The Public-Private Sector Dialogue on Mining Governance in Ghana series

Implemented by the African Center for Economic Transformation (ACET)

in partnership with

the Australian Government

Position Paper on: ‘Governance in the Management of Revenue from Mineral Exploitation’

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About the ‘Public-Private Sector Dialogue on Mining Governance in Ghana’ series

The Australian Government is supporting a series of public forums in Ghana that will bring key players together to discuss the future of mining, and its role in promoting transformative development for the nation. The African Center for Economic Transformation (ACET) is partnering with the Australian Government to facilitate three forums for the Public-Private Sector Dialogue on Mining Governance in Ghana series.

This first working paper, Governance in the Management of Revenue from Mineral Exploitation seeks to discuss key issues relating to management of mineral revenues, such as public involvement in policy formulation and implementation, and standards of accountability and disclosure.

The African Center for Economic Transformation is an economic policy institute supporting Africa’s long-term growth through transformation. ACET’s mission is to promote policy and institutional reforms for sustained and economic growth throughout Africa, so that African countries can drive their own growth and transformation agendas.

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Governance in the Management of Revenue from Mineral Exploitation

Introduction

For more than a century, Ghana, blessed with mineral resources, has been engaged in the production of solid minerals for export. The country is the second largest producer of gold in Africa after South Africa, the third-largest African producer of aluminum metal and manganese ore, and a significant producer of bauxite and diamond.¹ However, there have been concerns that revenues from the exploitation of mineral resources have not been managed well over the years, and have therefore not resulted in social and economic development of the country, particularly for mine-impacted communities.

The enactment of the Petroleum Revenue Management Act (PRMA) 2011 (Act 815) piqued interest in the management of resource revenues in general and mineral revenues in particular. This has in turn stimulated interest in the demand for a similar legal framework that will guide the collection, management, and use of mineral revenues.

This paper discusses key issues relating to the management of mineral revenues, including: the need for a mineral revenue management policy in Ghana; ensuring that the general public has the opportunity to contribute towards revenue management policy formulation and implementation; the minimum standards of accountability and disclosure that should exist in relation to the management of mineral revenues by public institutions; and the lessons to be learned from the policy formulation and implementation of the PRMA.

Overview of fiscal arrangement in Ghana’s mining sector

While the direct contribution of mining to GDP has historically been relatively small (between 1% and 5% of GDP in the 1990s), this has increased since the 2000s, reaching 14% in 2012. However, its contribution to government revenues and foreign exchange earning has long been significant, and at one time was the backbone of the economy along with cocoa. Government share of mineral revenues increased from US$61 million in 2007 (constituting about 7% of total industry revenues) to US$749 million in 2012 (about 14% of total industry revenues). Government revenues have come from royalties, corporate taxes, property tax, and dividends from its equity interest. The contribution to foreign exchange earnings has increased from 14% in 1990 to an average of 41% since the mid-1990s.

One of the major challenges of mineral revenues management is the sharing formula between the Central Government, local authorities, and communities. The current sharing arrangement allows statutory earmarking of mineral revenues. Total mineral revenues received by Government are shared between the Central Government (80%) and impacted communities and mineral agencies (20%). The total ceded revenue for distribution to communities is transferred to the Mineral Development Fund (MDF) and distributed as shown in the following chart based on administrative guidelines.²

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² Administrative Fiat of 1991 (letter no. AB.85/156/01)
The following is the prescribed distribution for every $100 of mineral royalties

![Distribution Diagram]


However, there are a number of factors that challenge the fiscal arrangements between the Central Government and local communities and the overall management of mineral revenues. At the community level, they include: the inappropriateness of the application of the formula for emerging mining communities in the North; the fairness of the formula for sharing benefits to communities; and the lack of a comprehensive law for guiding the utilisation of ceded mineral revenues.

At the national level, there are equally serious challenges such as: tracking mineral revenues through the budget due to the fungibility of money; lack of an instrument for smoothing spending when commodity prices fluctuate; and the lack of a framework for meeting intergenerational equity objectives.

This discussion paper addresses the following specific questions:

- Does Ghana need a mineral revenue management policy?
- What is the most appropriate way of ensuring that the general public has the opportunity for meaningful contribution towards revenue management policy formulation and implementation in Ghana?
- What standard of accountability and disclosure should exist in relation to the management of mineral revenues by Ghana’s public institutions?
- What lessons can the minerals sector in Ghana learn from the policy formulation and implementation of the Petroleum Revenue Management Law (Act 815)?
Question 1: Does Ghana need a mineral revenue management policy?

Yes, for the following reasons:

- Mineral resources are exhaustible, so a mineral revenue management policy can ensure the allocation of benefits for current and future generations.
- Mineral revenue management policy can guide the transformation of resources into assets for the medium-to-long term development of Ghana.
- Commodity prices are volatile and, therefore, there is a need for counter-cyclical measures to manage volatility effects.
- A comprehensive revenue sharing policy can help ensure that host communities are effectively compensated without compromising the fiscal sustainability of the state.
- Institutional frameworks for managing mineral revenues—including, for instance, the assessment, collection, and administration of mineral revenues—will introduce discipline and efficiency into the management of mineral revenues.
- Transparency is an important requirement for ensuring public accountability and management of public expectations.

Question 2: What is the most appropriate way of ensuring that the general public has the opportunity for meaningful contribution towards revenue management policy formulation and implementation in Ghana?

There are formal and informal platforms for public participation in the policy formulation process. For the formal processes, Parliamentary law-making processes are the most important. Committees in Parliament responsible for the subject matter typically invite public memoranda into the Bill when it is submitted to Parliament.

There are other mechanisms for facilitating public inputs into the policy making process. For example, it is appropriate for public contribution to be recognised from the inception of the policy design, the translation of the policy to legislation, and the implementation of the policy. This requires the adoption of semi-formal and informal mechanisms such as public forums and Government-sponsored advertisements for public reviews through means that are accessible to all stakeholders (SMS, petitions, emails, etc).

Civil Society Groups must be supported in organising nationwide forums and submit their findings to both Government and Parliament. Parliament must also be supported in holding public hearings when it is presented a bill transforming policy into law.

Question 3: What standard of accountability and disclosure should exist in relation to the management of mineral revenues by Ghana’s public institutions?

Ghana signed onto the Extractive Industries Transparency Initiative (EITI) in 2003 and was declared EITI compliant in 2010 for mining activities. Whilst transparency in mineral revenue flows is important, significant gaps remain in governance of mineral resources in Ghana. Management of mineral resources is characterised by numerous governance challenges, which undermine public accountability of how mineral revenues are distributed and utilised.

There are, however, international governance initiatives and international best practice examples that broadly define the important disclosure and accountability standards that must underpin Ghana’s mineral
sector. These include: the adoption of open and competitive bidding processes for mineral concessions; mandatory disclosure of mineral licences; the establishment of a public register for the disclosure of beneficial information; disclosure of data based on company-by-company and project-by-project reporting, covering production volumes, production costs, cost recovery, sales prices, taxes, and other revenues; and regular publication of expenditure from mineral revenues by sector and geographic area.

These disclosure standards must be observed at national and sub-national levels. Apart from these, there are statutory initiatives backed by legislation for enhancing payments and contract disclosure. These include the United States Dodd–Frank Wall Street Reform and Consumer Protection Act (Section 1504), and the European Union Transparency Law.

**Question 4: What lessons can the minerals sector in Ghana learn from the policy formulation and implementation of the Petroleum Revenue Management Law (Act 815)?**

In formulating the law on petroleum revenue management, the Government of Ghana adopted a transparent and participatory approach. This approach was based on broad public consultations to build public consensus on key policy parameters of the legislation, and ensured that public inputs were actively solicited and incorporated into the final legislation. The process of formulating the Petroleum Revenue Management Law included: the publication of draft proposals for managing petroleum revenues; a nationwide survey on the proposals; regional consultations on the proposals; translating the proposals into a bill and submitting to Parliament; invitation of public memoranda on the bill by the Joint Committees on Finance, and Energy and Mines; public hearing on the bill by the Joint Committees on Finance, and Energy and Mines; and the eventual enactment of the Law and presidential assent.

The PRMA contains important policy lessons that can be applied to mineral revenue management policy. The Government should develop proposals for the formulation of a Mineral Revenue Management Law with clear rules for revenue assessment, collection and accountability, depositing revenues, withdrawals, spending, and savings. The proposals, which should be subject to public consultations similar to the PRMA, should include:

- Stabilisation mechanisms for insulating the economy from the effects of commodity price volatility;
- A mechanism for insulating the economy from the effects of exchange rate pressures by sterilizing mineral revenues whenever possible;
- Standards on how best to invest mineral revenues in social and economic infrastructure, agriculture, and education;
- A comprehensive formula for the distribution of mineral revenues between the Central Government and communities affected by mining, and guidelines for the use of ceded revenues;
- Principles for the transparent and accountable governance of mineral revenues; and
- Expansion of the mandate of the Public Interest and Accountability Committee (PIAC), established under the PRMA to play independent oversight role in the management of mineral revenues.