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Press Statement **For Immediate Release**

GHEITI SETS DISCOURSE ON NEW MINERAL ROYALTY REGIME IN CONTEXT

The Ghana Extractive Industries Transparency Initiative (GHEITI) has followed keenly the ongoing public debate on Ghana's new mineral royalty regime, and wishes to make a few observations to set the debate in its proper perspective:

Background / Context

1. GHEITI wishes to point out that, sliding-scale royalty regime is not new in Ghana. As far back as in 1986, through section 22 of the Minerals and Mining Act, 1986 (PNDCL 153), further clarified by the Minerals (Royalties) Regulations, 1986 (L.I. 1340) and 1987 (L.I. 1349), Ghana established a mineral royalty sliding scale of 3% - 12%, with triggers for moving up and down the scale linked to mine profitability, expressed as Operating Ratio.
2. In 2006, through section 25 of the Minerals and Mining Act (Act 703) the royalty regime was varied by replacing the range of 3% - 12% with 3% - 6%. Subsequently, the section was amended to impose a flat rate of 5% under Act 794 of 2010.
3. The royalty regime was varied from 3% - 12% to 3% - 6% and subsequently to a flat rate of 5% under Act 794, and then revised again in 2015 to grant the Minister of Lands and Natural Resources the discretion to determine the rate.
4. The 2015 amendment provided that in the absence of a prescribed royalty rate, the existing rate (5%) would be deemed the effective rate.

The Problem with the Previous Sliding Scale Regimes

5. GHEITI's reports over the period established severe challenges with the implementation of the sliding scale royalty regime. It observed that companies mostly paid the lowest band of the scale (3%) regardless of changes in market conditions.
6. The difficulty in enforcing full compliance with the previous sliding scale regimes arose from the complexity in calculating the Operating Ratio, compounded by the generous capital allowances allowed as part of the computation.
7. GHEITI therefore proposed two options for reform consideration: either a simple model that would tie rates on the scale to price movements, or a fixed rate of 6%, which was the maximum within the range then.

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Tel. No. +233 302 747197 ext. 6318

8. The Government opted for the fixed rate, and following intense industry push back, it settled on 5%.
9. The problem of fixed rate royalty regimes pose is that, either, it can be onerous for the payer when profitability, with product price as the indicator in this instance, is low, or it can deprive the resource owner the opportunity of capturing a fair share of economic value during periods of boom.
10. A good mitigation measure would have been the introduction of an extra-profit or windfall tax, which was considered in 2008 but countered by industry on account of depressed prices at the time. The gold prices at the time hovered between US\$800 and US\$1,000 per ounce.

The New Sliding Scale and Matters Arising

11. Government's introduction of the new mineral royalty sliding scale is, as established, pursuant to equity in the distribution of the benefits generated between the State as the owner of the resource and investors.
12. The new mineral royalty regime pegs the applicable royalty rate to price movements, with the highest band of 12% pegged at US\$4,500 per ounce of gold, and the lowest of 5% pegged at US\$1,900 per ounce of gold. Effectively, all mining companies, with the exception of those with subsisting Development Agreements (Zijin, AngloGold Ashanti, and Gold Fields), will now transition to the new royalty regime of 5% to 12%.
13. GHEITI views the new regime as fair in principle, as it allocates risks and rewards equitably, and especially given the absence of a windfall tax provision in the country's laws. However, it has concerns about how the bands were established.

Industry Concerns

14. Suggestions that the industry is opposed to the principle of sliding scale are at variance with the industry's official position, as made known to GHEITI through its representative on the Multi-Stakeholder Group (the governing body) and publicly communicated by the Ghana Chamber of Mines. While the Chamber appreciates the policy considerations underpinning the proposed reform, it has expressed significant concerns about the design and calibration of the royalty bands. Specifically, it deems the bands to be overly aggressive and inflexible in sliding downwards to accommodate lower prices, as the minimum rate of the new regime is identical to the existing regime's rate.
15. Again, suggestions that Ghana is being threatened by the US, China, and other countries following this decision is far from the truth.
16. GHEITI is aware there have been overtures made to government to reconsider its decision, but it is far-fetched to consider these as threats.

17. A major concern of both industry and some development partner countries is the transition thresholds between the royalty bands, where roughly every US\$500 increase in the gold price leads to a 1% rise in the royalty rate.
18. It is GHEITI's view, that the industry's proposal of a sliding scale, with a royalty range of 4% - 8% and an additional 1% placed in a fund to cater for community development, ought to have been explored further for mutual accommodation. We encourage the industry, represented by the Chamber of Mines and the Ministry of Lands and Natural Resources, to continue engaging with a view to finding that common ground, which advances government's revenue optimization objective without sacrificing industry competitiveness.
19. GHEITI wishes to point out that the biggest threat to Ghana's investment attractiveness is not necessarily the newly prescribed mineral royalty, but fiscal predictability and certainty, which are essential for long-term planning. The sudden introduction of the Growth and Sustainability Levy (GSL) without prior consultation with industry was disruptive to corporate investment planning. At 3% of gross production (approximately 4.6% when expressed in royalty-equivalent terms due to its non-deductibility), the continued application of the GSL alongside the new royalty regime would significantly increase the fiscal burden on gross production, raising it to over 16%, a level that is unprecedented in global mining fiscal regimes.

GHEITI's Recommendations

20. GHEITI recommends to both government and industry to continue dialoguing and exploring options for mutual accommodation even as government pursues its revenue optimization agenda, without impairing operational sustainability and competitiveness of the mining industry.
21. Government should consider, as a matter of urgency, the complete withdrawal of the GSL to reduce the fiscal burden mining companies carry as a result of the new royalty regime.
22. The Minister for Lands and Natural Resources should also consider introducing a reduced mineral royalty regime for small-scale miners, to get them into the tax/royalty-paying pool, while at the same time creating a necessary favourable business climate of such indigenous businesses.

Signed



Dr Steve Manteaw
(Co-Chair)

GHEITI is the Ghana version of the global resource governance programme (the Extractive Industry Transparency Initiative). Its implementation is governed by a Multi-Stakeholder Group (MSG) drawn from Government, Industry, and Civil Society. It produces yearly reports on the mining, oil and gas sectors in accordance with prescribed international standard. The reports, and its data reconciliation exercises are based on industry data that have been audited to international audit standards. GHEITI's most recent report is accessible at www.gheiti.gov.gh