the concerned communities' specific concerns, difficulties to understand due to lack of translation to local language, and insufficient use of mass communication channels to reach those who cannot attend the formal dissemination meetings due to work or other obstacles. Stakeholders also note that preparations to ensure qualitative input through reflection and community discussions ahead of the formal meeting is prevented by not making strategic use of mass

communication channels. In other words, there is limited knowledge of the capacities of the audiences in order to know how to best communicate.

Assumption 5: *The audience is interested in debating.* This assumption requires some nuances. In general, there is a strong tradition of public debate in Ghana, although that depends on the circumstances of the situation. A simple assumption is that when representatives from all parts of society sit at a formal meeting, each participant will have an equal opportunity and capacity to engage in debate and that it is that active engagement that is the best indicator of an interest in debating. But there are no equal opportunities or capacities to engage in public debate at a formal meeting. Whereas the evaluation has not been able to assess the opportunities and capacities during meetings, or otherwise, to engage in public debate, stakeholders have expressed that there is a strong interest in using the opportunity offered by the EITI communication forums to express grievances and problems due to industry activities in the community, as well as to ask about the use of received revenues.

Assumption 6: *The audience is capable of engaging in public debate.* Apart from what has been mentioned under assumption 5 above, field interviews with stakeholders in the mining communities as well as at central level have referred to the popularity of radio shows that offer an opportunity to call in anonymously and express opinions. Other examples of engagement in public debate can be seen from the activities by CSOs in local communities. Also CSOs represented in the NSC frequently engage in public debates. At that very general level, it is clear that there are those who are very capable of engaging in the public debate, but that does not say much about how important public debate is perceived by the public at large.

Assumption 7: *The audience believes that their participation in public debate is meaningful.* Although the number of interviewees is limited, no one interviewed expressed any opinion that public debate is meaningless, even if primarily stakeholders at local community level claimed there was no responsiveness to their demands and concerns.

Assumption 8: *There are platforms or situations that invite to or offer opportunities for debating the particular issues.* Through the GHEITI Community Forums, there is a formal episodic platform that offers an opportunity to debate the GHEITI relevant issues covered by the report with representatives from concerned authorities also at national level and the industry. Media also offers a platform for debate, in addition to the regular face-to-face opportunities for public debate.

Assumption 9: *The consequences of public debate do not cause too high personal costs, inhibiting participation.* The stakeholder interviews at the local mining communities exposed that the Community Forums rotate between various district locations and are held over the course of two days during weekdays. For local community members that do not live in the specific district to participate, they are required to travel to the forum location, as well as accept the cost of not working during the forum (should they be employed or be entrepreneurs). It is clear that these circumstances do present concrete obstacles for participation for certain community members. A further personal cost that has been reported during interviews with local mining community representatives concerns implicit and explicit threats and physical violence. Community members have been punished for speaking up and voice their opinions. Assemblymen that have asked for information on

project implementation, or who have expressed views on better use of the transferred mining revenues, have understood that service provision to their respective communities may be withheld should they insist. There are also instances of physical violence against local NGO representatives by local police. Wrongful detentions of NGO representatives have also been reported.

Assumption 10: The audience has ideas/understandings of what would amount to better management of resources. According to the stakeholders, no such views have been expressed during the Community Forums, although a thorough review of public opinions expressed in media has not been conducted. Only one interview indicated that there have been clear ideas for improvement expressed. On the other hand, the many grievances regarding pollution clearly indicate opinions of what amounts to better management of resources, including the facts that some communities do not perceive they have benefited anything from the mining industry but only suffered losses. In other words, local communities do appear to have a very clear idea that the extractive industry and the management of the revenues from it ought to be managed in a way that provides shared value rather than externalised cost to be picked up by society. Stakeholders referred to other African countries perceived to have managed their extractive industries in a better manner, such as the Republic of South Africa and Botswana, resulting in higher levels of development.

Assumption 11: The audience is capable of formulating and expressing demands for change. The interviewed stakeholders expressed a mixed bag of these capabilities. Whereas specialised CSOs clearly represent these capacities both at local and central levels, the experiences from the Community Forums indicated that local communities do not express any demands during these forums, but rather engage in asking questions for how the transferred revenues have been used, as well as express grievances and problems as a consequences of the extractive industries in the mining communities. CSO stakeholders explained that they have recorded the Community Forums, both to be able to follow up on promises made by representatives of public authorities or industry, but also to collect the grievances and problems expressed by community members. The CSO stakeholders, who are also represented at the NSC, then use the information collected to formulate recommendations that are forwarded to the NSC. That way, they claimed, they are certain to achieve responsiveness to grievances and problems through policy responses by the NSC, with effect at local level. In sum, there is capacity to formulate and express demands, both directly as well as indirectly, meaning that the assumption holds.

Assumption 12: Publically expressed demands and public debate matter (is perceived as important) to the authorities. This assumption can be further qualified in relation to various factors. For example, all publically expressed demands or public debate do not matter at all levels, and not in the same way. Interviewed stakeholders have expressed that demands made by Assemblymen at the District Assemblies are basically ineffective in achieving responsiveness and come with negative consequences for Assemblymen. Stakeholders have been intimidated after making demands to the District Chief Executive, and there are even experiences in local communities that stakeholders claim give evidence of that industry companies have the national security forces/police working on their behalf, with the consent of the District Chief Executive. It is clear that the reported trust that exists between the constituencies in the NSC does not necessarily exist at local level. Further, public debate

does not necessarily generate policy responses but may result in violent or intimidating responses.

By contrast, at national level, demands and public debate appears to matter and be reflected in the policy work of the NSC, resulting in responsiveness in terms of national policies.

Assumption 13: The government is capable in terms of legal mandate, legal constraints, resources and technical expertise to respond to public demands. As described above, it appears that government capability to respond to public debate and demands differs depending on the level of government. It is clear that the greatest capacity to respond to matters that require technical expertise relating to the extractive industries within government/state institutions is located with the NSC at central level. Further, the Constitution sets formal limits to legal mandates at various levels, while contractual relationships with license holders establish further limitations at either level. In addition to the formal constraints, there are informal constraints to government responsiveness at both levels of various kinds, such as vested interests and bonds of loyalty.

The evaluation has found that there seems to be a limited capacity to respond to public debate and demands at local level, while these appear to be more influential when they are channelled to the NSC at central level. The various constituency representatives bring local public debate and demands to the NSC. The evaluation has found that the various NSC constituencies do in reality also bring concerns and suggestions to debate in the NSC that cannot be understood as being of primary concern to the interests that their respective constituencies represent. The common explanation is that NSC members are aware of that their role in the NSC is larger than that. Through the common goals of GHEITI, each constituency is not solely representing its specific interests, but is primarily expected to contribute to satisfying the larger goal of creating shared value in the interest of Ghana.

Local level theory of change

Given the responses to the assumptions, there appears to be a need to review the theory of change at local level. Whereas a political economy analysis is beyond the scope of this evaluation, the normative framework for allocation of formal responsibility between central and local level may provide useful insights that contribute with explanatory value to the interview findings.

Each district in Ghana has a District Assembly. The Constitution states that “to ensure the accountability of local Government, people shall, as far as practicable, be afforded the opportunity to participate effectively in their governance” (Art. 240. (2) (e)). That participation is expected to be exercised by having elected District Assemblymen in the District Assembly. The District Assemblymen are therefore politically accountable to the local electorate.

The mandate of the District Assembly is to be responsible for formulating and executing plans, programmes and strategies for the effective development of the district. It also levies and collects taxes, rates, duties and fees. Each assembly is chaired by an elected Presiding Member (Art. 244. (1)).

Each District Assembly also has an Executive Committee, which is responsible for ensuring that the *executive and administrative functions of the assembly* are successfully fulfilled (Art. 251.

(1)). In other words, whereas the District Assembly is representative, it also has the executive responsibility to decide on local development policy and implement it. Interestingly, it is not an internally elected Assemblyman that presides over the Executive Committee, but a District Chief Executive (Art. 243. (2) (b)). Besides overseeing the implementation of District Assembly policies, the District Chief Executive also oversees the implementation of central government policy at the local level, as the main representative of the Central Government within the district (Art. 243. (2) (c)).

Consequently, it is the District Chief Executive who holds the eventual power to implement any policies at local level, despite of not being politically accountable to the local electorate for their effective implementation. This mismatch between Constitutional responsibility and effective authority may explain the experienced lack of responsiveness at local level: the central government has the last word in any changes to policy implementation at local level.

Building on these and the interview findings regarding the assumptions for the original theory of change, the figure below provides a comparison between the original theory of change at local level and a revised version which appears to better correspond to reality (see figure next page).

Consequences of Revised Theory of Change

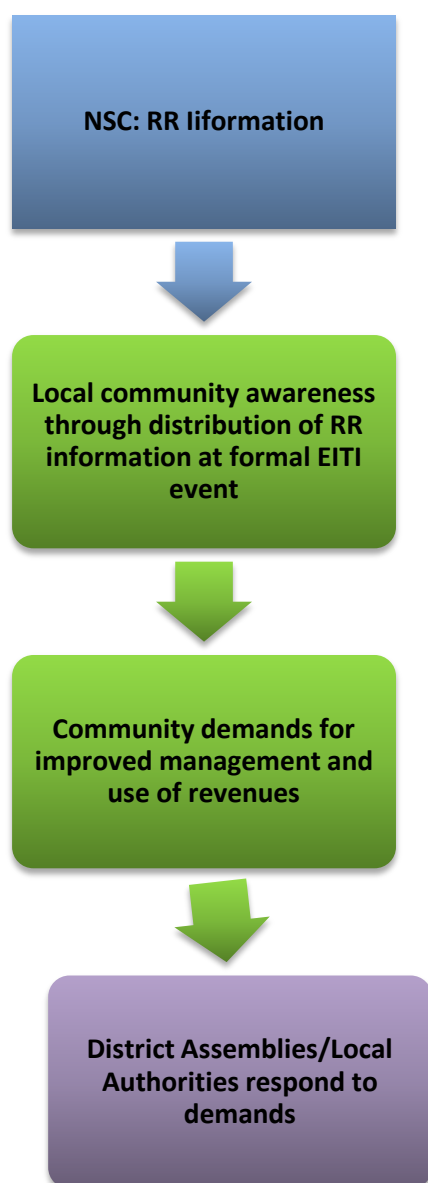
As stated above, the relevance of having a correct theory of change is not an academic issue, but concerns *the understanding of how to improve effectiveness in achieving the change required for attaining wanted goals*. If the mechanism that is believed to achieve change is wrong, efforts to achieve wanted change will be directed at the wrong or ineffective types of measures, in the wrong forums, or at the wrong audiences.

A different aspect -irrelevant for understanding how actual change happens- is what normative demands one has on a change process. It is fully possible to understand how effective change happens, but at the same time accept a less effective approach due to normative demands for *how* that change is achieved. That is a trade-off that becomes transparent once there is a better understanding of how effective change actually happens. To test a theory of change concerns understanding reality, and not to protect a certain theory or normative ideals. However, the findings may inform how normative ideals can be supported, should that be perceived as important.

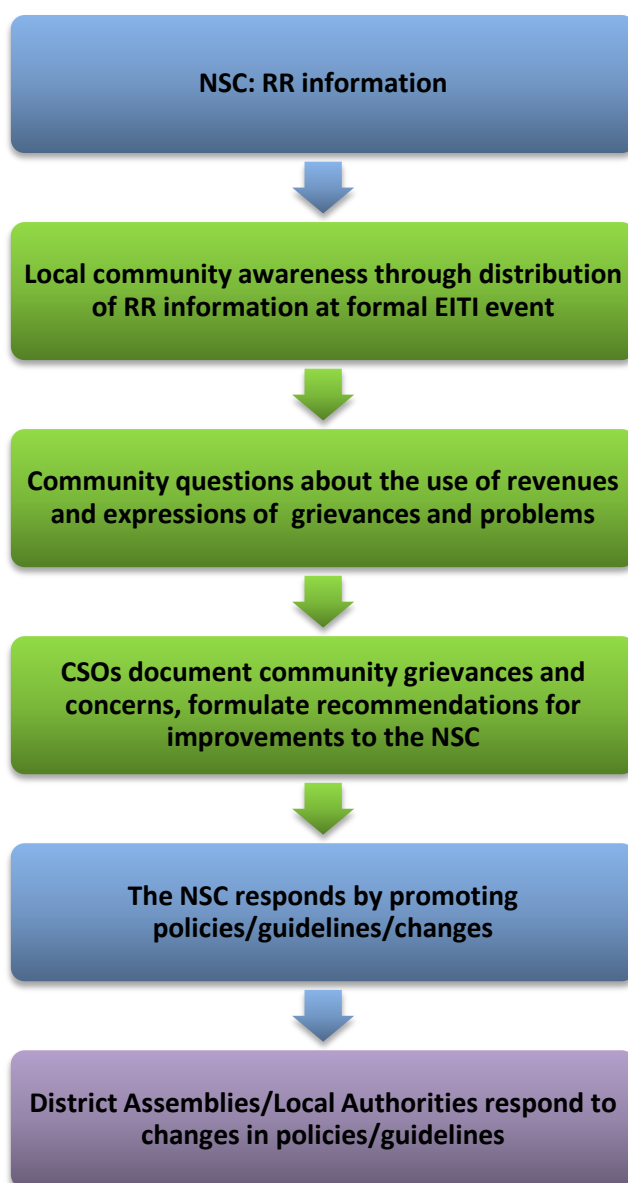
One possible consequence of the revised theory of change at local level is that the function of the Community Forums as a means to collect feedback information is reinforced through **an amended mandate for the GHEITI Secretariat in collecting feedback**. There are several arguments in favour of reinforcing this aspect in a considerate and structured manner.

[For arguments one may use the upcoming work by the WB <http://feedbacklabs.org/the-world-banks-100-citizen-feedback-agenda-a-daunting-challenge-and-an-amazing-opportunity/> to provide the arguments. There is a strategic aspect to this in that the general resistance to change may be overcome by tying in the emerging (but already endorsed) WB policy on feedback loops. It fits perfectly in the EITI mechanism and is a prerequisite to become an effective collective action mechanism that responds to real problems and ensures collective learning of the nature of the problems.]

The Original Theory of Change at Community Level



The Revised Theory of Change at Community Level



Measuring Performance of GHEITI on the development goal

GHEITI needs key performance indicators (KPI) to assess whether GHEITI is delivering results towards achieving its goals. No such KPIs exist today. One excellent KPI example that links feedback with delivering on the local development goal is the 'fix-rate', which means the rate at which problems are resolved to the satisfaction of the key

stakeholders.[2] That KPI is basically the ultimate measure on qualitative responsiveness, which is the whole purpose of accountability –that there are incentives in place which ensure that public authority is used in a manner that responds to the needs and interests of the people.

An advanced future GHEITI feedback system would -besides providing important information for national policy reforms- function as a *beneficiary-based results measurement system* and considerably enhance the transparency of GHEITI. It would be set up to collect and disseminate four different categories of feedback, informing the NSC as well as the general public:

1. Complaints: beneficiary-identified problems related to the extractive industries along the entire value chain
2. Monitoring: beneficiaries assess predefined performance goals
3. Suggestions: beneficiary-identified methods to improve management of revenues towards achieving goals
4. Satisfaction: beneficiaries assess the quality of the results of how revenues have been used

A feedback system that goes beyond the collection of complaints puts the emphasis on finding solutions to problems that need to be resolved in order to advance towards the goals. The much enhanced benefit of such a system is that it becomes a very valuable tool in enhancing the *effectiveness* of GHEITI in attaining development outcomes. Obviously, it is fully possible that the scope of the ToRs for the Reconciliator (and sub-contractors) contains a requirement to collect information on all of these categories from beneficiaries/stakeholders, but the constraints of the Reconciliator in terms of time and capacity to collect community wide feedback, and to gain necessary trust and recognition as an effective feedback manager.

Besides enhancing effectiveness and transparency of the work of GHEITI in contributing to its goals, the expected consequences of a *beneficiary-based results measurement system* with four categories of feedback is that it is likely to have the effect of improving public trust in government and public office holders, as responsiveness becomes tangible. A proper feedback system is performance management tool that provides predictive indicators so that everyone can do a better job.

Feedback systems can be initiated, funded and managed by various actors. There are three main typologies that are useful to consider when deciding on how to design a robust and resilient feedback system, which minimizes the risks of unreliable or poor quality feedback. The types are described briefly below:

Principal-managed feedback system

Principal-initiated, funded and managed feedback system, reporting directly for example to a parliament or to shareholders.

This type of feedback system enables principals to get real-time feedback on problem hot spots and the effectiveness of certain aspects of government or management performance on behalf of the principals. This information strengthens the role of the principal in demanding accountability while also informing both government and corporate managers

about where to focus remedial efforts.

Agent-managed feedback system

These feedback systems are agent-initiated, funded and managed feedback systems and reports to the management of the agent, such as the corporate management, the President's Office, the Prime Minister's Office, a Governor or Mayor.

Beneficiary/user-managed feedback system

Beneficiary/user-initiated, funded and managed feedback systems actively engage citizens in providing feedback to various degrees on the four feedback categories *complaints*, *monitoring*, *suggestions* and *satisfaction*. Examples of these types of feedback systems are Tripadvisor (<http://www.tripadvisor.com>), Yelp (www.yelp.com), and services as Ebay (<http://www.ebay.com>) and Airbnb (<https://www.airbnb.com>). All these examples depend on user-generated feedback. Other examples on public service feedback are See Click Fix (<http://seeclickfix.com/>), Fix My Street (<https://www.fixmystreet.com/>), and Development Check (<http://www.developmentcheck.org/>).

The combination of all three types of feedback will create some duplication and redundancy. This is intentional because a system with some built-in redundancy is more resilient, cannot be tampered with easily and is more likely to deliver transformative results.

In the case of GHEITI, a Secretariat managed feedback system is a hybrid. The National Steering Committee (NSC) is the agent for the principals, which are the three constituencies relevant to the extractive industries; the industry, the civil society, and the government. All three constituencies need to know how the NSC is performing in relation to the goals of GHEITI in order to know in what way the respective constituency needs to act to move things along in the NSC. At the same time, improving the performance of the NSC requires that the three constituencies have knowledge not only in terms of predefined performance goals (*monitoring*), but also of beneficiary *complaints*, *suggestions* and *satisfaction* concerning the changes achieved, as well as concerns the current situation to know the popular opinions of what remains to be addressed and how.

Subsequently, it can be said that a *beneficiary-based results measurement system* managed by the GHEITI Secretariat provides important information for all three principals in relation to their accountability role, while also informing civil society, government and corporate managers about where to focus remedial efforts. It is thus initiated by the principals, managed by the agent (the GHEITI Secretariat), and funded by one of the principals (the Ministry of Finance, or possibly jointly by all principals).

A decision to allocate the responsibility for the feedback system at the GHEITI Secretariat means that its mandate needs to be amended accordingly.

Annex F: Annual Work Plans, Budgets, Reporting 2005-2013

Period	Work Plan	Budget *	Annual Report **
2005	No work plan published		No annual report
2006	<ul style="list-style-type: none"> Carry out independent audit of mining sector Publish GHEITI Handbook Create web-site Capacity development: study tours, equipment etc. Technical assistance to secretariat Develop Communications Strategy Develop M&E Strategy, indicators Other activities 	USD 180,000 + USD 30,000 USD 30,000 Xxxx USD 81,000 USD 10,000 USD 100,000	No annual report
2007	<ul style="list-style-type: none"> Set up 3 regional Public Info Centres Capacity building for civil society, district assemblies Develop linkages EITI – other governance initiatives 	USD 10,000 USD 10,000 USD 10,000	No annual report – report on national workshop Jan 2007
2008	<ul style="list-style-type: none"> Set up 3 regional Public Info Centres 	USD 10,000	<ul style="list-style-type: none"> Communications strategy presented, approved
2009	No work plan published		<ul style="list-style-type: none"> [Sensitization workshops] [Self-assessment, preparations for validation] [Audits for 2006, 2007, 2008 contracted] [Preparations to include oil and gas in GHEITI audits]
2010	No work plan published		<ul style="list-style-type: none"> [Validation completed, Compliant status attained] [Need for GHEITI legislation reviewed] [Inclusion of forestry studied] [NSC expanded to include oil & gas] [Info, sensitization work continues]
2011	<ul style="list-style-type: none"> Contract consultant for GHEITI legislation Produce 2009 audit Print 2006, 2007, 2008 reports Publish GHEITI newsletters Prepare oil & gas templates, consultations Prepare draft GHEITI legislation Dissemination, publication of audits Capacity building, including web reporting GHEITI info centres Tarkwa, Obuasi 	USD 20,000 USD 85,000 USD 25,000 USD 100,000 USD 100,000 USD 105,000 USD 80,000 USD 480,000 USD 40,000	<ul style="list-style-type: none"> SAP IT for audit data in place 2009 audit report successfully done GHEITI legislation fully drafted Dissemination workshops, events held Two newsletters published, distributed Study tours, international conferences, various trainings undertaken [Participation in PIAC] [NSC meetings and retreats] <i>Report remains factual presentation only</i>
2012	<ul style="list-style-type: none"> Produce 2010, 2011 audits, also oil & gas Publish GHEITI newsletters Road shows, workshops, sensitization Capacity building, various GHEITI info centres Tarkwa, Obuasi 	USD 170,000 USD 100,000 USD 180,000 USD 267,000 USD 80,000	<ul style="list-style-type: none"> Continue work on GHEITI legislation 2010/2011 audits: inception report produced Dissemination seminars, workshops on 2009 audit carried out SAP data system in place, though with

			<p>some problems</p> <ul style="list-style-type: none"> • Published one newsletter • [Organised regional EITI conference] • [Published summary report 2004-2009 with consolidated figures] • [Forestry scoping study validated] • [Issues: Procurement of aggregator delayed; data from some companies slow in coming in delaying audit; IT solution with problems] <p><i>Report raised issues for first time, provided outlook for the coming year</i></p>
2013	<p>No work plan published</p> <p>2012 Annual report noted following for 2013:</p> <ul style="list-style-type: none"> • Finalise, launch, disseminate 2010/2011 audit reports • Participate 6th EITI Global Conference • Field visits to oil/gas companies, communities • Scoping study on artisanal & small-scale mining in GHEITI • Continuous capacity building • Engage forestry sector stakeholders 	<p>No budget figures given in plans.</p> <p>2013 Annual Report following is noted: Budget was GHS 2.5 mill – about USD 1.23 mill at mid-year exchange rate – while funds available were GHS 1.45 mill, USD 710,000. The funding gap was to be covered by GoG but only happened at year-end</p>	<ul style="list-style-type: none"> • Finalise, launch, disseminate 2010/2011 audit reports: regional, community, leadership for a • 6th issue of Newsletter published • Forest sector validation workshop held to prepare for inclusion in GHEITI • Advertisement for scoping study on artisanal & small-scale mining (ASM) published • Participate 6th EITI Global Conference • Engagement with oil and gas industry • Engagement with other governance initiatives: OGP, PIAC, Ghana Integrity Initiative (GII) • Continuous capacity building • Implementation of 2010/2011 Audit findings: Annex provides overview • Postponed: Regional info centres; GHEITI Bill; royalty guidelines due to fiscal constraints • Finances: Financial overview: budget and actual expenditures provided. <p><i>Report provides much more information, links to plans, budgets, analysis of issues – substantive improvement</i></p>

*: Budget figures are approximate as a number of items have sometimes been aggregated. Not all items costed in work plan listed here.

**: Focus is on items in the Annual Report that can be referred back to the Work Plans. Items in square brackets are important activities that were reported/carried out but not included/ foreseen in published Work Plans.

Annex G: Changes to TORs, Mining RR, 2004-2010

Below are the TORs for three reviews: (i) January-June 2004, the first one ever; (ii) 2007; (iii) 2010-2011, the last one finalised till now. The 2004 TOR is used as the baseline. The 2007 TOR shows what was changed: overstrike shows what was deleted, *italics* what was added. The changes from 2007 to 2010-2011 are noted in the same way. The *order* changed substantially in the 2010-2011 TOR, and that is the order used here.

Terms of Reference, Reconciliation Report for Mining Sector 2004

The Aggregator shall perform both process and financial audit. The Aggregator shall analyze the historical documentation on production, exports and payment of royalties for minerals produced in the country.

The template developed would be the basic tool for the data collection from government institutions and extractive companies

More specifically the Aggregator shall undertake the following activities:

1. Ascertain the appropriateness of the revenues received as mineral royalty, dividends and tax on profit.
2. The aggregator shall also analyze the tax deductions claimed by the companies for the purpose of identifying any improper claims.
3. Check the disbursements made from the revenues received and ascertain if they are in conformity with legislation.
4. Scrutinize the payment made to District Assemblies, Traditional Authorities and Stools within the operational areas of mines.
5. Ascertain the appropriateness of payments made with regards to mineral royalties; ground rent; dividends; taxation on profits and for mineral rights.
6. Check if quantities of minerals declared to the Aggregator are in conformity with the declarations made to the Mineral Commission and refinery certificates.
7. Review financial statements for consistency for both companies and institutions. Specifically, for companies the aggregator shall review company capital investments and operating cost.
8. Review the capital investments in order to assess the actual amount of the investment and to determine if the amortization and depreciation declared is correct and does not improperly reduce the amount of taxable profit of the mining companies.
9. Perform the audit of operating costs to assess if deductions claimed were actually incurred and correspond to legitimate operational expenses as these affect the taxable profit of the companies.
10. Review feasibility reports of Mining Companies in order to compare the projected production with the actual production.
11. Reconcile the data so collected to ascertain if there is any disparity between the governments reported template and the aggregated companies reporting template.
12. The aggregator shall be expected to report on amounts accruing to the Minerals Development Fund (MDF).

Terms of Reference, Reconciliation Report for Mining Sector 2007

The Aggregator shall perform both process and financial audit. The Aggregator shall analyze the historical documentation on production, exports and payment of royalties for minerals produced in the country.

~~The template developed would be the basic tool for the data collection from government institutions and extractive companies~~

In carrying out his mandate the Aggregator shall have access to the company's lease, stability or development agreements with government.

More specifically the Aggregator shall undertake the following activities:

1. ~~Ascertain~~ Aggregator shall check the correctness of the computation of payments in order to determine the appropriateness of the revenues received as mineral royalty, dividends and tax on profit.
2. The aggregator shall also analyze the tax deductions claimed by the companies to ensure that only proper claims are made.
3. Check the disbursements made from the revenues received and ascertain if they are in conformity with legislation.
4. Scrutinize the payment made to District Assemblies, Traditional Authorities and Stools within the operational areas of mines.
5. Ascertain the appropriateness of payments made with regards to mineral royalties; ground rent; dividends; taxation on profits and for mineral rights.
6. ~~Check if~~ Where applicable the aggregator shall check if the declarations of quantities of minerals declared are in conformity with the declarations made to the Mineral Commission and refinery certificates.
7. Review financial statements for consistency for both companies and institutions. Specifically, for companies the aggregator shall review company capital investments and operating cost.
8. Review the capital investments in order to assess the actual amount of the investment and to determine if the amortization and depreciation declared is correct and does not improperly reduce the amount of taxable profit of the mining companies.
9. ~~Perform the audit of~~ The aggregator shall check claimed operating costs to assess if deductions claimed were actually incurred and correspond to legitimate operational expenses as these affect the taxable profit of the companies ensure that only actual and qualifying operational expenses are claimed.
10. Review feasibility reports of Mining Companies in order to compare the projected production with the actual production.
11. Reconcile the data so collected to ascertain if there is any disparity between the governments reported template and the aggregated companies reporting template.
12. The aggregator shall be expected to report on amounts accruing to the Minerals Development Fund (MDF).

Terms of Reference, Reconciliation Report for Mining Sector 2010-2011

Under the terms of reference for the assignment the obligations of the aggregator shall include the following: *For the mining sector* the Aggregator shall perform both process and financial audit. The Aggregator shall analyze the historical documentation on production, exports and payment of royalties for minerals produced in the country.

In carrying out his mandate the Aggregator shall have access to the company's lease, stability or development agreements with government.

More specifically the Aggregator shall undertake the following activities:

1. Analyze the documentation on production, exports, payments and receipts from solid minerals in the country for the period 2010 and 2011.
2. Review feasibility reports of Mining Companies in order to compare the projected production with the actual production.
3. Where applicable ~~the aggregator shall~~ check if ~~the declarations of~~ quantities of minerals declared are in conformity with the declarations made to the ~~Mineral Commission~~ regulatory institution and *as captured in the refinery certificates*.
4. Review the capital investments *made by the companies* in order to assess the actual amount of the investment and to determine if the amortization and depreciation declared is correct and does not ~~improperly~~ *unduly* reduce the amount of taxable profit of the mining companies.
5. ~~Aggregator shall~~ Check the correctness of the computation of payments in order to determine the appropriateness of the revenues received as mineral royalty, dividends ~~and tax on profit, property rate, ground rent and mineral rights~~.
6. ~~The aggregator shall also~~ Analyzed the tax deductions claimed by the companies to ensure that only ~~proper~~ *legitimate claims have been* ~~are~~ made.
7. Scrutinize the payment made to District Assemblies, ~~Traditional Authorities and Stools~~ within the operational areas of mines.
8. Reconcile the data so collected to ascertain if there is any disparity between the governments reported template and the aggregated companies reporting template, *and make appropriate recommendations to deal with the disparities*.
9. Review financial statements for consistency for both companies and institutions. Specifically, for companies the aggregator shall review company capital investments and operating cost.
10. The aggregator shall ~~be expected to~~ report on amounts accruing to the Minerals Development Fund *and how the funds have been utilised*.
11. ~~Check the disbursements made from the revenues received and ascertain if they are in conformity with legislation~~.
12. ~~Ascertain the appropriateness of payments made with regards to mineral royalties; ground rent; dividends; taxation on profits and for mineral rights~~.
13. ~~The aggregator shall check claimed operating costs to ensure that only actual and qualifying operational expenses are claimed~~.

Annex H: GHEITI Meeting Minutes – Summary 2004-2014

Date	Attendance	Dissemination	Comments
2004.03.24	7		Initial meeting held at political level to establish EITI, at DepMinister Mines. Idea launched by DFID but received political support at meeting
2004.03.14	13		1st Interim Management Committee (IMC) meeting. Discussed first proposal for templates, noted they were most appropriate for large-scale mines, discussed the need for a lower reporting threshold, agreed to invite the IRS to the next meeting to clarify issues on the various taxes collected and their registration. Working group on templates established. The funds from Mineral Devt Fund to Assemblies were supposed to be for specific projects but there was a lack of awareness among the people about these
2004.04.20	12		2nd IMC meeting. (i) NGO rep has been sought from Coalition of NGOs, (ii) financial reporting should be half-yearly, by 31 Aug and 28 Feb respectively, (iii) ad for aggregator to be published before 25 April 2004, (iv) templates were discussed, (v) IRS presented info on taxes etc, (vi) suggestion made that companies that did not report should suffer sanctions
2004.06.01	8		3rd IMC meeting. (i) Revised template, (ii) discussed TOR for aggregator, (iii) due to TOR discussion, date for ad postponed to 7 June, (iv) need for workshop to present templates to mining companies agreed
2004.06.30		Launch GHEITI Tarkwa	History: Meeting between DFID and GoG, decision of establishing EITI secretariat and setting up Interim Management Committee (ISODEC, Mining company, National House of Chiefs, Chamber of Mines, OASL, MoFin, IRS, Mines inspectorate, Customs, MoMines). Agreed first templates for reporting
2004.08.26	11		4th IMC meeting. Allowed Civil Society 3 weeks to be educated on EITI, then present their issues to IMC.
2005.01.25			Ministry of Mines invitation to a meeting with background minutes from IMC meetings
2005.07.14	5		TOR for independent aggregator was seen as necessary. Advert for gold mining auditor had gone out
2005.09.22		Sensitization Workshop Obuasi: 21 district assemblies participated	Launching of EITI for district assemblies - three presentations given. Debate with suggestions for changes to templates
2005.12.14		Workshop Kumasi	Workshop for traditional chiefs. One of the topics discussed was the distribution of royalties, where wanted percentage to local communities to go from 9% total to 40%. Publication of amounts to local authorities, and payments of royalties should be more regular - quarterly. ISODEC seeing EITI impacting on (i) revenue management, (ii) anti-corruption legislation, (iii) judicial reform, (iv) right to information act, (v) civil liberties.
2006-05			Implementation strategy 2006-2009. Includes (i) Objectives of GHEITI, (ii) Functions of NSC, (iii) Tenure of NSC members, (iv) Implementation strategy: 4 parts, (v) plan includes M&E indicators
2006.05.10	11		Consultants from WB commented on work plan 2006-2008 which they found very good, and commended GHEITI for its ambitious TOR for the aggregator.
2006.05.26		Workshop Eastern Region	Meeting held for traditional chiefs and District Chief Executives in the Eastern Region

2006.07.15	60	Workshop Brong-Ahafo region	Meeting held for traditional chiefs and District Chief Executives in Sunyani, Brong-Ahafo region
2006.08.22	8		(i) Review TOR for aggregator, (ii) Much info provided to GTZ to develop GHEITI web-site
2006.09.28	7		Review Inception report from aggregator - careful discussion of a number of dimensions of revenues.
2006.11.03	10		"Publish as you pay" was declared as complementary to the EITI
2007.01.15			Accra Declaration on EITI
2007.04.03			High level consultative roundtable discussions on the first GHEITI Report Jan-June 2004. Careful discussion of the main findings of the report: fineness/ purity of gold; pricing; exchange rates; inter-sectoral collaboration (public agencies); supervision; capital gains tax; shortfalls in disbursements; delays in royalty disbursements.
2007.04.27	8		Discussion with public agencies regarding their follow-up on points raised in report. Also issue of payment to aggregator. Need for publication of report.
2007.06.07	40	Workshop for parliamentary select committee	Meeting with Parliamentary Select Committee on Mines and Energy, Central Region. Presented major issues in report (see meeting 3 April 2007)
2007.08.08	17		Discussion of first half 2004 audit report (confusing: discussion seems to be the same held on 3 April?). 17 from SC + 2 from Boas
2007.09.11	19		Formal approval of the first audit report. 19 from SC + 2 Boas, 1 GTZ
2007-09-28/30	18		Retreat to discuss communications strategy, work plan, prepare for validation process. 18 from SC + 4 guests
2007.10.10	19		Update to WB and GIZ on oil/gas and series of issues like funding, lessons from first financial audit etc. 19 from SC + 5 guests
2007.12.01	16		Review draft second financial audit July-Dec 2004. 16 SC + 2 Boas
2008.02.05	11		Contracting aggregator for 2nd and 3rd report
2008.02.25			BRIEF: Draft program and invitation to National Forum for Oil and Gas to be held 25-26 February
2008.09.11			BRIEF: West African EITI conference in Nigeria
2008.11.07			BRIEF: National Coordinators Meeting in Oslo
2008.11.19	12		Extension to oil and forestry. Validation preparations (from RWI, GTZ etc). Request for forum to discuss collaboration between EITI, NREG, EPA (WB-supported Natural Resources Environmental Governance Programme). Discussion on expanding NSC to forestry and oil. Discussion on being able to contract Boas also for 2006-2008 reconciliations.
2009.01.22	9		Draft Communication strategy, issues due to time limitations
2009.03.17	11		Preparing for validation, and self-assessment
2009.04.15	10		Met WB mission which concerned with slow disbursement rate of 2006 MDTF grant - still USD 120,000 in the account of USD 286,000 grant. Scoping study for including oil/gas, Forestry and fisheries had been on the books for a long time - trying to move that forward. Implement plan for three national sub-offices - first one in Tarkwa quite advanced in planning. First draft of communications strategy received.
2009.04.17	15		Meeting to discuss WB aide memoire that touched on many of the issues raised at the meeting two days earlier. Capacity building for NSC and Secretariat noted, and now particularly in oil and gas sector, and WB procedures for MDTF management, important. Ghana noted that it was important to implement recommendations from 2004-2005 reports before undertaking new audits for 2006-2007, though recognised urgency of matter. Need to strengthen EITI secretariat especially on financial management (MDTF).

2009.04.27	8		he draft Communication strategy was discussed, with quite strong criticisms: paper too generic; no costed work plan; no Gantt chart; should list most effective tools per channel; no detailed work plan; no internal communications strategy.
2009.07.09	9		The revised Communication strategy was presented, and finally approved
2009.07.24	9		Inspection of GHEITI District information Center Tarkwa
2009.08.18			Discussions between MOFEP and MoEP on including oil and gas in GHEITI and how to proceed. GHEITI Secretariat explaining and taking issues forward
2009.08.26	8		Update oil/gas, information centre Tarkwa, TOR aggregator
2009.11.27			Workshop to extend GHEITI to oil and gas. 37 persons in attendance including press
Undated 2010			Memorandum to cabinet on Revised Institutional Framework for GHEITI to include oil and gas
2010.02.18			WB visit to follow up on oil and gas, GHEITI communication. Need for formal legislation on GHEITI and also clearer rules on the workings of the SC
2010.08.02	10		Presentation of draft audit reports for 2006-2007-2008
2010.09.08	22		Inauguration of expanded NSC of GHEITI with speeches by various ministries. 24 attendants incl press. Expand NSC from 11 to 22 members
2010.10.04	22		Launch of report 2006, 2007, 2008, update work plan 2010, first newsletter published. First meeting of expanded NSC. Discussion of the IT solution to the data capture for the reconciliation reports. Agreement on the need for GHEITI legislation but several concerns raised leading to look at TOR for this
2011.02.23	18		Inclusion of Hannah from WACAM. Proposal to have alternates in meetings (after consecutive absence of Tullow Oil). 18 from NSC + 3 secretariat
2011.11.21			Status report on implementation of auditors recommendations: 2004-2009
2011-11-xx?			Technical roundtable to validate audit report: Status report on implementation of auditors recommendations: Validation of 2009 report
2012.01.30		Dissemination workshop Obuasi	Dissemination workshop on 2009 audit report in the Ashanti region
2012.01.31		Community Forum Obuasi	Apparently 150 attendants (no list attached)
2012-03-16/18	36		Round Table Forestry Scoping and Oil and gas templates
2012-04-27/28	24		Capacity Building NSC on Oil and gas reporting. Held by RWI. 24 participants.
2012.05.18			Presentation and discussion of scoping study for including forestry in GHEITI
2012-07-05/07		Sensitization oil and gas Western Region	Presentation of the oil and gas into GHEITI reporting and experiences thus far
2012.07.13			Breakfast meeting with Parliamentary select committee on mines and energy re GHEITI Bill
2012-07-14/16		Sensitization oil and gas Western Region	Another community outreach event to discuss oil and gas in GHEITI, held in Jomoro
2012.09.11			Brief to Minister of Finance on EITI Implementation
2012.11.27	14		Review Inception report 2010/2011. Included Boas and Secretariat

2013-01-11/13	23		GHEITI retreat/workshop. Discussed the need for a scoping study of the small- and medium scale mining operations (Chinese owned mentioned). Draft audit reports for 2010-2011 mining and update on 2010-2011 oil and gas, which is facing greater difficulties in collecting data - SAP IT still has technical problems.
2013.02.04	16		Draft oil and gas RR 2010/2011 discussed. 16 from NSC + Boas + Secretariat
2013.02.27			Update on EITI Implementation to Minister of Finance
2013.04.17		Presentation workshop	Launch of the Mining and Oil and Gas RR reports for 2010-2011, Coconut Grove
2013.07.10	17		Dissemination RR 2010/2011. Follow up on recommendations. Planning RR 2012/2013. Status GHEITI Bill. Proposal to establish a sub-committee to oversee the recommendations (GRA, MC, OASL, MoEN GNPC, MoFEP). Meeting agreed to include member of Petroleum Commission in NSC.
2013.07.22	19		Meeting GHEITI and Ghana Exploration & Production Forum: 19 from NSC and E&P members. Oil and gas reporting. GHEITI Bill
2013.08.08	150	Community Forum Kenyasi	Broad-based community forum to discuss Newmont mining operations etc
2013-10-14	50		International EITI Board mission to Ghana
2014-05-29/30			EITI Template development workshop: Supported by RWI
2014-06-24/26		Sensitization and dissemination three Northern Regions	
2014.10.02	17		Production of 2012/2013 RR (Coordinator reminded NSC members to support consultants from Scanteam and give them maximum cooperation)

Annex I: Reconciliation Reports – Findings and Conclusions

Year	Findings and Recommendations	Conclusions and Follow-up from previous years
2004	<ol style="list-style-type: none"> 1 Sector ministries of the public agencies involved in the reconciliation exercise should impress upon these agencies to facilitate the speedy provision of data. 2 The EITI NSC should consider formalising GHEITI through a law. 3 Information which should be required for subsequent aggregation should be made available to the EITI NSC. This is likely to reduce the time spent on data acquisition, and allow more time for reconciliation and investigations. 4 Sensitisation seminar should include financial managers of relevant companies and government agencies. 5 An established desk dedicated to mining issues at the Internal Revenue Service (IRS – now the Ghana Revenue Authority, GRA) would help facilitate speedy data delivery and the early resolution of mining related issues. 6 Verify fineness of gold in-country 7 Need to establish standardised ways of setting the selling price for minerals/gold 8 The exchange rate when setting sales price should be the Bank of Ghana Inter-Bank Exchange rate applicable on the date of payment. 9 Customs Excise and Preventive Services (CEPS) officers must be present to authenticate/endorse signing of bullion specification for shipment 10 CEPS officers should be rotated among the mines to avoid too much familiarity 11 Minerals Commission should refer all changes in the ownership of mineral right licenses to the IRS for capital gains tax payment. 12 Mining companies or Chamber of Mines should send details of royalty payments to the Office of the Administrator of Stool Lands (OASL) and District Assemblies. OASL regional offices should inform Districts, Traditional Councils and Stools of payments each quarter. 13 Where mining activities includes several Districts, TCs or Stools, establishing the correctness of royalty payments to communities is difficult. OASL should publish yearly the formula for disbursements and made publicly available. 14 Payments to local assemblies etc should be done quarterly, at the latest three months after the OASL received the payments. Payments should not be split. 15 Broad guidelines for the use of royalty income locally should be developed. 	

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2005	<ol style="list-style-type: none"> 1 Gold pricing: Policy guidance on pricing of minerals/gold is required to ensure transparency and uniformity. 2 Royalty payments: In situations where mining entities are not required to pay more than the minimum 3% due to the fact that operational ratios are below 30%, the IRS should obtain copies of such computations from the mining entities 3 Checks on Assays: In the short term, steps should be taken to run a pilot scheme to check the appropriateness of assay figures that are declared by the mining companies. Depending on the results of the pilot scheme, a permanent means of independently verifying the assay results should be considered 4 Dividends: the Internal Revenue Service should also reconcile dividend tax payments made by NTHC on behalf of AngloGold International in 2004 and 2005 5 Corporate tax: the Internal Revenue Service should critically assess the deductibility of mineral royalty in corporate tax determinations. 6 Royalty receipts to OASL: Mining companies should be encouraged to provide details of mineral royalty 7 Disbursements from OASL: The Regional offices of OASL should be made to include computations indicating basis of payments to District Assemblies. 	
2006	<ol style="list-style-type: none"> 1 Pre-production costs: not approved by the Minerals Commission for 2 companies. <ul style="list-style-type: none"> ○ <u>Recommendation:</u> Section 28 of the Mining and Minerals Act 2006, Act 703; the capitalization of pre-production costs should be approved by the Minister of Lands and Natural Resources. This should be strictly adhered to, to ensure that only qualifying costs are allowed. 2 Concession Ground Rent: Most mining companies did not pay anything for concession ground rent. The amount payable is very low at GHS 0.50 per square kilometre. Thus, amounts payable have no significant impact. The rates paid are the same for mining companies and other users of land. <ul style="list-style-type: none"> ○ <u>Recommendation:</u> The amount payable as concession ground rent should be reviewed upwards. 3 Disbursements/Lack of Dedicated Bank Accounts and Budget. With the exception of 2 District Assemblies, district Assemblies receiving mineral royalty did not have dedicated bank accounts and budgets for the utilization of mineral royalty receipts. <ul style="list-style-type: none"> ○ <u>Recommendation:</u> District Assemblies should be encouraged to have dedicated bank accounts for Mineral royalty receipts. 	

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	<p>4 Payments from regions to districts were paid in tranches.</p> <ul style="list-style-type: none"> ○ <u>Recommendation</u>: Regional OASL offices should promptly pay all amounts due to a district Assembly from royalty payments as and when received from the Head Office. ○ Part payment of amount due should be discouraged. <p>5: The OASL does not have information on how much has been paid to the IRS by the mining companies</p> <ul style="list-style-type: none"> ○ <u>Recommendations</u>: Improve communication between the OASL and the mining companies. Most mining communities have OASL offices at the district level. ○ Payments of mineral royalties by mining companies could be communicated to the OASL offices. <p>6: Mineral Development Fund (MDF): Seemingly funds lodged into the account were less than 10% of total collections. Amount transferred into the account was GHS 494,562 as against collections from the selected companies of GHS 3,219,108.</p> <ul style="list-style-type: none"> ○ <u>Recommendation</u>: There is the need to reconcile amounts ceded and lodgements made between Minerals Commission, the OASL and the IRS and the Controller and Accountants' General Department. 	
2007	<p>1 Mineral Royalty: There was a discrepancy between the royalty payments made by certain companies and receipts by the Internal Revenue Service.</p> <ul style="list-style-type: none"> ○ <u>Recommendation</u>: The IRS, and companies in question should reconcile royalty payments and receipts for 2007. <p>2 Corporate Tax Receipt: Corporate tax receipts in 2007 was lower than that of 2006, even though gold prices were higher in 2007 than 2006. Royalty payments were higher in 2007 than 2006.</p> <ul style="list-style-type: none"> ○ <u>Recommendation</u>: The IRS should conduct further investigations to ascertain the reasons for the lower corporate tax receipts in 2007. <p>3 Disbursement: The disbursements made to District Assemblies (DAs) in 2007 were not in tandem with releases from the head office.</p> <ul style="list-style-type: none"> ○ <u>Recommendation</u>: To ensure transparency in disbursements, regional OASL offices should ensure payments to DAs follow releases from the Head Office. <p>4 The Regional offices of OASL did not provide adequate information on payments of mineral royalties to the District Assemblies.</p>	

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	<ul style="list-style-type: none"> ○ Recommendation: Regional OASL offices should provide details of payment to the DAs Including (i) the Company paying the royalty; (ii) the relevant months under consideration; (iii) amount paid by the mining companies. Where the operational area of the mine straddles the jurisdiction of more than one DA, the sharing proportion should also be stated. <p>5 Mineral Development Fund There is a discrepancy between company payments of royalties and government receipts.</p> <ul style="list-style-type: none"> ○ Recommendation: There is the need to reconcile in details royalties received and ceded to the MDF account. More elaborate guidelines should be provided for the operations of the MDF account. 	
2008	<p>1 Payment of Mineral Royalties without details: In general mining companies paid royalties without providing adequate documentation of production and prices obtained. Additionally 2 companies, which qualify as large Taxpayers, do not pay royalty at the Large Taxpayers Unit (LPU).</p> <ul style="list-style-type: none"> ○ Recommendations: Mining companies should accompany royalty payment with details of production and revenues obtained for the period under consideration. For gold producing companies refinery returns indicating the purity of gold ores and sale prices should be added to royalty payments. ○ For effective monitoring and easy collation of data, it is recommended that all mining companies that contribute substantially to royalties and other payments such as corporate taxes, should make payments at the LTU. ○ In the absence of a dedicated desk for mining at the LTU it is necessary to find other means of monitoring the appropriateness of royalty payments. <p>2 Determination of operating cost. The financial statements provided by mining companies do not provide enough details of the operating/production costs. When details are requested from the mining companies, challenge to determine payments by the staff of the IRS, as most of these items are technical in nature. This difficulty may affect the determination of taxable profits and ultimately corporate tax payment.</p> <ul style="list-style-type: none"> ○ Recommendation. The IRS and the Minerals Commission should conduct studies into the operations of the large mining companies with the aim of establishing benchmark costs, and should be used by the IRS as a guide in determining appropriate operating cost. 	<ul style="list-style-type: none"> ○ Monitoring of royalty payments especially with regards to compliance and appropriateness appears to have slackened with the dissolution of the mining desk at the Internal Revenue Service. ○ Disbursement to District Assemblies have improved with regards to the correctness of the computations. However payments to District Assemblies do not follow strictly the payments from the OASL Head Office. ○ Whereas regions such as Ashanti and Western have improved upon information provisions to the Districts, the Brong Ahafo OASL is yet to appreciate the importance of providing details on royalty payments to the District Assemblies.

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	<p>3: The OASL does not have information on how much has been paid to the IRS by the mining companies. The OASL by itself is unable to ascertain the correctness or otherwise of royalty ceded to it.</p> <ul style="list-style-type: none"> ○ Recommendation: Improve communication between the OASL and the mining companies etc. See point and recommendation 5 from 2006 <p>4 Mineral Development Fund: The Minerals Commission (MC), custodian of the fund, was not involved in the operation of the account in 2008. All transactions were handled at Sector Ministry level. The Commission does not self-compute royalty due the MDF for the period from royalty payments received from the mining companies. Result the Commission is not sure of the correctness of royalty transfers and lodgements made into the account. The Commission indicated that computing royalties due will serve no purpose since the Fund has no legal backing, unlike OASL.</p> <ul style="list-style-type: none"> ○ Recommendations: Reconciliation of MDF account with regards to royalty payments and lodgements into the account as well as outflows and purpose of the payouts is required. Computing royalty due for MDF will be good for the purpose of comparison. The MC should therefore henceforth compute royalties due from payment data received from the mining companies. ○ Guidelines for the operations of the Fund should be provided. 	
2009	<p>1 Corporate tax: There was an abrupt change to corporate tax payment due to the capital allowance regime (Goldfields Ghana Ltd had paid corporate tax over a five year period did not pay any 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.</p> <ul style="list-style-type: none"> ○ Recommendation: There should be information on the development plans of extractive companies in order for government to forecast 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 5 years would be more appropriate. <p>2 Disbursements: The disbursement relating to 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. (see below). Judging from the fact that the major mining companies made royalty payments in April 2009, the district Assemblies were denied substantial funds on a timely basis.</p>	<p>CONCLUSIONS:</p> <ul style="list-style-type: none"> ○ A discrepancy of GHS-3,047 resulting mainly from differences in mineral royalty and property tax reported on the company and government templates was obtained. ○ As observed in the years 2004-2008, mineral royalty receipt was the largest of the mining benefits received in 2009. In percentage terms it accounted for over 80% of the total benefits. ○ Corporate tax receipt which was next in quantum to mineral royalty represented 15% of total benefits received. However compared to 2008, corporate tax percentage of total benefits has declined. In 2008, corporate tax made up 34% of total benefits received by the government of Ghana.

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	<ul style="list-style-type: none"> ○ <u>Recommendation</u>: The OASL and District Assemblies should monitor disbursements and indicate as quickly as possible any lapses therein. In particular they should keep records on the periods that disbursements relate to. <p>3 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 Prestea Huni Valley District Assembly indicated receiving payments on 4 occasions yet the OASL head office made only 3 payments in 2009. The Tarkwa Nsuaem District Assembly also received 4 payments.</p> <ul style="list-style-type: none"> ○ <u>Recommendation</u>: The Regional OASL offices should be encouraged to pay promptly all amounts due to District Assemblies. <p>4 Mineral Development Fund: Actual lodgements of GHS 2,690,520 made into the MDF account in 2009 was far lower than 10% of relevant collections amounting to GHS 70,150,668 by the IRS. There were indications that payments from the account were specifically tailored to lodgements. Therefore lodgements made found their way out for specific payouts..</p> <ul style="list-style-type: none"> ○ <u>Recommendation</u>: In the interim, an oversight agency should be appointed to run the Fund prior to the appointment of a substantive Fund Manager. 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. <p>5 Challenges: Some challenges encountered included the following: (i) High staff turnover in some companies/agencies meant new contact persons had to be established, (ii) There were undue delays in the submission of data by some companies, whilst others initially refused to endorse the reporting templates, (iii) Some organizations applied accruals instead of actuals in the completion of templates.</p>	<ul style="list-style-type: none"> ○ Dividend receipt declined from 6% in 2008 to 2% in 2009. ○ Ground rent and mineral right licences receipts were not significant in 2009. ○ For increased and regular benefits, changes should be made to the legislation governing the payment of ground rent and corporate tax respectively. ○ Regular training of contact persons in EITI reporting requirements is needed to facilitate the earlier completion of reports.
2010-2011 Mining	<p>1 Reporting Currency in Reconciliation Exercise: The GRA has requested mining companies to pay royalty and corporate tax in USD. While the GRA receipts are in GHS, most mining companies provide templates in USD and are unable to provide amounts in GHS. This creates discrepancies and delays in the reconciliation exercise.</p> <ul style="list-style-type: none"> ○ <u>Recommendation</u>: In order to avoid discrepancies created by currency translations it is important that the companies provide figures in GHS as found on the receipts provided by the GRA. The GRA should also endeavour to keep records of all US dollar payments by companies. ○ The GRA'S request to companies to make payments in US dollars may necessitate reviewing the currency for EITI reporting. 	<p>CONCLUSION</p> <ul style="list-style-type: none"> • The reconciliation report for 2010 and 2011 produced some discrepancies that should be investigated further. • Absolute discrepancies for 2010 and 2011 were GHS 47,460,012 and GHS 202,828,263 respectively. Unresolved discrepancies amounted to GHS - 5,080,964 and GHS 9,113,673 in 2010 and 2011 respectively.

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	<p>2 Submission of additional information by participating companies. Participating companies provide information on payments made to government but are reluctant to provide details on production costs and other information required to fully meet the TOR. Undue delays arise from waiting for such information. The reconciler, due to time constraints had to conclude the report without the provision of the relevant information.</p> <ul style="list-style-type: none"> ○ <u>Recommendation:</u> The Steering committee should deliberate with representatives of the participating companies on the need to provide additional information other than payments to the government. The terms of reference may be amended in accordance with the outcome of such interactions. <p>3 Mineral Royalty: Mineral royalty, which is a production based tax, is paid quarterly. In 2010 and 2011, some companies paid royalties more than four times. In 2011, Newmont Ghana Gold Ltd paid royalty on <i>eight</i> occasions, evidently due to a decision to pay royalties on a monthly basis. But the consequence is that it becomes difficult establishing whether the correct amounts have been made since royalty payment is based on production. Without specific periods of payments indicated, matching production against royalty becomes challenging. Companies may also end up splitting the payment of royalties, making the calculations even more difficult.</p> <ul style="list-style-type: none"> ○ <u>Recommendations:</u> It is important to determine the frequency of payment of royalty. The regulations on royalty payment that sought to introduce monthly royalty payments should be implemented. This will ensure transparency. With the ageing mines experiencing negative growth, it signals a potential national output slump if strategic investments and decisions are not made now. <p>4 Hedged Prices. The issue of payment of royalties on hedged gold sales continues (Adamus Resources has posted consistently reduced incomes resulting from hedge prices from July to Dec 2011, so in the third quarter of 2011 about USD 238,995 was lost through gold hedging. Adamus Resources Ltd did not indicate any royalty payments for silver by-product associated with gold production in 2011.</p> <ul style="list-style-type: none"> ○ <u>Recommendation:</u> The GRA is requested to review Adamus royalty payments and ensure that royalty payments by all companies use the spot price. ○ Silver revenue should be included in the computation of royalty. <p>5 Transfers in Tranches: Some regional offices of the OASL did not transfer in full amounts due to District Assemblies. For example the Brong-Ahafo regional OASL office received a transfer of royalty from the head office on 15/2/2010. However Asutifi District was paid in two tranches of GHS 263,394 and GHS278926 on the 2/3/2010 and 1/4/2010 respectively.</p>	<ul style="list-style-type: none"> • Due to time constraints, the reconciler was unable to resolve all the discrepancies produced. The companies and Government Agencies have been asked to produce further details to assist in the resolution of the discrepancies. • Corporate tax payments exceeded mineral royalty in 2011. This is very significant as it may mark the end of the initial investment recovery periods for major producers such as Newmont Ghana Gold Ltd. The implementation of the Internal Revenue (Amendment) Act, 2012 ACT 839, which abolishes the 80% first year capital allowance and also deals with ring fencing matters may further improve the collection of corporate tax. • Regulations on payment of mineral royalty need to be addressed. On the implementation of the EITI process, stakeholders should discuss in detail the way forward especially with regards to the provision of relevant data for reconciliation.

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	<ul style="list-style-type: none"> ○ <u>Recommendation</u>: District Assemblies should be paid in full and immediately when funds are received from Accra. ○ Amounts due to District Assemblies should not be paid in tranches. <p>6 Omission of Funds: During the disbursement of funds to District Assemblies (DA), some of the receipts are left out. This means DAs don't receive funds on timely basis (examples of this are provided).</p> <ul style="list-style-type: none"> ○ <u>Recommendation</u>: When disbursing royalties, it is important to include all the months. This should be irrespective of whether it is the end of the quarter or not. This will ensure that payments made by companies outside the designated months are captured. The GRA should ensure that companies do not pay royalties outside the stipulated months by applying the necessary sanctions. <p>7 Utilization of Mineral royalty receipts. Waste management still takes a significant portion of royalty utilization. In 2010 waste management accounted for 40% of royalty utilization in Obuasi. Although in 2011 waste management was 30% of royalty expenditure, it was still significant.</p> <ul style="list-style-type: none"> ○ <u>Recommendation</u>: Guidelines for the utilization of royalty receipts by DAs should be implemented as early as possible to ensure DAs do not spend substantial amounts of royalty receipts on recurring expenditure such as waste collection. <p>8 Corporate Tax: In computing corporate tax payable, Adamus Resources separated its pre-production costs into losses carried forward and plant and machinery costs that qualified for capital allowance: The Mining and Minerals Act (section 28) stipulate that 'the holder of a mining lease is entitled to the capitalization of expenditure on reconnaissance and prospecting approved by the Minister on the advice of the Minerals Commission where the holder starts development of a commercial find.</p> <ul style="list-style-type: none"> ○ <u>Recommendation</u>: Companies commencing exploitation of minerals should be made to capitalize all exploration and development costs and amortize over five years i.e. 20% per annum. Allowing losses to be carried forward separately before capital allowances are set off against profits may result in prolonging the time for payment of corporate tax. <p>9 Mineral Development Fund. There seems to be significant improvement in royalty transfers to the Fund compared to the recent past. Inflows into the account in 2010 and 2011 exceeded outflows from the Fund. Some lodgements appear not to be tailored to royalty transfer made into the account as was the practice in the recent past.</p> <p>The Ministry of Lands and Natural Resources which is supposed to have the oversight</p>	

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	<p>and monitoring role over the state agency managing the Fund currently plays the role as spending agency. This creates supervisory and monitoring challenges to the Ministry. Sometimes it becomes difficult to track expenditures made from the Fund to the source documents in the accounting books of the Ministry. This is because funds are sometimes transferred in bulk from the MDF account to the Ministry's subsector account for onward disbursements to mining sector beneficiary agencies and institutions. Moreover, since the Ministry has no signatory authorization to the MDF account at Bank of Ghana it becomes difficult for it to request MDF bank account statement for reconciliation purposes.</p> <ul style="list-style-type: none"> ○ <u>Recommendation</u>: To ensure effective monitoring and supervision of the Fund, an interim oversight agency should run the Fund prior to the appointment of a substantive Fund Manager. This will enable the sector Ministry to play its supervisory and monitoring role effectively during this period of transition. 	
2010-2011 Oil and Gas	<p>1 Capital Gains Tax: Tullow Oil Plc. acquired the in EO Group in 2011. No capital gains tax was found in the transaction. GRA has issued a ruling that the transaction is subject to tax, and the PRMA indicates that capital gains from the sale of ownership of rights as a possible tax source for the petroleum holding fund.</p> <ul style="list-style-type: none"> ○ <u>Recommendation</u>: It is recommended that GRA pursues the issue of capital gains tax on the E.O Group's acquired 1.75% equity and other such acquisitions. It may be prudent for the necessary legislation on capital gains to be streamlined. <p>2 Thin Capitalization: Interest expense is deductible in determining the income for corporate tax purposes. There is however no provision in the PITL that relates to excessive interest charges. According to the GRA, provisions on limitations in interest deductions in the Internal Revenue Act are applicable in the petroleum sector.</p> <ul style="list-style-type: none"> ○ <u>Recommendation</u>: There is the need to harmonise the provisions in the PITL and the Internal Revenue Act, Act 2000. <p>3 Losses carried forward. Tax losses, under the PITL are carried forward indefinitely. Under the IRA, ACT 2000, the Losses are carried forward for only five years for mining operations. The practice under the Income Tax law however is that capital allowances do not create losses and are carried forward indefinitely.</p> <ul style="list-style-type: none"> ○ <u>Recommendation</u>: Tax losses may be carried forward for 5 years in the petroleum as well as in the mining industry. The practice of carrying forward capital allowances indefinitely in the mining sector may also be extended to the petroleum industry. 	<p>CONCLUSION</p> <ul style="list-style-type: none"> • This report provides details of the first Oil and Gas EITI reconciliation exercise. • Discrepancies of US\$6,028.95 and US\$465.63 were recorded in 2010 and 2011 respectively. • The discrepancy in 2010, resulted from differences between surface rental payments made by Tullow Ghana Ltd and Saltpond Offshore Producing Company Ltd and reported receipts by the GNPC. In 2011 the difference between the reported payment by Tullow Ghana Ltd and GNPC reported receipt produced the discrepancy of US\$465.63.(see Table 7.3 & 7.5). • Saltpond Offshore Producing Company made paid US\$314,755.73 as royalty and US\$907.50 as surface rental. In 2011 SOPCL paid an amount US\$132,982.40 as royalty to the state. • GNPC paid an amount of US\$ 444,124,723.69 to the Government of Ghana in 2011. This amount represented payment for carried interest of US\$233,587,963.67; Additional paid interest of

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	<p>4 Ring fencing: Ring fencing refers to the limitation on consolidation of income and deductions for tax purposes by the same taxpayer, for different projects or different activities. Ring fencing legislation has been passed, under the Internal Revenue (Amendment) Act, 2012, ACT 839, to disallow the deduction of expenses exclusively incurred in a mining area against revenue derived from another mining area belonging to the same taxpayer or in which the taxpayer has an interest in the determination of chargeable income.</p> <p>Currently the petroleum industry does apply ring fencing to contracts. However a contractor may set off expenses that are exclusive to a production area against income from another production area. This may delay corporate tax revenues.</p> <ul style="list-style-type: none"> ○ Recommendation: Legislation similar to the amendment on ring fencing in the mining sector, should be introduced in the petroleum industry to production areas. As many fields commence production ring fencing legislation is needed to ensure early corporate tax receipts. This however should be viewed against the need to obtain more geological data from greenfields. <p>5 Staff Members and Capacity Building: The oil and Gas sector is an emerging industry in Ghana. There are only few members of staff engaged in the petroleum sector at the GRA, MOFEP and Bank of Ghana.</p> <ul style="list-style-type: none"> ○ Recommendation: There is the need to increase the numbers and speedily build up the capacity of officers of all the agencies involved—GRA, MOFEP, BOG to enable them carry out their functions efficiently and effectively <p>6 Information on payment. Saltpond Offshore Producing Company Ltd (SOPCL) made payments of royalty in 2010 and 2011 into the Non Tax Revenue /GOG account. The Non Tax Revenue Division of the Ministry of Finance and Economic Planning, operator of the accounts was not alerted of the payment. SOPCL did not obtain receipts for the payment made.</p> <ul style="list-style-type: none"> ○ Recommendation: Since PRMA became operational, petroleum payments are to be made into the Petroleum Holding Fund. To avoid situations as indicated above, Bank of Ghana should regularly update the GRA on all payments made. This will ensure that receipts are properly provided to the companies. Reconciliations of amounts paid into the petroleum holding fund would be made easier. 	<p>US\$87,595,570.02 and Royalty of US\$122,941,190.00.</p> <ul style="list-style-type: none"> • As at the end of 2011, GNPC owed its Jubilee partners an amount of US\$33,308,728. This amount does not include GNPC'S share of the purchase cost of the FPSO. • Corporate tax receipts will be enhanced if, thin capitalization, losses carry forward and ring fencing rules are amended. Also costs should be scrutinised to reduce profit stripping. • Legislation on Capital gains tax should be put in place as early as practicable. • Disbursements to the Ghana Petroleum funds should be made in compliance with the provisions of the Petroleum Revenue Management Act, 2011; ACT 815 • The Steering Committee should engage all stakeholders in the petroleum sector to ensure that the EITI reporting process stays on course. This may include deliberations on the scope of the assignment and reporting templates.