



Zimbabwe Economic
Policy Analysis and
Research Unit



OXFAM



An Analysis of Zimbabwe
MINING REVENUE
and Disclosure Frameworks



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AN ANALYSIS OF ZIMBABWE MINING REVENUE AND DISCLOSURE FRAMEWORKS

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May 2018

EXECUTIVE SUMMARY

The purpose of the study was to investigate the extent to which Zimbabwe has adopted and is implementing mining revenue and information disclosure frameworks. The study was based largely on literature and document review as well as key informant interviews with the various stakeholders in the extractive industry. The study further benefited from a tour to learn about Zambia's experience in implementing EITI.

Various global initiatives govern the disclosure of information across the mining value chain such as exploration, mining production, mining contracts, revenue allocation and utilisation, socio economic impact of the mining sector. Some of these include extractive Industries Transparency Initiative; the African Mining Vision, the Kimberly Process as well as stringent country specific disclosure framework as in the cases of Australia, Canada and the EU.

Zimbabwe is endowed with a huge mineral resource base whose exploitation should be a key source of revenue for government. The extent of the contribution of mineral exploitation to revenues to central government, development of local authorities and communities remains a contentious issue. While, the Government has acknowledged the need to improve transparency in the mining sector, the country is not yet a member of EITI. There is general acknowledgement that mining resources are finite, hence the need for good governance in the extractive sector through upholding transparency and accountability to ensure the resources meaning fully contribute to socio-economic development.

Disclosure of information has its own benefits. It ensures that the mining sector contributes meaningfully to increased economic growth and development. Further, it informs policy through research, combats corruption, reduces poverty, and promotes greater public confidence.

Zimbabwe's legal provisions governing mining information disclosure is scattered in various pieces of legislations. Major gaps in the legal framework include an out-dated 1961 Mines and Minerals Act given that technology, mining practices, paper based system have all changed. Disclosure called for by the Mines and Minerals Act for example largely relates to the commercial interest of the companies and tends to be blind on policies and performance relating to business ethics, the environment and, where material to the company, social issues, competitiveness of the mining sector, human rights and other public policy commitments in line with international best practices. Moreover, there are no legal provisions for performance monitoring of mining contracts in line with Section 315 of the National Constitution. The current transfer pricing regulations that do not provide sufficient guidance on reporting procedures for taxpayers engaged in transactions with related parties. This tends to erode the revenue base and promotes profit shifting arrangements arising from business transactions between related parties. Further, there are no clear punitive measures to deter corruption tendencies. In addition the legal framework allows for the discretion of

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senior public officials like the Permanent Secretary and the Minister in negotiation of mining contracts. There is further lack of enforcement of the current legal statutes related to mining activities or disclosure of information

Listed companies disclose by way of financial reporting and disclosure differs with where the companies are registered. Mining companies in Zimbabwe are mandated to disclose information under the statutory provisions that also tie non mining companies like the company act, the ZSE Act and the Income Tax Act except for the Mines and Minerals Act. This is unlike the case for other countries who have adopted the EITI or countries like Australia, the US and EU that have specific legal framework on mining information disclosure. Mining companies with operations in Zimbabwe but are directly or indirectly listed on foreign bourses are governed by more transparent and strict mining codes and statutory requirements in the jurisdiction in which they operate.

Mining and mineral revenue information is fragmented and this to some extent explains why there has been debate, mistrust and confusion among stakeholders. Government discloses mining information to some extent but does not go beyond the statutory requirements. To a great extent information provided by the government is highly aggregated, often inaccessible and untimely produced contrary to statutory requirements and often does not meet the needs of the users.

There is to some extent non coordination on information sharing amongst government departments. institutions relevant for disclosure of mining information are not well coordinated, rather they work in silos. They further face institutional, human resources regulatory capacity challenges to ensure effective implementation of the disclosure framework in its current state. Some of these challenges include Inadequate skills to synthesize mining and appropriately package mining information; lack capacity to enforce compliance or compel mining companies to disclose information on mining activities; lack of adequate skills to conduct mining audit; limited knowledge of the geology and mineralization of the country ; lack of specialised metallurgical laboratories verify and conduct specialised assaying process; inadequate weigh bridges. Further, the civil society organisations technical capacity to analyse and critique the data and information disclosed. Their expertise tends to be bent more on social justices and not on economic, financial and geological survey which are key to inform their advocacy work on natural resource governance.

Zimbabwe's disclosure framework requires strengthening through legal reforms that promote performance monitoring of mining contracts; sufficient guidance on reporting procedures for taxpayers engaged in transactions with related parties; clearly lay down punitive measures to deter corruption tendencies; increased value chain actor coordination; international best practice among other issues. Human capacity building is imperative across the mining value chain in order to enhance information disclosure. Government needs ongoing skills strengthening and development in ongoing auditing, monitoring, regulating and

improving resource exploitation regimes, contract negotiation, compliance enforcement and developing the resource sector linkages into the domestic economy. Parliamentarians also need to be capacitated to interrogate the Auditor General's reports and to make follow ups with respect to National Budget Statements. Civil society, including the media, needs to be capacitated with knowledge of what information is available and skills to analyse the available information. They further need to be skilled to use the generated evidence to engage government in fruitful dialogues and hold government accountable.

There is need for improvement in data collection and reporting along the mining value chain. This data has to be more disaggregated and further improvements in quality and content are much sought. This includes a mining contract register, benefit ownership register, consolidated reporting on mining sector social investment.. There is need for increased coordination and proactive sharing of information by government entities; private and public companies; civil society and mining communities.

Mining companies could consider voluntarily adopt annual disclosure practices similar to those currently imposed to companies registered in EU and Canada. In addition, they should adopt new accounting standards and audit standards as these compel for more transparency and enhanced disclosure of revenue information.

LIST OF ACRONYMS

AFRODAD	African Forum and Network on Debt and Development
AMV	The Africa Mining Vision
CNRG	Centre for Natural Resource Governance
CSOs	Civil Society Organisations
CSR	Corporate Social Responsibility
EEA	European Economic Area
EITI	Extractive Industries Transparency Initiative
EMA	Environmental Management Agency
EU	European Union
GDP	Gross Domestic Product
GoZ	Government of Zimbabwe
JORC	Australasian Code for Reporting of Exploration Results, Mineral Resources and Ore Reserves
MMCZ	Minerals Marketing Corporation of Zimbabwe
MSG	Multi Stakeholder Group
OECD	Organisation for Economic Co-operation and Development
OSISA	Open Society Initiative for Southern Africa
PWYP	Publish What You Pay
RBZ	Reserve Bank of Zimbabwe
SAMREC	South African Code for Reporting of Mineral Resources and Mineral Reserves
SOE	State Owned enterprises
TNCs	Trans National Companies
US	United States
USAID	United States Agency for International Development
ZELA	Zimbabwe Environmental Law Association
ZEPARU	Zimbabwe Economic Policy Analysis and Research Unit
ZIMRA	Zimbabwe Revenue Authority
ZIMSTAT	Zimbabwe National Statistics Agency
ZMDC	Zimbabwe Mining Development Corporation

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INTRODUCTION

This study was undertaken as part of the OXFAM Project on The Inclusive and Accountable Extractive Industries.

Transparency and accountability in the extractive sector have increasingly been on the global limelight as key to good governance of natural resources. International and regional standards have been set to ensure good governance and accountability within the extractives industries. These include the Extractive Industries Transparency Initiative (EITI) and the Africa Mining Vision. Other national laws in countries like the United States; European Union, United Kingdom (UK), Norway and Canada now require mining companies to disclose detailed and disaggregated information related to their global extractive operations (OSISA, 2016).

Transparency is the root of many campaigns to reform the management of extractive industries. There are numerous mechanisms and movements for transparency that often have overlapping and mutually reinforcing aims which will be examined in detail in subsequent sections of this study.

1.1 BACKGROUND

Zimbabwe is endowed with a huge mineral resource base whose exploitation should be a key source of revenue for government (ZEPARU, 2016). The minerals sector is a major foreign currency earner with mineral export receipts expected to grow by 7.5% this year from US\$2.3 billion in 2017 (GoZ, 2017) and has potential to become a pillar for economic growth through value addition and beneficiation. The sector employs over 45 000 people formally, contributes 16% to GDP and is currently Zimbabwe's biggest target for international investors GoZ (2016). In addition, through corporate social responsibility programmes the sector contributes to social investment in sectors such as health, education, water and sanitation in addition to infrastructure. This contribution coupled with new discoveries in gold, diamonds and lithium among others has created rising expectations among diverse stakeholders on the potential mining revenues that can be realised from the sector and their contribution to spur the country's development.

The extent of the contribution of mineral exploitation to revenues to central government, development of local authorities and communities remains a contentious issue. Civil society organisations and the general public have bemoaned the fact that the country has not fully benefited from its mineral resources and this could be due to the fact that there is opacity in the mining sector (ZELA, 2016). Government expectations from the mining sector with regards to fiscal contribution are much higher than the current performance (ZEPARU, 2016). Previous studies done by Oxfam and the Institute for Sustainability Africa, revealed a weak mineral fiscal system that fails to collect sufficient revenue, performing



below expectation and marred with mining revenue leakages. This is also compounded by inadequate information disclosure at all levels with regard to how resources are being exploited.” observed the structural gaps, information blockages and exclusionary processes that exist in the negotiation and operation of mining deals, precipitating unfairly limited benefit by the State, local authorities and communities from on-going mining operations. Further, there are allegations of massive corruption and increased marginalisation of women and youth who constitute the majority of the poor and least powerful among the mining communities.

While, the Government has acknowledged the need to improve transparency in the mining sector the country is not yet a member of EITI. Civil society seeks the strengthening and enhancement of a disclosure regime that ensures that benefits accruing from mining investment be used to promote an integrated development of the country, especially for the poor and marginalized people leaving in mining areas. They are concerned about transparency in revenue payment data particularly if what companies publish as government revenue really reconciles with what government reports to have received from companies. Their concern is deeper than reconciling mining company revenue with government receipts, it is also about how these resources are utilised to improve the living conditions of mining communities. In addition, they are interested in government annually publishing what it receives from mining companies by tax head. Further, they call for transparency in mining contracts, information about the real owners of the mining companies, creation of data base of mining licenses and that published mining data be made available at the project level. This is based on the notion that for transparency to be effective, information disclosures must be relevant, accessible, timely, and accurate.

1.2 PURPOSE OF THE STUDY

The purpose of the study was to investigate the extent to which Zimbabwe has adopted and is implementing mining revenue and information disclosure frameworks. This was achieved through examining information disclosure practices in the context of Zimbabwe’s mining sector, to understand the status quo, various tools and mechanisms available for information disclosure and the impacts this may have on domestic revenue mobilization and sustainable development of the country.. an attempt was made to identify gaps in the current disclosure frameworks and suggestions on how these could be closed were proffered. Furthermore, the study sought to raise awareness on the various international initiatives that can be used to promote transparency and accountability in the extractive sector.

1.3 STUDY OBJECTIVES

Specifically, the objectives of the study were to:

- Assess the Zimbabwean legislative and regulatory provisions requiring the disclosure of ownership, operational and financial information by mining companies;
- Analyse the extent of information disclosure by mining companies and government;
- Investigate the challenges relevant institutions face in ensuring effective information disclosure;
- Undertake a comparative analysis of various international disclosure practices in the extractives industry with that of Zimbabwe;
- Suggest an enhanced disclosure framework for Zimbabwe.

1.4 RELEVANCE OF THE STUDY

This study is intended to inform policy on mining revenue and disclosure framework in line with international best practice. Addressing some of the issues raised by the study will improve the country's credibility to investors as well as international financiers who are increasingly calling for transparency and accountability in natural resource governance. It will further help government in plugging revenue leakages through illicit financial flows, tax evasion, corruption thereby enhancing the much needed revenue flows from the mining sector in improving the economic development of the country. The study is further intended to guide civil society engagement in the mining revenue transparency advocacy discourse.

1.5 METHODOLOGY

The study was based largely on literature and document review as well as key informant interviews with the various stakeholders in the extractive industry. Literature review was undertaken to give a general understanding of mining revenue disclosure frameworks and international best practice. ZEPARU consulted targeted stakeholders to gather their input and views on Zimbabwe's mining revenue disclosure. The stakeholders included organisations representing mining communities, government departments, Ministry of Mines, mining firms, Chamber of Mines, civil society organisation and Development Partners. The stakeholder engagement was done using structured questions designed to suit each category of stakeholder engaged. The study further benefited from a tour to learn about Zambia's experience in implementing EITI.

2. INTERNATIONAL INITIATIVES ON DISCLOSURE IN THE EXTRACTIVE SECTOR

2.1 THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE

EITI is a global initiative that promotes good governance in the extractive sector through upholding transparency and accountability overseen by a multi stakeholder group (MSG). MSG, comprises the government, mining companies and the full, independent, active and effective participation of civil society. The MSG thus decides on how the country's EITI works thus allowing for customization of the programme to the country's specific context as well as ensuring different stakeholder expectations are managed.

The initiative came about through calls of civil society for mandatory disclosure of what companies in the extractives industry pay to government. Member states who want to domesticate EITI have to implement EITI standards and are required to timely produce annual reports containing timely data. EITI requirements are in seven broad categories namely the MSG oversight; licences and contracts; monitoring production; revenue collection; revenue allocation; socio economic contribution as well as outcome and impacts. On MSG oversight EITI requires engagement of government, mining industry, and civil society in the governance structure of a domesticated EITI and this MSG has to have a workplan to guide its activities.

The licenses and contracts requirement calls for legislative and regulatory reform mandating companies to fully disclose contextual information about the extractives industry, including a description of the legal framework and fiscal regime. The country has to fully disclose information on license allocations, keep a license register and to have clear policies on contract disclosure. It further mandates EITI countries to disclose information on beneficiary owners and state participation in the extractive industry. Another EITI requirement is for member countries to monitor mining production. This includes the tracking of statistics from exploration through production to export. The countries are to disclose information about the extractives industry's contribution to the economy.

The EITI members have to disclose information about revenue collection. This includes the comprehensiveness with which mining revenue was collected; any in-kind revenue contributed by the mining companies; any barter agreements that will have been struck between the government and mining companies. These may include meeting infrastructure requirements of the country in lieu of tax. Instead of paying tax a country may agree to build a dam, a road or school. Revenue collection reporting also covers transport revenue; State Owned enterprises (SOE) transaction; direct sub-national payments. It further requires data to be disaggregated; timely produced and that the revenue data to be of high quality.

Further, information disclosure by an EITI member should cover how the extractive

revenues were distributed, including the transfers to the local councils as well as the general revenue management and expenditure. It further mandate the member states to disclose information on socio-economic contribution of the mining sector including the mandatory social expenditure; SOE quasi fiscal expenditure as well as the overall contribution of the mining sector to the economy in terms of GDP, export earnings, employments among other key economic indicators.

Thus information that should be disclosed covers the whole value chain of the mining sector which includes contracts and licenses, production, revenue collection and social and economic contribution of the sector.

Zimbabwe is not a member of EITI. Efforts have been made in 2010 to domesticate the EITI through the formation of the Zimbabwe Mining Revenue Transparency Initiative. The institutional set up included the government (Deputy Prime Minister Office, Minister of Mines, RBZ), Mining companies (Chamber of Mines, MMCZ and ZMDC) and civil society (ZELA and Chiyadzwa Community Development Trust ad well as the academia). Despite Government pronouncements in several budget statements (i.e. 2011-2014) regarding the need for transparency in the mining sector (see Box 1), no progress has been made in adopting or adapting EITI to a domestic initiative.

BOX 1: POLICY PRONOUNCEMENTS ON THE NEED TO ADOPT EITI

- “Fourthly, Mr Speaker Sir, the issue of greater Extractive Industry Transparency is important. Zimbabwe will thus follow the guidelines of the Extractive Industry Transparency Initiative” **2011 National Budget Statement pg. 200**
- “On our part, we have already begun measures to ensure that we are part of the World Bank’s Extractive Industries Transparency Initiative. The key purpose of this Initiative is to strengthen accountability, good governance and transparency in the murky waters of the world of mining taxation”- **2012 National Budget Statement pg. 116**
- “Zimbabwe has already embraced the World Bank’s Extractive Industries Transparency Initiative principle. This initiative is envisaged to enhance transparency, accountability and good governance in the mining sector.” **2013 National Budget Statement pg. 188**
- “In this regard, Government will also consolidate efforts on embracing the World Bank’s Extractive Industries Transparency Initiative principle, balancing the benefits accruing to mining houses with those accruing to the fiscus.” **2014 National Budget Statement pg. 171**

Source: Various National Budget Statements

2.2 AFRICA MINING VISION: ITS ROLE AND RELEVANCE OF THE FOR DISCLOSURE

Africa's Mining Vision is espoused as **“Transparent, equitable and optimal exploitation of mineral resources to underpin broad-based sustainable growth and socio-economic development”**.

Africa's Mining Vision calls for redefinition of policies, legal and regulatory frameworks that facilitate equitable participation by local businessmen, communities and other stakeholders in mining activities, as well as tools to improve revenue (derived from royalties, income taxes, land taxes, lease rents, etc.) distribution at local level. Transparency and efficiency in the management of revenue paid to various governmental authorities has become an important part of the mineral policy agenda. Mechanisms for enhancing these are still in the early stages of implementation, but have significant potential for improving the public benefit in many resource rich African countries. The African Mining Vision suggests that these efforts need to be coupled with efforts to strengthen institutional capacities and competencies at government and other levels for efficient long-term planning, prudent management and smart spending, saving and investment of mineral wealth.

The African Mining Vision calls for the need for African governments to have high quality data on the resource potential. If little is known about the potential value of a resource then the investors will demand a greater share of the rents due to the high risk of discovering or dimensioning the resource, which may turn out to be sub-economic (AMV, 2009). The Africa Mining Vision acknowledges that most African states lack basic geological mapping or, at best, are poorly mapped. This increases the risk for investors who consequently demand extremely favourable tax regimes for any operation that may result from their blue-sky exploration. It further calls for the African countries to improve their capacity to negotiate mining contracts with the Trans National Companies (TNCs) on the resource exploitation regime. Generally these negotiations are extremely asymmetrical, where the TNC is highly resourced and skilled unlike African states that are poorly resourced (AMV, 2009). The African Mining Vision calls for African capacity building for ongoing auditing, monitoring, regulating and improving resource exploitation regimes and developing the resource sector linkages into the domestic economy. It further calls for African governments to improve their capacity to manage mineral wealth and points to the Publish What You Pay Campaign and EITI as some of the initiatives to achieve this but acknowledges African countries are timid in adopting the initiatives.

Policy focus of most African countries is increasingly toward the benefits derived by the communities where mining operations take place to ensure that local and national-level concerns and interests are balanced. A commonly used strategy is to keep windfall rents in an offshore “stabilisation” or “future” fund and not to rapidly expand state expenditure in line with the increasing resource revenues (AMV, 2009).

It further proposes the need for alternative policies for artisanal and small-scale mining sector for it to be more sustainable. This includes raising their profile, equipping them with resources, exploiting the sub-sector's broader linkages and identifying its entry points to broader development agenda, including the Sustainable Development Goals.

3. WHY THE NEED FOR DISCLOSURE OF MINING INFORMATION

Zimbabwe is now open for business. In line with this mantra, the New Government is proposing through the Finance Bill the amendment of the Indigenization policy with effect from 1 April 2018. Some of the amendments include the designation of diamonds and platinum as the only extractive sub sectors to comply with the 51/49 indigenization threshold (GoZ, 2017). This reform initiative calls for an enhanced disclosure framework to ensure the finite resources the country is endowed with contribute meaningfully to economic growth and poverty reduction.

To ensure that the mining sector contributes meaningfully to increased economic growth and development. The government together with various stakeholders are discontented with mining sector contribution to economic growth. Evidence of underperformance of the mining sector in the past includes the constrained fiscal space that the government is faced with and its failure to fund capital projects as well as basic social services. This year however, the mining industry is expected to record increased production in excess of 10% on the back of increased capitalisation by the mining players. Further, the sector's export revenue contribution in 2018 is expected to surpass the 69% share of 2017 given the rebound in commodity prices such as coal, gold, nickel, chrome, iron ore and diamonds. This means that the potential revenues from the sector are likely to increase. It is therefore critical to ensure that the mining deals that are being struck between the government and investors are in line with the country's developmental needs. This will ensure that mining contributes meaningfully to inclusive economic growth and poverty reduction. More openness around how a country manages its natural resource wealth is necessary to ensure that these resources can benefit all citizens².

Informs policy through research. Mining information disclosure has advantages to different stakeholders, including government and the mining communities. It informs government policy and stimulates public debate. It is through good macro-economic policy and public finance management that a country can fully exploit advantages that come with rich mineral endowment. Various stakeholders are interested in monitoring mining companies' returns on investments; hence the need for timely and accurate information that is publicly available to analyze complex revenue data. Making mining information easily accessible to the public allows for greater transparency and clarity in budgeting and taxation. Further, it allows analysts to forecast revenue implications to the country in case of any policy changes on say withholding taxes, capital depreciation or royalties based on the provisions of special mining leases or expose any tax evasions or transfer pricing by mining companies. Public domain data can be integrated into a comprehensive economic analysis in order to understand why a company paid the tax it did in the past, and what amount of tax it might pay in the future (Hubert,

2 <https://eiti.org/natural-resources>

2016). Equipped with evidence based information, stakeholders like mining communities and civil society are able to hold the mining companies and government accountable. In addition, information publicly disclosed creates public awareness and stimulates debate on how best the country should manage its finite resources prone to fluctuation of international prices.

Combating corruption. Rampant corruption in the mining sector threatens to erode the potential that the sector has in contributing to economic recovery and drive socio- economic development in Zimbabwe (Mtondoro, 2013). Leakages in the mining sector (in the form of smuggling, under-invoicing, and externalisation of export proceeds, among others), involving both established and small scale miners, are depriving the country of huge amounts of revenues (GoZ, 2013). The Presidential report of 19 March 2018 on externalised funds revealed that the bulk of it was from the mining sector. However, with sound disclosure framework, governments are able to obviate corruption and ensure that every community member has full appreciation of what mining companies are doing thereby avoiding the 'resource curse' (ZELA, 2016).

Poverty reduction. Two-thirds of the world's poorest people live in countries that are rich in natural resources. With effective, responsible governance, revenues from the extraction of these resources can deliver socio - economic development gains.

Promotes greater public confidence. ZELA (2016) emphasised that disclosure of information in the mining sector builds trust between citizens and the government. Poor civil society understanding of licensing, contracting, procurement, how companies are paid, company and government obligations related to licenses and contracts can create perceptions of injustice among stakeholders (Heller et al 2016). This can lead to tension between companies, communities, and governments.

4. ZIMBABWEAN LEGISLATIVE AND REGULATORY FRAMEWORK ON DISCLOSURE OF OWNERSHIP, OPERATIONAL AND FINANCIAL INFORMATION BY MINING COMPANIES

This section provides a summary of Zimbabwe's legal provisions on mining information disclosure in respect of revenues, ownership, operational, financial information, corporate governance issues; environmental information disclosure requirements among others.

4.1 THE NATIONAL CONSTITUTION OF ZIMBABWE

The National Constitution provides for public access to information. For example Section 62 (1) spells out that every Zimbabwean or permanent resident has the right of access to any information held by the state or by any institution or agency of government at every level in so far as the information is required in the interest of public accountability. Regarding the procurement and other government contracts, Section 315(2)(c) states that an Act of Parliament must provide for the negotiation and performance of concessions of minerals and other rights to ensure transparency, honesty, cost-effectiveness and competitiveness. The Constitution further requires that public administration acts transparently and provides for an ample mandate and strong independence of the Auditor General which is a key strength with regards to the current disclosure framework.

4.2 MINES AND MINERALS ACT³

Section 251 of the Mines and Minerals Act mandates miners to prepare and submit monthly returns to the mining Commissioner:

- (1) A miner shall, not later than the tenth day of each month—
 - (a) render to the mining commissioner a return in the prescribed form showing—
 - (i) in respect of minerals, other than precious stones, or mineral-bearing products won from his mining location—
 - A. the output; and
 - B. full details of the disposal thereof by him or on his behalf;
 - (ii) in respect of precious stones won from his mining location, such details relating thereto and to the disposal thereof during the preceding month and the quantity thereof held by him at the end of the preceding month as may be prescribed; and
 - (b) furnish the mining commissioner with such affidavits, certificates and documents relating to any matter referred to in paragraph (a) as the mining commissioner may require; and
 - (c) submit to the mining commissioner the royalty payable by him

4.3 MINERALS MARKETING CORPORATION OF ZIMBABWE ACT

Section 23 of the Minerals Marketing Corporation of Zimbabwe (MMCZ) Act provides for reports of the Corporation. It states that in addition to any annual report which the Corporation is required to submit to the Minister in terms of the Audit and Exchequer Act [Chapter 22:03], the Corporation is to produce such other reports as the Minister may require; or other reports as the Corporation may deem advisable; in regard to the operations, undertakings and property of the Corporation. Further, the Corporation shall give to the Minister all such information relating to the undertakings of the Corporation as the Minister may at any time require. The Minister may lay a report submitted to him by the Corporation before Parliament.

Section 39 mandates the Corporation to keep proper accounts and other records relating thereto in respect of all its operations, undertakings and property, including such particular accounts and records as the Minister may direct. It further requires the Corporation to prepare and submit to the Minister a statement of accounts in respect of each financial year or such other period as the Minister may direct. The statement of accounts is to be audited by a public accountant.

4.4 ZIMBABWE MINING DEVELOPMENT CORPORATION (ZMDC) ACT

Information requirements for Zimbabwe Mining Development Corporation (ZMDC) are just the same as those for MMCZ. The ZMDC is required by Section 21 to submit its annual report to the Minister in addition to any other reports as may be demanded for by the Minister. In addition, it is required to keep proper record of its accounts and submit an annual financial statement to the Minister. The statement of accounts is to be audited by a public accountant.

4.5 ZIMBABWE REVENUE AUTHORITY (ZIMRA) ACT

Section 23 of the ZIMRA Act obliges ZIMRA to prepare annual reports at the end of each financial year to the Minister who will lay them together with Authority's statement of accounts before Parliament. The Act further provides that the Minister may from time to time direct the Board to furnish him with such information and statistics as the Minister may require in regard to revenues and additionally, or alternatively, the activities, funds and property of the Authority, and the Board shall forthwith comply with any such direction. Section 34A of the Act provides for preservation of secrecy with regards to information that ZIMRA receives from the tax payers thus disclosure can only be in compliance to this provision.

4.6 CENSUS AND STATISTICS ACT

The Census and Statistics Act imposes restrictions on disclosure of information submitted by individuals for the purposes of the Act. This however, does not apply to the disclosure of information which has already been published or information which is available on a database lawfully accessible to the public. Section 19 of the Census and Statistics Act call for the Director-General to ensure that the compiled data is accurate and of high quality. The information is to be disseminated through publication in the Gazette or by any other means.

4.7 COMPANIES ACT

The Company Acts required all registered companies in Zimbabwe to disclose information about ownership, management, annual general meeting reports and to produce and send quarterly Statutory reports in the case of public companies to every member of the company stating total number of shares allotted, total amount of cash received by the company in respect to share allotment. A copy of the statutory report is to be kept with the Registrar. On financial matters the Companies Act stipulates the keeping of books of account; profit and loss account and balance sheet and financial year of holding company and subsidiary; Auditor's report and Director's report to be attached to the company's signed balance sheet.

4.8 INCOME TAX ACT

This Act provides for production of a self-assessment return by companies reflecting all information required for the calculation of tax payable. It further requires companies to calculate such taxes and remit it to the Commissioner General. In addition, Companies are required to furnish the Commissioner in such form and at such time as may be prescribed or as the Commissioner may require, returns of all or any particular class of persons employed by him, and the earnings, salary, wages, allowances, advantages, benefits or pensions, whether in money or otherwise, paid or allowed to each person so employed. It empowers the Commissioner to have access to all public records such as registers, books, accounts, records, returns, papers, documents or proceedings for inspection purposes. Every company shall file with the Commissioner a copy of the memorandum and articles of association constituting the company. Every return required to be rendered by a taxpayer under the provisions of this Act shall be accompanied by all such balance sheets, trading accounts, profit and loss accounts and other accounts of whatsoever nature, as are necessary to support the information contained in the return, and all such accounts shall be authenticated by the signature of the person rendering the return. All companies have a duty to produce documents such as any deeds, plans, instruments, books, records, accounts, trade lists, stock lists for further examination when required by the Commissioner.

4.9 ZIMBABWE STOCK EXCHANGE ACT

Section 42(3) of the Zimbabwe Stock Exchange Act prompts for the disclosure of financial data. It states that the Secretary shall, after the end of every financial year of the Exchange, prepare an account of all revenue and expenditure of the Exchange; a balance sheet; and a report setting out the activities of the Exchange. This implies that information with regards the operations of listed mining companies is made public annually.

4.10 AUDIT OFFICE ACT

This Act gives the Auditor General the powers to examine the accounts of any public entity, designated corporate body or statutory fund; prepare and submit to the appropriate Minister, the report of the outcome of the examination. The Minister shall lay before Parliament any reports from the Auditor General within a stipulated time failure to which the Auditor General shall transmit a copy of that report to Parliament. This implies that information about mining state owned enterprises like ZMDC is MMCZ is publicly disclosed.

4.11 THE ENVIRONMENTAL MANAGEMENT ACT

The Environmental Management Agency provides for maintenance of a register of emission licences issued under the Act by the Board. This register shall be a public document and may be inspected at a reasonable hours by any person on the payment of a prescribed fee (see section 67). The Act further specifies projects for which environmental impact assessment is required of which mining is one of them. Section 98 outlines that before conducting an environmental impact assessment for a project, a developer shall submit a prospectus to the Director-General containing such information regarding the assessment and the project as may be prescribed. Section 99 of the Act provides for the contents of environmental impact assessment report. The Act further calls for the maintenance of a register of certificates that are issued by the Director General following approval of the impact assessment reports. This register shall be accessible for inspection by members of the public at all reasonable times at the Director-General's office, on payment of the prescribed fee, if any.

4.12 ISSUES AND CHALLENGES

The Mines and Minerals Act of 1961 is far too out dated and needs to be aligned to regional and international best practices. For example, technology, mining practices, paper based system have all changed. The old Act is silent on competitiveness, environment, gender and labour practices affecting the mining sector and has gaps in public disclosure of mining information. All these issues are critical in determining the potential revenue which the mining sector can contribute to the economy. In line with international best practice, companies are encouraged to disclose not only their commercial interests but also policies and performance

relating to business ethics, the environment and, where material to the company, social issues, human rights and other public policy commitments (OECD, 2015). Some of these issues such as the environment and child labour may be addressed if the proposed Mines and Mineral Bill is enacted into law. For example, the Act makes no provisions for the beneficiary ownership registry or good corporate governance linked to the mining sector. The former is a key system to ensure that public officials who may be negotiators of the contracts are not the owners of companies attached to the mining contracts.

Gaps in the legislative framework create opportunities for corruption in the mining sector. For example, there are no legal provisions for performance monitoring of mining contracts in line with Section 315 of the National Constitution. The current transfer pricing regulations that do not provide sufficient guidance on reporting procedures for taxpayers engaged in transactions with related parties (GoZ, 2015). This tends to erode the revenue base and promotes profit shifting arrangements arising from business transactions between related parties (GoZ, 2015). There are no clear punitive measures to deter corruption tendencies. Whilst the Parliamentary Portfolio Committee on Mines and Energy is summoning people to answer cases of corruption levelled against them, the system is not firm enough to recover the stolen national resources. In addition the legal framework has loopholes as it allows for the discretion of senior public officials like the Permanent Secretary and the Minister in negotiation of mining contracts. Consultations with stakeholders revealed this must be done by technical team that includes the Ministry of Mines, Ministry of Finance, Reserve Bank of Zimbabwe (RBZ) and Environmental Management Agency (EMA) among other key stakeholders. South Korea has an independent company manages the portfolio of state owned enterprises and report to the President

Some of the consulted stakeholders raised concerns about the lack of enforcement of the current legal statutes related to mining activities or disclosure of information.. that some of the legal provisions are not implemented. For example, mining companies often report varied application of the environmental standards by EMA due to corrupt tendencies. Further issuance of mining licences is also susceptible to corruption where it may take months for some companies but days for others who would have paid bribes. This is unlike the case of LEITI Act that requires all government agencies and extractive companies to comply with the Liberia EITI process.

In Zimbabwe the mining laws remain premised on the colonial models hell-bent on efficient extraction and trade in mineral resources (Murombo, 2013) hence the need for reforms focusing on inclusivity and increased social investment. Further, the legal framework criminalises possession of gold despite the fact that developments in the mining sector have since changed since 1961 when these conditions were put in place.

The 2015 Mines and Minerals Bill intended to amend the Act went through second reading in Parliament in September 2017. The Mines and Minerals Amendment Bill, if passed into

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law may see an improvement in the disclosure of information by public companies as it is proposing that these will only be given mining rights if the majority of their shares are listed on the Zimbabwe Stock Exchange. Thus, at least to the extent to which the Zimbabwe Stock Exchange (ZSE) Act allows for information disclosure, this shall be made available to the public.

Some of the gaps in the legislative framework are that while the country has the gold and precious stones acts, the Diamond act is still outstanding. Some of the consulted stakeholders raised concerns that the manual Mining Cadastre is not easily accessible and information on the ownership of the mining companies is opaque. Disclosure of information in the proposed Mines and Mineral Bill are not adequately covered. While the Bill proposes the Cadastre system, more could be done for it to include ownership beneficiary registry, issues to do with disclosure of disaggregated data, social investment and disclosure by non-listed mining companies as well as the Artisanal Small Miners. Their activities are not fully known and the country is losing revenue through this thriving sub-sector.

The mining sector is also governed by the Indigenisation and Economic Empowerment Act (2007) which is currently being amended as alluded to above. This law provides for Community Share Ownership Trusts but they not mandatory and their accountability mechanisms are weak (Publish What You Pay (2015.)).

5. EXTENT OF INFORMATION DISCLOSURE BY GOVERNMENT AND MINING COMPANIES

Zimbabwe's current mining information disclosure framework provides limited disclosure of financial, environmental and social information. There is also limited disclosure with respect to mining and mineral revenue information. Some stakeholders hailed the proactive stance being taken by the Parliamentary Portfolio committee on Mines and Energy to quiz the Executive on mining contracts and revenue flow malpractices that took place more than a decade ago.

5.1 DISCLOSURES BY GOVERNMENT AND SOES

The Government of Zimbabwe does not publish project-by project revenue collection data. Detailed economic data can be found, however, in the reports that companies provide to their investors (Hubert, 2016). Mining information for state owned companies is partially available and some of it can be accessed on internet through the Auditor General's reports.

5.1.1 Extent of information disclosure by the Ministry of Mines

The Ministry discloses some information on the overall national mining activities and this includes production, investment, licenses, revenue, impact on communities and impact on economy mainly through reports to Parliament. It further discloses information on the Mines and mineral development policy, mines safety; mineral exploration; minerals processing and research; geological mapping; a manual mining register or map (cadastre); as well as mineral export permits. The major concern raised by stakeholders is that the information is not sufficient, timely and accurately provided. The information is mostly not up to date, not readily available or accessible and is made available upon written approval from the Ministry of Mines. Further, information is not provided by individual mines. The absence of an electronic cadastre hampers prompt availability and accuracy of data with regards to mining titles and other pertinent information thereby promoting double allocation/ disputes on boundaries of mining claims and corruption tendencies. There are no contract and ownership beneficiary registries.

5.1.2 Extent of information disclosure by the Ministry of Finance and Economic Planning

Through the National Budgets Statements, the Ministry of Finance and Economic Planning discloses information about mining production by value and volume, share of mineral exports to total revenue earnings, dividends from state owned enterprises, mining taxation, mining legislation, mining policy measures, contribution of the mining sector to the fiscus and projected outputs and growth. However, not all this information is consistently disclosed in all the National Budgets. This is confirmed in (ZELA, 2016) which highlighted that to varying degrees, National Budget Statements, disclose mining production data by volume

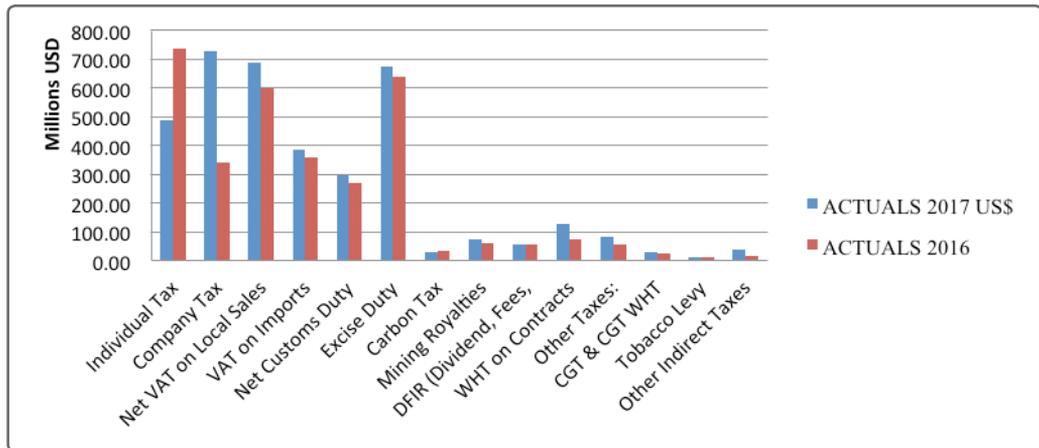
and value, share of mineral exports to total export earnings, minerals revenue contribution to the treasury, dividend revenue from state owned enterprises (SOEs), mining taxation and the earmarking of mineral revenue for capital and recurrent expenditure.

Another gap cited in stakeholder consultations is that National Budget Statements are silent on mining contracts as well as utilisation of revenue received from the mining sector. A positive practice to note is that the National Budget Statements are readily available and accessible both online and in hard copies from the Ministry of Finance and Economic Planning.

5.1.3 Extent of information disclosure by Zimbabwe Revenue Authority(ZIMRA)

ZIMRA discloses information on state revenues and mining royalties. Specifically this includes information on corporate income tax; pay as you earn; withholding tax; MMCZ commission; royalties; and custom duties. Although the data is readily available and accessible, it is highly aggregated and does not show tax contribution from the mining sector save for mining royalties, as shown in Figure 1. Further, stakeholders raised concerns that this even makes it difficult to ascertain contribution of the mining companies to specific revenue heads say corporate income tax. However, ZIMRA is bound by the ZIMRA Act timeously produces quarterly and annual revenue performance updates which are publicly accessible online and also published in newspapers (ZELA, 2016).

Figure 1: Revenue Performance per Revenue Head for 2016 and 2017



Source: ZIMRA (2016) and ZIMRA (2017)

5.1.4 Extent of information disclosure by ZIMSTAT

ZIMSTAT discloses information on national output from mining activities as well as exports by volume and value. This data can be accessed via e mail upon request or from ZIMSTAT quarterly digests that can be accessed online. Some of the gaps cited by stakeholders include statistics on diamond reported by kilogram instead of carat. Further, the data is lagging

behind. ZELA (2016) argued this makes comparisons with other sources like Kimberly Process, MMCZ, RBZ and Ministry of Finance difficult as they use carats. Otherwise the information generated is readily available and accessible as alluded to above.

5.1.5 Extent of information disclosure by the Auditor General's Office

The Auditor General's report contains findings about mining output, financial statements, governance issues and statutory compliance of mining SOEs such as MMCZ and ZMDC. This information is important with regards to the disclosure of mining revenue given the critical role that the SOEs play in the mining sector. It reports any malpractices or governance issues by mining SOEs. Such as Board and sitting allowances, performance bonuses or any reporting that is not in compliance with international accounting standards by the mining SOEs. Such malpractices have implications on the amount of revenue that becomes due for the government. In the same report are management responses to the issues raised by the Auditor General on corporate governance and financial matters. The Auditor General's reports also expose the extent to which companies implement recommendations the audits propose. For example, the 2016 report notes that for 3 years in succession Ministry of Mines failed to computerise the Mining Titles System resulting in the continued use of a manual system. This system allows the Ministry to account for all the revenue flows from the clients in any given year. The report notes that revenue collection has actually been going down and could only be increased by introducing this computerised system as it curbs leakages.

The information published in Auditor's Report about SOEs is largely outdated. Except for the narrative reports that are presented to Parliament, the financial reports of these SOEs are not readily available.

The major challenge is that after the Auditor General has exposed any financial malpractice or corporate governance issues by the mining SOEs, the Accountant General and Parliament seem to be inadequately incapacitated to ensure that the Executive implements what has been recommended by the Auditor General.

5.1.6 Extent of information disclosure by the RBZ

RBZ discloses information on export earnings by volume and value, export incentive and gold sold legally and this information is readily available and can be easily accessed. The institution discloses export receipts by company as well as Foreign payments by company. This information is available real time and can be accessed 24 hours upon request.

5.1.7 Extent of information disclosure by MMCZ

MMCZ produces annual reports containing information about commissions earned from mineral marketing, mineral production data by volume and value, an indication of the extent of mineral value addition and beneficiation, royalties collected on behalf of the state, corporate social investments made, the board's expenses, profit or loss made, taxes and dividends paid to the treasury and cash reserves. The Institution also discloses information

on global market conditions including mineral prices. MMCZ's audited financial statements are available on the website. A major concern raised by stakeholders is how they capture mineral statistics at the stage of marketing and not a production which tends to distort mining statistical data.

5.1.8 Extent of information disclosure by ZMDC

Zimbabwe Mining Development Corporation (ZMDC), a state-owned enterprise, advancing state interests in the mining sector. Through its annual reports, the company discloses information about its ownership stake in the various mining companies with which it has joint ventures. The reports also publish the company's corporate governance information; company production; revenue realised; annual financial statements and information on the company's corporate social responsibility; royalty fees and commissions paid; income tax paid. The major challenge is that the publicly available information about the company is scanty and out-dated. The only reports that can be accessed online are for 2011 -2012. Further, the company does not publish its audited annual financial reports. This was confirmed in the 2015 National Budget Statement where the Ministry of Finance called for ZMDC to produce and publish annual audited financial statements in fulfilment of legal requirements under the Companies Act. However, to date ZMDC has not implemented this directive.

5.2 EXTENT OF INFORMATION DISCLOSURE BY MINING COMPANIES

In Zimbabwe, there are generally two dimensions to information disclosure by the mining companies. These include statutory requirements and requirements in the countries where some mining companies are registered. Statutorily, every mine in Zimbabwe is required to comply with the Mines and Minerals Act. This Act compels mining companies to submit monthly statistics on exploration, production, grades, sales, labour statistics and all other information available on mining work to the Provincial Mining Office of the Ministry of Mines. They are further required to submit quarterly and annual reports of the same to this Office. Gold Mines also submit monthly returns to Fidelity Printers, information on exports to MMCZ and RBZ.

The mining companies through the Companies Act disclose information about the corporate affairs of the company. Listed companies disclose by way of financial reporting and disclosure differs with where the companies are registered. Zimbabwe's publicly listed companies like Hwange and Bindura Nickel are obliged by the Companies Act and the Zimbabwe Stock Exchange to publicly disclose information relating to shares and financial statements in the same manner as non-mining companies. However, big mining companies that are listed either directly or indirectly to international bourses are bound by various international mining codes. Zimbabwe Platinum Mines Ltd for example follows the JORC⁴ Code and the SAMREC⁵ Code. These codes require more detailed disclosure by mining companies on

⁴The Australasian Code for Reporting of Exploration Results, Mineral Resources and Ore Reserves

⁵The South African Code for Reporting of Mineral Resources and Mineral Reserves

information about mining revenue, extraction, life of the mine, mine development among other material information and all of this is publicly available online. It is independently verified, consistently and timely produced.

Caledonia Holdings Zimbabwe Private Limited's parent company Caledonia Mining Corporation Plc, is listed on three stock exchanges, in Canada, North America and Europe, and as such the Caledonia group which consolidates Blanket Mine for financial reporting purposes, is subject to strict and thorough disclosure standards across multiple jurisdiction; numerous local laws and applicable extra a-territorial laws and rules. Caledonia's comprehensive reports on its operations and financial performance, which include those of Blanket, are regularly published and are publicly available.⁶ Caledonia also reports under Canada's Extractive Sector Transparency Measure Act whose goal is to contribute to global efforts to increase transparency and deter corruption in the extractive sector by requiring extractive entities to publicly disclose specific payments made to government.

Zimbabwean mining companies that have membership to the Chamber of Mines, an umbrella body for the mining houses, submit monthly returns on mining production, revenues and mining development. However non-members can only do so on a voluntary basis. The Chamber of Mines then produces quarterly and annual reports from these returns. Some of the consulted stakeholders raised concerns on the extent to which the Chamber gathers information from the non-members and artisanal miners hence issues regarding the accuracy of their reports as being representative of the position of the mining sector. This is against the background that some artisanal miners are either partially registered or not registered at all, others do not keep records and their markets are opaque given the discrepancy between the market price and prices offered at the black market. These publications are publicly available online although the quarterly reports are not current. The 2016 First quarter report is the only one available.

Generally mining companies disclose information to selected groups such as bankers and regulatory authorities except for large mining companies that are directly or indirectly listed in foreign stock markets. The information particularly for local companies is generally not readily accessible.

5.3 ISSUES AND CHALLENGES

Consultations with stakeholders revealed that mining and mineral revenue information is fragmented and this to some extent explains why there has been debate, mistrust and confusion among stakeholders. Further, information on mining sector contribution to community development is neither available accessible except for fragmented reports from selected big mining companies. in addition, consulted stakeholders revealed that it is not

⁶See System for Electronic Document Analysis and Retrieval (a repository for electronic filing of securities information as required by Canadian Securities Administrator) and EDGAR

very clear how much the country benefited from the diamond export proceeds, specifically how many schools, hospitals or roads were built from the proceeds. Further, allegations of illicit financial flows from the diamond sector have also been reported.

Government initiatives to formalise the sector through RBZ loans and gold processing centres will to some extent improve disclosure on production levels and revenue from the ASM sector. However consultations with stakeholders revealed that some ASM find conditions of access to the funds stringent hence a deterrent to uptake of loans. However gold processing centres will likely to improve disclosure in that the processor is required to issue ASM with Fidelity Printers receipts that reveal the volume of gold sold and the price there of. These receipts are subject to audit by Fidelity Printers.

Several mining contracts are not public, largely in violation of the Section 62(1) of the National Constitution. Zimbabwe has not kept pace with other African governments in disclosing mining contracts (Hubert, 2016).

5.4 DRIVERS OF INFORMATION DISCLOSURE

Stakeholders cited a number of factors as drivers of information disclosure and these are listed in Table I below.

Table I: Drivers of information disclosure

Mining Companies	Government
<ul style="list-style-type: none"> • Tax concessions • Disclosure of data may encourage investors at the stock market • Statutory requirement: The companies fear the legal consequences of non-complying with the laws imposing disclosure of information • Individual company reporting standards • Membership to the Chamber of Mines • To manage stakeholder activism • Financial reasons • Corporate Social Responsibility 	<ul style="list-style-type: none"> • Statutory requirements through the various Acts • Transparency • Giving due recognition to the mining companies • To manage stakeholder perception and respond to Citizens' demands • Economic growth • International agreements and diplomatic pressure • Tax revenue transparency • National budget statistics • Planning • Functional requirement as spelt out by law

Source: Stakeholder consultations

Corruption was cited by stakeholders as discouraging both mining companies and government to disclose information. Mining companies may be discouraged by externalisation or tax avoidance motives. In other instances mining companies are discouraged by market competition to share their information while government often need resources for state security activities. Some stakeholders cited that government may be discouraged from enhanced information disclosure by lack of capacity to do so or may be driven by political motives as well as economic sanctions (see Table 2).

Table 2: Factors discouraging information disclosure

Mining Companies	Government
<ul style="list-style-type: none"> • Externalisation motive • Tax avoidance motive • Competition • Some companies fear abuse of the information by recipients with damaging consequences to the miners. • Corruption • Some players eg artisanal miners are informal , not registered and are not in compliance with EMA, environmental impact assessment requirements • Some companies are under sanctions, hence fear to disclose information for fear of being blacklisted • Fear of raising unnecessary expectations like in the case of diamond revenue • There is no framework compelling them enough as long as they meet their tax obligations • Lack of incentive for such disclosure • Companies now skeptical with disclosing information as at times the mining act is not adhered to by the Ministry of Mines e.g. release of detailed exploration results may result in the company's project being targeted by government e.g. the alluvial gold and diamonds 	<ul style="list-style-type: none"> • Lack of capacity • Political - Need to be able to have resources for state security concerns • Economic sanctions • Both player and regulator so they do not feel obliged to disclose information • Fear of causing despondence if trends show negative growth • Government is not a signatory to any international transparency initiative which compels it to disclose mining information • Secrecy Acts -ZIMRA Act for example requires the Authority not to disclose any individual tax payer's information.

Source: Stakeholder consultations

5.5. INFORMATION THAT STAKEHOLDERS WANT PUBLISHED

The specific issues on disclosure that civil society actors stated as important included;

- Mining agreements/Contracts/Licence Awardees as well as company and government obligations related to licenses and contracts
- Beneficiary ownership registry
- All the information along the mining value chain from exploration to exports of minerals, including information on Environmental Impact Assessment. Mining data for example should be reported by mining project. Information they need also includes mining contribution to CSR, price of minerals , levies and fees by mining companies to local authorities (ZELA, 2016)
- Tax payments disaggregated by type of tax
- How companies are paid
- A digital mining register or map (cadastre)
- Information on local procurement

6. THE CHALLENGES INSTITUTIONS FACE IN ENSURING INFORMATION DISCLOSURE

Table 3: Factors discouraging information disclosure

Institution	Human capacity challenges	Regulatory capacity challenges	Other , specify
Auditor General's Office	Inadequate skills to synthesize mining and appropriately package mining information.	Lack capacity to enforce compliance or compel mining companies to disclose information on mining activities.	
Parliament of Zimbabwe	Parliamentary Portfolio Committee on Mines and Energy lacks in-depth knowledge of the mining value chains.	Inadequate capacity to influence policies and enact supportive legislation.	<ul style="list-style-type: none"> • Conflicted by not being able to separate party and Government business. • Financial challenges to effectively carry out their oversight role
Ministry of Mines	<ul style="list-style-type: none"> • Low motivation despite having the skills • The Mining Inspectorate Department is financially constrained to settle disputes around mining claim boundaries. 	<ul style="list-style-type: none"> • Reliance on other Government bodies to enforce compliance compromises effectiveness of the Ministry. 	<ul style="list-style-type: none"> • Ministry staff has limited exposure to best practices. Only learn through conferences as opposed through practice. • None availability of digital data system makes effective disclose difficult • Confidentiality of special mining leases
ZIMRA	<ul style="list-style-type: none"> • Low level of internal motivation 	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • ZIMRA not carrying out verification exercise on royalty fees remitted by MMCZ; • Lack of adequate skills to conduct mining audit
CSOs	<ul style="list-style-type: none"> • Inadequate skills to articulate issues to do with disclosures. • Limited skills to analyse publicly available mining information 	<ul style="list-style-type: none"> • supporting the CSOs demand for information. 	<ul style="list-style-type: none"> • Overreliance on the willingness of other bodies to access information on mining revenue disclosures.
Mining Communities	Lack in-depth knowledge of the mining value chains.	<ul style="list-style-type: none"> • No legislation facilitate access to such information when mining houses are reluctant to avail it. 	<ul style="list-style-type: none"> • Overreliance on the willingness of other bodies to access information on mining revenue disclosures.

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Other, specify			<ul style="list-style-type: none"> • The electorate does not understand and exercise their constitutional rights of demanding for information from mining SOEs. • Lack of coordination between government departments • High costs of doing business in mining sector, costs of compliance is onerous and there are many regulatory agencies involved • Silo operation of Ministries of Mines and Finance. The former negotiates and signs mining agreements with mining companies but the latter may not have sight of the agreements to establish how much revenue the deal will bring to government. Further, the Ministry and Mines does not work with ZIMRA in conducting mining audits as is the case in Tanzania • Lack of government skills to process and utilize information received from mining companies • Challenges in consolidation of mining statistics • limited knowledge of the geology and mineralization of the country leading to limited knowledge of the quantity and quality of minerals at particular locations is limited due to low investment in new exploration (CNRG, n.d.). • Institutions like Geological Survey lack adequate technical skills not only to ensure monitoring that exploration is done according to standard but also to conduct the geological survey
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Source: Stakeholder consultations

Most of the stakeholders consulted pointed that Zimbabwe's metallurgical laboratories are inadequately capacitated to independently verify and conduct specialised assaying process. For example the current value of platinum matt that is currently exported is only provisional as it does not include the value of gold, palladium and other minerals that are in there. The RBZ is accounting only for the declared values of minerals. True values not known at the time of export. Therefore the country is not getting the true value of its mineral exports. Moreover, the weigh bridges are insufficient and inconveniently located ascertain tonnage reports furnished by producing entities thereby increasing transport costs to mining companies.

Almost all stakeholders acknowledged that the Auditor General does a sterling job in exposing any corporate governance issues and malpractices in mining SOEs through their reports to Parliament. It's the role of the Account General to follow through the implementation of Audit Reports but it looks like this is done to a limited extent. Further, the Parliament lacks human and financial capacity is inadequately funded to play that oversight role over the Executive as well as running public awareness programme on how mining SOEs are run.

The collection of mineral revenue is done by many government institutions such as ZIMRA, EMA, Ministry of Mines and Mining Development, Zimbabwe Mining Development Corporation (ZMDC) and Minerals Marketing Corporation of Zimbabwe (MMCZ). This uncoordinated revenue collection not only compromises viability of the sector, but also present transparency and accountability challenges over mineral revenues accruing to the country (GoZ, 2014). There are instances where companies would remit royalties to the Ministry of Mines and not to ZIMRA. Further, gaps of coordination lie between the Accountant General, Parliamentary Committee on Public Accounting Committee and law enforcing agencies such as Zimbabwe Anti-Corruption Commission, Zimbabwe Republic Police the National Prosecuting Authority and the Financial Inspectorate when it comes to criminal tendencies exposed through the Auditor General's Reports. Further, rural district councils across the country charge varied levies for mining of minerals.

Government's capacity to process the information it receives from companies also needs to be interrogated in addition to the extent to which this information is shared among relevant government departments and other stakeholders. Some of the consulted stakeholders cited poor coordination of information dissemination to stakeholders and poorly defined information hierarchy as a major weakness within the current disclosure framework.

According to ZELA (2016) the available information provides enough basis for civil society actors, community members, the media and Parliamentarians to interrogate mining company operations. However, there is evidence that there has been very little analysis of the information that is publicly available. The consulted stakeholders alluded to the fact that advocacy work by CSOs focuses much on social injustice linked to mining e.g. communities being dispossessed of their land, not being involved in pre-consultations in EIA of mining activities or not benefiting much from mining activities. However, they lack technical

capacity to analyse and critique the data and information disclosed. CSOs do not have mineral economists/mining/financial/legal experts with a deep understanding of the mining sector to provide them with critical skills needed to evidently inform their advocacy work on mining revenue and information disclosure.

There are also challenges on how mining statistics are collected. For example, Fidelity Printers captures statistics of gold for sale and not gold produced. Similarly MMCZ captures chrome statistics from the export permit applications but these statistics only reveal what was sold and not what was produced. Further, the ZIMSTAT relies on secondary data that is transmitted manually from the mining provincial offices. Some of the stakeholders revealed there are huge disparities on what is published by ZIMSTAT vis a vis what they would have submitted to the Mining Provincial offices pointing to the need for improved methods of information collection.

Consultations with government officials generally revealed that they are often not convinced with the accuracy of the information they receive from mining companies. This is particularly important given that the government through the Ministry of Finance has been working on the Mining Fiscal regime for some time but the project delayed given the quality of data that is being made available by the mining companies. Capacity to interrogate and analyse information availed by mining houses is an area which government and CSOs need to upscale and to be able to detect any malpractices that could lead to revenue losses. Key Ministries and agencies that need this capacity building include the Ministry of Finance and Economic Planning, Ministry of Mines and Minerals Development; ZIMRA and RBZ among others. Consultation with stakeholders revealed that the government is facing challenges in loss of revenue through management fees and possible transfer pricing. Further, inadequacies in contract negotiation skills are a huge risk that can increase potential revenue losses to government through defective mining contracts..

7. COMPARATIVE ANALYSIS OF VARIOUS DISCLOSURE PRACTICES IN THE EXTRACTIVES INDUSTRY WITH THAT OF ZIMBABWE

7.1 CANADIAN DISCLOSURE REQUIREMENTS FOR LISTED MINING COMPANIES

Extractive companies listed on Canadian Stock Exchange are required to publish various types of disclosure documents on a regular basis. Disclosure is made based on the principle of “materiality” – what might reasonably be seen to impact the decisions of an investor. The documents include:

- Annual Information Form-providing an annual overview of all aspects of the company, including all countries of operation;
- Manager’s Discussion and Analysis-perspective of the company’s managers on the operations of the company and its future;
- Press Releases;
- Material Change Reports-a material change report is produced whenever there is a substantive event that may impact the operations of the company and its value. This includes anything from a new contract signed, a new Chief Executive Officer , or a workers strike at a mine site;
- Financial Statements; and
- Technical Report- similar to a feasibility study or economic impact assessment. The technical report includes information on forecast production.

Further, Canadian companies are governed by the Canada Extractive Sector Transparency Measure Act as alluded to above.

7.2 UNITED STATES SECURITIES AND EXCHANGE COMMISSION⁷

The United States (US) Securities and Exchange Commission require the following public disclosure of extensive information:

- A registrant must provide mining disclosures if its mining operations are material to its business or financial condition, with a presumption of materiality at 10% of assets and specific guidance for vertically integrated companies, royalty companies and other special cases. This standard for determining whether specialized mining disclosure is required would provide greater clarity for registrants engaged in both mining and other businesses;
- A registrant with more than one mining property must provide summary disclosure that includes a map, specified details on its 20 largest properties (regardless of materiality) and summary resource and reserve data grouped by commodity and geographic area;
- For any individual property that is material to the registrant’s business or financial condition, it must provide extensive specific disclosures in a standardized format. These

7 <https://corp.gov.law.harvard.edu/2016/06/26/sec-and-mining-disclosures/>

include matters such as exploration results and a prior-year reserve reconciliation that are not required under existing practice. If a registrant has a large number of mining properties, none of which is individually material, no specific disclosure on the individual properties is required.

- Mineral resources must be reported, if their existence has been determined based on an initial assessment by a “qualified person” as contemplated by the rules. A registrant may elect not to make this determination, and thus not to have reportable mineral resources.
- Mineral reserves are defined based on the Committee for Mineral Reserves International Reporting Standards framework, under which resources

7.3 EUROPEAN UNION DIRECTIVES ON DISCLOSURE REQUIREMENTS⁸

The European Union (EU) has recently introduced new Accounting (and Transparency) Directives (Country by Country Reporting) governing disclosure requirements for the extractive industry and loggers of primary forests. Large extractive and logging companies are to report the payments they make to governments. It regulates the information provided in the financial statements of all limited liability companies which are registered in the European Economic Area (EEA). In order to ensure a level playing field between companies; the same disclosure requirement has been incorporated in the proposal to revise the Transparency Directive ([2004/109/EC](#)). This includes all companies which are listed on EU regulated markets even if they are not registered in the EEA and incorporated in a third country.

The Directive introduces a new obligation for listed and large non-listed extractive and logging companies to report all material payments to governments broken down by country and by project, when these payments have been attributed to a specific project. The following types of payments shall be reported:

- a. production entitlements
- b. taxes levied on the income, production or profits of companies
- c. royalties
- d. dividends
- e. signature, discovery and production bonuses
- f. licence fees, rental fees, entry fees and other considerations for licences and/or concessions
- g. payments for infrastructure improvements.

The major objectives for the new directives are to improve the transparency of payments made to governments all over the world by the extractive and logging industries. Such disclosure will provide civil society in resource-rich countries with the information needed to hold governments to account for any income made through the exploitation of natural resources,

8 http://europa.eu/rapid/press-release_MEMO-13-541_en.htm

and also to promote the adoption of the EITI in these same countries. The information disclosed on payments to governments will be publicly available to all stakeholders either through the stock market information repository or the business registry in the country of incorporation (in the same way as financial statements are made available).

The reporting of payments to government by the extractive and logging industries will provide civil society with significantly more information on what specifically is paid by EU companies to host governments in exchange for the right to extract the relevant countries' natural resources.

By requiring disclosure of payments at a project level, where those payments had been attributed to a specific project and were material, local communities will have insight into what governments were being paid by EU multinationals for exploiting local oil/gas fields, mineral deposits and forests. This will also allow these communities to better demand that government accounts for how the money had been spent locally. Civil society will be in a position to question whether the contracts entered into between the government and extractive and logging companies had delivered adequate value to society and government.

The EU disclosure requirements are broadly similar to the US Dodd Frank Act requirements, but go further in two respects. Firstly, the EU logging industry is within the scope of the proposed reporting requirement in addition to the oil, gas and mining industries (in the US only the oil, gas and mining sectors are covered). Secondly, the EU rules will apply to large unlisted companies, as well as listed companies, whereas the US rules are restricted to listed extractive companies only. Moreover, the EU will continue supporting any action aiming at raising global standards for transparency and fighting corruption, including the promotion of EITI and the progress towards a common global reporting standard.

Data on payments made to government by Anglo-American owned Unki mine is public accessible because of the EU mandatory disclosures for listed companies in the extractive sector.

7.4 LESSONS LEARN FROM OTHER COUNTRIES

- A sound disclosure framework calls for appropriate legislative and regulatory provisions as well as satisfactory oversight by institutions which enforce disclosure.
- Too much confidentiality limits mining contract scrutiny.
- Enhanced transparency improves public understanding of the revenues generated from the mining sector and their utilisation.
- Beneficial ownership registry improves transparency in ownership structure as in the case of Kenya, Rwanda and South Africa among other EITI countries that have the system in place.
- There could also be improvements with respect to the reporting of listed mining, com-

panies distinctly those locally listed. The ZSE does not have additional reporting requirements on mining, gas and oil entities as opposed to the Australian Stock Exchange. These additional requirements zero in on disclosure of mineral production, reserves and ores (ZELA, 2016).

- Mining information disclosure can go beyond the mining sector. Liberia's EITI reports include the forestry sector; Togo's includes water; Nigeria's and Iraq's include figures on the physical production of oil and gas; Mongolia's records environmental costs; Peru's includes payments to subnational levels of government; and Ghana's includes the spending by these sub-national governments⁹.

Box 2: Zambia EITI Case Study

Zambia joined the EITI in 2009 as candidate country and became compliant on 19th September 2012. ZEITI is the country's domesticated global Extractive Industries Transparency Initiative (EITI).

Reasons behind the country adopting EITI

Following privatization of the mining parastatals since 1992, all the stakeholders were interested in the contribution of the mining sector to the economy. The government's reliance on mining parastatals had ended and so the new private owners really had to prove that they were meaningfully contributing to the economy. On the other hand, there was a general feeling that the new private players were not doing enough particularly in terms of social investment.

Given that the mining sector is the major contributor to the economy's GDP, there was suspicion the private players were benefiting more than the rest of the other stakeholders. There was a feeling that negotiations were not done transparently and that the government was in a hurry to privatise. Prior to privatization the nationalization CSR included the painting of houses, free education, but with privatization this ceased and CSR was no longer mandatory.

There was no medium of disclosure of information on how much the mining companies were contributing to the economy and to dispel the public perception that the mining companies were benefiting more. The government therefore sought assistance from the World Bank to conduct a study on what the mining sector was contributing to the economy as well as how much the government was benefitting from the mining sector. The study conducted in 2007 recommended the adoption of the EITI to address the issues around mining information disclosure. Thus the government went on to adopt the EITI. Zambia envisages the following benefited from the EITI initiative:

- Improved governance
- Improved revenue collection
- One of the tools for fighting corruption
- Provides a forum for collaboration
- Improves the country's sovereign and corporate rating leading to increased investment
- Provides a basis for public engagement
- Improves corporate risk management
- Influences Government policy to ensure that the country maximizes benefits from its natural resources and reduces levels of poverty

Institutional set up of the ZEITI. As per the EITI requirements, the Multi-Stakeholder Group (MSG) provides oversight on ZEITI and this includes the government, mining industry and the civil society.

Some of Zambia's experiences in implementing ZEITI

- ZEITI is a new development to Zambia and at inception there was no basis on which stakeholders on which to refer for implementation.
- There were issues on defining the right stakeholders to sit in the MSG. Given that the stakeholders are many e.g. CSOs are diverse, which ones are to sit in the MSG; which Ministry to include in the MSG; which mining association to be incorporated in the MSG formal or non-formal. Both are however now part of the MSG.
- ZEITI has been evolving over time including in terms of institutional engagement, procedure in data collection as well as quality and content of information gathered.
- Disclosure itself has its own issues, EITI standards requires disclosure of audited information. This is particularly a challenge on information from Artisanal miners. EITI further requires external auditors to certify the credibility of the company audit reports and if the audit was done to international standards. However, this procedure is expensive for mining companies (\$50,000). Owing to this, there is talk on how this cost can be avoided. E.g. if Management report can be a sufficient document
- EITI report is expensive to compile as it costs around \$100,000.
- There is no law that obliges mining companies to disclose information, rather the companies have been doing so on a voluntary basis. The experience has been that companies delay in submitting annual reports to ZEITI. This has been largely due to the differences in financial year ends where some companies financial years ending on 31 March yet EITI follows a calendar year. Further, delays are caused by Auditor General Report that also comes out late.
- Currently the country has a draft Bill on governing ZEITI. Very few countries like Liberia, Ghana, Nigeria and Tanzania have legal framework for EITI in place.
- There are differences in published mining statistics by the Ministry of Mines, Bank of Zambia as well as the Ministry of Finance

Some of the Strengths of ZEITI

- In order to address production of varied statistics by government institutions and other capacity building challenges the Government of Zambia implemented 2 projects which defined the key strengths of the ZEITI. These are the Mining Value Chain Monitoring which is spearheaded by Zambia Revenue Authority to track mining resources from exploration to export. The other project is the Mining Production Support Project. To some extent, these projects helped in building capacity of public institutions in data collection and disclosure. These projects will further build transparency.
- Before EITI there was no requirement for companies to disclose information on Corporate Social Responsibility (CSR) but they have been including this in their annual reports and investment in CSR has been increasing over the years. This has stimulated debate on whether the CSR has been addressing the social needs of mining communities.
- Over time the debate has shifted from how much the mining sectors have been contributing to how the funds are being utilized.
- ZEITI is now facilitating disclosure of information on payments by mining companies in the form of property tax to local councils. This again has generated public interest on how the councils are using the funds they receive from mining companies. This has in turn led to local councils e.g. in Copper Belt reforming its bylaws through setting aside 10% of these receipts to fund community projects.
- The country has an online cadastre system
- Like in Tanzania, Zambia has a mining audit unit within the Zambian Revenue Authority
- It produces thematic reports on topical issues affecting the mining sector as a way of promoting full disclosure of information on the mineral value chain

Weaknesses of ZEITI

- Legal gaps particularly on disclosure of information on beneficiary ownership. This discloses the natural person who are the beneficiaries of mining corporate. This helps in exposing any tax evasions that mining companies often practice at the expense of country revenues. Steps were taken in November 2017 to review the Company law to incorporate beneficiary ownership disclosure requirement
- CSOs lack the requisite skills to monitor and analyse mining information. This also includes the capacity to develop tools for analysis. Accountability is easier to track when there is a framework to do so
- MSG's capacity to link EITI to national priorities
- Definition of EITI. Whether to create and institution through the law or to define the EITI as a tool to achieve the country's development aspirations
- How to track and monitor utilization of mining revenue after it has been consolidated by the Treasury. This is a general EITI challenge
- EITI has not been active on artisanal mining , as this largely an informal sector with no records let alone audited reports, under invoicing and tax avoidance but the country is still facing huge challenges
- Transfer pricing is complicated and difficult to address. The country has a Transfer Pricing Unit under ZRA to mitigate treaty shopping

Motivation for mining companies to disclose information

- To prove to the public that mining companies are not the sole beneficiaries of mining activities but that everyone benefits i.e. the government, communities and companies.
- Stock exchange disclosure requirements
- Credibility
- To satisfy Organisation for Economic Co-operation and Development rules for disclosure particularly on the part of multinational companies
- Comply with UN human rights. Further this facilitates access to international financing as banks call for observance on human rights and transparency.
- Disclosure improves reputation of mining companies

Lessons learnt

- Zambia feels it is not yet there but adoption of ZEITI has acted as a deterrent to corrupt tendencies
- Zambia emulates the Mining Revenue Sharing Mechanism in Ghana where that country has a legislation that stipulates a certain percentage of mining royalty for the local communities.
- EITI initiative is very good in fostering good governance of the mining resource. There is need for the country to know how to tailor it to suit its peculiarities
- Some of the countries Zambia emulate include Tanzania, Liberia and Norway which have robust EITI s.
- The public has the right to know what it happening in the mining sector because minerals concerned are their resources.
- Adoption of EITI gives the country an international reputation along with 35 other countries that have adopted it worldwide. This increases the country's chances of accessing international lines of credit.

Source : Learning tour in Zambia

7.5 ZIMBABWE’S DISCLOSURE FRAMEWORK IN COMPARISON WITH INTERNATIONAL BEST PRACTICE

This section attempts to summarise how Zimbabwe’s current disclosure framework compares with international best practice, picking from discussions made in sections above.

Table 4: Zimbabwe’s disclosure framework vs international best practice

International initiatives requirements (EITI, Australia, Canada, EU Disclosure frameworks)	How Zimbabwe compares with the international best practice
Governance / oversight	While Zimbabwe has an institutional arrangement in place, the institutions operate in silos, are not coordinated
<p>Licenses and contracts. Best practice calls for legislative and regulatory reform mandating companies to fully disclose contextual information about the extractives industry. The country has to fully disclose information on license allocations, keep a license register and to have clear policies on contract disclosure.</p>	<ul style="list-style-type: none"> • Section 62 (1) spells out that every Zimbabwean or permanent resident has the right of access to any information held by the state or by any institution or agency of government at every level in so far as the information is required in the interest of public accountability. • No legal provisions compelling mining companies to disclose information beyond what is already provided for , most of which applies even to non-mining companies. • information about licenses and contracts is not easily accessible from the Ministry of Mines. There is no contract registry. • Manual cadastre system may be automatised if the Proposed Bill is implemented • No beneficiary ownership registry • Mining cadastre for some countries is readily available online. This includes EITI compliant countries like Liberia, Tanzania, with Zambia progressing towards that, including other countries who have their own national Acts on mining information disclosure and these include South Africa, Australia and Canada as well as the EU. • Countries like South Africa and Australia further compel listed companies to disclose detailed information about their mining operations, mining development among other information of material interest to the investor
Monitoring production	<ul style="list-style-type: none"> • Mining production is tracked and disclosed by Ministry of Mines, Chamber of mines among other key institution. Data on mining production is also published through National Budget Statements and ZIMSTAT

<p>Revenue data collection to be comprehensive, credible and timely and timely. Further it must report any barter agreements, SOE transactions, and direct payments to local governments</p>	<ul style="list-style-type: none"> • This is done by multiple institutions in Zimbabwe often resulting in data disparities. Zambia has a programme to monitor mining revenue information across the mining value chain and data consolidation is easy • While some institution timely disclose information as per statutory requirements, others do so lately or just do not do so at all • There is some disclosure of information about SOE transactions, no disclosure about what local government received
<p>Revenue allocation EITI members to report how extractive revenues were distributed, including the transfers to the local councils as well as the general revenue management and expenditure.</p>	<ul style="list-style-type: none"> • Zimbabwe's disclosure framework seems to be silent on utilisation of mining revenues and transfers to local communities. There used to be a community share ownership scheme in place for the benefit of mining communities • Other countries have better models. Ghana for example has a policy that allocates 4.95% of total gold royalties to mining communities
<p>EITI member states to disclose information on socio-economic contribution of the mining sector including the mandatory social expenditure;</p>	<ul style="list-style-type: none"> • Information about the contribution on the mining sector on economic development is fairly covered in Zimbabwe's current disclosure framework. • However, information about the sector's contribution to social investment is scanty and reported by a few mining corporates like Zimbabwe Platinum Mines Ltd and Blanket Mine to note a few.

Source: Stakeholder consultations

8. CONCLUSION

This study investigated the extent to which Zimbabwe has adopted and is implementing mining information disclosure frameworks. Zimbabwe's current information disclosure framework has its own strengths and weaknesses. Major strengths include provision by the National Constitutions requiring transparent and accountable public administration. Further, there is some level of disclosure with respect to mining and mineral revenue information, environmental and social investments within both mining private sector and government. However there is no clearly laid down framework governing the mining sector. Rather, provisions are scattered in various legal instruments. Various statutes such as the EMA, ZSE, Audit Act, Census and Statistics, MMCZ and ZMDC Acts prompts for disclosure of financial data the anchor legislation governing the mining sector does not provide for public information disclosure. Gaps in the legal framework such as absence of mining contract and beneficiary registries create opportunities for corruption. Zimbabwe needs a Minerals Development Policy, which will establish an internationally competitive, stable and conducive business climate to attract investment more than ever before.

Mining companies in Zimbabwe are mandated to disclose information under the statutory provisions that also tie non mining companies like the company act, the ZSE Act and the Income Tax Act. This is unlike the case for other countries who have adopted the EITI or countries like Australia, the US and EU that have specific legal framework on mining information disclosure. Mining companies with operations in Zimbabwe but are directly or indirectly listed on foreign bourses are governed by more transparent and strict mining codes and statutory requirements in the jurisdiction in which they operate.

Government discloses mining information to some extent but does not go beyond the statutory requirements. It has not yet adopted any International Initiative to disclose further than it does. To a great extent information provided by the government is highly aggregated, often inaccessible and untimely produced contrary to statutory requirements and often does not meet the needs of the users. There is to some extent non coordination on information sharing amongst government departments.

Capacity challenges exist within government and CSO sector in data collection, analysis and utilisation of mining information that is currently in the public domain. Further, limitations are evident in mining audit, monitoring, regulation and improvement of the mining value chain.

9. RECOMMENDATIONS TOWARDS AN IMPROVED DISCLOSURE REGIME

Legal reforms

- There is need for legal reforms to Mines and minerals amendment bill to provide for performance monitoring of mining contracts ; sufficient guidance on reporting procedures for taxpayers engaged in transactions with related parties; clearly lay down punitive measures to deter corruption tendencies. It further need to be strengthened to provide provisions on a multi-government agency coordinated approach on contract negotiations, information gathering and sharing to avoid mistrust and lack of public confidence on how mining resources are being governed. The mining bill that is currently being reviewed need to incorporate provisions on business ethics, social issues, competitiveness of the mining sector, human rights and other public policy commitments in line with international best practiced. This will go a long way in increasing the country's international credibility and opportunities for more foreign direct investment flows.
- The Government can consider reforming the legal framework that compels public institutions to expeditiously implementing the issues raised by the Auditor General's Report, failure to which they will not receive budgetary support.
- A provision should be included in the Bill which allows for Parliament to scrutinise multi-million dollar contracts entered into by government in line with section 315 (2) (c) of the Constitution to ensure transparency and accountability in the negotiation of mining contracts.
- Government to consolidate efforts in amending current transfer pricing regulations in order to provide taxpayers with sufficient guidance on the tax treatment of transactions between related parties with a view to stem illicit financial flows that eat into government revenue as well as promoting transparency , a key ingredient for attracting foreign direct investment.
- Make community share ownership trusts mandatory to operationalise the Social Licence to operate and to upscale mining company Corporate Social Responsibility (CSR).
- There is need for decriminalization of possession of gold given developments in the mining sector have since changed since 1961 . Countries like Dubai and India have decriminalize it. This creates, shadow market that discourages disclosure. Hence need legal reform to decriminalize possession of minerals.

Human capacity building

There is need for enhanced capacity by all stakeholders. Government needs on-going skills strengthening and development in ongoing auditing, monitoring, regulating and improving resource exploitation regimes and developing the resource sector linkages into the domestic economy. Further, government needs to capacitate geological survey department to fully execute its mandate which will facilitate supplier of geological information to government, mining investors and other interested stakeholders. Civil society, including the media, needs to be capacitated with knowledge of what information is available and skills to analyse the available information. They further need to be skilled to use the generated evidence to engage government in fruitful dialogues and hold government accountable. There is further need for capacity building on government institutions involved in contract negotiations to be able to strike deals that speak the national priorities of Zimbabwe. The services of institutions like the African development Bank, African Legal Support Facility can be sought to build capacity in mining contract negotiations¹⁰. Further, there is need to ensure that the mining sector's fiscal obligations are met through enhanced compliance in terms of remittance of mining tax revenue. This implies building the capacity of relevant institutions to enforce compliance.

Parliamentarians also need to be capacitated to interrogate the Auditor General's reports and to make follow ups with respect to National Budget Statements. As indicated, the Ministry of Finance and Economic Development, through the National Budget Statements has repeatedly mentioned the State's intention to adopt and implement EITI yet there has been no follow up from Parliamentarians with respect to the impediments to adopting the initiative. There need to strengthen Parliament's capacity to scrutinize and making mining SOEs accountable.

Earmarked revenue for community development

In line with international best practice, government and local authorities can consider earmarking mining revenue for community development.

Improvement in data collection and reporting

- There is need for support in mining data collection and monitoring along the whole mining sector value chain. The collected data needs to be more disaggregated by mining project. The government should be encouraged to publish the available mineral revenue data broken down by tax heads (Corporate Income Tax, Pay As You Earn,

¹⁰The African Legal Support Facility ("ALSF" or "Facility") is a public international institution hosted by the African Development Bank ("AfDB") Group. The Facility is dedicated to providing legal advice and technical assistance to African countries in negotiation of complex commercial transactions, creditor litigation and other related sovereign transactions. The ALSF also develops and proposes innovative tools for capacity building and knowledge management, <http://www.afsf.org/>.

withholding tax, MMCZ Commission, royalties and custom duties) among others in line with international best practice.

- The quality and content of the information to improve through adoption of the mining cadastre that the Ministry of Mines has long indicated they are in the process of setting up. This will help to facilitate the development of the mining sector and generate reliable information which includes mining titles, beneficiary ownership and mining contract registries. In addition, disclosure framework to include flows of revenue to local authorities which should also disclose how the funds were utilized. There is also need to include consolidated report of mining sector social investment. Further, there is need for a coordinated approach on the way the mining data is collected in Zimbabwe. There is further need to improve the timeliness of information on government revenues in order to foster accountability.
- There is further need to support some standard reporting on mineral revenue in the National Budget Statements. Currently, the information on mining and mining revenue differs from one budget statement to another. The ZSE listings requirements for mining companies should require a competent person's report to provide disclosure on assumptions, key values and processes applied to determine the mine disclosure obligations. This will allow greater transparency and access to information for effective public scrutiny.
- Furthermore, for holders of exploration or mining rights other than companies listed on the ZSE, it is recommended that the Ministry of Mines and Mining Development adopt a mine disclosure obligations framework to be submitted on an annual basis to the Ministry of Mines and Mining Development. Current practice is these companies are not bound by any legal statute to publicly disclose information.
- There must be efforts to support government's efforts towards adopting EITI or some transparency and accountability initiative. A mandatory standard reporting initiative would ensure that all mines are subject to the same disclosure requirements and would also ensure that there is consistency in terms of reporting formats.
- The Accountant General's reports must provide some follow up on concerns that would have been previously unearthed in preceding Auditor General's reports. Consultations from stakeholders revealed that stakeholders require timely production of audited financial reports of SOEs as well as increased information sharing between government institutions.

Increased coordination among stakeholders.

There is need for proactive sharing of information by government entities; private and public companies; civil society and mining communities. In addition, mining companies need

to create robust Public Relation departments that interface with the various stakeholders requiring information on the mining companies' activities. Rural district councils need to sit down and decide on uniform levy they need to charge on miners of different minerals as currently levies are varying across RDCs in Zimbabwe.

Streamlining procedures to enhance ease of doing business. A mine is governed by 38 pieces of legislation some of which require disclosure. There are problems in trying to ensure compliance as requirements are onerous. There is therefore need for a one stop shop for miners for collection of revenue and other mining services from Fidelity Printers, EMA, ZINWA, local council, and ZIMRA. There is need to enhance ease of doing business in mining sector.

Options for mining companies to enhance information disclosure

Some stakeholders suggested that mining companies could voluntarily adopt annual disclosure practices similar to those currently imposed to companies registered in EU and Canada. Others felt that there should be determined attempts to encourage the mining companies that are already disclosing information to go a step further in terms of disaggregating the data that is produced particularly with respect to payments to government. Disaggregated data on the payments made to government would assist in terms of getting a fair view of the companies' contributions to Treasury. Private companies that have public institutions as shareholders must disclose their audited financial statements. The mining companies should adopt new accounting standards and audit standards as these compel for more transparency and enhanced disclosure of revenue information. These new accounting standards issued by the International Accounting Standards Board are effective for fiscal years starting on or after January 1, 2018 and 2019, respectively.

REFERENCES

AFRODAD (2014) Illicit Financial Flows: Towards A More Integrated Approach For Curbing Illicit Flows From Zimbabwe, AFRODAD, Harare

Chinembiri, T. and Mushayi, J. (2015) Beyond. The Health And Education Transition Funds - A NANGO Research Series Paper Vol1. Paper Presented At The Ministry Of Finance And Economic Development High Level Fiscal Space Policy Dialogue: "Enhancing Fiscal Space In Support Of The National Budget & ZIMASSET". 19 February 2015, Cresta Lodge, Harare

Everett R., Mlambo L., Makore G. (2014) Building Trust And Transparency In The Zimbabwe Mining Sector, USAID Strategic Economic Research & Analysis – Zimbabwe (Sera), Harare

Government of Zimbabwe (2017) National Budget Statement For 2018: 'Towards a New Economic Order', Ministry of Finance & Economic Development, Harare

Government of Zimbabwe (2016) Ministry of Mines and Mining Development Presentation at Investor 's Hand Book Workshop organised by the Ministry of Macroeconomic Planning and Investment Promotion, 13-16 June 2016, Golden Peacock Hotel, Mutare

Government of Zimbabwe (2015) The 2016 National Budget Statement. "Building a Conducive Environment that attracts Foreign Direct Investment", Ministry of Finance & Economic Development, Harare

Government of Zimbabwe (2014) The 2015 National Budget Statement: "Towards an Empowered Society and Inclusive Economic Growth", Ministry of Finance & Economic Development, Harare

Government of Zimbabwe (2013) The 2014 National Budget Statement: Towards an Empowered Society and a Growing Economy, Ministry of Finance & Economic Development, Harare

Heller K., Wicklin III W., Kumagai S., Jarvis M., Agarwal S., and Dreger T. (2016) Integrating Social Accountability Approaches into Extractive Industries Projects: Extractive Industries and Development Series #31

<http://documents.worldbank.org/curated/en/612721467991929967/text/106498-WP-PI29562-PUBLIC-SocialAccountability-Note-Web-FINAL.txt>

Mtondoro F S, Chitereka G, Ncube MJ, and Chikowore AI (2013) 'Preliminary Findings: State of Corruption in the Mining Sector – The Case of Gold, Diamonds, Platnum Mining in Kwekwe, Gwanda, Marange and Mhondoro-Ngezi', Transparency International Zimbabwe, Harare.

Murombo, T. (2013) 'Regulating Mining in South Africa and Zimbabwe: Communities, the Environment and Perpetual Exploitation', 9/1 Law, Environment and Development Journal (2013), p. 31, available at <http://www.lead-journal.org/content/13031.pdf>

Organisation for Economic Co-operation and Development (OECD) (2015), G20 OECD Principles of Corporate Governance, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264236882-en>

Publish What You Pay (2015). Position Paper on key Mining Reforms in Zimbabwe http://www.publishwhatyoupay.org/wp-content/uploads/2016/03/PWYP-Zimbabwe_Position-Paper-on-Key-Mining-Reforms.pdf

ZEPARU (2016) The Probable Impact On Zimbabwe Mining Fiscal Revenue And Industry Competitiveness Of Various Price, Production & Fiscal Scenarios: Incorporating A Quantitative Case Study Of The Gold Sector, ZEPARU, Harare

ZIMRA (2017) Revenue Performance Report For The Year Ended 31 December 2017 http://www.zimra.co.zw/index.php?option=com_phocadownload&view=category&id=12:reports&download=923:revenue-performance-report-for-the-year-ended-31-december-2017&Itemid=112.

ZIMRA (2016) Revenue Performance Report For The Year Ended 31 December 2016 http://www.zimra.co.zw/index.php?option=com_phocadownload&view=category&id=12:reports&download=833:revenue-performance-report-for-2016&Itemid=1.

<https://eiti.org/natural-resources>

<https://corpgov.law.harvard.edu/2016/06/26/sec-and-mining-disclosures/>

http://europa.eu/rapid/press-release_MEMO-13-541_en.htm

https://eiti.org/sites/default/files/documents/08_Moberg_Rich.pdf

ANNEX I: INSTITUTIONS INTERVIEWED

Australian Embassy
Chamber of Mines
Darlington Farai Muyambwa Former Coordinator of Publish What You Pay
European Union Delegation
Fidelity Printers
Geological Survey
Ministry of Finance
Parliamentary Portfolio Committee on Mines and Energy
Reserve Bank of Zimbabwe
Transparency International – Chair of the Publish What You Pay
University of Zimbabwe Geology Department
Zambia Chamber of Mines
Zambia EITI Secretariat
Zimbabwe Environmental Law Association
Zimbabwe Platinum Mines Ltd
Zimbabwe Revenue Authority
Zimbabwe Mining Development Corporation

