

## **1.0 BACKGROUND**

The Extractive Industries Transparency Initiative, (EITI) seeks to improve development outcomes from payments (benefits) made by Extractive Industries to governments by enhancing transparency in the payment, receipt, disbursement and utilization of these benefits.

Additionally the initiative aims at stimulating debates on the uses of these benefits.

Messrs BOAS and Associates were contracted by the Ministry of Finance and Economic Planning to aggregate and reconcile the mining benefits paid to the Government of Ghana by mining companies.

The disbursements by the government of these benefits to the beneficiary communities as well as the communities' utilization of these benefits are also to be examined.

This is the second aggregated /reconciled report.

It covers the period July 2004 to December 2004 and includes the aggregated/reconciled results for the full year 2004 together with some observations and findings.

Earlier reports submitted included:

- Inception Report in September 2006
- First Aggregated/Reconciled Report for the period January 2004-June 2004, submitted in February, 2006.

## **2 .0 OBJECTIVES OF THE REPORT.**

The main objectives of this assignment are:

- To reconcile mining companies' submissions of mining benefits payments to those received by government.
  
- To utilize lessons learnt from the reconciliation/aggregation to enhance transparency in the payments, receipts, disbursements and utilization of mining benefits.

### **3.0 SCOPE OF WORK:**

#### **3.1 Aggregation/reconciliation:**

**3.1.1 Time Period/Accounting basis:** This report contains the aggregated and reconciled benefits for the period July to December 2004. In addition the aggregated amounts for the year 2004 are also included.

These figures are compiled using cash payments and receipts as the basis of accounting.

#### **3.2 Mining benefits**

Mining benefits considered in this report are:

i) Mineral Right Licences;

ii) Ground Rent;

iii) Property rate;

iv) Mineral Royalties;

v) Corporate Tax;

vi) Dividends;

vii) Voluntary Contributions.

#### **3.3.0 Enhancing Transparency: Observations and findings:**

Issues discussed here include:

a) Those that enhance transparency without necessarily impacting directly on the quantum of the payments ie administrative issues;

b) Those that have direct bearings on the size of payments. Eg Payment of royalties at 3% or more.

In analyzing issues under this heading (Enhancing transparency) Financial statements prepared using the accruals basis by the mining companies may be

employed.

### 3.4.0 Mining Companies:

These companies contributed over 99% of total mineral royalty payment for the year 2004. (see Appendix 1A-F).

The companies include the following:

**Table 1: Selected companies for aggregated/reconciled report**

<b>MINE/COMPANY</b>	<b>LOCATION</b>	<b>MINERAL MINED</b>
<b>Anglo gold Ashanti</b>	<b>Obuasi, Ashanti Region</b>	<b>Gold</b>
<b>Anglo gold Ashanti</b>	<b>Bibiani, Western Region</b>	<b>Gold</b>
<b>Anglo gold Ashanti</b>	<b>Iduaprim, Western Region</b>	<b>Gold</b>
<b>Bogosu Gold Ltd</b>	<b>Bogosu, Western Region</b>	<b>Gold</b>
<b>Goldfields(Ghana)Ltd</b>	<b>Tarkwa, Western Region</b>	<b>Gold</b>
<b>Goldfields(Ghana)Ltd</b>	<b>Damang, Western Region</b>	<b>Gold</b>
<b>Ghana Manganese Ltd</b>	<b>Nsuta, Western Region</b>	<b>Manganese</b>
<b>Ghana Bauxite Company</b>	<b>Awaso, Western Region</b>	<b>Bauxite</b>

#### **4.0 TERMS OF REFERENCE.**

- Under the terms of reference for the assignment the obligations of the aggregator shall include the following:
- The Aggregator shall perform both process and financial audit. The aggregator shall analyze the historical documentation on production, exports and payment of royalties for minerals produced in the country.
- The template developed would be the basic tool for the data collection from government institutions and extractive companies.
- Specifically, the Aggregator shall undertake the following activities:
- Ascertain the appropriateness of revenues received as mineral royalty, dividends and tax on profit.
- The aggregator shall also analyze the tax deductions claimed by the companies  
for the purpose of identifying any improper claims.
- Check the disbursements made from the revenues received and ascertain if they are in conformity with legislation.
- Scrutinize the payment made to District Assemblies, Traditional Authorities and Stools within the operational areas of mines.
- Ascertain the appropriateness of payments made with regards to mineral royalties; ground rent; dividends; taxation on profits and for mineral rights.
- Check if the quantities of minerals declared to the Aggregator are in conformity with those made to the Minerals Commission.
- Review financial statements for consistency for both companies and institutions. Specifically, for companies the aggregator shall review company capital investments and operating cost.
- Review the capital investments in order to assess the actual amount of the investment and to determine if the amortization and depreciation declared is correct and does not improperly reduce the amount of taxable profit of the mining companies.
- Perform the audit of operating costs in order to assess if the deductions claimed were actually incurred and correspond to legitimate operational expenses as these affect the taxable profit of the companies.
- Review feasibility reports of Mining Companies in order to compare the projected production with the actual production.
- Reconcile the data so collected to ascertain if there is any disparity between the governments reported template and the aggregated companies reporting template.

## **5.0 APPROACH AND METHODOLOGY.**

### **5.1.1 PRODUCTION/MINERAL ROYALTY PAYMENT.**

- All the eight mining companies had their quarterly royalty payments thoroughly scrutinized for possible underpayment. For this determination, refining certificates were obtained and all bullion shipments individually checked for correctness of gross weights, bullion fineness and revenues.
- All shipments identified by bullion bars numbers on gold delivery notes were serially checked with those on refining certificates.
- Gold content ounces declared at the mine were recalculated and the its variance with refinery ounces determined for reasonableness.
- Silver revenues accounted for by the refineries though relatively small in value were also totaled as part of export proceeds for which royalties are to be paid.
- Manganese and ballast sales reports were reviewed for accuracy. Manganese pricing was thoroughly discussed with Ghana Manganese executives for greater transparency in view of the sensitive nature of their product marketing.
- Documentation on bauxite shipments for the period (July 2004-December 2004) were examined, and compared with company declarations.
- Post recovery monthly bauxite production statistics were also obtained for review against other submissions to government agencies.
- Proceeds from sales declared for royalty payments were checked to ascertain if freight, insurance, refinery and other charges were excluded as royalties are paid on gross revenues.
- Provisional payments representing 99% of gold exports values were also closely checked for their corresponding balance repatriation since there is usually a delay of about three weeks which time other shipments would have been made and down payments duly received.
- For those companies that employ Bank of Ghana cedi exchange rate based on the 20% retention in computing cedi proceeds, each rate applied was checked and its cumulative values for royalty payments determined.
- To ascertain whether companies were required to pay more than 3% of their gross revenues as royalties', computations of operational ratios were performed.
- For bauxite, sales Ledger account for foreign remittances to determine the actual revenues were also checked.

Returns to mineral commission on production indicating shipping tonnages and revenues for all bauxite exports were also compared with royalty payment computations.

#### **5.1.1.1 DECLARATIONS:**

- Technical information and other submissions to the Minerals Commissions on monthly and quarterly returns, eg tonnages of ore mined and milled, Mill Head Grade and residue grades were duly examined for the entire 2004.
- Information on medium to long term production plans were examined.
- Metallurgical audit of all processing units ie crushing, milling, dewatering, leaching and smelting was carried out to confirm tonnages and gold content ounces at each stage of the processing route up to the gold room.
- Bullion ounces and revenues declared at the Internal Revenue Service (IRS) for the purposes of royalty payment were reconciled with those at the Minerals Commission.
- Activated carbon fines retrieved in gold processing were isolated and checked. Export proceeds of the carbon fines were followed through to ensure royalties were paid.

#### **5.1.2 OPERATING COST AUDIT.**

- Declared operation costs for all participating companies were checked as well as various elements constituting these costs. Reference was also made to similar figures declared by other companies with similar ore body characteristics, mining strategy and processing routes.
- Much effort was concentrated on determining the accuracy of declared operating cost. Unit costs for drill and Blast, Load and Haul , and General Pit contracts were examined and compared for some of the participating companies.
- Other direct mining costs such as for grade control, Fuel and lubricants, ore handling and general pit maintenance were scrutinized.
- Unit costs for plant and processing items such as lime, cyanide, activated carbon, process acids, steel balls, fluxes and reagents were examined.
- Customs records were also checked for compliance with the 'mining list' i.e, if the companies had obtained exemptions from the custom duties for items other than those on the mining list.

### **5.1.3 CORPORATE TAXES**

- As all the companies were on self assessment, the payment of corporate tax in the year 2004 was mainly related to the 2003 and 2004 assessment years. Final returns for the year 2003 and self assessments for 2004 were scrutinized particularly for non-allowable deductions.
- Capital allowance computations were checked against Fixed Asset Schedules in the financial statement to ensure that appropriate rates have been applied for the different classes of Assets.
- The rates for capital allowances applied for computers, plant and machinery and mining assets were scrutinized to ensure they conform to the schedules provided in the Internal Revenue Act 2000. ACT 592.
- Capital allowances brought forward. Utilized /granted and carried forward were all examined.
- Capital investments by the companies for the years 2003 and 2004 were also scrutinized by analyzing the Asset Registers and the Fixed Asset Schedules of the companies.
- The prices of items on the Custom Records were compared to those on the company's Asset Register and where possible prices at the manufacturer websites

### **5.1.4 DIVIDEND.**

- The shareholding structure of the companies were obtained from the mining companies and confirmed with the Non Tax Revenue Unit of the Ministry of Finance, with special attention paid to the Government of Ghana's shareholding.
- Financial statement and annual reports for the years 2003 and 2004 were checked for declaration of dividends. Where dividends were declared the amount declared was noted. Government share of the dividend declared were then compared with the amount received by the Non Tax Unit of the Ministry of Finance.
- Further clarifications were sought from companies and Non-Tax Revenue Unit where dividend payments and receipts seemed not to agree with declared dividends in financial statements.
- Registrars of shareholders of the various companies (where appropriate) were contacted to ascertain the correctness of the declarations in the financial statements.

### **5.1.5 GROUND RENT:**

To assess the ground rent payable:

- a) Details of concessions held by the mining companies were obtained from the Minerals Commission.
- b) The rate of ground rent payment applicable in 2004 was obtained and together with the sizes of the concessions, the amounts payable were computed. (see Table 7 )
- c) Requests were made to the relevant OASL offices to ascertain the amount paid in the year.
- d) Mining companies were also required to indicate ground rent payments on the templates.

### **5.1.6 MINERAL RIGHTS LICENCES:**

Mineral right Licences i.e. Reconnaissance; Prospecting and Mining leases.

- To ascertain the licences paid for the period, a request was made to the Minerals Commission for details of mineral right licences granted for the period.
- Mining companies were requested to indicate mineral right licences paid during the year.

### **5.1.7 PROPERTY RATES:**

To ascertain the property rates payable/paid the following activities were undertaken:

- a) Property rates payable for the period by the mining companies were obtained from the District Assemblies.
- b) Mining companies were requested to indicate property rates paid on the company template supplied.

### **5.2 RECEIPTS:**

Mineral royalty receipts by the Internal Revenue Service were compared to:

- i) The payments made by the mining companies.
- ii) The declarations of mineral royalty receipts made by the internal revenue Service to the Ministry of Finance and the Office of the Administrator of Stool Lands (OASL)
- iii) Corporate tax and dividend payments received by the IRS and NTRU respectively were compared to the payments made by the companies.
- iv) Property rates received by the District Assemblies were compared to those paid by the mining entities.

### **5.3 AGGREGATION/RECONCILIATION**

Completed templates of the selected Mining Companies were aggregated and consolidated as a composite Mining Company Template (see Appendix 2(A-H))

Details of mining benefits received by government Agencies were aggregated and consolidated as the Government Template (see Appendix 3(A-G))

The two templates, the Composite Mining Company Template and the Government Template were reviewed/analyzed and reconciled.

### **5.4 DISBURSEMENTS**

- The disbursements from the Internal Revenue Service were checked to that received by the OASL (Head Office).
- Disbursements from the OASL head office to their regional offices were checked by applying 9% to the sum of royalties received for the related months (see appendices 4A and 4B).
- Disbursements to the districts were analyzed by applying the relevant formula or the appropriate percentages to the mineral royalties paid by the mining companies (see Appendices 4C-4H)
- Receipts of mineral royalties by District Assemblies were then checked against payments made by the regional OASL.

### **5.5 UTILISATION**

- Where District Assemblies have dedicated Bank accounts for mineral royalty receipt, the account were checked for the receipt of transfers from the OASL.
- Budgets (where they existed) for the utilization of mineral royalties were assessed. List of projects undertaken during the year 2004 where obtained and where possible physically inspected.
- List of contractors that worked on the mineral royalty contracts were then matched against executed projects.
- Details on District Assemblies Templates were compared with those on Bank statements.
- Physical inspections of some selected projects were undertaken.

**6.0 RECONCILIATION OF BENEFITS.**

Mining Companies payments and Government receipts for the period July 2004-December2004 and the year 2004 (see Appendix 2) are shown in Tables 2 and 3, 4 and 5 and Appendices 2A-H

Second Aggregated Report

**SECOND AGGREGATED REPORT**  
**PERIOD: JULY2004-DECEMBER 2004.**  
**ALL AMOUNTS IN CEDIS**

**Table 2**  
**COMPANY PAYMENTS**

COMPANIES	LICENCE	PROPERTY RATE	GROUND		CORPORATE TAX	DIVIDEND	TOTAL
			RENT	MINERAL ROYALTIES			
Anglogold-Obuasi	0	316,056,509	0	20,176,564,775			20,492,621,284
Anglogold –Iduaprim	0	137,703,038	0	12,353,632,278			12,491,335,316
Anglogold –Bibiani	0	100,000,000	0	9,033,591,518			9,133,591,518
**						22,442,024,553	22,442,024,553
Bogosu Gold Ltd	0		0	7,493,141,474			7,493,141,474
Ghana Bauxite CO.	0	110,000,000	0	1,643,939,039			1,753,939,039
Ghana Manganse Co.	0		0	4,411,345,171	1,925,500,000		6,336,845,171
Goldfields –Tarkwa	0		0	26,599,915,002			26,599,915,002
Goldfields-Abosso	0		0	16,240,592,346			16,240,592,346
<b>TOTAL</b>	.....	<b>663,759,547</b>		<b>97,952,721,603</b>	<b>1,925,500,000</b>	<b>22,442,024,553</b>	<b>122,984,005,703</b>

\*\* Dividend paid by Anglogold Ashanti Group in respect Government of Ghana shareholding of 3.41%.

In 2004 Anglogold Ashanti operated three gold mines(Obuasi, Iduaprim and Bibiani), in Ghana

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**SECOND AGGREGATED REPORT**  
**PERIOD: JULY 2004-DECEMBER**  
**2004.**  
**ALL AMOUNTS IN CEDIS**

**Table 3**  
**GOVERNMENT RECEIPTS::**

<b>GOVT AGENCY</b>	<b>MIN.COMM</b>	<b>MUN/DIST ASMBL</b>	<b>OASL GROUND</b>	<b>IRS</b>	<b>IRS</b>	<b>NTRU</b>	
<b>COMPANY</b>	<b>LICENCE</b>	<b>PROPERTY RATE</b>	<b>RENT</b>	<b>MINERAL ROYALTIES</b>	<b>CORPORATE TAX</b>	<b>DIVIDEND</b>	<b>TOTAL</b>
Anglogold-Obuasi		316,056,509		20,252,014,227			20,568,070,736
Anglogold –Iduaprim		137,703,038		12,353,632,278			12,491,335,316
Anglo gold -Bibiani *		100,000,000		9,037,372,187		22,442,024,553.00	9,137,372,187 22,442,024,553
Bogosu Gold Ltd		-		7,493,141,474			7,493,141,474
Ghana Bauxite CO.		110,000,000		1,643,939,039			1,753,939,039
Ghana Manganse Co.		-		4,411,345,171	1,925,500,000		6,336,845,171
Goldfields –Tarkwa		-		26,599,915,002			26,599,915,002
Goldfields-Abosso		-		16,240,592,346			16,240,592,346
<b>TOTAL</b>		<b>663,759,547</b>		<b>98,031,951,724</b>	<b>1,925,500,000</b>	<b>22,442,024,553.00</b>	<b>123,063,235,823</b>

**\*Dividend paid by Anglogold Ashanti Group in respect of Government of Ghana share of 3.41%.**

**In 2004 Anglogold Ashanti operated three gold mines( Obuasi, Iduaprim and Bibiani) in Ghana.**

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PERIOD: JANUARY 2004-DECEMBER 2004.  
ALL AMOUNTS IN CEDIS

Table 4  
COMPANY PAYMENTS

COMPANIES	LICENCE	PROPERTY RATE	GROUND			DIVIDEND	TOTAL
			RENT	MINERAL ROYALTIES	CORPORATE TAX		
Anglogold-Obuasi	0	616,056,509	0	44,783,113,775			45,399,170,284
Anglogold – Iduaprim	0	275,406,076	0	26,304,101,494			26,579,507,569
Anglogold –Bibiani	0	300,000,000	0	19,103,559,241			19,403,559,241
**						22,442,024,553	22,442,024,553
Bogosu Gold Ltd	0	128,817,781	0	17,181,230,235			17,310,048,016
Ghana Bauxite CO. Ghana Manganse Co.	0	140,000,000	0	3,135,844,574			3,275,844,574
	0	111,537,753	0	8,060,864,439	4,425,647,065	153,700,000	12,751,749,257
Goldfields –Tarkwa	0	302,529,024	0	55,988,396,214	580,778,351	8,863,000,000	65,734,703,589
Goldfields-Abosso	0	233,737,842	0	32,686,363,125			32,920,100,967
<b>TOTAL</b>	0	<b>2,108,084,985</b>	-	<b>207,243,473,096</b>	<b>5,006,425,416</b>	<b>31,458,724,553</b>	<b>245,816,708,050</b>

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**YEAR 2004**  
**PERIOD: JANUARY 2004-DECEMBER 2004.**  
**ALL AMOUNTS IN CEDIS**

**Table 5**  
**GOVERNMENT RECEIPTS::**

<b>GOVT AGENCY</b>	<b>MIN.COMM</b>	<b>MUN/DIST ASMBL</b>	<b>OASL GROUND</b>	<b>IRS MINERAL ROYALTIES</b>	<b>IRS CORPORATE TAX</b>	<b>NTRU DIVIDEND</b>	<b>TOTAL</b>
<b>COMPANY</b>	<b>LICENCE</b>	<b>PROPERTY RATE</b>	<b>RENT</b>				
Anglogold-Obuasi	0	616,056,509	0	44,858,563,227			45,474,619,736
Anglogold -Iduaprim	0	275,406,075	0	26,304,101,493			26,579,507,568
Anglogold -Bibiani	0	300,000,000	0	19,107,339,910			19,407,339,910
						22,442,024,553.00	22,442,024,553
Bogosu Gold Ltd	0	128,817,781	0	17,181,230,235			17,310,048,016
Ghana Bauxite CO.	0	140,000,000	0	3,135,844,574			3,275,844,573.80
Ghana Manganse Co.	0	111,537,753	0	8,060,864,439	4,425,647,065	153,700,000.00	12,751,749,256.52
Goldfields -Tarkwa	0	302,529,024	0	55,988,396,214	580,778,351.00	8,863,000,000.00	65,734,703,589.69
Goldfields-Abosso	0	233,737,842	0	32,686,363,125			32,920,100,967.27
							-
<b>TOTAL</b>	<b>0</b>	<b>2,108,084,985</b>	<b>0</b>	<b>207,322,703,217</b>	<b>5,006,425,416.00</b>	<b>31458724553</b>	<b>245,895,938,171</b>

**Table 6: Reconciliation of Mining benefits payments and Government receipts- 2004**

<b>MINING BENEFIT Payment/Receipt</b>	<b>Aggregated Receipts by Government of Ghana (cedis)</b>	<b>Aggregated payments by Mining Companies (cedis)</b>	<b>Deviation</b>
Mineral royalty	207,322,703,217	207,243,473,096	79,230,121
Property rate	2,108,084,985	2,108,084,985	<b>0</b>
Corporate tax	5,006,425,416	5,006,425,416	<b>0</b>
Dividends	31,458,724,553	31,458,724,553	<b>0</b>
Ground Rent	0	0	0
Mineral right Licence	0	0	<b>0</b>
<b>TOTAL</b>	<b>245,895,938,171</b>	<b>245,816,708,050</b>	<b>79,230,121</b>

### **6.1 RESULTS OF AGGREGATION/RECONCILIATION:**

i) There was a discrepancy of seventy nine million, two hundred and thirty thousand one hundred and twenty one cedis.(c79,230,121) see Tables 2,3 and 6.

- ❖ This was due to differences in mineral royalties receipt reported by the Internal Revenue Service and payments by AngloGold Ashanti, Obuasi and Bibiani.
- ❖ Whilst the IRS reported a total receipt of sixty three billion nine hundred and sixty five million, nine hundred and three thousand ,one hundred and thirty seven cedis (¢63,965,903,137),the two companies reported a combined royalty payment of sixty three billion eight hundred and eighty six million ,six hundred and seventy three thousand and sixteen cedis (¢63,886,673,016) respectively.
- ❖ An amount of seventy five million four hundred and forty nine thousand, four hundred and fifty two cedis (¢75,449,452) was received by the IRS on 30<sup>th</sup> July 2004 as payment from Anglo gold Obuasi in settlement for royalty reconciliation for the period 1998-2001.
- ❖ Similarly, an amount of three million, seven hundred and eighty thousand, six hundred and sixty nine cedis (¢3,780,669) was received from AngloGold, Bibiani as reconciliation settlement for 1999-2001.
- ❖ During the reconciliation the respective turnovers stated in the companies financial statements were used to compute the mineral royalty payable for the specified years. The difference between the computed royalty and the total actually paid constitute the discrepancies noted.
- ❖ These two receipts by the Internal Revenue Service (IRS) were however not corroborated by the companies, hence the discrepancy.

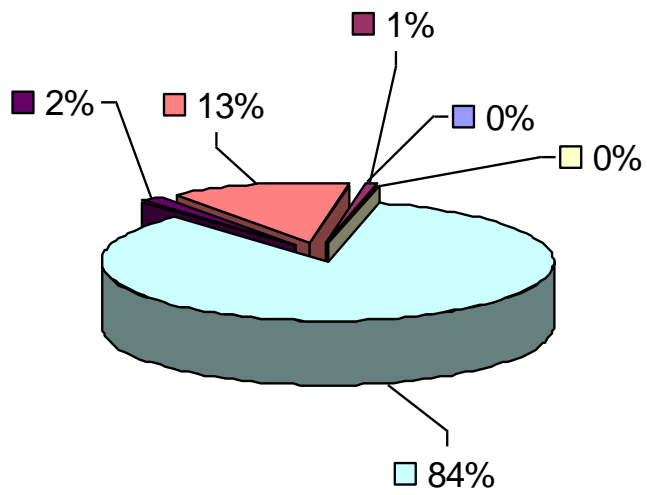
ii) The total benefits received by the government in the year 2004 is represented in Fig 1.

The diagram indicates that mineral royalty receipts represent 84% of total benefits.

It (mineral royalty) amounted to Two hundred and seven billion, three hundred and twenty two million, seven hundred and three thousand, two hundred and seventeen cedis (¢207,322,703,217 ) out of the total receipts of Two hundred and forty five billion, eight hundred and ninety five million, nine hundred and thirty eight thousand, one hundred and seventy one cedis,(¢ 245,895,938,171)

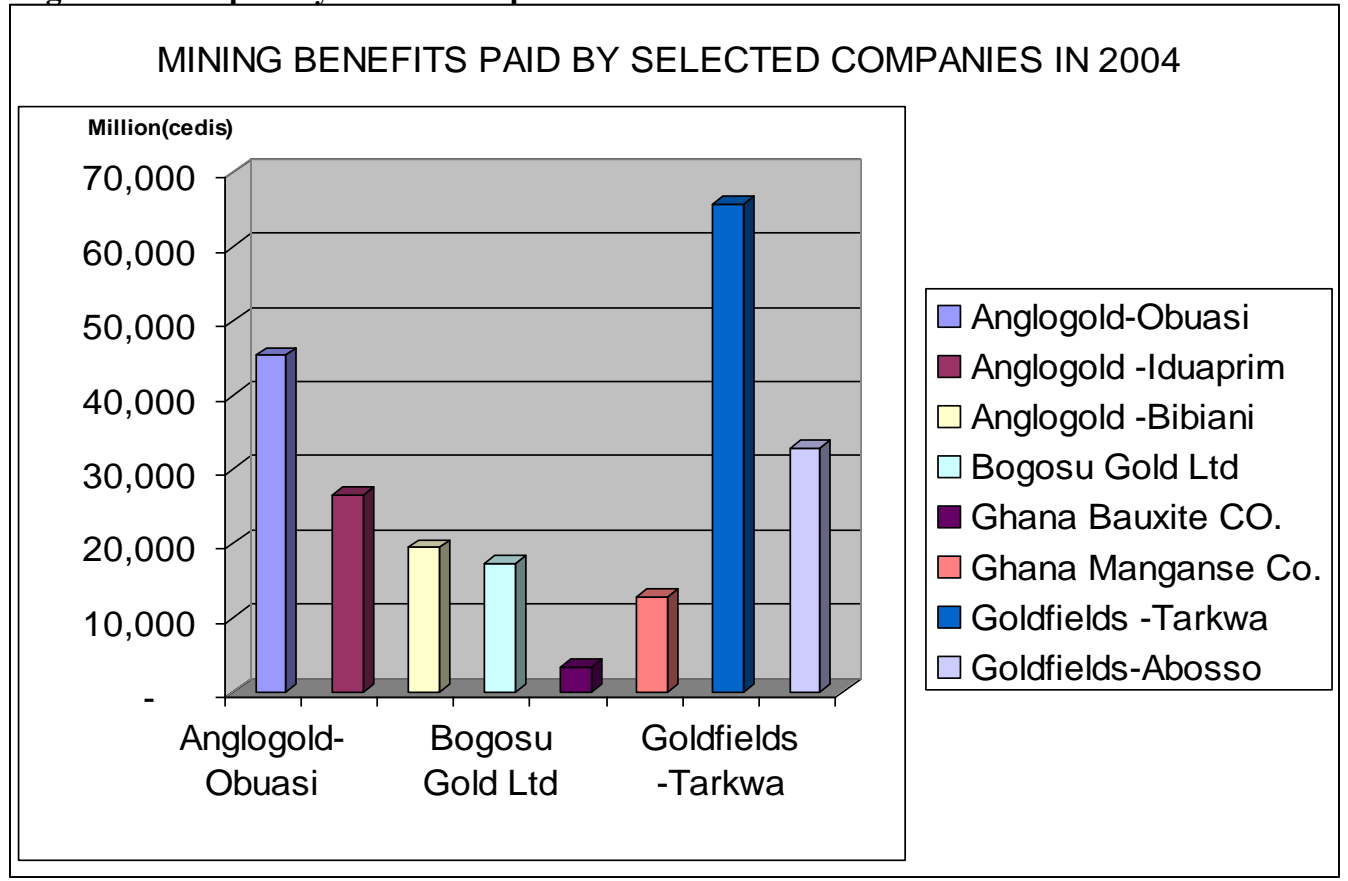
iii) Fig 2 shows the benefits paid by mining companies.(see Table 4).It does not however indicate the dividend payment made by AngloGold Ashanti Ltd.(Group)

### MINING BENEFITS RECEIPTS -2004



- MIN. RIGHT LICENCE
- PROPERTY RATE
- GROUND RENT
- MINERAL ROYALTIES
- CORPORATE TAX
- DIVIDEND

**Fig 2: Benefits paid by selected companies in 2004**



### 6.1.1 MINERAL RIGHTS LICENCES.

There was no payment for any mineral right licence. Since all the companies were in production, they would have paid for the mining lease before commencement of operations.

### 6.1.2 MINERAL ROYALTIES:

Mineral Royalties paid in the year 2004 related to revenues from the following quarters; 4<sup>th</sup> Quarter of 2003; 1<sup>st</sup> Quarter of 2004; 2<sup>nd</sup> Quarter of 2004; and the 3<sup>rd</sup> Quarter of 2004.

The production, revenue and royalties paid for these quarters are indicated in Appendix 5A-H .

Royalties paid were based on 3% of gross revenues.

### 6.1.3 GROUND RENT:

No payment of ground rent was made by the mining companies in the year 2004. The ground rents due for the mines in 2004 are as follow:

**Table7: Ground rent payable in 2004**

<b>MINE/COMPANY</b>	<b>Concession size(km)<sup>2</sup></b>	<b>Amount (cedis)</b>
<b>Anglo gold Ashanti-Obuasi</b>	<b>334.27</b>	1,675,350
<b>Anglo gold Ashanti-Bibiani</b>	<b>49.82</b>	249,100
<b>Anglo gold Ashanti-Iduaprim</b>	<b>31.0</b>	155,000
<b>Bogosu Gold Ltd</b>	<b>224.05</b>	1,120,250
<b>Goldfields(Ghana)Ltd-Tarkwa</b>	<b>204.22</b>	1,021,100
<b>Abosso Goldfields Ltd</b>	<b>49.0</b>	245,000
<b>Ghana Manganese Ltd</b>	<b>175.93</b>	879,650
<b>Ghana Bauxite Company</b>	<b>29.39</b>	146,950
<b>TOTAL</b>		<b>5,492,400</b>

**Source: Minerals Commission**

The amount payable was a product of the concession size and the rate of 5,000 cedis per (sq.km)

#### 6.1.4 PROPERTY RATES:

The property rates due for the year 2004 are expressed in **Table 8**. All the companies duly paid the property rates due for the year 2004.see Appendix 3c-F

**Table 8: Property rate payable/paid in 2004**

<b>Company</b>	<b>Property rate due in 2004.(CEDIS)</b>	<b>Property rate paid in 2004.(CEDIS)</b>
Anglogold-Obuasi	616,056,509	616,056,509
Anglogold –Iduaprim	275,406,075	275,406,075
Anglogold –Bibiani	300,000,000	300,000,000
Bogosu Gold Ltd	128,817,781	128,817,781
Ghana Bauxite CO.	140,000,000	140,000,000
Ghana Manganese Co.	111,537,753	111,537,753
Goldfields –Tarkwa	302,529,024	302,529,024
Goldfields-Abosso	233,737,842	233,737,842

**Source: Mining companies/District Assemblies**

#### 6.1.5 CORPORATE TAX:

Two out of the eight companies paid corporate tax in 2004. These companies were Goldfields (Tarkwa) and Ghana Manganese Company Ltd.

#### 6.1.6 DIVIDENDS:

In 2004, Ghana Manganese Ltd, Goldfields Ghana Ltd (Tarkwa) and Anglo gold Ashanti group paid dividends.

The payment made by Anglo gold Ashanti was in respect of government of Ghana’s share in Anglo gold Ashanti.

## 7.0 DISBURSEMENTS:

The disbursements of mineral royalty from the Head Office of the Administrator of Stool Lands (OASL) to the Western and Ashanti Regions for the year 2004 are shown below:

**Table 9 : ASHANTI REGION**

<b>DATE</b>	<b>BANK</b>	<b>CHEQUE NO.</b>	<b>AMOUNT(Cedis)</b>
<b>07/06/04</b>	<b>Bank of Ghana</b>	<b>654984</b>	<b>2,298,709,543.76</b>
<b>12/11/04</b>	<b>Bank of Ghana</b>	<b>654998</b>	<b>3,161,695,607.24</b>
<b>Total</b>			<b>5,460,405,151.00</b>

**Source: OASL**

**Table 10: WESTERN REGION**

<b>DATE</b>	<b>BANK</b>	<b>CHEQUE NO.</b>	<b>AMOUNT(cedis)</b>
<b>07/06/04</b>	<b>Bank of Ghana</b>	<b>654982</b>	<b>6,761,836,147.99</b>
<b>12/11/04</b>	<b>Bank of Ghana</b>	<b>654999</b>	<b>11,167,568,631.13</b>
<b>Total</b>			<b>17,929,404,779.12</b>

**Source: OASL**

The disbursements of 07/06/04 were for mineral royalty receipts for the period July –December 2003, whilst that of 12/11/04 were related to royalties paid for the period January –August 2004. (see Appendix 4A-B)

## 7.1 Disbursements to Regions:

The disbursements to the regions were appropriately made. (see Appendix 4A-B)

## 7.2 From Regions to Districts/Municipal Assemblies:

### 7.2.1 Obuasi Municipal Assembly (OMA):

Royalties received by the Obuasi Municipal Authority in 2004 from the OASL office in Kumasi are indicated in Table 11 below:

Table 11: **Royalties to Obuasi Municipal Assembly**

DATE	AMOUNT(cedis)
24/06/04	947,000,000.00
30/11/04	1,334,700,000.00
Total	2,281,700,000.00

This is equivalent to the total amount due the Assembly out of mineral royalty receipts from Anglo gold Ashanti (see Appendix 4C)

### 7.2.2 : Wassa West District Assembly.

For the period July 2003 to August 2004, the royalties paid by Ghana Manganese Company Ltd, Bogosu Gold Ltd, Goldfields (Tarkwa Ltd), Abosso Goldfields Ltd , Anglogold (Iduaprim) amounted to c167,352,971,236.97(see Appendix 4D).

Using the percentage of 4.95% applicable to District Assemblies, the amount payable to the Wassa West District out of the year 2004 disbursements amounted to c8,283,972,076.00 (see Appendix 4D).

The payments made to WWDA by OASL (Western Region) for the 2004 disbursements added up to c7,227,399,000.00(see Appendix 4F).

### 7.2.3 Bibiani/Ahwiaso /Bekwai District Assembly:

Mineral royalties due Bibiani/Ahwiaso/Bekwai District from the 2 disbursements in 2004 amounted to ₵1,097,566,992 (see Appendix 4E )

The sum of payments made out of the 2 disbursements from the Regional OASL to the Bibiani Ahwiaso Assembly amounted to c878,000,000.00 (see Appendix 4F) for details.

## 8.0 UTILIZATION

### 8.1 Obuasi Municipal Assembly:

The manner in which mineral royalty receipts were utilized in the year 2004 by the Obuasi Municipal Assembly may be summarized as below.

**Table 12: Mineral Royalty Expenditure, Obuasi Municipal Assembly**

Expenditure item	Amount (Million cedis)	% of Total Expenditure
Educational Infrastructure	1554	45.6
Other Works	721	21.1
Share of royalty to Adansi East	190	5.6
Health	95	2.8
Scholarship Scheme	110	3.2
Waste Management	14	0.4
Assembly (Administration) related expenditure	711	20.9
Bank charges	14	0.4
Total	3409	100

The budget for the year 2004 for the Obuasi Municipal Authority could be summarized as follows.

**Table 12: Mineral royalty budget (2004)-Obuasi Municipal Authority**

Expenditure item	Amount(million cedis)	% of Budget
Educational Infrastructure	3480	63.3
Other works(markets, street lights	1230	22.3
Share of royalty to Adansi East	300	5.5
Assembly related expenditure	260	4.7
Health	100	1.8
Scholarship Scheme	80	1.5
Contingency	50	0.9
Total	5500	100

## 8.2 : WASSA WEST DISTRICT ASSEMBLY.

The budget for Utilizing mineral royalty receipts at Wassa West for the year 2004 is summarized below:

Table 13: **Wassa West District Assembly: Mineral Royalty Budget for 2004**

Expenditure item	Amount(million (cedis)	% of Total Budget
Administration	607.3	11.0
Environment	1112.0	21.0
Economic	2039.6	38.0
Social	1585.0	30.0
<b>Total</b>	<b>5343.9</b>	<b>100</b>

The expenditures under Administration involve mainly the construction and rehabilitation of District Assembly's offices.

Environmental expenditures consist of the construction of places of convenience and waste management.

Under the Economic item, over 80% of the expenditure was budgeted for the construction of markets.

Social expenditure consisted mainly, the construction of classrooms.

The actual expenditures for the year 2004 are summarized below.

Table 14: **Mineral royalty expenditure 2004,Wassa West District Assembly**

Expenditure Item	Amount(million cedis)	% of Total Expenditure
<b>Administration</b>	<b>347</b>	<b>3.8</b>
<b>Environment</b>	<b>750</b>	<b>8.4</b>
<b>Economic</b>	<b>6549</b>	<b>73.4</b>
<b>Social</b>	<b>1277</b>	<b>14.4</b>
<b>Total</b>	<b>8923</b>	<b>100</b>

**These expenditures were not exclusively from mineral royalty receipts.**

## 9.0 VOLUNTARY CONTRIBUTIONS:

These are non-statutory contributions made in 2004, by mining companies to either their immediate communities of operation and /or the public at large as part of their corporate social responsibilities.

**Table 15: Voluntary contributions in 2004**

<b>Area/Sector of contribution</b>	<b>Amount(US\$)</b>
<b>Health</b>	<b>33,856.62</b>
<b>Sanitation</b>	<b>22,393.45</b>
<b>Infrastructure</b>	<b>13,582.00</b>
<b>Education</b>	<b>51,671.43</b>
<b>Sports and Cultural</b>	<b>68,730.24</b>
<b>Economic</b>	<b>9,432.30</b>
<b>Miscellaneous</b>	<b>21,442.43</b>
<b>Total</b>	<b>221,108.47</b>

**Source: Mining companies**

The companies which provided data for the voluntary contributions indicated above are AngloGold Ashanti Bibiani and Iduaprim. **(see Appendix 6A-B)**

## **10.0 SIGNIFICANT OBSERVATIONS AND FINDINGS.**

### **10.1 Payment Of Mineral Royalties At 3%.**

#### **10.1.1 Background:**

All the companies paid royalties at 3% in 2004, although as indicated above royalty payment in 2004 was in the range of 3%-12%.

The **reasons** why mineral royalty was paid at 3% by the mining companies include the following;

- i) Legislation (LI1349)
- ii) Lack of yearly reconciliation
- iii) Stability Agreement.

#### **i) Legislation:**

- LI 1349 specified a mineral royalty payment range between 3% and 12% based on the profitability of the mining operations of entity.<sup>1</sup>
- Profitability is determined by the operating ratio, being the ratio as expressed in terms of percentage which the operating margin bears to the value of minerals won from such mining operations during the yearly period.
- For the purpose of determining the operating margin of any mining operation, the operational cost shall be deducted from the total value of minerals from such mining operations.
- Operational cost in relation to any period means
  - a) The current expenditure wholly and exclusively incurred by the holder of the mining lease during that period for the purpose of mining, transporting, processing or sale of minerals won; provided that such current expenditure shall not include
    - i) any royalty payable under these Regulations:
    - ii) any income tax or other tax on profit whether imposed in Ghana or elsewhere.
    - iii) any payment under any agreement between the Republic and any person on the value of , or receipts from, minerals won.
    - iv) in the case of a company any expenditure incurred in respect of the management and control of the company which in the opinion of the Commissioner are not directly related to the operations of mining, transporting, processing or sale of the minerals won.
  - b) Capital allowances for the period deductible under the provisions of

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<sup>1</sup> The Minerals and Mining ACT, 2006 (ACT 703) specifies mineral royalty payment range of 3% to 6%, however LI 1349 has not been repealed.

section 26 of the Minerals and Mining law, 1986.

- Where the operating ratio is thirty percent or less, the rate of royalty is three percent of the value of minerals won.
- Where the operating ratio is more than thirty percent but less than seventy percent, then the rate of royalty payments is three percent plus 0.225 of every one percent by which the operating ratio exceeds thirty percent.
- Where the operating ratio is seventy percent or more then the rate of royalty payment is twelve percent.
- Within 30 days after the expiration of every quarterly period royalties at the rate of 3% shall be paid on account on the gross value of minerals won.
- Every holder of a mining lease shall, within sixty days after the expiration of each yearly period compute the royalties payable for the year based on the formula prescribed above, and shall pay to the republic the difference, if , any, between the computation based on the formula prescribed in the schedule and the sum of all royalties paid by the holder in respect of that yearly period.
- Where in any yearly period the operational ratio is less than *thirty percentum* then the difference between the actual operational cost and the operational cost that would make the operating ratio exactly equal to thirty per centum shall be added to the operational cost of the following yearly period for the purpose of calculating that period's operating ratio, provided that the difference to be carried forward shall not exceed the permissible capital allowance for the year of account.

❖ **Capital allowances/Gold Price.**

- In the year 2004, the capital allowances granted the companies according to the Internal Revenue Service (IRS) were in the range of 0 to

US\$77,927,000. (**see Appendix 7**)

- The computation of the percentage for royalty payment is by the formula  $\frac{\text{Gross Revenue}-\text{Operating Cost}}{\text{Gross Revenue}}$ . =operating margin/gross revenue

As aforementioned the operating cost amount includes capital allowances granted for the year.

The higher the capital allowance the larger the operating cost with a resultant lower operating margin.

The effect of lower operating margin implies that the operating ratio is not likely to exceed 30%, with the effect that royalties are paid at 3%.

Since almost all the companies had relatively higher capital allowances (compared to their operating cost),the operating margin figures for the companies were not substantial enough for the ratio to exceed 30%.(see Appendix 8).

- Gold prices in 2004 were relatively low, ranging between US\$373 and US\$452 per oz( Source:Kitco.com)

Lower gold prices have the effect of lowering the operating margin which in turn makes it unlikely that the 30% operational ratio is exceeded to trigger the payment of royalty at more than 3%.

❖ **Carry forward of operational cost:**

- Currently, for the purpose of calculating the operating ratio of a period, the law allows the carry forward of the difference between the actual operational cost and the operational cost that would make the operating ratio exactly equal to thirty percent to be added to the operational cost of the following yearly period.
- The carry forward amount added to the following year's operational cost will reduce the operating ratio possibly, below the 30% threshold.

**ii) Lack of reconciliation.**

- The law states that sixty days after the end of the yearly period, the holder of a mining lease is required to compute the operational ratio and determine whether a rate more than 3% is to be applied. It appears this requirement is not enforced.
- The Internal Revenue Service without a dedicated desk for mining may be handicapped in handling the yearly computation and reconciliation required. The result is that the 3% payment on account is left intact.
- Details of the computations do not come out clearly in LI1349. For example is interest charge part of the yearly operational cost?

**iii) Stability Agreements:**

- Some companies have agreements with the government that entitle them to pay royalty at 3% over a certain period of time

**10.1.2 RECOMMENDATIONS:**

The recommendations made here are two fold and depend on whether the new Legislative Instrument being prepared for the Mining and Minerals Law 2006, ACT 703<sup>2</sup>, will maintain the existing format, vis-à-vis LI1349 or prefers a more simplified approach for royalty payment.

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<sup>2</sup> A Legislative Instrument to replace LI 1349 and to ensure consistency in the rate of royalty payment of 3%-6% between the ACT and the LI is being drafted.

**A) Maintaining the existing format of applying operating ratio.**

- The issue of capital allowance and interest payment should be critically reviewed. If mining lease holders are to pay more than 3% of the value of minerals won, then the inclusion of capital allowances and interest payments in the computation of operating cost should be examined and possibly excluded.
- The inclusion of operational cost carried forward should be reviewed. This is to give meaning to the yearly period that is the basis of the computation. In that case the computations would be restricted to the operations within the year under consideration.
- The IRS in collaboration with the Minerals Commission must establish for each of the producing mines the cost items that constitute operating cost. This will enhance transparency in the computation of the operating ratio.
- The Minerals Commission should request from mining companies full disclosure of cost items that make up the operating cost on monthly basis, as end of year financial statements do not provide enough details for the appropriate computations.

**B) Price Band Method:**

In order to avoid the complications associated with the computations of the operating ratio, a more simplified method of establishing the royalty percentage may be employed.

Under this method the royalty percentage is tied to the price of the commodity.

- For example in the case of gold , if the gold price(average spot price for the quarter) is less or equal to \$300/oz , then 3% may be applied to the gross revenue of minerals won. If the gold price is between \$300/oz and \$400/oz, then a percentage higher than three (3%) may be applied.
- Computations using industrial averages for operating costs may be simulated to ensure that figures obtained in these calculations do not differ significantly from the application of the operating ratio method.

A similar scheme could be established for Manganese and Bauxite.

**C) Stability Agreement:**

- In reaching stability agreements, cost benefit analysis should be undertaken before agreeing on payment to be made by the mining companies.
- Trends in the prices of minerals, the quantity of minerals to be won and the period for the stability should be critically assessed.

## **10.2 CORPORATE TAX PAYMENT.**

### **10.2.1 Background.**

Corporate tax is the tax on profits made by companies.

It is currently fixed at 25% of Net Profit. In 2004 the rate of company income tax stood at 35%.

In arriving at the chargeable incomes for mining companies the following concessions are granted:

#### *Accelerated Depreciation:*

Under the income tax code Internal Revenue Act ,2000: ACT 592, mining companies receive higher rates for capital allowances.

For the purposes of computing capital allowances for mining entities, the following are considered as Assets.

i) Mineral Exploration rights

ii) Building, structures and works of a permanent nature which are likely to be of little or no value when the rights are exhausted or the prospecting, exploration, or development ends.

iii) Plant and machinery used in mining operations.

iv) Costs incurred in respect of mineral prospecting, exploration and development (are treated as if they were incurred in securing the acquisition of assets).

For the Assets listed above, a rate of 80% of the cost base is granted as capital allowance in the year of acquisition, 50% is further granted on the reducing balance basis in the subsequent year.

In addition 5% of the cost base of the previous year is added to the written down value of the immediate succeeding year before any capital allowance is granted for the year.

#### *Carry forward of losses.*

Mining companies are allowed to carry forward losses arising in any year to the next year for offset against the profit.

The loss must however be deducted within five years following that in which the loss occurred.

## **10.2.2 Observation and Finding:**

### **10.2.2.1 Deductible Expense:**

The Corporate tax payments in any year by companies on self assessment would be made up of deposits paid in the year and payments after final returns of the preceeding year or earlier years of assessment.

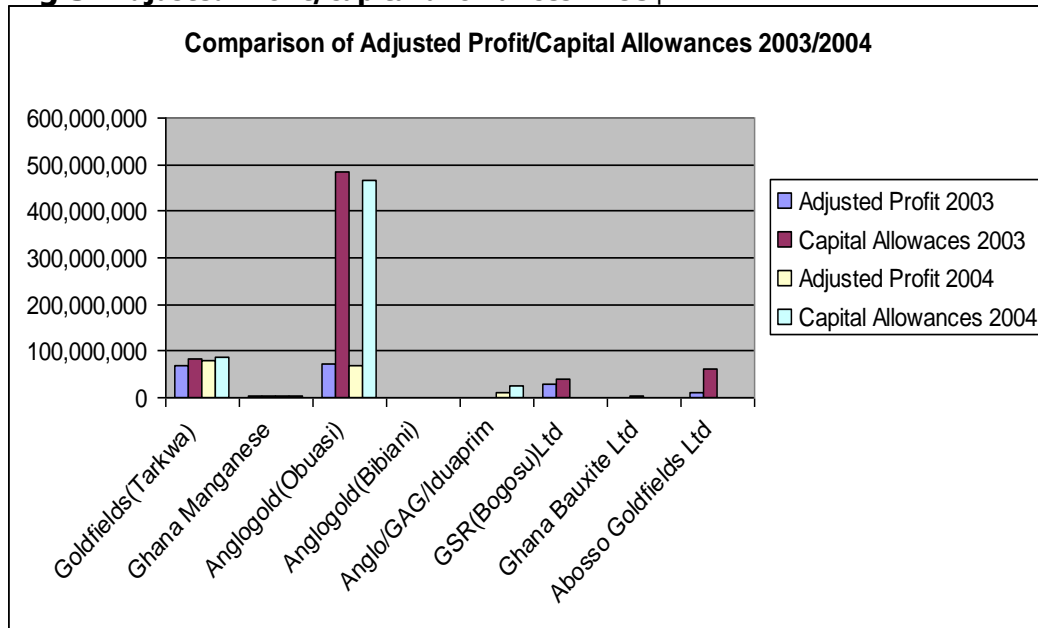
- As mentioned elsewhere, in the year 2004 only two (2) out of the eight (8) companies under consideration paid corporate taxes.
- The payment made by Goldfields Ghana Ltd –Tarkwa was as a result of revised tax computations for the years 2001 and 2002, whilst that of Ghana Manganese Ltd related to 2003 year of assessment and 2004 self assessment deposits. It was observed that in the computation of taxable income, **mineral royalty** is classified as an allowable expense and taken as part of cost of sales. This reduces the taxable income. This deduction appears to contradict Section 23 (1)(d) of the Internal Revenue Act,2000 which states that 'A person shall not be allowed a deduction for any income tax, profit tax, or other similar tax incurred by the person during the year in Ghana or elsewhere.'
- This deduction effectively reduces the royalty percentage payable by the corporate tax percentage rate.

### **10.2.2.2 Profit/Capital Allowances:**

Profits made by the companies and the available capital allowances for the years 2003 and 2004 are indicated in (**see Appendix 7**) .

With the exception of Anglogold Bibiani, capital allowances exceeded the profits reported by the companies, resulting in the non payment of corporate taxes. (see Fig.3)

**Fig 3: Adjusted Profit/capital allowances in US\$**



### 10.3 RECOMMENDATIONS:

- **Corporate tax** paid is not substantial, mainly as a result of the favorable fiscal regime especially that of capital allowances. These must be examined if corporate tax is to form a significant portion of benefits payable.
- The Internal Revenue Service should take a critical look once again at the classification of mineral royalties as a deductible expense.
- Once mineral royalty is considered as deductible expense for tax purpose, its payment fixed at 3% threshold is no longer applicable in practice.

### 10.4 Dividend:

**10.4.1 Background:** The Government of Ghana retains a 10% non – contributing shareholding in every mining lease holder/operation.

The government’s percentage holding (10%) may be altered in circumstances where special agreements exist.

. **Table 16**, below indicates the Government of Ghana’s share holding net profits generated and dividends declared in 2003 and paid in 2004 by mining companies.

**Table 16:** Net profits, Dividends declared and paid by Mining Companies

Company	G o G Shares %	Net Profit Generated in 2003	Dividend Declared for 2003	Dividend Paid in 2004
Goldfields (Abosso)	10	\$14,251,000	Nil	Nil
Bogosu Goldfields	10	\$23,116,000	Nil	Nil
Goldfields (Tarkwa)	10	\$34,580,000	\$20,000,000	\$1,000,000
Ghana Bauxite	20	(\$1,065,000)	Nil	Nil
Ghana Manganese	10	¢11,270,692,000	¢1,537,000,000	¢153,700,000
Anglo Gold Ashanti (International)	3.41	N/A	N/A	¢22,442,024,553

**NB Anglo Gold Ashanti (International) represents the three subsidiaries in Ghana. Dividend paid was interim based on 2004 operations.**

Table 16 indicates that only one out of the mining companies (Ghana Bauxite Company Ltd) could not generate profit in 2003.

Only two companies namely, Goldfields (Tarkwa) and Ghana Manganese declared dividends for 2003 and made payments in 2004. Goldfields (Tarkwa) and Ghana Manganese declared \$20m and ₵1.537b respectively in 2003.

**Finding:**

Government of Ghana received US\$1m in 2004 from the 20m dividend declaration made by Goldfields Tarkwa for its 10% shareholding.

From the table Abooso Goldfields and Bogosu Gold Ltd did not declare any dividend. There were no accompanying details such as financial reports on dividend payments received by the Non Tax Revenue Unit.

**10.4.2 Recommendations:**

The Non Tax Revenue Unit and Goldfields Tarkwa should reconcile dividend payment made in 2004.

The Government should seek to tie its interest in the companies to profits made instead of dividends.

The mining companies should be requested to provide details of dividend payments.

**10.5.0 Ground Rent:**

**10.5.1 Finding:**

No payment of ground rent was reported for the year 2004.

The amounts payable (see Table 7) are not significant and even if they are paid regularly, they will not have any significant impact on development outcomes. The rates paid are the same for mining companies and other users of land.

Companies with prospecting and reconnaissance licences need to show evidence of payment of ground rent before the licences are renewed.

**10.5.2 Recommendation:**

In order for ground rent to have any impact on the development agenda of the communities, the amount payable should be reviewed upwards.

The Minerals Commission should establish a system whereby mining lease holders would be required to show evidence of ground rent payment annually.

**11.0 Performance Indicators:**

After the completion of inception and first aggregated report, some benefits, expected to result from the implementation of EITI in Ghana are shown in table below: The key results indicate the main expected outcomes.

<b>Benefit Stage</b>	<b>Objective</b>	<b>Key Results</b>	<b>Performance Indicators</b>
<b>Payment</b>	Enhanced transparency in benefit payments	<ul style="list-style-type: none"> <li>i) Modalities in payments streamlined.</li> <li>ii) Detailed supporting documents accompany payments.</li> </ul>	<ul style="list-style-type: none"> <li>i) Uniformed pricing modalities established</li> <li>ii) Uniformed exchange rate modalities established</li> <li>iii) Detailed computations of purity and quantities of minerals accompanied by refining certificates in the case of gold.</li> <li>iii) Some companies paying royalty at more than 3%</li> <li>iii) Copies of mining companies payment details provided to District Assemblies and OASL.</li> </ul>
<b>Receipts</b>	Increased accountability of benefit receipts	<ul style="list-style-type: none"> <li>i) Enhanced collaboration and coordination between state agencies.</li> <li>ii) Full compliance of statutory requirements by mining companies enforced</li> <li>iii) Enhanced monitoring system put in place by state agencies</li> </ul>	<ul style="list-style-type: none"> <li>i) IRS and Minerals Commission collaborate to review acquisition cases for capital gain tax defaults</li> <li>ii) Quarterly meetings established for state agencies involved in benefit receipts</li> <li>iii) Additional policies and requirements for receipts of mineral royalties, capital gains tax and dividend developed and communicated to mining companies</li> </ul>

Second Aggregated Report

<p><b>Disbursements</b></p>	<p>Appropriate and timely disbursements of mineral royalties established</p>	<p>i) Monitoring and feedback on disbursements enhanced ii)Regular and timely receipts of disbursements</p>	<p>i) Disbursements accompanied by details of monthly payments by mining companies ii)Sharing ratios for disbursements to District Assemblies, Traditional Councils and Stools communicated to beneficiaries by OASL iii) Time period for benefit payments and disbursements reduced from 10 months to 3-5 months iv) Benefit from mineral royalty receipts displayed on bulletin boards at District Assemblies v) Discrepancies in mineral royalty disbursements from OASL to District Assemblies eliminated.</p>
<p><b>Utilization</b></p>	<p>Effective utilization of benefits to District Assemblies ensured</p>	<p>i) Enhanced development outcomes ii)Increased appreciation of development outcomes by beneficiary communities</p>	<p>i) Draft guidelines on benefit utilization prepared ii) Monitoring and feedback system introduced by Sector Ministry on benefit utilization iii) Involvement of beneficiary communities in discussions of benefit utilization</p>

## **12.0 CONCLUSIONS:**

- ❖ The presentation of this report completes the second aggregated/reconciled report for the Assignment which also includes a full year aggregation for 2004.
- ❖ As expected the level of benefits received has largely been influenced by the fiscal regime operating in the mining industry.
- ❖ Any appreciable increase in the quantum of benefits received by the government will require some changes in the fiscal regime.
- ❖ Mineral royalty provides the highest and most significant contribution with relevance to the mining communities.
- ❖ Ground rent should be reviewed upward in order for it to have any meaningful impact on the beneficiary communities. A mechanism has to be in place to enforce its payment by mining entities.
- ❖ Transparency in the disbursements of mining benefits (mineral royalty) to the communities needs to be enhanced. OASL (Head Office) should put in place a feed back mechanism to enable it monitor disbursements in the Regions.
- ❖ The performance indication chart should be further developed with set targets and time lines to optimize benefits accruing from the implementation of EITI in Ghana.