Country Strategy Note

May 2015

Natural Resource Governance Institute

Ghana

Ghana, a country with a long history of mining, has entered a potentially transformative phase in its history with the discovery and development of significant petroleum assets. These have spurred the development of new institutions and mechanisms to manage the sector and its revenues, as Ghana seeks to avoid repeating some of the mistakes made with mining and face the new challenges presented by the oil sector. Consolidating and strengthening Ghana's recent gains in the development of transparency and accountability mechanisms, as well as important mechanisms to ensure that oil wealth adequately benefits current and future populations, is crucial.

This country strategy note articulates NRGI's approach in Ghana from January 2015 to December 2019 with the goal of ensuring that Ghana's citizens benefit from their natural resources. It provides a detailed contextual analysis, giving an overview of the economy, the political context and the extractive industries, before using the Natural Resource Charter to assess needs and opportunities with respect to key components of resource governance. It then outlines NRGI's strategic response, prioritizing four primary objectives, each linked to specific reform targets.

ABOUT THIS DOCUMENT

This country strategy note summarizes an NRGI analysis of country context and reform priorities. It also outlines NRGI's engagement in Ghana, complementing the work of other actors. Developments will naturally affect the assessments and objectives described herein. Updates to this synopsis may be made as events require.

CONTEXTUAL ANALYSIS

Economy

Ghana enjoys a positive international reputation for its economic management and has reached lower-middle-income country status. However, the current high budget deficit points to the limits of the "Ghana model" and the country's weak fiscal discipline has led to severe shortcomings in macroeconomic management and serious risks to the sustainability of its recent growth. Oil revenues have the potential to boost development, but a number of key policy decisions on when and how to spend this temporary windfall need to be taken and implemented or Ghana risks wasting the opportunity to spur development.

Despite additional public revenues from new oil operations, the Ghanaian fiscal framework is currently under stress. The World Bank recently warned Ghana the macroeconomic situation in the country was at a perilous stage, despite an apparent decrease of fiscal deficit in the past two years.[1] Furthermore, public debt is on the rise, with total debt as a percentage of GDP increasing from 49.4 percent in August 2013

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1 http://www.ghanatrade.gov.gh/Trade-News/world-bank-warns-ghana-over-growing-fiscal-deficit.html

to 60.8 percent in September 2014.[2] This is a direct consequence of pro-cyclical fiscal spending, the government (backed by its new oil wealth) having borrowed heavily on financial markets and substantially increased civil servants'awages. Public spending in the oil and gas sectors is slated to increase in the short term despite the large budget deficits.[3]

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Exports of other important commodities have also suffered over the last two years, adversely impacting Ghana's economy. Falling gold and cocoa prices and production levels, and operational challenges in some of the most important gold mines, have led to layoffs. The decline of prices in 2013 led to an estimated $1.6 billion fall in export revenues, weighing on foreign exchange earnings and placing further pressures on the weakening cedi.[4] AngloGold Ashanti has declared losses over the past three years and laid off more than 3,000 workers from its Obuasi mine, while Newmont Ghana Ltd. has laid off about 400 workers.

The fiscal challenges have compelled the government to implement a number of policies to keep cash flowing to state coffers. The decision in 2014 to cap Ghana's Stabilization Fund and direct "excess"resource revenues largely towards debt repayment is one example. This has reduced the capability of the fund to serve its purpose of cushioning the impact of revenue volatility. In this tight fiscal environment there is a risk that the government will sell short its natural assets to satisfy immediate cash needs.

Economic policies have seen the cedi lose value at an alarming rate in the past two years. Since 2011, monetary supply has increased dramatically which points to a government monetizing its debt; this also explains the depreciation of the cedi.[5] Ghana's sovereign rating has been downgraded several times in the past few years, most recently in June 2014 when Moody's downgraded it from B1 to B2. The key drivers for this were Ghana's deteriorating fiscal strength, as reflected in the rising debt level and worsening debt affordability amid persistently high fiscal deficits and the increase in Ghana's vulnerability to shocks given its large debt-refinancing needs and wide external imbalances.[6]

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The economy has been heavily affected by an energy crisis linked to the slow expansion of the energy sector. According to the 2015 Budget and Economic Policy, the slower than expected growth of the industrial sector (recorded 4.3 percent growth in 2014, compared to 7.3 percent in 2013) was partly attributed to energy supply shortfalls. This has significantly contributed to a deterioration of the investment climate, which has suffered from high taxes, high interest rates, a collapsing exchange rate, labor unrest, high unemployment, increases in the cost of living, foreign exchange controls and a general loss of business and consumer confidence.

2 The 2015 Budget Highlights of the Budget Statement and Economic Policy: http://www.mofep.gov.gh/?q=news/2014-11-19/2015-budget-statement-economic-policy

3 See the 2014 mid-year budget review and budget and economic policy statement for 2015: http://www.mofep.gov.gh/sites/default/files/budget/201%20Mid%20Year%20Review%20and%20Tables.pdf

4 http://www.bog.gov.gh/privatecontent/Speeches/OPENING%20REMARKS%20BY%20DR.%20WAMPAH,%20GOVERNOR,%20AT%20THE%20STAKEHOLDERS'%20DIALOGUE%20ON%20%20'BOOSTING%20GHANA'S%20FOREIGN%20EXCHANGE%20RESOURCES'%20ON%20JULY%2029,%202014.pdf

5 http://www.bog.gov.gh/index.php?option=com_wrapper&view=wrapper&Itemid=231

6 https://www.moodys.com/research/Moodys-downgrades-Ghanas-sovereign-rating-to-B2-outlook-negative--PR_302756

In order to address the current challenges in the economy, the government has initiated talks with the International Monetary Fund (IMF), which may result in an IMF bailout. The government appointed transaction advisers to issue a new Eurobond of up to $1.5 billion, with $1 billion being eventually accepted. Interest rates on Eurobonds at around 8 percent look low by domestic standards, but with the cedi depreciating by an average of about 20 percent since 2007, the effective coupon rates on Eurobond issued in 2007 is close to 30 percent. Further Eurobond issues to refinance debt may ease short-term pressures, but will expose to Ghana to greater refinancing and currency risks, ultimately harming longer-term development goals.

In 2014, petroleum revenues worth $150 million[7], previously destined for the stabilization fund, were earmarked for the repayment of Ghana's 10-year Eurobond due in 2017. Further petroleum revenues will also be earmarked for this repayment over 2015 and 2016. With debt challenges mounting, petroleum revenues are increasingly being diverted towards debt repayment.

Politics

Ghana's democratic evolution since its return to constitutional rule in 1992 has been acknowledged as one of the best in sub-Saharan Africa. The recent successful resolution of the much-disputed presidential electoral outcome demonstrates the strength of Ghana's democratic consolidation. Ghana has gradually improved its democratic governance and institutional effectiveness to allow its citizens enjoy a more open and vibrant civil society, freedom of press, independent media and strong public dialogue. These are evidenced by Ghana's performance on worldwide governance indicators on resource governance, control of corruption and accountability, rule of law, government effectiveness, and freedom of press.

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Political parties in Ghana recognize the importance of developing the oil and gas sector in particular, and are keen to avoid repeating the poor decisions made regarding mining. The manifestos of the two major political parties, the National Democratic Congress (NDC) and the New Patriotic Party of Ghana (NPP), for the last elections demonstrated broad commonalities but different approaches regarding the development of the extractive sector. While the NPP viewed the sector as important to development, but not to be developed at the expense of other sectors, the NDC promoted a vision of the sector as a catalyst for economic growth and development.

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The party system in Ghana raises particular challenges. Intra-party decisions tend to be made in a centralized, top-down manner with little consultation of members. As a result individuals within each party have limited scope to shape party policy. Patronage and the distribution of favors are the chief means by which party bosses maintain control.

7 http://www.mofep.gov.gh/sites/default/files/budget/Budget-Statement-2015_0.pdf

OVERVIEW OF GHANA'S EXTRACTIVE SECTOR

Mining

Ghana is the second largest gold producer in Africa and eleventh largest in the world. It is also a minor producer of diamonds. The mining industry is governed by the Ministry of Lands and Natural Resources under the Minerals and Mining Act, 2006 legislative framework. Currently, the Act is not fully implemented due to a lack of regulations for how certain provisions are to be applied. The sector accounted for approximately 62.5 percent of exports in 2014.[8] According to the Ghana Revenue Authority (GRA), the minerals sector contributed over 27 percent of fiscal receipts in 2012[9], directly employed 17,103 people in large scale mining, and directly or indirectly employed an estimated one million people through small scale and artisanal mining.

About 90 percent of total government mineral revenue comes from gold, with the largest gold mines contributing roughly 80 percent of that. The mining sector has since 1983 attracted direct foreign investment of about $12 billion. In 2013 alone, the sector attracted over $1 billion in total investment inflows including mining support services, exploration, and production systems.

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Oil and gas

Ghana's entry into the ranks of global oil producers began in earnest with the Jubilee Field, discovered in 2007 and commencing production in 2010. In 2013, Ghana's total proven oil and gas reserves were estimated to be 1.29 million barrels and 2.18 billion cubic feet respectively.[10] Oil production has already contributed approximately $2 billion in revenue to the country while revenues from gas are expected in 2015 thanks to the recently commissioned Atuabo gas plant. Government's fiscal revenues from oil surpassed mining receipts for the first time in 2013.[11] While this trend is likely to continue, the recent drop in oil prices is likely to affect the previously rapid growth in petroleum revenues.

The true extent of Ghana's oil wealth is still unknown, as exploration activity is ongoing and appraisals are underway in several wells (as shown in the table below). The minister of finance indicated in the 2015 Budget Statement that crude oil production from the Jubilee Field in 2014 totaled 28,017,990 barrels, or 102,630 barrels per day, while production from the Saltpond field was 60,728 net barrels. Over the next decade, oil production will rest largely on three confirmed developments: Tweneboa, Enyenra and Ntomme (TEN); Sankofa; and Jubilee. Production for TEN and Sankofa is expected to start in 2016 and 2017, respectively. Benchmark price was estimated at $99 per barrel, resulting in benchmark revenues from oil and gas production of $1,236.4 million in 2015. Subsequent to the publication of those forecasts, oil prices have fallen precipitously. NRGI calculations suggest that a $70/bbl price (which is itself markedly higher than the price at time of writing) would see a 31 percent decline in petroleum revenues.[12] With the start-up of production from TEN and Sankofa, revenues would reach approximately $4 billion by 2019 under the previously projected price (this number would be lower under current prices); but this peak may be short-lived as these

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8 Figures for 2013 based on 2014 Budget Statement, p24, oil+gold export earnings / total export earnings
9 Ghana EITI Report (2014) (Not Officially Published)
10 GNPC (2014)
11 https://eiti.org/news/ghana-revenue-jubilee-oil-field-doubles-2011-2013
12 http://www.resourcegovernance.org/sites/default/files/nrgi_ForecastingOilRevenues_2015GhanaBudget.pdf

are relatively small oil fields. Although the oil sector continues to be dominated by smaller independent companies the discovery of additional offshore fields, including gas reserves, has sparked serious interest among major oil companies. Eni has been acquiring interest in a number of blocks, while BP, ExxonMobil and China National Offshore Oil Corporation unsuccessfully tried to acquire shares held by Kosmos in Ghana's oil fields.

The key legislation governing the sector includes the Petroleum Revenue Management Act 2011, Petroleum (Exploration and Production) Act 1984, the Ghana National Petroleum Corporation Act 1983, the Petroleum Income Tax Act 1987 and the Petroleum Commission Act, 2011.The latter was created to regulate the upstream oil and gas sector. Further developments have included the 2013 Ghana Local Content Act regulating and promoting Ghanaian employment in the petroleum industry. Other bills currently going through the parliamentary process include the revised Petroleum Exploration and Production Bill 2013 and the GHEITI Bill.

Reforms have also targeted state participation in the sector. The government is supporting the national oil company, GNPC, in becoming an active commercial entity. The Ghana National Gas Company (GNGC), another state-owned entity, has been formed to develop and monetize the gas fields and associated gas of about 4.8 billion cubic feet from the Jubilee oil field, with the promise of delivering gas to power plants by the end of 2014. The plant has the potential to save the government about $500 million a year in imports of light crude oil for power generation. The delays in the implementation of the Jubilee associated gas infrastructure, and supply interruptions on West Africa Gas Pipe Line, have combined to produce an acute energy crisis.

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To address the energy crisis, the government has put an emphasis on quick fixes and large investments whose quality or financing might not be optimal. Most notably, a $3 billion loan with the Chinese Development Bank (CDB), later reduced to $1.5 billion, was signed in 2012 to finance oil and gas related infrastructure. $600 million has so far been released. Controversy persists over whether the loan was a good deal for Ghana.

With gas from the Jubilee Field gradually coming on-stream and other gas projects in the pipeline, the discussion will rapidly shift from oil to gas. Gas from the Jubilee Field had previously been reinjected, while large amounts had been lost to government-sanctioned flaring, exposing the country to serious social and environmental consequences. The newly constructed Atuabo Gas Processing Plant continues to work below capacity with the Volta River Authority's power plants only capable of using just over half the supply.[13] The much anticipated addition of natural gas to the country's portfolio of natural resources has suffered from governance challenges related to GNPC's takeover of the Ghana National Gas Company (GNGC).

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13 http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?ID=347766

Block	Project	Status	Proven Oil Reserves (MMBBL)	Proven Gas Reserves (AG & NAG) (BCF)	Projected First Oil/Gas Date
Jubilee (DWT-WCTP)	Jubilee Phase 1	Production Ongoing	278	334	Q4 2010
Jubilee (DWT-WCTP)	Jubilee Phase 1A	Drilling of wells	102	122	Q4 2013
Jubilee (DWT-WCTP)	Jubilee Full Field	PoD Preparation	205	246	2014
Deepwater Tano (DWT)	Tweneboa-Enyenra-Ntomme (TEN)	PoD approved by Minister for Energy and Petroleum	245	367	Q4 2016 (Oil) Q4 2017 (Gas)
Offshore Cape Three Points (OCTP)	Sankofa-Gye Nyame Gas	PoD Under review	116	1,339	Q4 2016 (Oil) Q4 2017 (Gas)
		TOTAL	**946**	**2,408**	

Key projects

Source: Ghana National Petroleum Corporation (GNPC)

Subnational

At the subnational level, Ghana's district assemblies, traditional councils and stool lands (local kingdoms) receive a total of 9 percent of royalty revenues. Royalties and property rates, collected directly from mining companies, comprise more than 20 percent of annual revenues for district assemblies'. Subnational discussions are coming to the fore in the oil, gas and mining sectors and there has recently been a strong push by civil society to have regional and local government representation in the GHEITI.

AngloGold's mine in Obuasi has been put under care and maintenance, which has been accompanied by over 3,000 job losses. Given this context, the issue of local content and subnational revenue management has become particularly relevant to Obuasi and other mining communities who fear for the future, especially as little has been done to diversify and develop their local economies. The EITI reports also highlight that the government has not taken adequate advantage of local content in mining areas to create added value and increase job creation.

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GHANA AND THE EXTRACTIVE INDUSTRY DECISION CHAIN

Domestic foundations for resource governance

The Natural Resource Charter's twelve precepts outline the decision-making and governance environment required for effective resource development . This section provides a brief assessment of the governance environment across each of these precepts.

Precept 1: Strategy making and public participation. Resource management should secure the greatest benefit for citizens through an inclusive and comprehensive national strategy, clear legal framework and competent institutions.

The sustainable development of Ghana's oil operations is a cornerstone of the government's policy to support strong economic growth and development. Despite advances by the government on transparency and efficiency around revenue use, there remain important issues surrounding legislation, institutional capacity building, revenue management, contract disclosures and accountability that need to be tackled to help maximize the benefits obtained from the industry.

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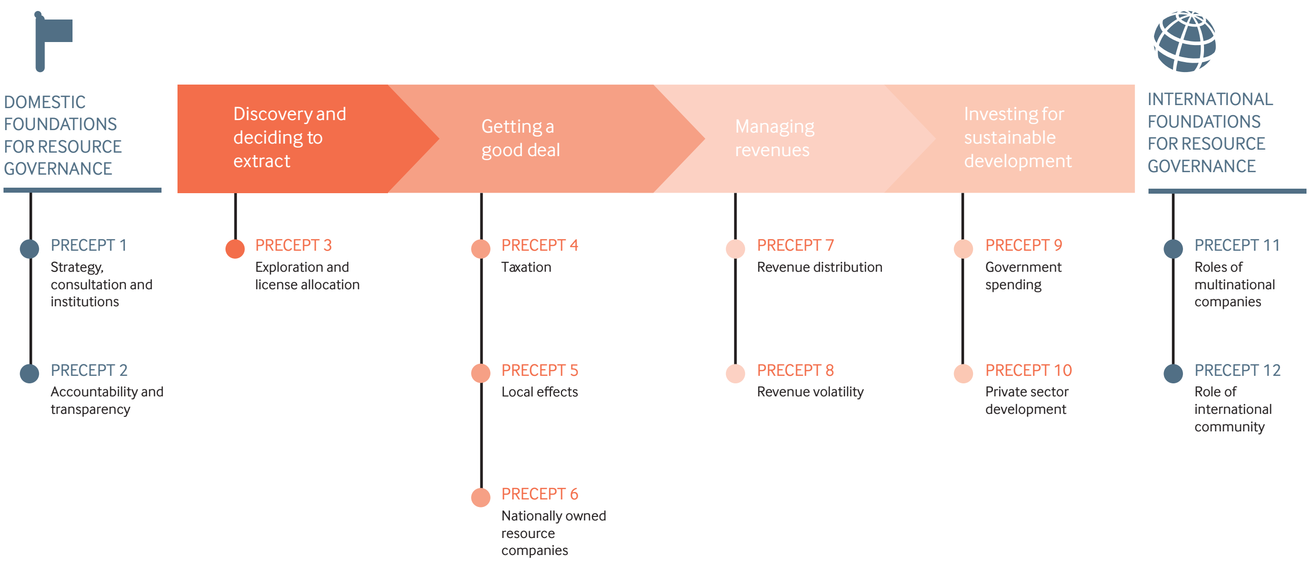
Overview of the Natural Resource Charter



Extractives sector strategy

Whilst there are references in the constitution, legislation and other key documents to an overarching strategy, there is no coordinated strategic long term plan linking the decision to extract natural resources to broader social, economic and human development objectives. Government decision-making is instead highly reactive to industry trends (e.g., the repeal of mining windfall tax) and thus often out of synch with long-term objectives. Changing policies may also be negatively affecting the government's credibility and investment climate. The lack of long-term national planning in general makes it difficult to guide spending and investment decisions of revenues drawn from the sector. The challenge is compounded by the lack of real bipartisan engagement for the creation of such long-term plans. The multiplicity of public institutions (Petroleum Commission, National Petroleum Authority, Energy Commission, Ministry of Energy) working on similar objectives without clear coordination has contributed to inefficient management, and in addition makes it hard to demand accountability as it is not always clear who is responsible for particular actions.

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Coordination and public involvement

While mechanisms exist for public participation in sector oversight (see precept 2), public participation in the development of an overarching extractive strategy and in key decisions is limited. There is little public debate regarding the decision to extract, for instance on the cost-benefit analysis of extraction and little communication of estimated resources or reserve endowment values. The role of affected communities is very limited, particularly that of local communities affected by offshore oil and gas development.

Precept 2: Accountability. Resource governance requires decision makers to be accountable to an informed public.

Transparent government

The government is only partially transparent and there is clear room for improvement. Having announced its intention to pilot the EITI in 2003, Ghana achieved compliant status in 2010 and has published reports covering eight fiscal years up to 2011. The revision of the EITI Standard in 2013 encouraged the national multi-stakeholder group to express an interest in implementing some of the more innovative options, such as contract disclosure or beneficial ownership reporting. An EITI bill has been prepared and is currently at the early stages of the parliamentary process. As such, GHEITI will become an increasingly important national platform to advance transparency reforms associated with NRGI's country objectives.

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Beyond EITI, Ghana passed the PRMA in 2011, which requires transparency around revenues and expenditures. The creation of the PIAC (Public Interest and Accountability Committee) is a crucial step forward in terms of transparency and accountability. No legislation currently covers transparency around the allocation of rights and the publication of contracts, though early drafts of a revised Exploration and Production Bill did include provisions for contract disclosure. There is no mechanism for disclosure of beneficial ownership.

After several redrafts and more than a decade of campaigning, a widely expected Freedom of Information Bill was submitted to parliament in November 2013. However due to substantial disagreements parliament has yet to pass it. The process has been criticized as opaque, giving rise to concerns over the government's commitment to passing the bill. NRGI believes the bill is not sufficiently progressive as it contains a number of significant exemptions and is inconsistent with the progress that has been made on transparency through the EITI, Open Government Partnership (OGP), PRMA/PIAC and other initiatives.

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Oversight and enforcement

Parliament is not fully exercising its mandate of deliberating and acting on decisions regarding the sector, due in part to inadequate resources and experience dealing with the sector. The lack of oversight is particularly acute regarding parliament's failure to monitor conflicts of interest within the extractive sector and involved government agencies.

Civil society actors have the freedom to engage on the topic, yet seem unable to maintain consistent and targeted collective action. Many organizations suffer from a lack of technical expertise and sustainable sources of funding. Media coverage of the sector is improving, yet the volume of in-depth coverage and the quality of debate remains limited. There is little meaningful or sustained interaction between the media, civil society and parliament. In general, the public holds unrealistic expectations about the potential impact of the oil sector.

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Discovery and deciding to extract

Precept 3: Exploration and license allocation. Government should aim to reduce geological uncertainty under a transparent licensing regime that allocates rights efficiently.

There is a general lack of transparency around license allocation in the extractive sector, and an excess of ministerial discretion. Although a few oil contracts from Jubilee field have been published (following US SEC disclosure rules), most oil and mining contracts remain undisclosed. This makes it difficult for oversight actors to assess whether the government is signing deals in the best interest of the country.

The Geological Survey Department (GSD) is the main repository for the country's geosciences data and provides baseline geological information on prospective natural resources. The department has struggled with a lack of funds and difficulties in retaining experienced staff. In 2013 an amendment to the Survey Act 127 (1962) was being finalized to support the work of the GSD, but progress on this appears to have stalled.[14] The proposed Minerals Development Fund Bill, soon to be considered by parliament, suggests allocating 1 percent of mining royalties to the GSD.

License allocation

Mining rights are awarded on a first come, first served basis. Yet determining who came first lies within the remit of the minerals commission. The acquisition of mining licenses or rights is conducted through a ten-stage procedure with requirements that include the publication of the application, financial and technical due diligence, and EPA undertaking. However, the accessibility of information on the license allocation process is fettered due to inertia by the minerals commission. There is currently no open mining license registry or computerized cadastre,but a registry is available to the public for a fee. Petroleum licenses have historically been awarded through an open door direct negotiation instead of an open competitive bidding process. A model petroleum agreement (MPA) guides the process of negotiating terms and conditions. The introduction of an effective open competitive bidding process will ensure further transparency and potentially lead to efficient allocation of rights to financially and technically capable companies.

The Minerals Commission has reiterated its plans to introduce tender submission, alongside the existing first come, first served approach, for mining areas for which there is geo-scientific information, but has not produced a timeline. The draft Exploration and Production Bill provides for a competitive tender in the petroleum sector but gives the minister the ability to skip tender and go to direct negotiation.

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14 http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?ID=268919

Getting a good deal

Precept 4: Taxation. Tax regimes and contractual terms should enable the government to realize the full value of its resources consistent with attracting necessary investment, and should be robust to changing circumstances.

There is debate as to whether the government is receiving a fair share of the extractive rents. In addition to questions regarding the selection process of companies in Ghana's petroleum sector (see precept 3), there are concerns that suboptimal deals are being concluded and unwarranted fiscal incentives offered, and accusations by civil society of oil block allocations being rushed through before the planned revision to the Exploration and Production Bill. There has as yet not been any in-depth analysis of extractive contracts. ACEP and Penplusbytes are developing a digital platform to shed more light on this issue and help citizens monitor the management of the oil and gas sector.[15]

Regarding the mining sector, there have been longstanding complaints about the fairness of the tax regime and a perceived excess of fiscal concessions. As well as having an impact on potential revenue, this hampers efforts to administer contracts. Before 2010 the GRA struggled to implement a 3-6 percent sliding scale royalty system, leaving all mining companies paying at the lower end of the range. This and other issues led to amendments to the Minerals and Mining Act in 2010, which stipulated a fixed rate of 5 percent for all companies. With the aim of capitalizing on high gold prices, the government increased corporation tax in 2012 from 25 percent to 35 percent. However, a planned windfall tax bill was withdrawn after strong lobbying from mining companies. The impact of recent fiscal changes has been uneven across the industry because of the stability agreements that exist with some companies. In 2012, the government instructed a seven-member committee to review and renegotiate all stability agreements to ensure that Ghana maximizes its benefits from mineral resources.[16] There has been to date no concrete changes to these agreements. Companies with stability agreements, such as Anglogold Ashanti and Newmont Ghana Ltd., were not affected by the changes to the royalty rates. Newmont is for instance currently required to pay a royalty rate of 3 percent on gold won (3.6 percent when mining on forest reserves).

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A proposed amendment to the Minerals and Mining Act currently being discussed repeals changes made in 2010 and gives discretion to the minister to set a royalty that he deems appropriate. If this is passed, it is expected that different contracts will have different royalty rates which could potentially cause further difficulties for the GRA regarding the assessment of the royalty system.

Tax authorities are not properly equipped to deal with cost claims, transfer pricing or other illicit financial flows, which could reduce taxable profits in Ghana. No cost audit on oil companies has been carried out since 2011, creating major risks of revenue leakages. There is also a need to build the capacity of the GRA, which the Swiss and other bilateral donors are currently supporting.

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15 http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?ID=317930
16 http://www.mofep.gov.gh/?q=news/010212

Precept 5: Local effects. Opportunities for local benefits should be pursued, and the environmental and social costs of resource projects should be accounted for, mitigated and offset.

The government has identified local content as a promising area to increase positive spillovers from the extractive sectors, boosting the economy while increasing competitiveness. Progressive local content regulations for the petroleum sector were passed in 2013 and became effective early 2014, yet Ghanaian companies are ill-prepared to take advantage, generally lacking the necessary technical and financial capabilities. The Petroleum Commission, set up in 2012, is meant to monitor and enforce the new bill, but its means and capacity are limited. To help address the lack of capacity in the Ghanaian private sector, an enterprise development center aimed at local enterprise capacity development in the upstream sector has been set up by the Ministries of Energy and Petroleum, and Trade and Industry, in collaboration with the Jubilee partners.

Legislation in the mining sector requires companies to prepare localization plans, but communities are not benefiting from the sector and this could be increasingly problematic if the mining industry slows down in Ghana. The government has shown little interest in adopting consultation and consent requirements for the sector.

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Precept 6: Nationally owned resource companies. Nationally owned resource companies should be accountable, with well-defined mandates and seek to be commercially efficient in the long-term.

The GNPC is the most active state-owned entreprise (SOE) in Ghana, participating in upstream petroleum activities on behalf of the government. The GNPC's mandate has expanded in recent years, given the creation of the GNPC Exploration Company and the government's decision to put GNGC under its control, though transparency remains limited. SOEs in the extractive sector operate with limited transparency and without clear governance structures for avoiding conflicts of interest. Appointments tend to be based on political connections, furthering a culture of nepotism and impeding the development of internal capacity.

GNPC has received a substantial share of petroleum revenues in the past three years, while the trade-off that it implies in terms of national spending decisions has not been publicly acknowledged or debated. Significant amounts have also been spent on the development of infrastructure for the GNGC. Currently, the GNPC is seeking billions of dollars of financing which could have a massive impact on how Ghana benefits from oil, but this development is under-analyzed in Ghana itself.

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In the mining sector, the Precious Minerals Marketing Company is the only SOE, and its significance is dwarfed by that of GNPC.

Managing the revenues

Precept 7: Revenue distribution. Resource revenues should be invested to achieve optimal and equitable outcomes for both current and future generations.

When Ghana exported its first shipment of oil from the Jubilee field in 2011 it also adopted state of the art legislation to manage petroleum revenues. The aim of the legislation was to ensure that petroleum revenues be prioritized for investment in growth-promoting sectors, saving, stabilization and developing the oil sector. There have been instances of a lack of compliance with the prescribed methodology for revenue forecasting (resulting in over-projections), as well as a failure to publish calculation methodologies.

The government recently submitted amendments to the PRMA (Act 815) to parliament, just three years after its adoption, in order to address some areas of the law which are inconsistent or in need of clarification.[17] However there is now discussion of broader provisions being open to review, which creates some risks for the credibility of Ghana's fiscal policy and the quality of oil revenue management.

Precept 8: Revenue volatility. Domestic spending of resource revenues should be smoothed to take account of revenue volatility.

In order to guard against the risks of substantial year-on-year price volatility, the PRMA requires Ghana to allocate its distribution of oil revenues in light of a "benchmark revenue" formula based on a seven-year rolling average of past, current and expected oil prices. Combined with limits on the amount of revenue that can be spent in any given year and the requirement that surplus funds be deposited into the Ghana Stabilization Fund and the Ghana Heritage Fund, the benchmark revenue formula is designed to smooth the allocation of volatile oil revenues over a multi-year period.

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Investing for sustainable development

Precept 9: Government spending. The government should use revenues as an opportunity to increase the efficiency of public spending at the national and sub-national levels.

There is insufficient publicly available information regarding the analysis of and decisions on detail allocations of petroleum revenues to the broad priority areas in the budget. PIAC has struggled to independently monitor and evaluate oil-funded projects, relying on secondary information to inform their public reports. The investment decisions regarding revenues saved in the petroleum funds (stabilization and heritage) have not been the subject of much debate, however increasingly, as the PRMA is being reviewed, there is debate regarding the decision to save in the first place.

There is no legislation guiding expenditure decisions with respect to revenues from the mining sector, only a formula guiding the distribution of a percentage of royalty revenues.

17 This is not the first amendment to the bill. The PRMA was passed in 2011, and each budget statement from 2012-2015 has contained amendments to the bill (e.g. capping the amount into the saving funds by the finance minister). However, this most recent package of amendments is far more comprehensive.

Precept 10: Private sector development. The government should facilitate private sector investments to diversify the economy and to engage in the extractive industry.

The government has expressed commitment to promoting private sector participation in the extractive industries. There is currently a public-private partnership bill before parliament, which seeks to strengthen private sector participation in energy and public infrastructure.

International foundations for resource governance

Precept 11: Roles of multinational companies. Companies should commit to the highest environmental, social and human rights standards, and to sustainable development.

Multi-national companies engage with government and civil society through existing forums, notably the GEITI multi-stakeholder group, though not all companies have participated. The level of engagement and trust among stakeholders has improved tremendously through the EITI process; however, there is room for improvement with regard to the community entry strategies used by companies. Ghana subscribes to free prior informed consent (FPIC) regulations, but most communities are not adequately informed and prepared before mining operations. When a decision to enter has been made the compensation packages are typically not adequate, fair or timely.

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Precept 12: Role of international community. Governments and international organizations should promote an upward harmonization of standards to support sustainable development.

The government has expressed its commitment to prioritizing and improving governance in the extractive sector and signed a partnership with the UK in June 2013 on increasing transparency of extractives. This partnership can form the platform from which Ghana could spearhead some of its reforms, especially given the UK Department for International Development's (DFID) backing of the Natural Resource Charter framework for policy and regulatory review. Ghana signed on to the OGP in September 2011 and is a member of the working group on extractives created in 2013. However, its involvement has not matched its stated commitment and additional political support would be needed to seize this forum as an opportunity for further reforms. NRGI is a member of the Ghana OGP National Steering Committee and contributed to shaping the country action plan.

ECOWAS recently endorsed the principle of FPIC, but Ghana's government has, to date, been reluctant to fully embrace this concept. Harmonization with this regional standard will be another important issue going forward.

NRGI'S POTENTIAL OFFERING

Lessons learned

Through our programs we have gleaned lessons to take into consideration for future activities in the country:

EITI program

EITI program activities have been aimed at assisting the secretariat in improving reporting; broadening CSO participation in the overall EITI process, including the use of reports to generate meaningful debate, as well as press for better governance reforms and provide technical support to the MSG. Our activities have not only provided opportunities for new civil society groups to engage on EITI, but have also created platforms for different CSOs in mining and oil and gas to coordinate activities. NRGI's gap assessment report served as a key guide to Ghana's EITI secretariat in their development of the latest 2012/13 report published under the new EITI standard.

Through our program we learned that CSOs require strengthened technical and institutional capacity to effectively engage in the broader EITI process in Ghana. Civil society interventions and advocacies can have significant impact on governance reforms when timed to coincide with real world trending debates and policy decision points. Effective coordination between government agencies is critical to ensure that the EITI process becomes more relevant to addressing governance challenges in extractives.

CSOs require strengthened technical and institutional capacity to effectively engage in the broader EITI process in Ghana.

Parliamentary program

NRGI has provided training for parliamentarians and facilitated their consultations with citizens, the media and civil society actors, on the review of bills and eventual passage of laws such as the PRMA, the Exploration and Production bill, EITI bill and the local content law. More recent projects have looked at building and sustaining a critical capacity for parliamentary oversight of the extractive sector. To this end, NRGI provides independent analysis and data to relevant committees in order to increase their access to reliable, timely information for oversight activities. With an eye on sustainability, NRGI has trained a parliamentary researcher attached to the Mines and Energy Committee of Parliament, as well as developed a tool for revenue management analysis to stimulate the generation of independent analysis within parliament.

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NRGI's technical assistance work revealed that the sometime uncompromising dynamic between the two main parties makes it all the more important to adopt a multi-stakeholder approach that involves collaboration with local civil society organizations. An increased effort is needed to identify individual change agents, namely the real decision-makers in political parties as well as in parliament, to champion issues of revenue management and ultimately ensure long-term development.

Civil society programs

CSOs require support for institutional development as well as for activities and technical capacity building. One of the major challenges for civil society has been the weak institutional setting of organizations, their inability to raise sufficient funds and our approach to addressing this. Our assessment is that the governance and strength of organizations (as opposed to individuals) must be strengthened.

Low institutional capacity and limited results forced NRGI to de-emphasize our grant work and instead focus on capacity building within a particular thematic area, alongside institutional support. Country strategies and global capacity building programs must be aligned, thereby ensuring that Ghanaian participants at courses such as the advanced hub course at the Central European University are well-placed and equipped to contribute to country goals.

Across all our projects, it has been clear that weak monitoring and evaluation (M&E) in areas has made it difficult to measure the impact achieved by our work. NRGI is commited to developing an organizational-wide monitoring, evaluation and learning plan.

Media program

A basic content analysis of Ghanaian print media coverage of the extractive industries reveals a press that has some broad awareness of the impact of the extractive industries on Ghana's economy and society, but is not reporting with the depth and substance that would promote public awareness and accountability. The existing print coverage of the extractives industries tends to be sporadic and event-oriented rather than sustained and issue-based.

One of the lessons learned through our media engagement is that developing journalists' capacity in a specialized and technical field such as extractives requires long-term engagement through incremental efforts that focus on specific areas of knowledge and skills development, once a foundation has been established.

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NRGI's scope of work in Ghana is growing. We have added a new dimension that focuses on open data in the extractive sector and are planning to create new opportunities for reporters interested in data journalism. Future activities will give the journalists we have trained an opportunity to acquire new skills that will make them more relevant to their audiences and their newsrooms.

PIAC engagement

NRGI's support to PIAC began in 2011 in the form of both administrative and technical engagement. The aim was to help institutionalize the organization and build the capacity of members to deliver on their oversight mandate as set out in Act 815.

Although our involvement has helped promote effective engagement of multiple stakeholders, the ability of civil society to fully engage in the initiative, and fulfill the accountability goal of PIAC in the future, remains contingent on the capacity, funding and technical ability of CSOs and citizens to respond to PIAC reports. Associated factors that could enhance or undermine the effectiveness of PIAC is lack of knowledge by most citizens on the amount of oil revenue allocated to the budget and how it is spent; stakeholder leadership and the exclusion of community leaders.

STRATEGIC RESPONSE

The goal for the NRGI programs in Ghana is that citizens benefit from extractive resource wealth. To realize this, NRGI will work toward the main objectives and related targets outlined below.

Objective 1: Improved comprehensive, coordinated and long-term strategy for the extractive sector

- Through the National Development Planning Commission, the government works to develop a strategy for the sector and follows through with the implementation of recommendations.
- The government adopts outcome-tracking indicators to determine the extent to which natural resource revenues contribute to human development.
- Academia, think tanks, development partners and others coordinate research efforts through a common framework.

We will reinforce collaborations with other regional and domestic stakeholders to better emphasize our multi-stakeholder approaches to capacity development, technical assistance and advisory services to partners.

Objective 2: Improved oversight and transparency across the extractive sector

- The government discloses all extractive sector contracts and beneficial ownership.
- The EITI multi-stakeholder group ensures that Ghana EITI retains compliance with EITI. The group also insures civil society, media and parliamentarians make use of EITI reports and other extractive sector data.

Objective 3: Improved effectiveness and accountability of state-owned enterprises

- The government and GNPC develop and implement needed reforms of regulatory and commercial functions of the state in the petroleum sector.
- Civil society, the media, parliament and political parties effectively oversee state-owned entity governance.

Objective 4: Improved implementation of the revenue management strategy, balancing immediate and long-term outcomes

- PIAC increases its oversight and investigative capacity with respect to compliance with Ghana's revenue management law.
- The government addresses mining and petroleum revenue management in comprehensive law or guidelines to improve transparency and accountability in subnational revenue utilization.

FUTURE CONSIDERATIONS

We view the strategy development process as one of active learning and will seek to seize new opportunities as appropriate. The following section poses some possibilities for expansion and future consideration, subject to human and financial resources.

Public financial management and fiscal responsibility

A range of public financial management issues has hampered the implementation of the PRMA. Weaknesses in areas such as planning, budgeting, project appraisal, procurement, managing information systems and broader fiscal responsibility have ultimately weakened the effectiveness of Ghana's management of petroleum revenues. NRGI may wish to begin engaging in broader public financial management discussions with the relevant government ministries, departments and agencies as well as CSOs.

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Subnational engagement

Recent EITI reports have pointed out inefficiencies in mineral revenue utilization at the subnational level. In Ghana, about 20 percent of mineral revenues are allocated to subnational districts, local chiefs and traditional stool lands; however there have not been effective frameworks to track the use of the revenues and ensure accountability at that level. To ensure transparency and accountability at all levels, NRGI may wish to design programs that focus at the subnational level by engaging with district assemblies and community based NGOs, not only to track the use of revenues but also to ensure effective and sustainable utilization of resources.

Energy sector

Ghana is currently facing an energy crisis that has affected all sectors in the economy. This could be avoided if lessons from the past were applied and measures taken to develop the gas infrastructure alongside that for the oil production. Developments in the energy sector are linked to the extractive sector, including the high energy consumptions of mines and the need for effective transparency and accountability in GNPC's engagement. NRGI's engagement could in future examine how a better-managed extractive sector, particularly the gas sector, could help mitigate the energy crisis.

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Extractives and environmental issues

There remain important legislative gaps regarding environmental issues, particularly as the passage of the Exploration and Production Bill, which is expected to address environmental issues, has been delayed. There is a need to strengthen environmental legislation and oversight of extractive activities. NRGI could begin to engage stakeholders and partners on the very important issue of the environmental impacts of extraction.