IGF

INTERGOVERNMENTAL FORUM on Mining, Minerals, Metals and Sustainable Development

IGF Guidance For Governments: Leveraging Local Content Decisions for Sustainable Development

CASE STUDY

GHANA: DIRECT EMPLOYMENT

COMPARING LOCAL CONTENT FRAMEWORKS IN MINING AND OIL AND GAS INDUSTRIES

OVERVIEW

LEVEL OF OPERATION:

National

GOVERNMENT ROLE:

Regulator

FOR MORE INFORMATION:

See Minerals and Mining Act, 2006; Minerals and Mining (General) Regulations, 2012 (L.I. 2173); Local Content and Local Participation in Petroleum Activities

KEY COMMODITIES:

Gold, crude petroleum

TOTAL NATURAL RESOURCE RENTS (AS % OF GDP) (2015):

17.1 per cent[1]

NATIONAL EXTRACTIVES COMPANY:

Ghana National Petroleum Corporation (GNPC)

UNDP HUMAN DEVELOPMENT INDEX VALUE (2016):

0.579 (Rank 139)[2]

DIRECT EMPLOYMENT IN MINING SECTOR (2013):

1.1 per cent of total workforce[3]

Ghana's mining and petroleum industries are important contributors to the country's economy. As Africa's second largest producer of gold, Ghana's mining sector attracts more than half the country's foreign direct investment and contributes 1.7 per cent of its GDP.[4] However, revenues from the relatively new upstream oil and gas sector, dominated by activities on the Jubilee Field, have now exceeded mining receipts.

In spite of the sector's significant potential to generate direct employment and other development opportunities for the local population, results have so far been mixed. Local content regulations in the petroleum industry have sought to reflect the lessons from the mining industry's experience, and while employment figures in oil and gas seem promising, it is perhaps too early to gauge whether value addition will be sustained.

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[1] World Bank Group. (2017). *Total natural resource rents (% of GDP)*. Washington, DC. Retrieved from https://data.worldbank.org/indicator/NY.GDP.TOTL.RT.ZS

[2] United Nations Development Programme. (2016). *Human Development Reports: Ghana*. Geneva, Switzerland. Retrieved from http://hdr.undp.org/en/countries/profiles/GHA

[3] International Council on Mining and Metals (ICMM). (2015). *Mining in Ghana – What future can we expect?* London and Accra: ICMM & Ghana Chamber of Mines. Retrieved from https://www.icmm.com/en-gb/publications/mining-partnerships-for-development/mining-in-ghana-what-future-can-we-expect

[4] International Council on Mining and Metals (ICMM). (2015). *Mining in Ghana*.

CHALLENGES IN LEVERAGING VALUE WITHIN GHANA'S MINING INDUSTRY

Ghana's mining local content framework is focused on increasing local employment and local procurement.

The Minerals and Mining Act, 2006 was intended to foster greater participation of Ghanaians in mining projects, including through the localization of mining employment.[5] The Act required companies to give preference in employment to local Ghanaians "to the maximum extent possible and consistent with safety, efficiency and economy."[6] Despite this, it is generally regarded that this early legislation lacked strategic direction and was too generic, leaving the Ghanaian Minerals Commission with considerable discretion in enforcement.[7] Such an uncertain regulatory landscape risked stifling foreign investment, which tends to rely on predictable legal structures.

In 2012, the introduction of the Minerals and Mining Regulations provided clarity on the Act's provisions, specifying explicit quotas for domestic workers and immigration restrictions. The regulations prescribe a minimum proportion of local staff in certain positions, as well as percentages for the maximum number of expatriate staff permitted in relation to the total number of senior staff (not exceeding 10 per cent in the first three years; and 6 per cent thereafter). The Ghanaian Commission will only approve immigration applications for expatriate employment if they can be satisfied there is no Ghanaian who has the "requisite qualification and experience" for the position (Regs, Art. 1(4) and (5)). There is, however, flexibility for the movement of expatriate staff from technical, supervisory and management roles to skilled labour positions. Licence holders are expected to present a five-year plan to replace all foreign staff with Ghanaians, and provide training to build local capacity if necessary. Unskilled labour and clerical positions are generally reserved for local Ghanaians.

In 2012, the introduction of the Minerals and Mining Regulations provided clarity on the Act's provisions, specifying explicit quotas for domestic workers and immigration restrictions.

Given their relatively recent implementation, it is generally thought to be too early to judge the impacts of these regulations. Initial analysis is favourable, however; their simplicity and smooth rollout have worked in favour of industry stakeholders who are not faced with unrealistic requirements.[8] Greater predictability about local content expectations has also been achieved through the new regulations.

Despite this, only 1.1 per cent of the Ghanaian labour force is directly employed in mining projects.[9] Ghana's Minister of Lands and Natural Resources told media in 2016 that there ought to

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[5] Clause 50(3) of the Minerals and Mining Law, 2006 (Act 703). See https://resourcegovernance.org/sites/default/files/Minerals%20and%20Mining%20Act%20703%20Ghana.pdf

[6] Provision 105(2). See https://resourcegovernance.org/sites/default/files/Minerals%20and%20Mining%20Act%20703%20Ghana.pdf

[7] Amoako-Tuffour, J., Aubynn, T., & Atta-Quayson, A. (2015). *Local content and value addition in Ghana's mineral, oil, and gas sectors: Is Ghana getting it right?* Accra, Ghana: African Centre for Economic Transformation (ACET).

[8] Ibid.

[9] Korinek, J. & Ramdoo, I. (2017). *Local content policies in mineral-exporting countries* (OECD Trade Policy Papers, No. 209). Paris: OECD Publishing. Retrieved from http://dx.doi.org/10.1787/4b9b2617-en

be more "conscious efforts aimed at integrating the mining industry with the rest of the local economy," and that the country would see only increased spillover benefits if the sector was "recognised as a growth pole to spawn activities in other sectors of the economy."[10]

What some see as a delayed articulation of an explicit policy framework has constrained the sector in achieving high employment outcomes; a more targeted local content framework in Ghana's oil and gas industry aims to rectify some of these shortcomings, but it faces different challenges.

CHALLENGES IN VALUE ADDITION WITHIN GHANA'S PETROLEUM INDUSTRY[11]

In 2013, following the discovery of commercial quantities of oil and gas in what is referred to as the "Jubilee Field," the Ghanaian government developed the Local Content and Local Participation in Petroleum Activities Policy ("Local Content Policy") and the Petroleum Regulations, 2013 (L.I.2204). This policy aims to maximize local participation and procurement in the sector's value chain. It builds on lessons derived from the mining industry to impose more explicit local content requirements from the outset of regulation.

Ongoing monitoring and evaluation processes will be key to ensuring regulations create the right climate for targets to be met within reasonable time periods.

The Local Content Policy aims to achieve 90 per cent local content by 2020. It specifies a number of quantitative targets for local employment, gradually increasing over five-year intervals. Ghanaians shall make up 50 per cent of management staff, increasing to 80 per cent after five years from the commencement of the petroleum activities of the licensee. They shall also make up 30 per cent of technical staff, increasing to 85 per cent after five years and 90 per cent after 10 years from the commencement of operations. Unskilled and clerical positions are reserved exclusively for Ghanaians. Petroleum companies, along with their contractors and subcontractors, are also required to submit employment and training plans to the Petroleum Commission that detail the skills needed for various stages of an extractives project, the anticipated skills shortages in the local population, the training requirements to build capacity, and the timeframes for employing local people in different positions.

As a whole, the policy and regulations are seen to be ambitious. While some see the new policy framework as a chance to optimize the retention of benefits within the country, others question the feasibility of setting such high targets in the face of insufficient enforcement mechanisms and significant domestic capacity challenges.[12] There is also the fear that such overly prescriptive measures could impact foreign

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[10] Cited in Oxford Business Group. (2016, March 14). *Ghana aims to leverage mining revenues*. Retrieved from https://www.oxfordbusinessgroup.com/news/ghana-aims-leverage-mining-revenues

[11] In Ghana's petroleum industry, local content is defined as "the quantum/percentage of locally produced materials, personnel, financing, goods and services rendered to the oil industry and which can be measured in monetary terms." Petroleum (Local-content and Local Participation) Regulations, (2013), LI 2204, s 49.

[12] Lawson, S. & Tolchinsky, M. (2014). *Beyond local content: Catalyzing job creation in Ghana's oil sector*. Foreign Policy Association. Retrieved from https://foreignpolicyblogs.com/2014/04/28/beyond-local-content-catalyzing-job-creation-in-ghanas-oil-sector/

investment.[13] In light of these concerns, ongoing monitoring and evaluation processes will be key to ensuring regulations create the right climate for targets to be met within reasonable time periods.

Data on the petroleum sector's direct employment is somewhat unreliable, due in part to reporting irregularities by oil companies.[14] There has also been a lack of monitoring and effective evaluation of training and capacity building programs for local peoples. As a result, it is uncertain what percentage of those being trained are gaining jobs in the oil and gas sector.[15] In spite of these challenges, it is generally regarded that petroleum companies are meeting local content employment targets, which seems to indicate that explicit, phased requirements have been effective.

KEY LESSONS

- Local content regulations are more likely to generate compliance if they are explicit in their requirements.
- Foreign investment relies on a predictable legal environment, so there should be consistency in regulatory enforcement.
- Setting context-appropriate local content provisions is a balancing act. Requirements cannot be overly prescriptive such that they deter foreign investment; on the other hand, quotas can be useful in generating clear outcomes. The case in Ghana demonstrates that phased implementation of quotas can give companies the necessary time to comply.
- Linkages between the mining sector and the local economy are essential for in-country value retention.
- There is little chance of gauging the effectiveness of government interventions or targeted program implementation in the absence of strong monitoring and evaluation mechanisms. These mechanisms should be consolidated at project outset and engaged at regular intervals of rollout.

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[13] Acheampong, T., Ashong, M., & Svanikier, V.C. (2016). An assessment of local-content policies in oil and gas producing countries. *Journal of World Energy Law and Business 9*, 282–302.

[14] Amoako-Tuffour et al., (2015), Id. note 7.

[15] Amoako-Tuffour et al., (2015), Id. note 4.

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