Addendum to 2012/2013 - Reconciliation Report

MINING

1. **Comprehensiveness and reliability of data**.

The 2012/2013 Mining sector report was prepared in accordance with the International Standard on related services as it applies to agreed-upon procedures engagements.

Except where specifically stated, the assignment was conducted according to the terms of reference which are attached to the report.

The procedures undertaken did not constitute an audit or review made in accordance with international standards on Auditing or International Standards on Review engagements. We therefore do not express any assurance beyond the statements made in the report and the fact that, within the limitations of the assignment, the data provided for reconciliation by the government entities and the extractive companies were comprehensive and where necessary properly supported.

This however does not extend to the entire financial statements of any of the entities involved.

The report is only for the purpose of informing the GHEITI Steering Committee on the issues indicated in the terms of reference, and not intended for any other purpose.

2. Materiality:

The relevant revenue streams for reconciliation included Mineral Rights; Ground Rent; Property rate; Mineral Royalty; Corporate tax and dividends. They excluded taxes levied on consumption such as value added taxes, personal income tax (PAYE) or sales taxes as they were considered as indirect taxes.

Other direct payments were not considered material, ie their omission or misstatement could not significantly affect the comprehensiveness of the EITI report.

The mineral production sector in Ghana generates revenue that far outweighs that from the exploration sector. All entities engaged in mineral production pay mineral royalty except artisanal miners.

Mineral royalty payment from small scale mineral producers was not material.ie

Mineral royalty and corporate tax generated over 95% of the revenues from the relevant revenue streams in 2012 and 2013.

By setting the materiality threshold at mineral royalty payment of GHS400,000 for large scale mining lease holders, over 95% of the value of relevant revenue streams were due for reconciliation

3. **Role of Government Agencies**.

- **Ghana Revenue Authority (Domestic Tax Revenue Division)**

The Domestic Tax Revenue Division of the Ghana Revenue Authority is responsible for the collection of taxes including: income tax, royalties, capital gains tax, corporate tax and gift tax. It (GRA implements the Internal Revenue Act 2000, Act 592 and its amendments.

The role of the Ghana Revenue Authority (Domestic Tax Revenue Division) in the mining sector includes the collection of corporate taxes, mineral royalty and capital gains tax.

The GRA (DTRU) is responsible for receiving returns from mining companies/entities and determining the correctness of payments.

- **Ghana Revenue Authority (Customs Division)**

The Customs Division of the Ghana Revenue Authority has its staff at the various mines to:

- Observe the smelting process(in the case of gold mining)
- Observe and record the weighing process
- Package and seal boxes for shipment
- Accompany packages to the port or airport for shipment.

- **Non Tax Revenue Authority**

The Non tax Revenue Unit which located at the Ministry of Finance is responsible for the collection of dividends due government from the mining companies.

The government of Ghana retains a non-contributing shareholding of 10% equity in all mining entities. This may however be altered if the mining company invests to the tune of fifty million US dollars and negotiates its fiscal terms.

- **Office of the Administrator of Stool Lands (OASL)**.

  The office of the Administrator of Stool Lands (OASL) is mandated by Article 267(2) of the 1992 constitution and the Office of the Administrator of stool lands Act 1994(Act 481) to collect stool land revenue and to disburse same to the beneficiaries.

  The OASL is responsible for collecting ground rent.
  Ground Rents: These are specified amounts payable annually by holders of leasehold grants and other terminable interests in Land transactions in respect of plots/parcels of land for residential, industrial, commercial, religious and other habitation uses. It is payable whether the land is developed or not.
  The OASL also receives mineral royalty ceded to district Assemblies and communities affected by mining and distributes same (see http://ghanalap/gov.gh/index.php/fees).

- **Minerals Commission**: The Minerals Commission was established under the Minerals Commission Act , 1993(Act 450). The Commission is responsible for the regulation and management of mineral resources of Ghana and the coordination of policies relating to the mining industry.

  The Commission receives payments of mineral rights licences (ie reconnaissance, exploration and mining lease) from mining entities. These receipts are applied as internally generated funds.

- **Ministry of Finance:**

Is responsible for the formulation and implementation of fiscal and financial policies for Ghana; mobilization and allocation of resources as well as Improving public financial management (www.mofep.gov.gh/about/functions)

The Ministry of Finance is the supervising ministry for the Ghana Revenue Authority and the Non Tax Revenue Unit.

- The Ministry of Lands and Natural Resources:

  The ministry is responsible for the management of Ghana's land, forests, wildlife and mineral resources.

  The Ministry is the supervising Ministry for the OASL and the Minerals Commission. It also has a supervisory role over the Minerals Development Fund (MDF).

4. THE BUDGETING AND AUDITING PROCESS IN GHANA:

Budget Preparation

The President of the republic is mandated by the constitution to submit a budget to parliament each year for approval. Guided by the Medium Term Expenditure Framework (MTEF), the Ministry of Finance (MOF) prepares the budget on behalf of the President. Budget preparation begins with an advertisement in the print media by MOF requesting interested individuals/civil society organizations (CSOs) to submit memoranda on issues worthy of consideration in the coming year's budget.

The Ministry then undertakes a revision of the macro-economic framework taking into consideration provisions of the National Development Plan (NDP), cabinet/executive directives and other policy paper(s) of Government and international agreements.

MOF facilitates a cross-sectorial meeting of MDA's to discuss cross-sectoral issues and to scrutinize activities to avoid duplication and overlaps of activities and programmes.

Based on the revised macro- economic framework, changes in national policy direction and the relative priorities of sectors, sectoral ceilings are estimated by April. MOF then issues out a circular letter captioned "Guidelines for the Preparation of FY Budget" to MDAs. The circular is issued around April/May of the budget year.

The circular:

- Outlines the major thrust of Government's programme for the financial year.
- Reviews the macroeconomic trends in the past year and the recent performance of key sectors of the economy.
- Sets up the timetable for the budget hearings with each Ministry to meet statutory deadlines of the fiscal cycle, especially the submissions to cabinet and Parliament and,
- Provides the planned estimates for the macroeconomic targets and indicative ceilings for sectoral expenditures by the MDA's.

MDA's then prepare their budgets taking into consideration the guidelines in the circular letter.

The MOF then consolidates all sector budgets into one national budget document which officially becomes the Government's budget proposals for the fiscal year.

Legislative Approval:

The Constitution provides that the Minister of Finance on behalf of the President must present the budget to parliament at least one month before the end of the financial year. The "Budget Statement and Economic Policy of Government', is thus presented to the legislature in November on the floor of parliament. The Minister also makes a formal request for legislative approval. Order 140(2) of the standing orders of parliament states that "the budget shall be presented to the House by the Minister responsible for Finance on behalf of, or on the authority of the President and in such form as the house may determine.' The debate on the budget is adjourned for not less than 3 days after the presentation.

Parliament first debates the overall budget policy following the introduction of the Executive's budget proposals and the estimates are forwarded to the relevant committees for further debates and approval. According to order 140(4) of the Standing Orders of Parliament, that part of the budget relating to the Ministries for which they have responsibility shall stand committed respectively to the committees responsible for the subject matter to which the heads of Estimates relate as referred to in order 151(2) and 152 and each such committee shall consider the relevant Heads of Estimate committed to it and report on it to the House within such time as the Business Committee may determine'.

Technical Officers from the MDAs appear before specific committees to explain the significance of their proposals. As part of the approval process they (Technical Officers) also indicate how their proposals affect national priorities.

The sub-committee on Finance discusses the main document concerning the macroeconomic targets, resource mobilization and recommends acceptance by the full house of parliament.

The legislature has effectively one month to approve the budget or to pass the appropriation bill. This it does by first voting on the total amount of expenditure before it votes on specific appropriations.

The appropriation Bill is passed into an Act to give legal backing to the budget to be implemented.

Budget Implementation

The budget is implemented by the Government Ministries, Department and Agencies. The MDA's, present applications to MOF for the release of funds. MDAs are required to submit work plans, cash plans and procurement plans to MOF immediately the Appropriation law comes into effect. General warrants are issued for salary related expenditure (item 1)

MDAs are expected to initiate procurement processes and request the MOF to release specific warrants for service and investments (items 3 and 4 respectively).

Once this is done, monthly releases are made to MDAs to honour commitments, and expenditures are recorded and published by the Controller and Accountant Department in the final public accounts within three months of the end of the financial year. This is presented to the executive.

In the event that government is unable to mobilize the projected revenue as indicated in the budget, Government may cut spending even after the passage of the Appropriation Act by the Legislature.

A supplementary budget may be prepared depending on a number of factors including changing economic forecasts resulting in lower/higher expenditure.

MDAs prepare quarterly expenditure reports setting out

1) the actual expenditures against planned expenditures in respect of both Government of Ghana and donor funds.

2) Variations between planned and actual expenditures.

3) Reasons for variations and

4)Proposed solutions to any implementation constraints identified.

Priority is given to statutory expenditures, which include interest and principal of loans, the district Assembly Common Fund, pensions and gratuity payments to SSNIT, as well as Road and Educational Funds.

Budget Audit

The Constitution mandates the Auditor General to audit budget implementation and report to Parliament. The Auditor General performs both financial and performance audit by providing an independent check on information and compliance with the legal provisions that guide the use of public funds.

The Auditor General reports to Parliament its findings on all areas including procurement lapses. The audited reports are expected to be published six months after the end of the fiscal year.

The Public Accounts Committee of Parliament (PAC) studies the reports of the Auditor General and where necessary, invites Directors of MDAs or persons found culpable to a public hearing of the Committee's sittings to answer questions relating the audit findings.

The PAC then makes recommendations to the full house to take remedial actions on any irregularities uncovered by the audits.(*source: The Budget Process in Africa: Comparative Study of seven countries*)

Oil/Gas:

Comprehensiveness and Reliability of Data

The 2012/2013 Oil/Gas sector report was prepared in accordance with the International Standard on related services as it applies to agreed-upon procedures engagements.

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Review engagements. We therefore do not express any assurance beyond the statements made in the report and the fact that, within the limitations of the assignment, the data provided for reconciliation by the government entities and the extractive companies were comprehensive and where necessary properly supported.

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Materiality:

The relevant revenue streams for reconciliation in the Oil/Gas sector included; Surface Rental, Royalty, Carried Interest, Additional Participating Interest and Dividend payable by the National Oil Company.

They excluded taxes levied on consumption such as value added taxes, personal income tax (PAYE) or sales taxes as they were considered as indirect taxes.

Other direct payments by operating entities such as technology and training were not material in 2012 and 2013.ie their omission does not significantly affect the comprehensiveness of the EITI report.

With the exception of surface rental, the other relevant revenue streams are paid by only companies /joint venture partners engaged in oil production.

The surface rental paid by exploration companies in 2012 and 2013 were not material.

Thus by setting the materiality as full oil producing companies disclosure, up to 99% of the value of the relevant payments was obtained or due for reconciliation.