Briefing
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Ghana's Gold Mining Revenues: An Analysis of Company Disclosures

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INTRODUCTION

Ghana is blessed with mining, oil and gas endowments. The country is Africa's second largest gold producer and started producing oil in 2010. Due in large part to the more recent development of the oil and gas sector, the industry has stronger disclosure practices and citizen oversight than the older mining industry. In anticipation of first oil, the government of Ghana passed the Petroleum Revenue Management Act, putting in place strong disclosure practices and establishing the Public Interest and Accountability Committee, enabling citizens to monitor the revenues generated in the oil and gas sector and how these are managed. A similar government accountability institution is not currently present in the mining sector.

Ghana's implementation of the Extractive Industries Transparency Initiative (EITI) has been an important first step in promoting informed public debate around the country's mining industry. Despite this, the considerable delay in reporting has weakened the usefulness of the EITI information as a tool to hold companies and government entities accountable for their management of specific projects and payments.

However, with the introduction of the Extractive Sector Transparency Measures Act (ESTMA)[1] in Canada, extractive companies incorporated or listed in Canada are now required to disclose their payments-to-government entities. These newly released payments-to-governments reports provide timely information on the payments mining and oil and gas companies make to government entities.[2] Companies must categorize payments into one of seven payment types, such as taxes and royalties. They must also report which government entity receives the payment, and must break down the payment data by project, where applicable. (See Table 1.)

In Ghana the majority of international mining companies, including Asanko Gold, Golden Star Resources, Kinross Gold, Perseus Mining and Xtra-Gold Resources, have disclosed payments-to-governments reports under ESTMA. In addition Gold Fields, AngloGold Ashanti and Newmont Mining have made voluntary disclosures regarding the payments they make to the Ghanaian government. While these disclosures do not follow the exact reporting specification of the mandatory disclosure regulations, partially limiting their comparability to disclosures made

1 Natural Resources Canada, *Extractive Sector Transparency Measures Act (ESTMA)*, www.nrcan.gc.ca/mining-materials/estma/18180

2 In the oil sector the Government of Ghana provides quarterly disclosure of payments with a very short delay. Disclosures can be accessed here: www.mofep.gov.gh/publications/petroleum-reports.

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under ESTMA, this positive step by the companies to voluntarily disclose payments does provide Ghanaian citizens with a more complete view of the revenues generated in the country's mining sector.[3]

These company disclosures, especially when combined with data from other sources (including companies' annual reports, EITI reports and government statistics), can lead to better-informed public debate on the management of the country's mining resources.

Focusing on the gold sector, the aim of this briefing is to explore ways company disclosures can be used by government, civil society, media and other oversight actors to better understand the revenues generated within Ghana's gold sector and use this new data source as an accountability tool within the country.

Table 1. Summary of Extractive Sector Transparency Measures Act (ESTMA)

Summary of Extractive Sector Transparency Measures Act (ESTMA)	
Which companies must disclose?	Oil, gas or mining companies incorporated or listed on a regulated stock exchange in Canada.
What are they required to disclose?	Payments made to governments, including state owned enterprises, in relation to extractive activities. Payments should be attributed to projects where applicable. Payments include cash payments and in-kind payments.
What types of payments must they disclose?	1. Production entitlements 2. Taxes 3. Royalties 4. Dividends 5. Signature, discovery and production bonuses 6. License fees 7. Payments for infrastructure improvements
What is the payment threshold?	Single, or series of, payments that amount to CAD 100,000
When do they have to disclose?	Companies have 150 days after the end of their financial year to file their payments-to-governments report.

Drawing on some of the current debates within Ghana on the generation, allocation and management of mining revenues, this briefing will demonstrate some of the ways payments-to-governments data can be used to better understand the revenues generated within the gold mining sector.

The first section of this briefing will provide an overview of Ghana's gold mining sector, including how the government generates revenue from gold mining activities in the country. The second section will demonstrate how government, media and civil society stakeholders can use payments-to-governments data to analyze government revenues in the mining sector. The remaining three sections of the briefing will outline three ways that this data can be used to monitor gold mining revenues in the country. These sections will focus on how this data can be used to monitor whether company payments match what would be expected under the fiscal regime; to monitor the allocation and disbursement of mining royalties to subnational entities; and to monitor payments for infrastructure improvements in mining-affected areas.[4]

3 In this report, data resulting from ESTMA disclosures are referred to as "payments-to-governments data." "Company disclosures" are used when referring to data from both ESTMA disclosures and company voluntary disclosures.

4 The dataset used for the analysis in this briefing has been made available on Resourcedata.org and the payments-to-governments data covered in this briefing are available on ResourceProjects.org.

1. GHANA'S GOLD MINING SECTOR

In 2012, oil overtook gold as the commodity that generates the most revenue in Ghana. However, the mining sector remains an important source of revenue within the country.[5] The government revenue generated from the 10 international gold mining companies referenced in this report accounted for around four percent of government revenue 2017.[6] Gold is the dominant commodity within the mining sector. According to the Ghana Extractives Industries Transparency Initiative (GHEITI) 2015 Mining report, the gold sector contributed about 96 percent of the total value of mineral exports in 2015, with manganese (1.95 percent), bauxite (1.24 percent) and diamonds (0.31 percent) as the other commodities mined at significant levels in the country.[7]

Challenges within the sector

Ghana's gold mining sector scored "weak" in the 2017 Resource Governance Index (RGI), behind the oil and gas sector, which achieved a "satisfactory" rating. The main governance challenge identified within the RGI was in the management of the country's mining revenues, with the revenue management component of the mining assessment being the only element within Ghana to be rated as "poor." The oil and gas sector has clear revenue management laws and practices, detailing how revenues generated from the oil and gas sector are to be allocated and used, overseen by the Public Interest and Accountability Committee. The disparity between the revenue management structures in the oil and gas and mining sectors has led to calls within Ghana for the government to implement a Mineral Revenue Management Act.[8]

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A second area where the mining RGI score falls short of that achieved in the petroleum sector is in contract disclosure. In the petroleum industry, the Petroleum Commission is required to publish all petroleum agreements, licenses and permits. The government has not currently adopted the same contract disclosure policies in the mining sector, limiting oversight actors' ability to identify project-specific fiscal terms and contractual obligations.

Figure 1. Ghana mining 2017 Resource Governance Index score

5 Ghana Extractive Industries Transparency Initiative (GHEITI), *Data Analysis of Ghana's Extractive Sector,* (2015), data.gheiti.gov.gh/#.
6 General government revenue taken from International Monetary Fund (IMF). *World Economic Outlook Database* (2018), www.imf.org/external/pubs/ft/weo/2018/01/weodata/weoselser.aspx?c=652&t=1#sNGDP.
7 GHEITI, *GHEITI Mining Sector Report for 2015,* (2018), eiti.org/sites/default/files/documents/2015_gheiti_mining_report.pdf.
8 Ghana Business News, *ACEP calls for Mineral Revenue Management Law* (2018), www.ghanabusinessnews.com/2018/04/28/acep-calls-for-mineral-revenue-management-law/.

Government officials and international organizations have highlighted the need to increase scrutiny of the revenues generated under the current fiscal regime. The International Monetary Fund (IMF) has stated that Ghana could significantly increase resource revenues if it more effectively enforced the current fiscal regime by "executing costs audits to detect possible profit shifting by companies."[9] In April 2018, Vice President Mahamudu Bawumia stated that the government was to review the tax exemptions given to resource companies, claiming improper accounting is a major source of revenue loss.[10] The Vice President has also questioned the utility of the government's 10 percent equity interest in mining operations within the country given the evidence that this equity share has not generated the expected revenue in dividends.[11]

The International Monetary Fund (IMF) has stated that Ghana could significantly increase resource revenues if it more effectively enforced the current fiscal regime.

Research by the Natural Resource Governance Institute (NRGI) based on modeling a hypothetical gold mine concluded that the government of Ghana's share of company profits is just over 50 percent.[12] This 50 percent government share of company profits is comfortably within the 40 to 60 percent range IMF has estimated is "reasonably achievable" for mining countries.[13] This modeling suggests that the current fiscal regime can generate significant government take if implemented and monitored effectively.

Box 1. Accessing payments-to-governments reports

Payment reports and the data they contain can be found in the following locations:

- Natural Resources Canada (NRCAN) Extractive Sector Transparency Measures Act (ESTMA) Repository. NRCAN makes company disclosures available on its online repository here: www.nrcan.gc.ca/mining-materials/estma/18198. The links generally point to company websites.
- ResourceProjects.org. Currently in development, this site developed by NRGI collects payments-to-governments reports from multiple sources and standardizes the data to enhance accessibility.

Generating revenues from the gold mining sector

Ten international mining companies currently operate active gold mines within the country, mostly located within the Ashanti and Western regions.

In total, over 3.3 million ounces of gold were produced in Ghana in 2017.[14] International mining companies that have either disclosed payments-to-governments under ESTMA regulations or made voluntary disclosures produced 86 percent of the total national production. (See Figure 2.) Small-scale and artisanal mining generated the remaining country production.

9 IMF, *Ghana: Fifth and Sixth Reviews Under the Extended Credit Facility, Request for Waivers for Nonobservance of Performance Criteria, and Request for Modification of Performance Criteria-Press Release; Staff Report; and Statement by the Executive Director for Ghana* (2018), www.imf.org/en/Publications/CR/Issues/2018/05/02/Ghana-Fifth-and-Sixth-Reviews-Under-the-Extended-Credit-Facility-Request-for-Waivers-for-45841.

10 Reuters, *UPDATE 1-Ghana to review corporate tax exemptions for resources sector* (2018), uk.reuters.com/article/ghana-mining/update-1-ghana-to-review-corporate-tax-exemptions-for-resources-sector-idUKL5N1RH5ML.

11 Abubakar Ibrahim, "10% carried interest in mining companies is 'virtually useless' – Bawumia," *MyJoyOnline*, (2018), www.myjoyonline.com/business/2018/May-8th/10-carried-interest-in-mining-companies-is-virtually-useless-bawumia.php.

12 David Manley. *An* Economic Evaluation of Gold Mining Tax Regimes in the Kyrgyz Republic (Natural Resource Governance institute, 2018), resourcegovernance.org/sites/default/files/documents/economic-evaluation-of-gold-mining-tax-regimes-kyrgyz.pdf. The model was based on a hypothetical gold mine with total development costs of USD 500 million, per unit operating costs of USD 500 per ounce, and annual production of 250,000 ounces of gold selling at USD 1,300 per ounce.

13 IMF, *Fiscal Regimes for Extractive Industries: Design and Implementation* (2012), pp. 29.

14 Production figures taken from S&P Global Market Intelligence.

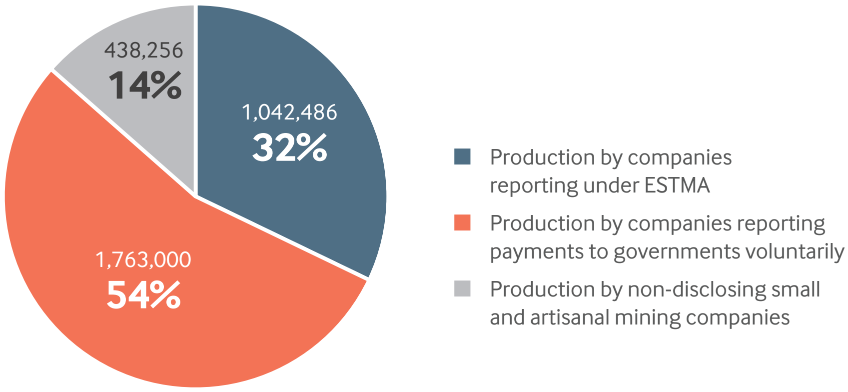

Figure 2. Ghana gold production in 2017 by company payment disclosure practice (ounces)

Fiscal regime

Ghana operates a "tax-royalty" fiscal regime, meaning that the central way that government revenue is generated from mining activities in the country is through corporate income taxes and royalties levied on revenue generated from production. (See Table 2.)

Table 2. Ghana's Mineral Fiscal Regime

Revenue stream	Payment type	Note
Mineral Right (Mining lease)	Annual payment	
Capital allowance	20%	
Carry forward of losses for taxation purposes	5 year	
Corporate income tax rate	35%	
Mineral royalty	5%	Select companies, including Gold Fields, have signed updated mineral development agreements, which institute a royalty rate that varies between 3 and 5 percent depending on the price of gold.
Government equity participation	10% free equity interest	The government has a 10 percent free carried interest in all operations apart from those owned by Newmont Mining and AngloGold Ashanti.[15]

While the standard corporate income tax rate within Ghana is 25 percent, for extractive activities, this rises to 35 percent. The standard royalty rate is set at five percent on gross revenue from operations, however some companies, including Gold Fields, have negotiated with the government a sliding scale royalty rate from three to five percent based on the gold price.

The government of Ghana also owns a 10 percent free equity interest in all but three of the companies' gold operations. This means that the government is provided this equity interest without having to make financial contributions to the development or operations of the project. The equity share is intended to generate additional revenues through the receiving of dividends.

Companies are expected to make several payments at the subnational level, including ground rents and property rents which are paid to the Office of the Administrator of Stool Lands and relevant district assemblies respectively.

15 The government of Ghana has a 1.55 percent interest in the multinational company AngloGold Ashanti Limited.

2. ANALYZING GHANAIAN GOLD MINING REVENUES

Payments-to-governments reports provide citizens with unprecedented levels of relevant and timely project-level payment data that can be used to inform public debate on the management of Ghana's mineral resources.

To maximize this data's use as an accountability tool, it can be compared, contextualized and reconciled with other country-level data. Table 3 provides a non-exhaustive list of Ghana-specific data sources that can be used in conjunction with payments-to-governments data to hold both government entities and companies accountable for resource revenues. Many of these data sources were used in this briefing's analysis.

Table 3. Additional data sources for analyzing Ghana's gold mining sector

Data type	Ghanaian source/ example	How this data can be used
Company annual reports	Gold Fields Integrated Annual Report 2017	Company reports can be used to provide contextual information on the activities of the company in the country. For example, Gold Fields 2017 Integrated Annual Report provides information on the companies updated development agreement signed with the government of Ghana.
Government data	Ghana Minerals Commission Online Repository	Government data can provide production data and information on license holders.
Company engagement	Contacting the company directly	Engaging with companies directly can help provide additional contextual information. This process can also demonstrate to companies the importance of their payments-to-governments reports and show that they will be scrutinized. Six companies were contacted in the course of preparing this briefing.
EITI reports	GHEITI Mining Annual Report 2015 Annual Report	At the time of publication, the latest GHEITI mining report is for 2015. This report contains a wealth of information on the country's mining sector and governance challenges that arise in its management.
National acts and laws	Ghana Minerals and Mining Act	National acts within Ghana can outline the obligations of companies operating in the country, including the fiscal regime.
Ghana Chamber of Mines	Performance Of The Mining Industry In 2017	Performance Of The Mining Industry provides useful information on the country's mining industry compared to that of other countries.
Resource Governance Index 2017	RGI Data Explorer	The Resource Governance Index data explorer provides justifications for each of a country's RGI scores, including linking to relevant government documents.
Mining contracts	ResourceContracts.org	Where available, the contract between the government and the company contains a wealth of information that can be used to hold both parties accountable for their respective obligations. Mining contracts for Xtra-Gold Resources and Asanko Gold are available on resourcecontracts.org.
Project feasibility studies	Asanko mines 43-101 definitive feasibility study	Companies incorporated in Canada are required to release a 43-101 feasibility study, in which the company must disclose a great deal of technical information on a project, including when the company expects an operation to become profitable.
Mass media within Ghana		Mass media in Ghana is a useful resource for identifying political figures' current positions on governance challenges in the mining sector.

Overview of gold mining payments-to-governments in Ghana

Seven gold mining companies have disclosed payments to Ghanaian government entities under ESTMA in Canada: Asanko Gold Incorporated, Endeavour Mining, Golden Star Resources, Kinross Gold Corporation, Perseus Mining, Pinecrest Resources and Xtra-Gold Resources Corporation. Of these, six companies have to date released two reports, covering 2016 and 2017, with Pinecrest Resources having only disclosed payments for 2016.

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Six companies have disclosed for a January-to-December fiscal year, with one, Perseus Mining Limited, operating a July-to-June fiscal year.

A further three companies, AngloGold Ashanti, Newmont Mining and Gold Fields are not required to disclose this information, as they are not listed or incorporated in a country which currently has mandatory payment disclosure regulations which are being implemented. (See Table 1.) As all of these companies are listed in the United States, they would be required to disclose under Section 1504 of the U.S.'s Dodd-Frank Act of 2010. However, this law is yet to be implemented. Given their listings on the Johannesburg Stock Exchange, a mandatory payment disclosure law in South Africa would also result in disclosure requirements for AngloGold Ashanti and Gold Fields.

Despite not being legally required to report at present, these companies have however chosen to voluntarily disclose the payments they make to the Ghanaian government for their operations in the country. These disclosures do not follow the reporting specifications of the mandatory disclosure regulations, partially limiting their comparability to disclosures made under ESTMA. The main difference between ESTMA disclosures and these voluntary disclosures is in the level of detail provided. ESTMA requires disclosure at both the government entity and project level and under seven defined payment categories, creating comparability between ESTMA reports. However, the positive step taken by companies to voluntarily disclose payments does provide Ghanaian citizens a more complete view of the revenues generated in the country's mining sector than they would have under current legislation.

As shown in Figure 3, nearly three quarters of the payments to Ghanaian government entities by ESTMA companies in the gold sector arose from royalties in 2017, with five companies paying a total of USD 57 million.[16] A further 22 percent of the payments from these ESTMA companies were in the form of corporate income tax. While six operating companies paid royalties in 2017, only two, Kinross Gold Corporation and Endeavour Mining paid corporate taxes.

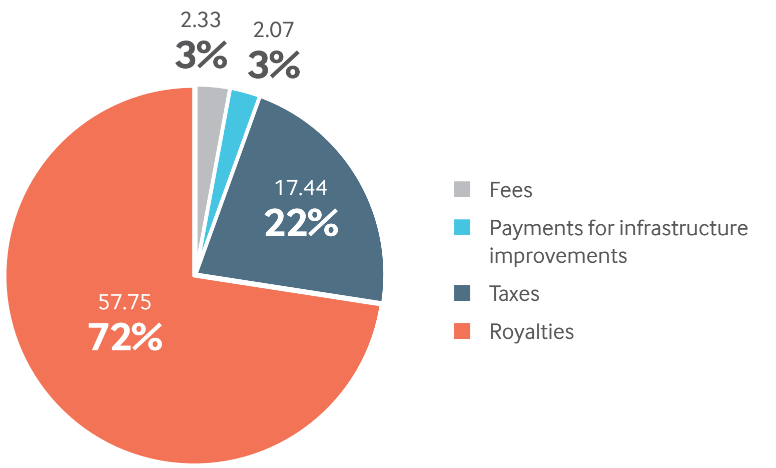


Figure 3. 2017 gold mining payments to governments by payment type from ESTMA companies (USD in millions)

16 This infographic does not include payments made by Perseus Mining as the only company that does not operate a calendar year financial reporting system.

The payments disclosed by ESTMA companies are, where applicable, also attributed to the relevant project. ESTMA companies disclosed payments for eight gold projects in the country, the largest of which by payment was Kinross Gold Corporation's Chirano mine, which generated nearly USD 30 million in 2017. (See Table 4.)

Table 4. Overview of companies disclosing payments to governments

<table>
<tr><th>Disclosing company</th><th>When it reported</th><th>Reporting jurisdiction</th><th>Years of reporting</th><th>Operating projects in the country</th><th>Government equity share (%)</th><th>Total payments disclosed for 2017 (in USD)</th></tr>
<tr><td colspan="7">Companies disclosing under ESTMA regulations</td></tr>
<tr><td>Asanko Gold Incorporated</td><td>29 May 2018</td><td>Canada</td><td>2016, 2017</td><td>Asanko</td><td>10</td><td>14,860,000</td></tr>
<tr><td>Endeavour Mining Corporation[17]</td><td>30 May 2018</td><td>Canada</td><td>2016, 2017</td><td>Nzema</td><td>10</td><td>13,260,000</td></tr>
<tr><td rowspan="2">Golden Star Resources Limited</td><td rowspan="2">29 May 2018</td><td rowspan="2">Canada</td><td rowspan="2">2016, 2017</td><td>Prestea</td><td>10</td><td>10,530,000</td></tr>
<tr><td>Wassa</td><td>10</td><td>8,580,000</td></tr>
<tr><td>Kinross Gold Corporation</td><td>30 May 2018</td><td>Canada</td><td>2016, 2017</td><td>Chirano</td><td>10</td><td>30,080,000</td></tr>
<tr><td>Perseus Mining Limited</td><td>15 Dec. 2017</td><td>Canada</td><td>2015/2016, 2016/2017</td><td>Edikan</td><td>10</td><td>12,808,348</td></tr>
<tr><td>Pinecrest Resources Limited</td><td>23 Apr. 2018</td><td>Canada</td><td>2016</td><td>Enchi</td><td>10</td><td>No payment was disclosed in 2017</td></tr>
<tr><td>Xtra-Gold Resources Corporation</td><td>29 May 2017</td><td>Canada</td><td>2016, 2017</td><td>Kibi</td><td>10</td><td>207,937</td></tr>
<tr><td colspan="7">Companies making voluntary disclosures</td></tr>
<tr><td rowspan="2">AngloGold Ashanti</td><td rowspan="2">29 Mar. 2018</td><td rowspan="2">South Africa</td><td rowspan="2">2013 - 2017</td><td>Iduapriem</td><td rowspan="2">0% - Government has 1.55% share in AngloGold Ashanti Limited</td><td rowspan="2">26,300,000</td></tr>
<tr><td>Obuasi</td></tr>
<tr><td rowspan="2">Gold Fields</td><td rowspan="2">27 Mar. 2018</td><td rowspan="2">South Africa</td><td rowspan="2">2017</td><td>Tarkwa</td><td>10</td><td rowspan="2">105,000,000</td></tr>
<tr><td>Damang</td><td>10</td></tr>
<tr><td rowspan="2">Newmont Mining</td><td rowspan="2">27 Mar. 2018</td><td rowspan="2">U.S.</td><td rowspan="2">2017</td><td>Akyem</td><td>0</td><td rowspan="2">97,400,000</td></tr>
<tr><td>Ahafo</td><td>0</td></tr>
</table>

17 In early 2018, Endeavour Mining completed the sale of its Nzema operation to BCM International.

3. FISCAL REGIME MONITORING

Policy decisions regarding the fiscal regime within a country's extractive industries are crucial in determining how much revenue a country generates from its natural resource endowment.

Policy decisions regarding the fiscal regime within a country's extractive industries are crucial in determining how much revenue a country generates from its natural resource endowment. Several commentators in Ghana have recently questioned the government's current tax-royalty model and its implementation.

The IMF has highlighted the potential to see large increases in the revenue generated from the mining sector by adopting measures to ensure greater scrutiny of the implementation of the current fiscal regime, including "executing costs audits to detect possible profit shifting by companies in these sectors."[18] The government has also recently stated that it will, in the second half of 2018, conduct a special audit of the mining and oil and gas sectors to examine whether companies have reduced their tax burden through transfer mispricing and other forms of tax evasion.[19]

Research by NRGI based on modeling a hypothetical gold mine concluded that the government of Ghana's potential share of company profits under the current fiscal regime is just over 50 percent.[20] This 50 percent government share of company profits is comfortably within the 40 to 60 percent range that the IMF has estimated is "reasonably achievable" for mining countries, suggesting that the fiscal regime can generate significant government take if implemented and monitored effectively.[21]

Given the potential to generate greater government revenues under the current fiscal regime, the ability to monitor company payments can have a positive impact on both the revenues received by mining-affected communities and government revenue as a whole. Payments-to-governments data can be used by oversight actors to monitor whether the effective royalty rate being paid by the companies appears correct and to track corporate income tax and dividend payments over time.

It is important to note that any payments that are not at the level expected does not necessarily indicate any wrongdoing on the side of the company or the government. As the examples below illustrate, there are often context-specific explanations for why the payments made do not reflect what might be expected.

In Ghana, as in most other countries, royalties are levied on gross revenues, meaning that as long as the mine is producing it will be generating royalties based on the revenue generated from selling this production. Conversely, corporate income tax is levied on profits. Corporate income tax can generate the largest share of a project's government revenue if the mine is highly profitable, often coming only after the mine has been producing for several years. In the short term, companies are able to offset their costs first and thereby reduce the size of the profit on which corporate income tax is calculated.

Corporate income tax being based on profits made after costs are deducted also puts a greater burden on a government tax agency to monitor revenues and reported costs to ensure the taxable income is appropriate. Mining is a very capital-intensive industry, requiring large upfront costs in constructing the mine prior to production and it is quite common for companies to operate at a loss for many years. As a result, while corporate income tax is a potentially lucrative source of government revenue, it is not as reliable a source of revenue as a royalty.

18 IMF, *Ghana: Fifth and Sixth Reviews Under the Extended Credit Facility.*

19 N. Acquah-Hayford, "Budget review: Special audit for extractive industry to check tax evasion" *Joy Business* (2018), www.myjoyonline.com/business/2018/july-20th/special-audit-for-extractive-industry-to-check-tax-evasion.php.

20 Manley, *An Economic Evaluation of Gold Mining Tax Regimes in the Kyrgyz Republic.*

21 IMF. *Fiscal Regimes for Extractive Industries: Design and Implementation* (2012), 29.

Effective royalty rate

Under the current fiscal regime in Ghana, companies are required to pay a five percent royalty on the value of the gold produced. ESTMA company disclosures can be used to verify whether the effective royalty rate paid by a company matches this five percent rate stated in the fiscal regime. By combining company disclosures on the amount paid per project in royalties with information on gross project revenue, it is possible to determine the effective royalty rate paid by the company. Gross project revenue can be obtained by multiplying the project's total gold production for the year by the realized gold price reported by the company. (See Box 2.)

Box 2. Estimating the Chirano gold mine's effective royalty rate paid for 2017[22]

Annual average realized gold price per ounce (USD 1,260) **X** Gold production (246,027 oz.) **=** gross project revenue (USD 309,994,020)

Royalty payment for 2017: USD 18,540,000

Royalty payment ($18,540,000) **/** Gross project revenue (USD 309,994,020) **=** Effective royalty rate paid (six percent)

Box 2 outlines how this form of royalty monitoring can be conducted, using Kinross' Chirano gold mine as an example. Using the annual average realized gold price per ounce and the gold production figures taken from Kinross' 2017 results, it is possible to calculate the total gross revenue of their Chirano gold mine. By dividing Kinross' royalty payment for the Chirano mine in 2017, as disclosed in its ESTMA report by this gross project revenue figure, it is possible to estimate that Kinross paid an effective royalty rate of six percent on this project in 2017.

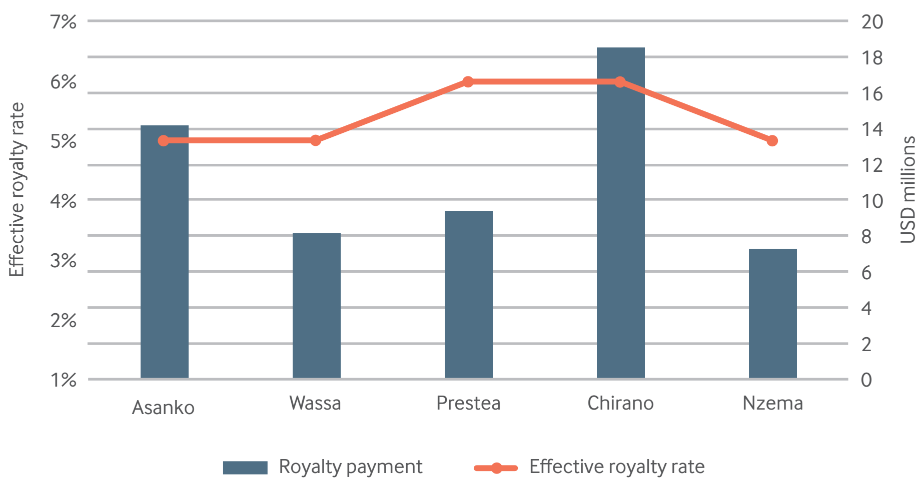


Figure 4. Estimating the effective royalty rate paid for gold mines in 2017

22 Annual average realized gold price per ounce and gold production figures sourced from "Kinross reports 2017 fourth-quarter and full-year results," Kinross Gold Corporation, 14 February 2018: www.kinross.com/news-and-investors/news-releases/press-release-details/2018/Kinross-reports-2017-fourth-quarter-and-full-year-results/default.aspx

Forestry mineral royalty

Figure 4 shows the effective royalty rate paid in relation to five gold projects in the country. The effective royalty rate for three of the projects (Asanko, Wassa and Nzema) closely matches the five percent royalty rate stipulated within the fiscal regime.

The effective royalty rate paid for the Chirano and Prestea gold mines are slightly above five percent. As both of these mines are located in forestry reserve areas the companies that operate them, Kinross and Golden Star Resources respectively, are required to pay an additional 0.6 percent royalty directly to the Forestry Commission. As a result, we would expect the effective royalty rate on the amount paid to the Ghana Revenue Authority to equal 5 percent and the effective royalty rate on the amount paid to the Forestry Commission to equal 0.6 percent. However, for both companies the effective royalty rate paid to the Ghana Revenue Authority is greater than 5 percent, while the effective royalty rate paid to the Forestry Commission is significantly less than 0.6 percent.

Gold Mine	Production Value (USD)	Recipient Government entity	Royalty rate	Royalty paid (USD)	Effective Royalty rate
Chirano[23]	309,994,020	Ghana Revenue Authority	5%	18,097,519	5.84%
		Forestry Commission of Ghana	0.6%	444,436	0.14%
Prestea	153,480,000[24]	Ghana Revenue Authority	5%	9,010,000	5.87%
		Forestry Commission of Ghana	0.6%	420,000	0.27%

Table 5 Effective royalty rate paid by Chirano and Prestea mines in 2017

There are plausible explanations for the discrepancies between the effective royalty rate paid and that stipulated in the fiscal regime. A recent Global Witness handbook, *Finding The Missing Millions,* details on how to perform many of the types of analysis outlined in this briefing, including verifying royalty payments.[25] The handbook notes that plausible explanations for discrepancies between the expected and reported royalty payment include: royalties being recorded as a liability and paid the following year; and the value of a commodity used in the calculation of the royalty differing from the value reported in other sources.

Certain mining companies in Ghana have signed mining development agreements with the government that specify a different royalty rate. Gold Fields states on its website that in March 2016 it signed a development agreement with the government for both its Tarkwa and Damang mines. This updated agreement lowered the corporate tax rate from 35 percent to 32.5 percent and changed the flat five percent royalty rate to a sliding scale from three to five percent based on the gold price.[26] The company does not voluntarily provide the project-level royalty information required to assess the royalty rate paid on each of its projects in 2017.

23 Kinross Gold's 2017 ESTMA report does not disaggregate royalties by recipient government entity. Kinross Gold provided this information to us when we reached out to the company via email for this additional information.

24 Production value sourced from S&P Global Market Intelligence.

25 Global Witness, *Finding The Missing Millions,* (2018), www.globalwitness.org/en/campaigns/oil-gas-and-mining/finding-missing-millions/

26 Gold Fields, *Government Relations* (2018), www.goldfields.com/reports/annual_report_2016/integrated/government-relations.php#sel=7:20:3Wj,7:24:vGj.

The effective royalty rate assessment outlined above is only possible when companies disclose royalties at the project-level, as is required under ESTMA regulations. While Gold Fields voluntarily discloses the royalties the company pays to the government, it does not disaggregate this disclosure between its two projects in country, meaning this type of royalty rate assessment is not currently possible for the company's projects.

Corporate income tax

Analysis of the payments-to-governments data from the five ESTMA companies indicates that royalties have been a consistent revenue stream for the government in 2017. (See Figure 3.) While each producing mine has generated significant royalties, only one, Kinross Gold's Chirano generated significant corporate income taxes. Endeavour Mining disclosed USD 5.9 million in taxes for Nzema in its 2017 ESTMA report. However after we reached out to Endeavour Mining via email, the company clarified that the majority of these taxes paid are for custom and export duties and payroll taxes, and that only USD 80,527 of this USD 5.9 million was corporate income taxes. Of the four operations that generated no corporate income tax in 2017, two (Wassa and Prestea) are operated by Golden Star Resources.[27] The lack of corporate income tax arising from these projects is likely due to the fact that both operations are currently transitioning from open pit to underground operations. Such a transition is capital-intensive, limiting corporate income tax generated for the projects in the short-to-medium term due to the costs involved.

While each producing mine has generated significant royalties, only one, Kinross Gold's Chirano generated significant corporate income taxes.

Two of the operations, the Asanko mine and the Edikan mine have started production in the last six years, which may explain why these projects are also not currently generating corporate income tax. The companies are likely recovering costs prior to the mine becoming profitable.

Once an operation is profitable and corporate income tax begins to be generated, the value of these payments can be much larger than royalties. In essence, a government has to make a decision regarding the risk-to-reward trade-off between royalties and corporate income tax. As Figure 5 shows, corporate income tax is not guaranteed, but once a mine becomes profitable this form of tax can generate considerable revenue.

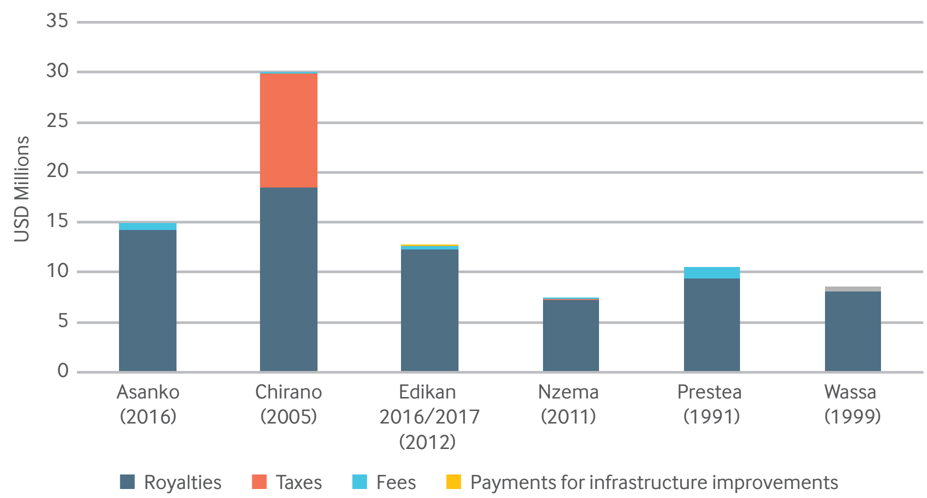


Figure 5. ESTMA company project payments by payment type (USD in millions)[28] – The year in brackets indicates the first year of production

27 Golden Star Resources. *Wassa gold mine "Operations at a glance,"* (2018), www.gsr.com/operations/wassa/wassa-main/default.aspx and Prestea. *Operations at a glance* (2018), http://www.gsr.com/operations/prestea/default.aspx.

28 The year in parentheses indicates the first year of production.

Figure 5 does not include payments made by AngloGold Ashanti, Gold Fields, or Newmont Mining. This type of analysis is only possible when companies disclose payments to governments at the project level, which these three companies have not provided for 2017. Gold Fields did however provide NRGI with its payments to governments information at the country level following a request for additional information. Gold Fields stated that in 2017 it paid USD 60.5 million in corporate income tax, USD 36.9 million in royalties and USD 5.9 million in dividends. The company's additional disclosures underscores the fact that while there are risks, corporate income tax can generate considerable revenue, with Gold Fields paying USD 23.6 million more in corporate income tax than royalties in 2017. This large corporate income tax payment suggests that one or both of Gold Fields' Tarkwa and Damang mines are highly profitable.

Gold Fields stated that in 2017 it paid USD 60.5 million in corporate income tax, USD 36.9 million in royalties and USD 5.9 million in dividends. The company's disclosures underscores the fact that while there are risks, corporate income tax can generate considerable revenue.

Similarly, in August 2017 the Ghana Chamber of Mines published aggregate data on payments which its producing member companies made to the Ghana Revenue Authority in 2017, stating that its companies paid more in corporate tax (GHc 970 million / USD 204 million) than they did in royalties (GHc 702 million / USD 148 million).[29]

As these companies are listed in Canada, they are required to release a 43-101 feasibility study, in which the company must state when it expects an operation to become profitable. In the case of Asanko Gold, the Definitive Feasibility Study cash flow model estimates that the mine will not start generating corporate income tax until 2023, seven years after the project began production.[30]

Dividends

Ghana's Vice President Mahamudu Bawumia has questioned the utility of the government's 10 percent equity interest in mining operations, stating at the IMF's Regional Economic Outlook for sub-Saharan Africa, that the lack of revenue generated from the government's equity share was because "many of the mining companies say they are not making profits to pay dividends but they keep mining, notwithstanding the fact that they are unprofitable."[31]

The government of Ghana holds these shares and the non-tax revenue unit of the Ministry of Finance collects the revenues. The government is provided this equity interest without having to make financial contributions to the development or operations of the project. The government has equity share interests in every gold mining operation in the country bar those owned by Newmont Mining or AngloGold Ashanti following the signing of updated mining development agreements. In the case of AngloGold Ashanti, the government has a stake of 1.55 percent in the global company AngloGold Ashanti Limited.

The government has previously stated that its equity share is intended to generate additional revenues by receiving dividends as the operation becomes profitable. The most recent GHEITI mining report raised concerns regarding the utility of this equity share model due to the limited number of companies actually paying dividends to the government of Ghana in the year covered in the report (2015).[32] The more recent payments-to-governments data highlights that ESTMA mining

29 Ghana Chamber of Mines. 'Publish What You Pay – 2017', Daily Graphic (1 August 2018), pg. 45

30 Asanko Gold. *43-101 Definitive Feasibility Study* (2018), 21.q4cdn.com/214525344/files/doc_technical-reports/DFSFinal-July18-2017-Final.pdf.

31 Ghana Communications Bureau. *'Ghana's 10% Carried Interest In Mining Companies Is Virtually Useless' – Vice President Bawumia* (2018), presidency.gov.gh/index.php/briefing-room/news-style-2/653-ghana-s-10-carried-interest-in-mining-companies-is-virtually-useless-vice-president-bawumia

32 GHEITI, 2015 *Mining Report.*

companies have continued to pay no dividends for these operations, although Gold Fields which is disclosing voluntarily stated that it made dividend payments of USD 5.85 million to the government of Ghana in 2017.[33] Dividends are one of the seven payment types that companies are required to disclose under ESTMA. (See Table 1.) Under ESTMA's reporting guidance document, companies are not required to disclose "dividends paid to a payee as an ordinary shareholder" but are required to disclose dividend payments that "are paid to a payee on shares received in lieu of a bonus, production entitlements, royalties or any other payment category, on the basis of concessional terms." The fact that dividend payments must be disclosed if they are made on the basis of concessional terms applies to Ghana given that the 10 percent free equity interest is a current requirement of the fiscal regime.[34] Companies are able to limit their requirement to pay dividends on their operations by reinvesting the free cash into Ghana by expanding their operations, which may generate future benefit for the country, or by shifting profits in the form of payments to related party creditors as part of the international mining company's global operations.

Payments-to-governments data highlights that ESTMA mining companies have continued to pay no dividends for these operations.

The payments-to-governments disclosures made by international mining companies operating in the country suggest that if revenue generation is the primary purpose of this state equity participation, then the government may want to reconsider this approach.

To maximize the ability of media and civil society stakeholders to monitor the payments made by mining companies, the government should consider following the example set in the petroleum sector and publically disclose mining contracts. Contract disclosure is especially relevant in Ghana given that the obligations of some of the largest mining companies in the country, including Gold Fields, are dictated by the development agreement signed between the company and the government and not the preexisting fiscal regime.

Potential avenues for inquiry

- Why have so few ESTMA companies reached a stage of profitability required to pay corporate income taxes and dividends?
- Why does the effective royalty rate on Kinross and Golden Star Resources' royalty payments to the Forestry Commission, for operating in forestry reserve areas, appear to be less than would be expected given the 0.6 percent royalty requirement?
- Why is the 10 percent free carry interest failing to generate revenue and should the government consider adjusting the fiscal regime and removing the requirement in the future?
- Should the government strengthen its tax administration and monitoring capabilities to maximize revenue generation under the current fiscal regime?

33 Email from Gold Fields to NRGI, August 2018

34 Government of Canada. *Extractive Sector Transparency Measures Act Guidance* (2018), www.nrcan.gc.ca/sites/www.nrcan.gc.ca/files/estma/pdf/ESTMA%20Guidance%20-%20Version%202_1%252C%20July%202018.pdf.

4. MONITORING THE DISBURSEMENT OF MINING ROYALTIES

Revenue management and allocation are some of the central governance challenges in the Ghanaian mining sector. Under the current mineral revenue management structure within Ghana, 80 percent of the mining royalties generated are transferred to the consolidated fund to be used as part of budgetary expenditure. The remaining 20 percent is split evenly between the Minerals Development fund, which is designed to fund activities that support the development of domestic capacities in the industry, and the Office of the Administrator of Stool Lands (OASL) which is tasked with disbursing this revenue to subnational and local entities following the formula laid out in Table 6.

Of the funds given to OASL, the office keeps 10 percent for administrative expenses. The OASL disburses the remaining 90 percent to subnational entities. The largest share (49.5 percent) of this is disbursed to district assemblies that are meant to use this revenue to benefit the constituencies of mining-affected areas. Of the remaining 40.5 percent, 22.5 percent is transferred to the traditional authorities with the explicit intended use of maintaining the stool lands. The other 18 percent is also transferred to the traditional authorities, however the intended use of the revenue is contested within Ghana, and is not tied to any specific development projects or accountability mechanism for public consultation on how this revenue is used. As a recent study noted on the revenues transferred to traditional authorities, "There are no mechanisms in place for accountability and transparency of these funds paid to chiefs."[35]

Table 6. Disbursement of mineral royalties revenue

Recipient	Share (%) of total amount
Consolidated Fund	80%
Minerals Development Fund	10%
Office of the Administrator of Stool Lands (OASL)	10%
Office of the Administrator of Stool Lands disbursement (OASL)	
Amount retained by OASL for administrative expenses	10% (1% of total royalties)
District assemblies	49.5% (4.95% of total royalties)
Stools	22.5% (2.25% of total royalties)
Traditional councils	18% (1.80% of total royalties)

The lack of government transparency and accountability regarding the management of revenues within the mining sector contrast strongly with the oil and gas sector, which has clear revenue management laws and practices, detailing how revenues generated from the oil and gas sector are to be allocated and used, overseen by the Public Interest and Accountability Committee.

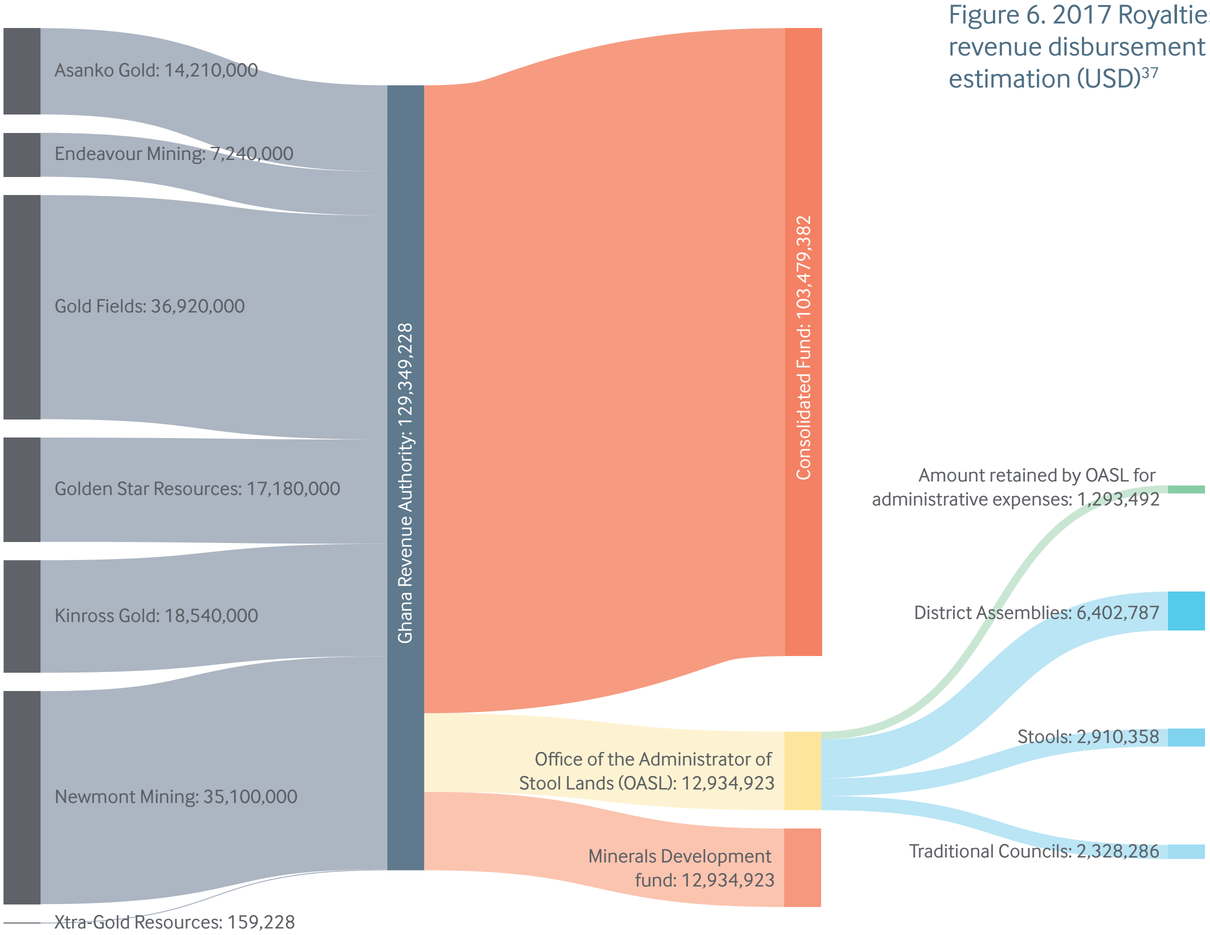
The lack of opportunities for the public to assess and offer input into how their government entities manage the mineral revenues they receive has led to frustration in mining communities and an anger at the lack of benefits citizens receive for the

35 André Standing and Gavin Hilson. *Distributing Mining Wealth to Communities in Ghana* (Chr. Michlson Institute, 2013), www.cmi.no/publications/file/4791-distributing-mining-wealth-to-communities-in-ghana.pdf.

mining activities in their areas.[36] The lack of government transparency over these specific revenues generated in the mining sector has left local communities without the information tools to hold government entities accountable for what they do with this revenue.

Company disclosures can help mining-affected communities hold government entities accountable for the royalty revenues they receive. Figure 6 outlines the royalty revenues each government entity either directly received in 2017 or should be transferred as part of the mineral revenue disbursement system in Ghana.

Figure 6. 2017 Royalties revenue disbursement estimation (USD)[37]



The disbursement to local district assemblies and traditional authorities are based on the royalties generated by the projects in that area. As a result, civil society and media stakeholders in mining-affected areas can use project-level disclosures in the payments-to-governments data to estimate how much specific district assemblies and traditional communities receive. Figure 7 estimates the amount that the Amansie West District Assembly and Manso Nkwanta Traditional Council should receive of the royalties paid by Asanko for the Asanko Gold mine in 2017.[38]

36 Kobina Welsing. "State Of Mining Communities In Ghana Disgraceful – Akufo-Addo," *Starr FM Online* (2018), starrfmonline.com/2018/05/30/state-of-mining-communities-in-ghana-disgraceful-akufo-addo/.

37 This infographic does not include payments made by Perseus Mining as the only company that does not operate a calendar year financial reporting system. Royalties paid by AngloGold Ashanti are also not included as the company does not voluntarily disclose Royalties as a separate payment category.

38 According to Asanko Gold's 2016 corporate social responsibility report, "All the communities in the footprint of the Asanko Gold Mine are under the administration of the Amansie West District Assembly," *Asanko Gold. Asanko Gold Corporate Social Responsibility Report 2016.* 21.q4cdn.com/214525344/files/doc_reports/Asanko-CSR-2016_Spreads_FINAL.pdf.

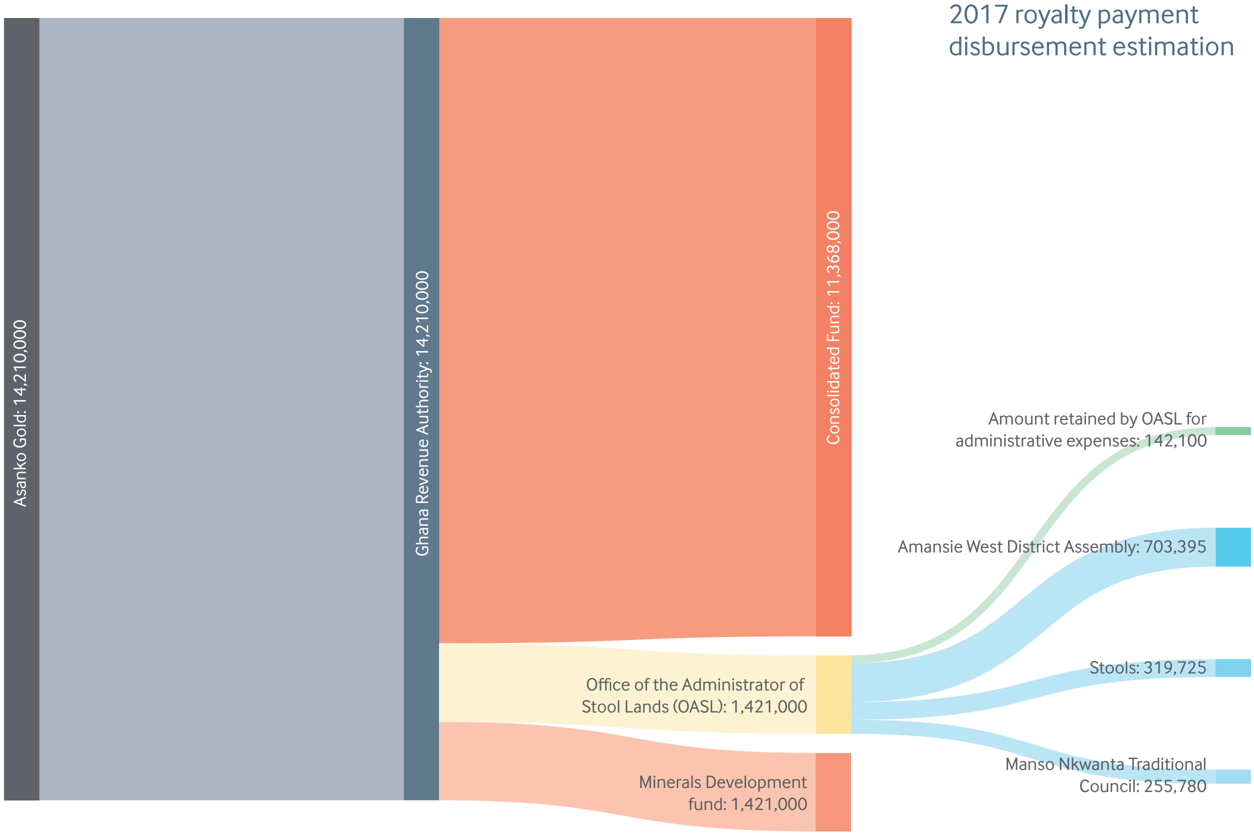


Figure 7. Asanko mine 2017 royalty payment disbursement estimation

This type of estimation can be replicated for other gold projects in Ghana to enable communities in mining-affected areas to hold their local authorities accountable for the royalty revenues they receive and ensure they are used for the communities’ development priorities.

Potential avenues for inquiry

- Have the OASL, district assemblies and traditional authorities received the correct amount based on the royalties paid in 2017?
- How have the district assemblies and traditional authorities used the royalty revenue they received in 2017?

5. MONITORING PAYMENTS FOR INFRASTRUCTURE IMPROVEMENTS IN MINING-AFFECTED AREAS

Mining activities can have a severe adverse impact on local infrastructure surrounding the mine. For example, in July 2018 a civil society group, Prestea Communications for Development, blamed Golden Star Resources for damage to the Ankobra Bridge. The bridge is near Golden Star Resource's Prestea mine and is used by the operation's trucks.[39]

ESTMA companies, including Golden Star Resources are required to disclose any payments they make for the improvement of infrastructure. The ESTMA guidance states that companies must disclose any payments made for infrastructure improvements, regardless of whether contractually obligated or not, other than in instances where the infrastructure is primarily dedicated to use by the mining operation itself.[40]

Three ESTMA companies have disclosed payments for infrastructure improvement over 2016 and 2017: Golden Star Resources, Perseus Mining and Xtra-Gold Resources.

Three ESTMA companies have disclosed payments for infrastructure improvement over 2016 and 2017: Golden Star Resources, Perseus Mining and Xtra-Gold Resources.

Golden Star Resources has disclosed payments for infrastructure to subnational government entities close to both its Wassa and Prestea gold mines and to the Ghana Highway Authority. In its 2016 ESTMA report, the company detailed in the notes section of the report what the infrastructure payments were for specifically. For example, the company noted that a USD 230,000 payment to the Ghana Highway Authority was for "Twifo Praso-Damang public railway crossing road maintenance." (See Figure 8.) The company did not disclose the same information in its 2017 report. (See Figure 9.)

39 Desmond Nana Osei. "Blame Golden Star Resources For the State of Ankobra Bridge," *Modern Ghana* (2018), www.modernghana.com/news/866295/blame-golden-star-resources-for-the-state-of-ankobra-bridge.html.

40 Natural Resources Canada. *Extractive Sector Transparency Measures Act Guidance* (2018), www.nrcan.gc.ca/sites/www.nrcan.gc.ca/files/estma/pdf/ESTMA%20Guidance%20-%20Version%202_1%252C%20July%202018.pdf.

Figure 8. Golden Star Resources payments for infrastructure improvements in 2016

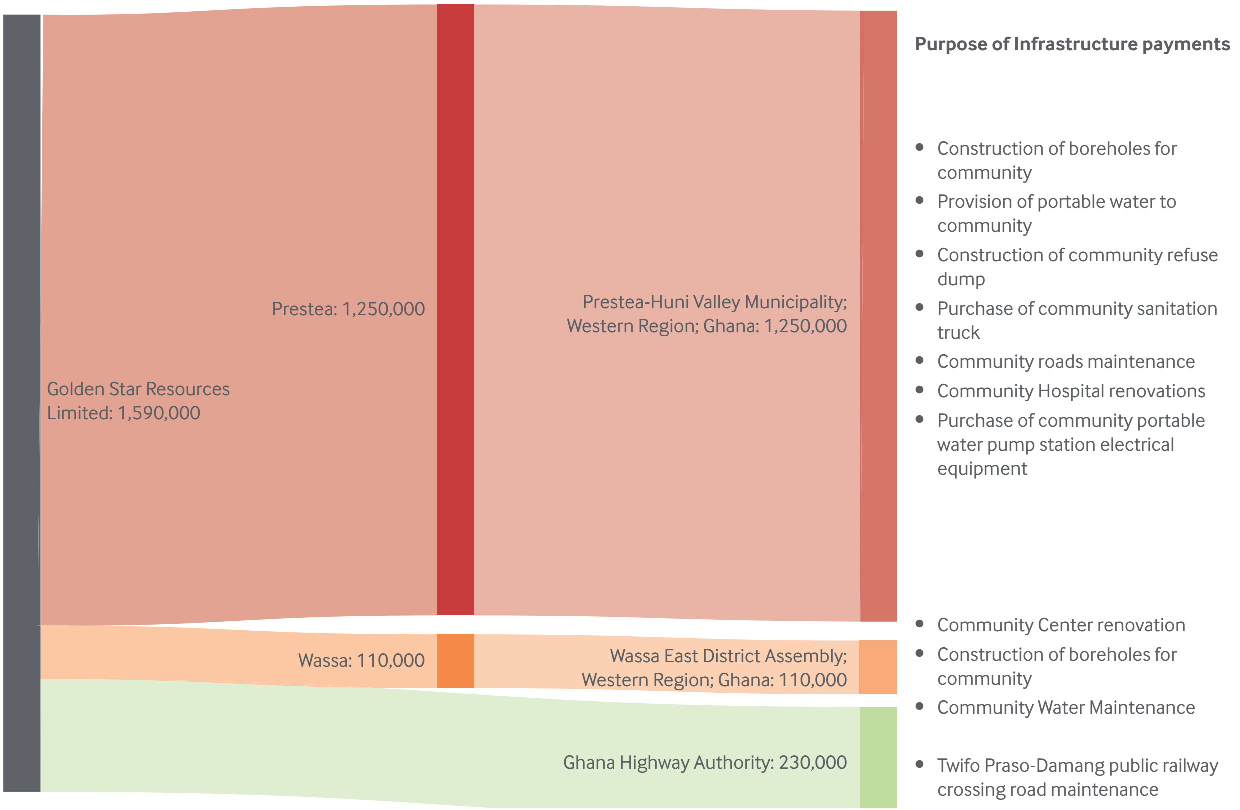
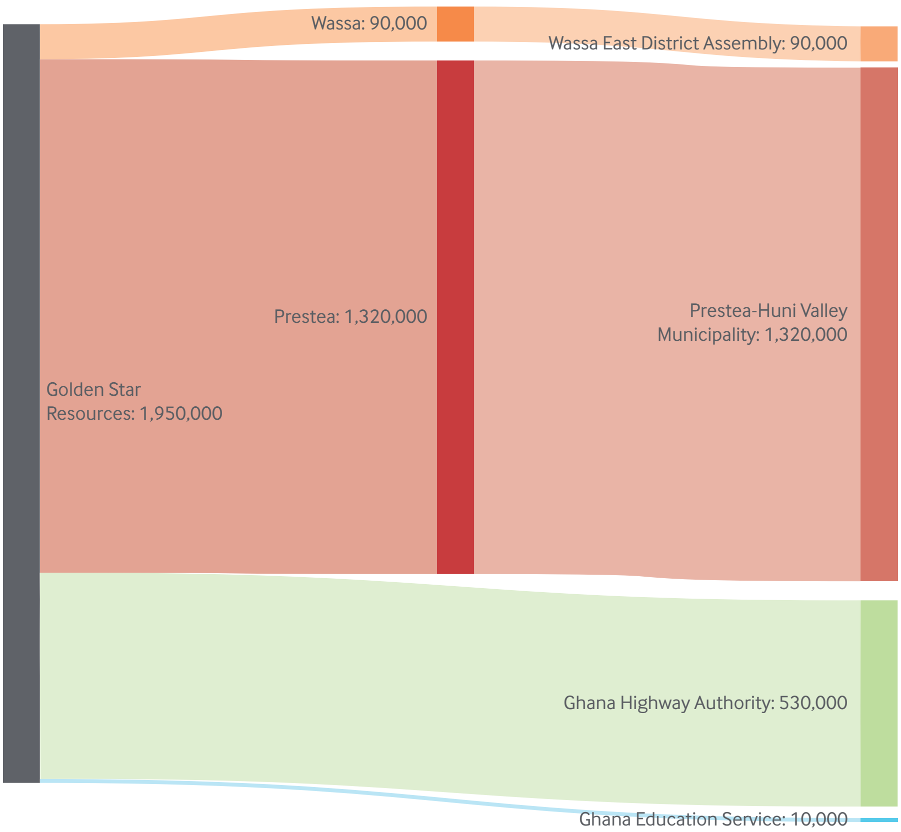


Figure 9. Golden Star Resources payments for infrastructure improvements in 2017



Local communities in these mining-affected areas can use these disclosures to assess whether mining companies are making payments that are not only sufficiently reimbursing local areas for the damage caused by mining activities but that also benefit the local community.

Similarly, local media and civil society groups can hold recipient government entities accountable for these infrastructure improvement payments to ensure they are used for the intended purpose of restoring or improving infrastructure in mining-affected areas.

Potential avenues for inquiry

- For what did Golden Star Resources and other mining companies intend their payments for infrastructure in 2017 to be used? Were these payments made in-kind or in cash?
- How have the Ghana Highway Authority and district assemblies used the revenue they received for infrastructure improvements in mining-affected communities?

CONCLUSION

This briefing outlined some of the ways that government, civil society, media and other oversight actors can use newly-released mining payments-to-governments data to better understand the revenues generated within the Ghanaian gold mining sector and hold relevant actors accountable.

More specifically, this briefing has examined how payments-to-governments data can be useful in addressing many of the current governance challenges in the mining sector, including: how government and civil society actors can assess whether the mineral fiscal regime is optimal for generating revenues within the sector; how media and civil society can hold government entities accountable for the management of mineral revenues; and how local media and civil society can use payments-to-governments data to help assess whether companies are sufficiently helping to offset the negative impacts of their activities on local infrastructure.

However, improvements are still needed within Ghana and internationally to empower the country's citizens to conduct a more informed public debate on the country's management of its endowment of gold. These improvements include:

Improvements are still needed within Ghana and internationally to empower the country's citizens to conduct a more informed public debate on the country's management of its endowment of gold.

- **Companies currently making voluntary disclosures should report in line with ESTMA.** Given the lack of an implemented mandatory payment disclosure law in South Africa and the U.S., AngloGold Ashanti, Gold Fields and Newmont Mining should consider making their voluntary disclosures in line with ESTMA in order to maximize the utility of these disclosures to oversight actors in Ghana. This would enable government, media and civil society actors to identify which revenues are attributable to specific projects and which government entities receive these payments.
- **GHEITI should utilize payments-to-governments reports.** GHEITI's annual mining report contains a wealth of information on the country's mining sector and governance challenges that arise in its management. As GHEITI's multi-stakeholder group moves to adopt its own project-level reporting framework following the EITI global board's 2017 reaffirmation of reporting requirements in this area, it should consider utilizing the payments-to-governments data to streamline and speed up project-level reporting in Ghana. Given that seven out of 10 international gold companies currently disclose project-level payments under ESTMA, these reports offer GHEITI an opportunity to quickly and easily integrate such reporting into Ghana's EITI framework. ESTMA reports must be published within 150 days of the end of the financial year so these reports can also be used by GHEITI to improve timeliness. At the time of publication, the most recent GHEITI mining report is for 2015, which limits its utility as an accountability tool.
- **The government should disclose mining contracts.** The government should consider following the practice already in place in the petroleum sector and publically disclose mining contracts. Publishing contracts can increase trust in both government and companies and allow oversight actors to judge whether payments are in line with what was agreed; to monitor fiscal terms agreed outside the fiscal regime; and to have an informed debate on the agreements the government has signed with mining companies.

- **The government should consider a mineral revenue management act.** Local communities in mining-affected areas do not currently have a say over how revenues generated from the sector are managed and used. The government may want to consider implementing a mineral revenue management act to ensure mineral revenues are effectively invested in line with both community and national development priorities.

The dataset used for the analysis in this briefing has been made available on ResourceData.org and the payments-to-governments data covered in this briefing are available on ResourceProjects.org.

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