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COMMODITY TRADE POTENTIAL IN TANZANIA: WHAT WENT WRONG WITH THE MINERAL SECTOR?

Petro Sauti Magai^{1*}

ABSTRACT

This paper analyses the facts causing the mineral sector to make less of a contribution to the country's economy. Although the sector accounts for nearly half of the country's exports, ordinary Tanzanians are not benefiting from this because the government has implemented tax laws that overly favour multinational mining companies. Companies claim to make loss and so avoid paying taxes although they still invest in the country. The system is also perceived to be lacking transparency. It is argued that the combined loss to the country is a result of low royalty rates, unpaid corporation taxes and tax evasion by major gold mining companies. This may be the reason why Tanzania is not getting its 'fair share' from mineral extraction. The paper suggests that, the government should increase its share of the profits by increasing taxes and the percent of royalties in order to realize more benefits from the minerals sector.

INTRODUCTION

Tanzania's mining industry has experienced a boom in mineral exploration and mining activities in the past 10 years. Six large gold mines are responsible for much of the country's production. Barrick Gold Mine, the world's largest gold miner, runs Tanzania's largest mine – Bulyanhulu, which has 12 million ounces in gold reserves. Barrick also owns Buzwagi (3.3m ounces) and North Mara (3m ounces) and maintains a 70% stake in Tulawaka (80,000 ounces). Anglo Gold Ashanti (AGA) operates in Geita (5.1m ounces) and Resolute Mining Ltd owns Golden Pride (2.5m ounces). This has resulted in an increase in the country's annual gold production from less than one ton per annum in 1998 to about 50 tons in 2008, making Tanzania the third largest gold producer in Africa after Ghana and South Africa (URT, 2008; Roe & Essex, 2009 & Lissu & Curtis, 2008)

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Mining can often contribute a share of government revenue that is high relative to its share of Gross Domestic Product (GDP). This is because large-scale mining is a visible and easily taxed activity compared with many more traditional activities, such as agriculture, small-scale manufacturing and artisanal mining.

However, one argument from various literatures is that mining companies operating in the country are granted too many tax subsidies and concessions, it is also claimed that there is high incidence of tax avoidance by mining companies by measures such as secret mining contracts and various creative accounting mechanisms. These two factors, coupled with inadequate institutional capacity to ensure tax compliance, contribute in large measure to diminishing tax revenue. This explains the high prevalence of income poverty indicators in the country and communities in mining areas (Lambrechts, 2009).

Meanwhile other literature has revealed that ordinary Tanzanians are not benefiting from this boom, not only because the government has implemented tax laws that overly favour multinational mining companies, but also because of the practice of these companies of not paying taxes as specified. Tanzania is therefore being plundered of its natural resources and wealth (Lissu & Curtis, 2008).

Consequently, the poor condition seen in areas around mines is contrary to the poverty reduction strategy. For example, Tanzania is seated on top of a giant 45 million ounce pot of gold, valued at US\$39 billion, but the country is one of the ten poorest in the world, and Africa's third largest gold producer, is bound to get poorer still if the government fails to capture a fair proportion of the wealth through royalties and taxes (Sharife, 2009).

Furthermore, the economic linkages between mining and the rest of the economy, including the government budget, have been limited, which is why Tanzanians remain poor while the country is endowed with natural resources. This was also revealed by the Poverty and Human Development (2002) report, which shows that, "despite growth, the share of mining in GDP is still small at 2 per cent, the tax or royalty incentives have so far resulted in limited tax revenues, though clearly, increased export earnings have been generated" (URT, 2002).

Despite the fact that the Government of Tanzania is currently implementing the second phase of the poverty reduction strategy known as the "National Strategy for Growth and Poverty Reduction" URT (2004), the linkages between mining activities and poverty reduction are tenuous. The situation in areas around the mines is even worse because the indicators of poverty are explicitly manifested in poor housing and squalid

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living conditions, whereas mining companies are making a fortune from the country's minerals. To reverse this trend and ensure the maximization of mining tax revenue for national development, the report recommends the reform of policies, laws and institutions that govern the financial payments made by mining corporations to the national government.

The paper therefore will add to this debate by highlighting key factors in relation to the low contribution of the mining sector to Tanzania that range from not only low royalty rates, unpaid corporation taxes and tax evasion, but also the lack of industrial processing within Tanzania. The paper will also try to address and focus on three key issues, namely, the tax system/tax revenue, transparency and institutional capacity using the profit shift concept, because the contribution to the Tanzanian economy seems much lower than that of other countries like Botswana, Chile, Ghana and South Africa.

The rest of the paper is organized as follows. Section II discusses mineral (gold) production in Tanzania, highlighting the general picture with respect to the sector's performance and exports. Section III portrays the contribution of the mining sector in the country in terms of employment, foreign exchange earnings and the collection of revenue from royalties and taxes. Section IV presents the policy stances in relation to minerals in Tanzania by giving a general overview of the policies, acts and regulations governing mining activities, as well as examining their adequacy. Section V presents a comparative study of fiscal regimes in different regions highlighting issues like the tax system, the involvement of the government with mining companies the institutional system and minerals contracts. Section VI highlights the arguments of the paper by naming the things which cause the sector to contribute so little, given the abundant mineral resources in the country. Finally, the conclusion and policy recommendations are presented in section VII.

MINERAL PRODUCTION IN TANZANIA

Traditionally, gold and diamonds has been the mainstay of mining production in the country. The nation is the third largest gold producer in Africa behind South Africa and Ghana, and ranks among the top producers of diamonds in the world and the second largest non-oil producing recipient of foreign direct investment (FDI) of US\$5.94 billion in 2007 UNCTAD (2008) in the continent. Even though Tanzania's gold mining industry is relatively small on a global scaleⁱ, in recent times, another metal that has been catching attention is uranium, with a significant number of deposits being identified in Tanzania. Besides these, coloured gemstones are also mined extensively in the country.ⁱⁱ

The substantial economic potential of Tanzania's mining industry is increasingly being appreciated since the country began liberalizing and privatizing the minerals sector in the 1990s. However, mining in Tanzania goes back to the early 1940s Chachage (1994). Two key policy decisions set off the mining boom. One was the decision in the late 1980s to bring an end to the State Mining Company's (STAMICO)ⁱⁱⁱ monopoly and to allow any Tanzanian to register a claim and sell minerals. The second, which happened in 1994, was the decision to remove currency controls and float the Tanzanian shilling. This doubled the benefits of mining, as the foreign exchange proceeds could be used to finance imported consumer goods, equipment and spare parts, which had long been scarce (Phillips et al., 2001).

Following the change in government economic policies and the liberalization of the national economy during the second phase, the government (1985/95) opened up a new sector for the development of mining in Tanzania. Structural and economic reforms laid the foundation for major policy changes undertaken by the third phase government to revamp the mineral sector by encouraging private and foreign investment (Maliyamkono & Mason, 2006).

The mining of gold and gemstones by small and artisanal miners took off during the second phase government, but private investors held back from major investment in the absence of sound mineral policies and an institutional regulatory framework. The mineral sector registered unprecedented growth and achievements under the third phase government from 1995 to 2005.

Changes Over the Decade 1995 – 2005

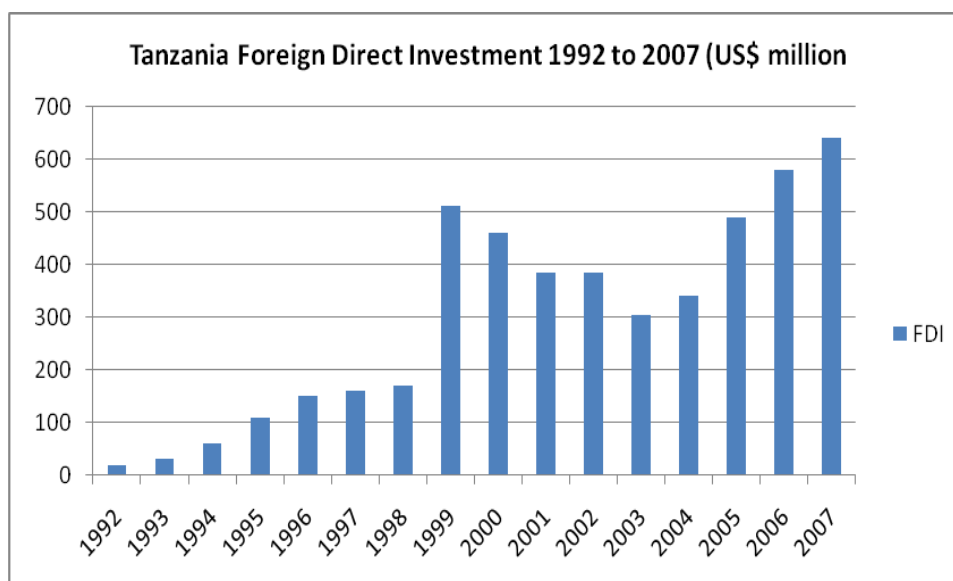
Government measures had a positive impact on the growth of the mineral sector. This was achieved by making Tanzania one of the favourable destinations for foreign investment in mining and mineral exploration in Sub-Saharan Africa. So, from 1997 Tanzania attracted a substantial amount of foreign investment in large-scale exploration and mining. The 1990s to 2005 saw an exploration boom whereby more than 50 foreign companies and over 250 local companies acquired mineral rights (Ministry of Energy and Minerals, 2005). More than 2,200 mineral prospecting licences and 170 licences have been issued. At the same time, cumulative foreign capital inflow into the mining sector increased from insignificant levels in 1995 to US\$ 1.4billion in 2004.

In the past decade, Tanzania has seen a tremendous increase in FDI receipts (See Figure 1). UNCTAD data shows Tanzania in the upper-middle ranking of African countries in terms of FDI, with its FDI stock rising from US\$2.78 billion in 2000 to US\$5.94 billion in 2007 UNCTAD (2008). As Oxford Policy Management points out,

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in the early 1990s Tanzania would have appeared at the bottom of this ranking. With the exception of South Africa, all of the currently higher-ranked countries are oil and gas exporters (Roe & Essex, 2009).

Figure 1: Tanzania foreign direct investment 1992 to 2007 (US\$ million)



Source: Adopted from Roe & Essex (2009).

How has Tanzania achieved this? The Life Cycle Assessment data indicate that gold mining overwhelmingly dominates the surge in FDI, accounting for more than US\$2 billion, nearly two-thirds of this increase. Over the three years until 2007 Tanzania attracted more than double the FDI of its neighbour Kenya, traditionally a strong FDI-attracting nation Upton (2009). Mining has now placed Tanzania in the higher ranks of African economies in terms of FDI and at the very top of the list in terms of non-oil countries (Lissu & Curtis, 2008).

Improved legal and fiscal administration measures undertaken since 1998 have served as a catalyst for FDI in mineral exploration and mining. Intensive gold exploration had boosted the country's gold resources to more than 1,200 tonnes by 2005. Six large gold mines have come into production Yager (2004) in seven years since 1998 (See Table

1). This indicates that there are proven gold resources of more than 600 tonnes (20.17 million ounces) available in Tanzania.

Despite the fact that six major gold mines are operating in Tanzania, two foreign mining companies dominate the sector: the Canadian company, Barrick Gold Corporation, which operates three mines (Bulyanhulu, North Mara and Tulawaka) and is developing a fourth (at Buzwagi); and the South Africa-based AGA, which operates the Geita mine, the country's largest gold deposit. The government seems to have a limited number of shares in the mining industry. The highest number of shares owned by the government is in Buhemba Gold Mine, having 50%, with a 20% share in Mererani Mining Ltd, the rest of the companies being dominated by foreigners, as indicated in table 1: below.

Table 1: Large-Scale Gold Mines in Tanzania

Name of Mining Company	Start of production	Reserves (million)	Investment (US\$m)	Output (000oz)	Life Yrs
Golden Pride Project owned by Golden Pride Ltd	Nov. 98	1.07 oz	77.00	180	9
Geita Gold Mine owned by Anglo Gold (50%) and Ashanti Goldfields (50%)	Aug. 00	7.00 oz	450.00	650	14
Kahama Mining Corporation owned by Barrick Gold Corp.	July 01	10.00 oz	280.00	400	20
Africa Mashariki Gold Mine owned by Placer Dome Inc.	Aug. 02	1.90 oz	72.00	176	10
Buhemba Gold Mine owned by MEREMETA LTD	Feb. 03	0.20 oz	65.00	80	8
Tulawaka Mining Project owned by Barrick Gold Corp.	Mar. 05			500	5

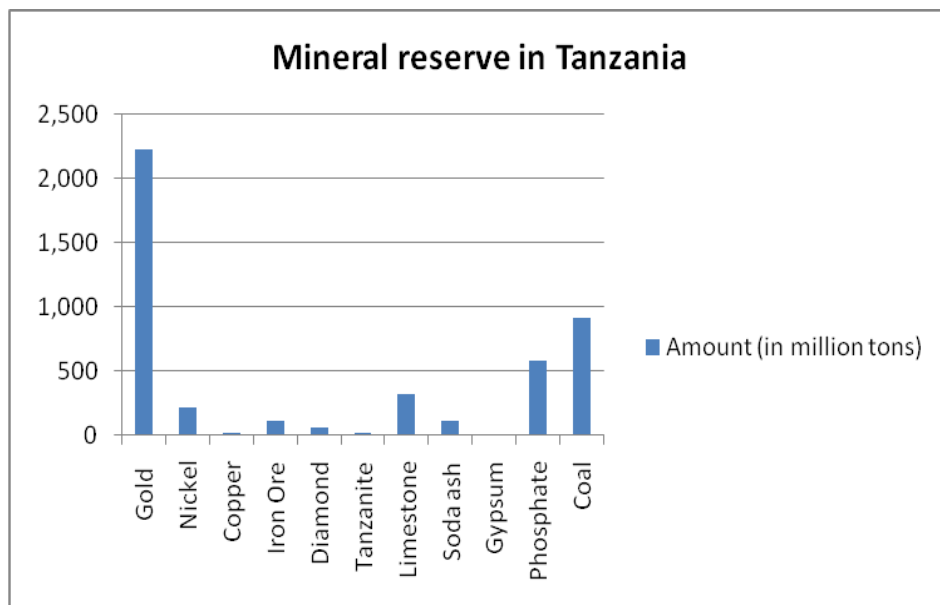
NB: 1 ounce = 31.103 grams

Source: *Author's Construction from URT (2008).*

Sector Performance

According to a database available at the Ministry of Energy and Minerals, Tanzania is one of the countries blessed with a huge reserve of mineral resources. Figure 2 shows the five classifications of minerals that can be found in Tanzania; (i) Metallic minerals (these includes gold, iron ore, nickel, copper, cobalt and silver) (ii) Gemstones group (these include diamonds, tanzanite, rubles and garnets) (iii) Industrial minerals (limestone, soda ash, gypsum, salt and phosphate) (iv) Energy-generating minerals (like coal and uranium) and (v) Construction minerals (like gravel, sand and dimension stones).

Figure 2: Mineral Reserves in Tanzania



Source: Author's construction from URT (2008).

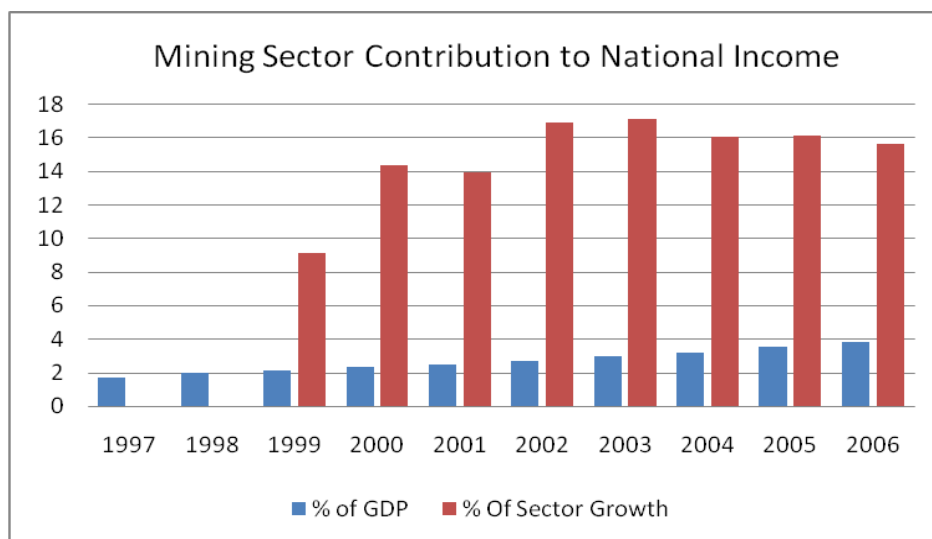
Despite the presence of such a huge amount of mineral reserves in the country, the dilemma of whether mineral resources help or hurt the country – the so-called 'resource curse' – has been much debated, economically and politically, academically and emotionally, by economists, political scientists, activists and mining company officials Upton (2009). Nonetheless there is a danger of getting nothing out of the mineral

potential. As pointed, out by Ebrahim-zahed (2003) in her article “*Too much wealth managed unwisely*”, the gratification of wealth is not found in mere possession or in lavish expenditure, but in its wise application.

Gold Production

The mining sector has been one of the fastest growing sectors in the country, although, as mentioned earlier, the contribution to GDP from gold production is not among its greatest benefits (due to high capital intensity and relatively low employment of the industry). The contribution of the mining sector to the national income (GDP) increased from 1.7% in 1997 to 3.8% in 2006 Upton (2009). Figure 3 portrays the information on the contribution of the mining sector to the national income from 1997 to 2006. The country has realized an increasing GDP since 1998, when the Mkapa reforms were seen to have taken effect^{iv}. Its share has more than doubled in size, starting at a low level and reaching 3.8% in 2007.

Figure 3: Contribution of the Mining Sector to National Income



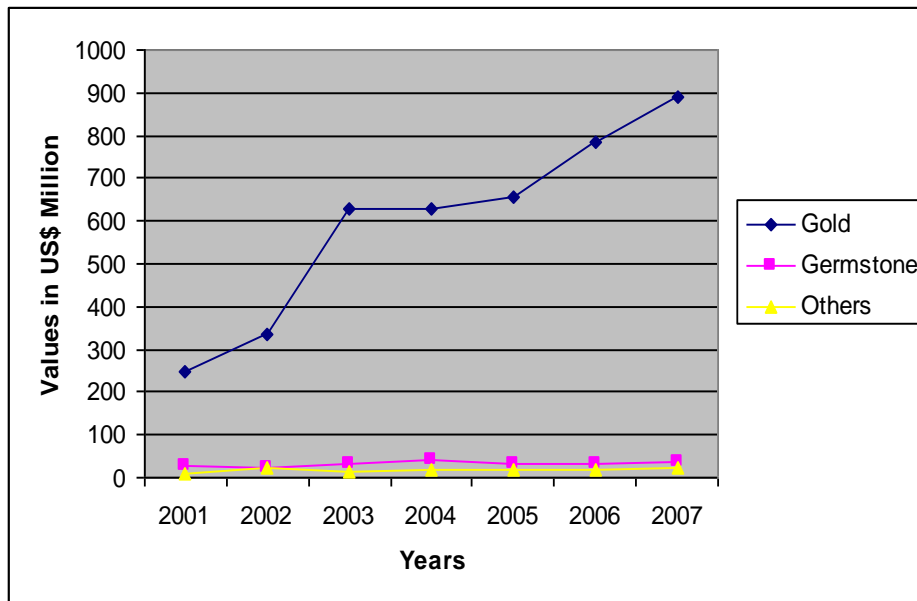
Source: Adopted from URT (2008).

There has been rapid growth in physical output since the first of the new modern mines began to operate at the end of the 1990s. Production in the sector as a whole increased from less than 2,000kg in 1990, which is equal to (70,000 ounces), to well over

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47,000kg by 2005, which is equal to (1.7m ounces) Roe & Essex (2009). Furthermore, the total sales of minerals of big companies between 2001 and 2007 amounted to US\$ 4,084.6 million. Among those sales, US\$ 3,930.5 came from gold and US\$ 154.1 million from diamonds URT (2008). Figure 4 shows in summary the minerals sold between 1998 and 2007 in US\$ Million.

Figure 4: Value of Exported Minerals from 1998 to 2007 (US\$ Million)



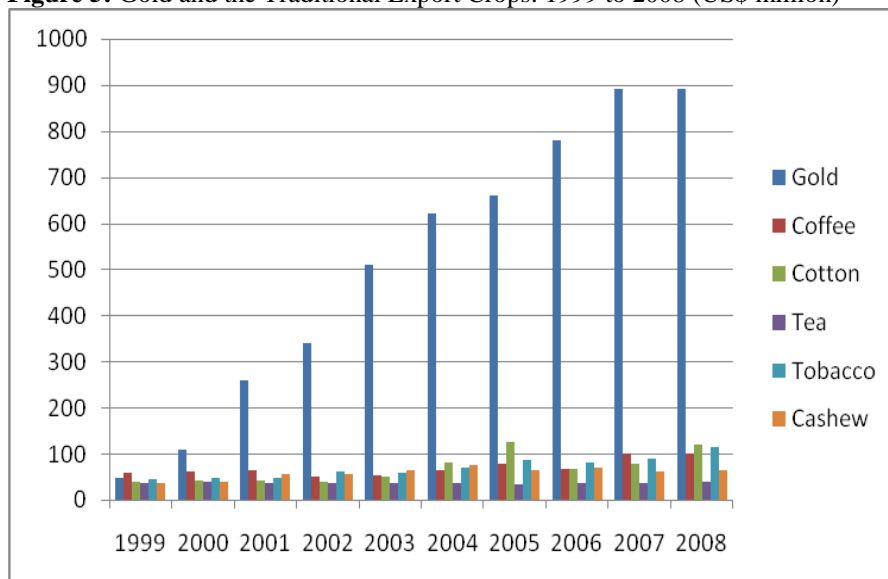
Source: Constructed from URT (2008).

Gold Exports

There has been a similar radical transformation of the structure of Tanzanian exports in the decade under review. In 1999, well over half of Tanzania's export earnings were generated by traditional agricultural products, such as coffee, tea, cashewnuts, cotton and tobacco, with an ongoing smaller contribution from the former major earner, sisal. This dependency continued the pattern that existed since well before Tanzania's independence in 1961. However, by 2005 the share of traditional agricultural commodities in total exports had fallen to only 20% and by 2008 that share had declined further to less than 14% Roe & Essex (2009). Figure 5 confirms that the very significant growth in total exports seen since 2000 is almost wholly accounted for by the growth in the non-traditional export sector, within which mining products are the

major element. The value of the minerals exported over 10 years between 1998 and 2007 is US\$ 4,829.15 million.

Figure 5: Gold and the Traditional Export Crops: 1999 to 2008 (US\$ million)



Source: Upton (2009).

Since Tanzania's revenue from gold exports is so low and derived only from taxes and royalties, not from a share in gold mining itself, it is questionable whether exports can be described as 'earnings' as government and donor statistics do. Gold exports as a percentage of all exports have risen steadily, from 34 per cent in 2001 to 45 per cent in 2006^v. These increases are mainly due to record-breaking gold prices in recent years, but this matters little if this does not translate into more money flowing into government coffers, and ultimately into development benefits for Tanzanian citizens.

CONTRIBUTION OF MINING SECTOR TO TANZANIA

Employment

Presently, close to 80 per cent of Africa's resources are primary commodities UNCTAD (2008). African economies were located within the global economy as producers of raw commodities. However, in the mining sector the impact of large-scale mining on employment is largely negligible. Large-scale mineral extraction generally offers limited employment opportunities, and hence has little impact on employment as a whole. In 2000 Tanzania's artisanal miners numbered 550 000, a figure alleged to have trebled over the following decade (World Bank, 2000; Phillips et al., 2001 in Lissu, 2002), while in 2004, 10 000 miners were employed in the gold industry by multinationals, with little in the way of collective bargaining. Monthly payments for mine workers averaged \$120 - \$240 per month, similar to what artisanal miners could expect to earn. In 2006, the South African-based AGA placed the figure of unionized workers at 3.1 percent (Roe & Essex, 2009).

Foreign Exchange

The amount of foreign exchange generated by minerals exports is equal to the proportion of GDP generated. The same proportion of GDP remaining in the Tanzanian economy also indicates the magnitude of the foreign exchange benefits. In terms of Tanzania's balance of payments, the key benefit of gold mining is seen in export earnings. Gold is indeed among the greatest contributors of the mining sector to Tanzania's economy. For example, figure 3 above shows that in 2006, gold alone accounted for 700m US\$ of the US\$770m in export earnings from mining, which seems likely to rise to almost double that value to reach a total of around US\$1.4bn in the period 2012 to 2016 (Roe & Essex, 2009).

Tax / Revenue Collection

The Ministry of Finance data shows that in 1997/98 essentially no revenue was generated from the mining sector, but it increased to some US\$44 million by the time of the 2003/04 budget^{vi}. While this is not a large amount, even at this relatively early stage in the industry's development, it already amounted to 3.7% of all domestic tax revenue (World Investment Report, 2007).

Table 2 outlines the figures provided by the government, the UN's trade organization and UNCTAD. They all show that government revenue from mining is exceedingly low, ranging from just US\$13m a year to a high of US\$36m a year. As a percentage of exports, government revenue is actually less than 10 per cent a year in all these other

estimates. It should be noted that these figures include not only all the royalties and other taxes paid by the companies themselves, but also the income taxes paid by the employees of the mining companies Lissu & Curtis (2008). Table 2 also reveals the concept of profit shift by showing that the government has been receiving little compared with the lion's share that is being transferred to foreign countries. For example, during the 8 years from 1997 to 2005, gold exports accounted for US\$2.54bn, while the government revenue over the whole period (including all taxes and royalties) accounted only for US\$255.5m. On average, Government revenue collection per year was US\$28.4m

Table 2: Figures for revenue from gold mining

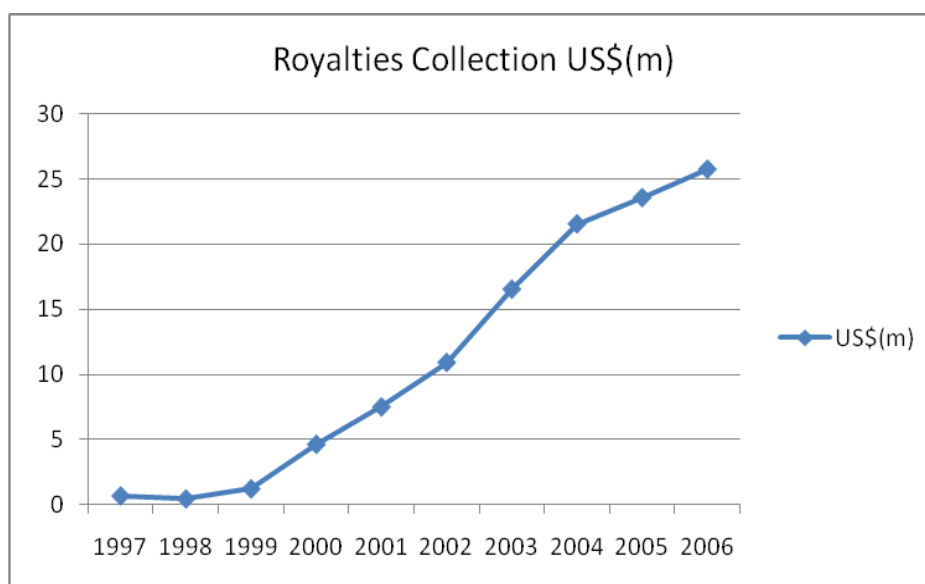
Source/Date	Minerals	Coverage from	Govt Revenue from all taxes & royalties (US\$)	Gold Exports over the same period (US\$)	Govt Revenue as a proportion of exports (%)	Govt Revenue per year (US\$)
Tanzanian Chamber of Mines, March 2008	All mining companies	1997-2005	255.5m	2.54bn	10.1	28.4m
Govt Commissioner for Minerals, October 2007	Gold	1998-2006	258.8m	Not provided	n/a	28.7m
Deputy Minister for Energy & Minerals, July 2007	Gold	2001-2006	78m	2.6bn	3.0	13m
Govt figures cited by UNCTAD, 2007	All minerals	1999-2005	252m	2.8bn	8.9	36m
Ministry of Energy & Minerals, 2006 Publication	All major mines in the country	1998-2002	86.4m	Not provided	8.4	17.28m
UNCTAD, 2005	The six major mining companies	1997-2002	86.9m	890m	9.8	14.5m
Ministry for Energy & Minerals, 2004	All minerals (gold, diamonds, tanzanite)	1997-2002	86.8m	895m	9.7	14.5m
Variations					3.0 – 10.1	13–36m

Source: Curtis & Lissu (2008).

Royalties Collection

Royalties are calculated under Tanzanian law as 3 per cent of the ‘net back’ value^{vii} of mineral production. In this period, the collection of royalties on the minerals produced increased from about US\$ 700,000 per annum in 1997 to about US\$ 26 million per annum in 2006 URT (2008), this increase being shown in figure 6.

Figure 6: Royalties Collection from 1997-2006 (US\$ Million)



Source: URT (2008).

Between 1997 and 2005, the government received around \$28m a year in royalties and taxes on these exports, amounting to just 10 per cent over the nine-year period. The 3 percent royalty has brought the government an average of US\$17.4m only, and it is revealed from the Golden Opportunity report 2008 that, Tanzania has lost at least \$265.5m in recent years as a result of an excessively low royalty rate. It is suggested by Lissu & Curtis (2008) and URT (2008), that the royalty rate should be raised to at least 5 per cent, which is the standard required as this is what other countries charges so that the levy collected from the mining sector can be taken back to the mining zones for the benefit of the local citizens in the respective locations. Had the rate been raised to 5%, the government’s revenues would have increased by around US\$58m over the past five years.

The profit shift concept is revealed in various literatures. For example, the golden opportunity report shows that AGA paid taxes and royalties totaling US\$144.4m in 2000- 07 and over the same period sold around US\$1.55bn worth of gold, meaning that it paid the equivalent of around 9 per cent of its exports in remittances to the government. Barrick, meanwhile, does not state on its website how much it pays in taxes and royalties to the Tanzanian government – but the calculations show that it is paying a figure equivalent to around 13 per cent of its export sales in remittances to the government Lissu & Curtis (2008). This give a clear picture that the lion's share of the profits from mining has been shifted to foreign countries where the mining company comes from leaving Tanzania in high and dry.

THE POLICY STANCES ABOUT MINERALS IN TANZANIA

Mineral Sector Review

Following the government's decision concerning economic changes and by recognizing the opportunity and importance of the mining sector to contribute fully to economic development, the government formulated the Mining Policy (1997). This policy outlines the direction that the mining sector should take over the next 25 to 30 years, with the vision that it should lead and direct the development of mineral activities in the country. The objectives of this policy are to promote the exploration and development of mining activities, to improve small-scale mining, to reduce poverty, to enhance the social and economic infrastructure, to increase foreign currency earnings and government revenue, to develop Tanzania into Africa's gemstone centre and to encourage environmental safety and protection (URT, 1997).

Implementation of the Mining Policy

As a first step in implementing this policy, the government made amendments to various financial Laws in 1997 (The Financial Laws (Miscellaneous Amendments) Act, 1997). These amendments were aimed at attracting foreign and private sector investors into the mining sector. In 1998, the government enacted a mining law and made changes to the Foreign Exchange Act (1992) so as to meet the needs of the mining sector in accordance with the Mining Policy (1997) as well. In order to implement this policy, current taxation laws provide some of the incentives for mining companies and their contractors leading to the low contribution to the country's economy. The URT 2008 revealed many exemptions in the mining policy, but in this paper income tax, value added tax, fuel levy and customs duty are simply taken to illustrate the case.

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Tax Incentives to the Mineral Sector

Income Tax

Income tax operates under the Tax Act (2004) and there are a lot of exceptions as far as the mining sector is concerned. For example, tax relief is given when computing mining companies' income in that they are allowed to deduct all their running costs and capital expenditure on all their projects, without taking into account whether those projects contribute to their annual income. Under that system, there is no ring-fencing on a mine-to-mine basis. If a company has two or more mines, it is allowed to deduct the costs incurred in all the mines, without taking into account whether or not they contribute to their annual income.

Value Added Tax (VAT)

Value Added Tax is charged on domestic and imported goods and services. The Law used to collect this tax is the Value Added Tax, Cap 148. Paragraph 11 reads, "The importation by or supply to a registered licensed exploration, prospecting, mineral assaying, drilling or mining company, of goods which if imported would be eligible for relief from duty under Customs Laws, and services for exclusive use in exploration, prospecting, drilling or mining activities".

According to paragraph 8, mining companies are not subject to VAT relief on imported goods for which they do not receive customs duty relief. Therefore, companies are required to pay VAT on those goods and claim it back through the normal channels. Therefore, because mining companies export their products and hence are charged 0% VAT, almost all the companies are refunded this tax by the Tanzania Revenue Authority.

Fuel Levy

A Fuel levy is charged under The Road and Fuel Act, Chapter 220. According to Government Notice no. 22 of 5th February 1999, gold mining companies with Mining Development Agreements (MDAs) are exempted from the fuel levy (also known as Road Toll), which exceeds US\$ 200,000 per annum. This exemption is for the whole MDA period or the life of the mine, depending on what might happen first which is different from what was stated in Government Notice no. 22 of 1999, where the exemption was only for the first year of production. Companies dealing with other minerals and small-scale miners are not included in this exemption.

Customs Duty

Mining companies and their contractors are exempted from customs duty depending on the stage reached in the mining activities. For example, during prospecting, mine development before starting production to the end of the first year of production, mining companies and their contractors are allowed to import duty free for all the goods related to mining activities. Those goods include machineries, dynamite, vehicles, oil and lubricants. However, that exemption is given by the Commissioner of Duties after consultations with Minister responsible for minerals and after being satisfied that the equipments will be used for mining activities.

Certainly, there is an argument that Tanzania is not benefiting from mining to the same extent as some of its African neighbours Roe & Essex (2009). Also as quoted from 2008 report of the Business & Human Rights Resource Centre by Roe & Essex (2009), it is estimated that the combined loss to the country over the past seven years is a result of low royalty rates, unpaid corporation taxes and tax evasion by major gold mines. This may be a cause as to why Tanzania is not getting its 'fair share' from mining extraction.

Furthermore, Roe & Essex (2009) caution that there is likely to be a significant decline in mineral production so that by 2023 export earnings from gold will be lower. The amount of export earnings will decline further and will be less than US\$400m by 2027. This is because the export earnings in future years are subject to a number of imponderables regarding the movement of the gold price.

COMPARATIVE STUDY OF FISCAL REGIMES IN DIFFERENT REGIONS

Tax System

The tax systems described in this paper include, incomes tax, custom duty and VAT. However, in Tanzania special consideration is given to the mining sector with regard to tax collection. In all countries explored in this paper (Australia, Botswana, Ghana, Thailand and Zambia), except South Africa, the mining companies pay returns according to the gross value of the minerals sold. The returns collected are distributed to the central government, local government and the respective mining zones (URT, 2002).

A regional comparison of tax regimes shows that the major taxes and fiscal incentives applicable to the mining sector in Tanzania are more or less the same as those in other natural-resources-rich African countries, including Botswana, South Africa and Ghana. The problems in Tanzania, however, are rooted in the existence of multiple types of

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"nuisance" taxes (a large number of minor taxes and licensing fees) and the complex design of taxes, coupled with the cumbersome and bureaucratic tax administration. These problems have placed Tanzania in the unfavourable position of not getting its fair share from mining. For example, in Tanzania corporation tax is charged at a rate of 30%, contrary to the 35% charged in Ghana and South Africa. Also the depreciation allowance in Tanzania is 100%, contrary to that of other countries Phillips et al., (2001) See Table 3.

Most of the mining contracts in Tanzania are subject to different levels of tax relief, which is contrary to that which exists in to other countries, where tax relief is not given. Apart from collecting tax at standardized rates comparable to other sectors, some countries collect extra tax from the mining sector. For example, Zambia reformed its system of tax in 2008 and introduced a new tax (windfall), which takes into account inflation in the value of minerals on the global market URT 2008. Table 3 highlights the system of tax in four countries of Botswana, South Africa, Ghana and Tanzania.

Table 3: Different types of taxes applicable to the mining sector in selected African countries

Types	Description	Botswana	South Africa	Ghana	Tanzania
Income tax	Corporate income tax	Reduced from 35% to 25% for non-manufacturing, and 20% for manufacturing	Applicable rates are 35%.	35% except for Petroleum companies. Additional profit tax applied to mining sector	30% Reduced in 1998 from 35%
	Depreciation allowance	Straight-line basis with rates ranging from 10% to 25%	Mining capital expenditure allowed in the year it is incurred	Standard accounting is straight-line depreciation.	100% depreciation for mining investments
	Treatment of losses	Special unlimited loss carry-forward applied in mining	"Assessed" loss carried forward Indefinitely it	Loss carried forward for five years following the year in which it incurred	Loss carried forward indefinitely
	Withholding tax on tech. Service payment	15% on a non-resident. This is final tax; non-refundable	12%	15%	3% of gross payment and 20% for exceeding management fees
	Personal income tax	Top rate 35% now reduced to 25%	Top rate 45%	Top rate of 35%	Top rate of 35%, scheduled to reduce to 30%
Custom duty	Mining tools	Free from customs duty	Collected at a rate of 15%	Customs duty free	duty free 1 st year of production, then 5%
VAT	Mining Companies	Are not free from VAT	Tax is payed at a rate of 14%		0% VAT
Returns	Depends on type of minerals	Ranges from 3%, 5% to 10%	The gvt of S/A does not collect returns from mining companies	Ranges from 3% to 6% of the gross value.	Not specified

Source: Adopted from Phillips et al., (2001)

Involvement of Government with Mining Companies

In South Africa the government has no ownership policy with regard to the mining industry and therefore mines are privately owned. However, there are Industrial Development Corporations, which on behalf of the government buy shares from the aforesaid private companies and sell them to local citizens, so that ultimately they will be able to participate in the ownership of shares in the mines. In Botswana, the government owns shares in all the mines in the country. Concerning gold in the De Beers Consolidated Company, the government also owns 15% of shares in other minerals apart from gold. From this arrangement the government gets dividends from the shares it owns. In Ghana to ensure the involvement of both the government and citizens in mining activities, the two laws relating to mines have been enforced, so that the Government owns 10% of the shares in the mines, enabling it to earn interest from all large-scale mining companies. In addition, the law demands that mining companies procure goods and services from companies registered in the country, as well as running a programme for the recruitment and training of Ghanaian personnel to eventually replace expatriates (URT, 2008).

Institutional System

Countries with mining sectors have different systems for monitoring and controlling them. Thailand has more than one institution monitoring mining activities. In Australia, monitoring of the mining sector is carried out by individuals and not by the federal government.

In Ghana, the Mining Commission monitors mining, which is an independent institution under the Ministry of Lands, Tourism and Minerals. The mining board with a secretariat heads the Commission under the local administrative officer. The Commission deals with accounting, financial control, inspection, law, monitoring and evaluation, environmental and public health. The Commission does not rely on the budget of the government, but its income comes from different duties paid by clients, which include search fees and visa fees. In Botswana the mining department is under the Ministry of Energy, Minerals and Water. Considering the economic importance of this sector, the mining department has been given priority for it to be technically improved. Also the President is the chairman of a special committee monitoring the mining sector. In other countries where chiefdoms exist, the chiefs supervise the mining sector in their respective territories, especially in relation to contracts and mining processes. For example, in Botswana, Ghana and Zambia contracts cannot be approved by the government before getting the go-ahead from chiefs from the respective mining zones (URT, 2008).

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Mining Contracts

Mining contracts and agreements are drawn up by some nations with a large-scale mining sector in order to initiate important issues not contained in the laws and by-laws, so that investors are ensured of a reliable and predictable tax system during the life of a given mine. The following paragraphs illustrate this, using different countries to reveal the case.

The government of Botswana has contracts with companies that mine diamonds. Diamonds are mined by Debswana Company, owned and operated under a special agreement between the government and De Beers Company. The drawing up of a contract goes through long process of discussion and preparations before agreement is reached, which involves a group of officers with different qualifications and experience who are given enough time to review the contract before it is accepted and signed. Similarly, in Tanzania, contracts aim at defining the legal rights and responsibilities of the government and investors, and also to assure the investors that the tax system is in their favour.

Botswana has built capability over a long time and has a special unit responsible for monitoring the benefits that locals derive from the mining industry. Apart from the capability of the unit employing specialists, sometimes they hire auditors abroad in case there are irregularities that need outside help.

In Australia, before 1978, the supervision of mining contracts and agreements was problematic because of different laws governing the mining sector. In 1978 the government passed various laws relating to minerals, which collectively meet the important needs of the mining industry, and so there was no need to draw up mining contracts because investors follow the laws. However contracts and agreements still exist between Australia and large-scale foreign mining companies and those that were in existence before the making of new laws. Contracts between Australia and large-scale foreign mining companies are drawn up like bills and passed by the parliament.

In Canada there are no contracts between the government and the mining companies. This is due to the system of governance. Each of the 13 provincial governments has authority in their respective mining areas. Therefore the mining companies use the system of laws present without depending on the contracts. However the laws have special clauses concerning the harvesting of mineral resources to create a sound environment in the mining sector.

WHAT WENT WRONG WITH THE MINERAL SECTOR?

Policy, Regulations and Acts

The recent review of the mining policies and contracts in Tanzania concerning the cost to development of tax concessions and subsidies given to mining companies suggests that African governments are using tax concessions merely as tools to attract foreign mining investors, often of dubious quality, rather than as a component of a wider strategy for industrial development. These tax concessions, together with the aggressive tax avoidance strategies employed by mining companies, have robbed them of revenue that could have been used for development. Instead, mineral-rich governments remain as dependent as ever on overseas taxpayers for aid to fill the gaps in their development budget (Upton, 2009).

Foreign mining companies in Tanzania are given a tax holiday of up to 5 years at the beginning of production, and they pay the Tanzanian government a royalty fee of only 3 percent of the value of their mineral output after which they are free to take out of the country 100 percent of their profits URT 2002. Most of their mining equipments are not taxed.' According to the 'tax stability' provision, the Tanzanian government is forbidden from revising tax and royalty rates for the 'full project life' of the mining operation, i.e. until the corporations willingly leave or the gold reserves are exhausted (Sharife, 2009).

Regarding the issue of ownership, the Policies and Acts seem to be weak. For example, the Mining Act allows 100 per cent ownership of minerals and mines by foreign corporations, preventing the government from entering into joint ventures and they also have the right to employ unlimited number of foreign personnel.

Mining Contracts

The Mining Act, 1998 was passes to support the implementation of the Mining Policy, 1997. The Act has been used for 10 years, although there have been some weaknesses as pointed out by URT (2008), hence needing some amendment. The law was amended in 2004 in some sections to satisfy the needs of the mining policy. Despite the amendments which were made, there are still some loop-holes, one of which clearly visible in the contract between Barrick Gold mine and the government, which was signed in a London hotel in February 2007 (URT, 2008).

The contract negotiated by Barrick Gold mine and the government, among other things, allows for the company to maintain current tax levels throughout the 'life of the project', placed at 25 years, with an option for Barrick to renew the same terms for a

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further 25 years, with VAT exemption, a cap of US\$200,000 on taxes per annum, and the right to repatriate 100 per cent of the profits. This example is cited as a case that represents what is happening when mining contracts are signed. Lambrechts (2009), in his report on the 'resource curse' put it clearly that confidential mining agreements have been used by companies to avoid paying mining taxes set out in the national law.

The issue of Tax and Loyalty

Lambrechts, 2009 in his report "Breaking the Curse", remarked boldly that industrial miners seek significant exemptions from local government taxes, withdrawal taxes, and fuel levies. The report also emphasizes that negotiating with mining companies was an intimidating experience, much like being faced with a traditional weapon: "The companies are holding a panga by the handle and we (government) are getting the sharp end."^{viii}

In the substantive law, local government levies (taxes) are charged at a rate of 0.3% of the value of company turnover. However, the companies with Mining Development Agreements (MDAs) have set a ceiling of US\$ 200,000 per annum^{ix}. Apart from the fact that these amounts (0.3% or US\$ 200,000) are far lower than the companies' turnover, local governments have not been given even the stipulated US\$200,000 from mining companies Lambrechts (2009). Companies also pushed for exemptions from fuel levies, and so it is estimated that the government lost Tsh39.8bn in 2006/7 and Tsh59bn in 2007/8^x in revenue as a result of fuel levy exemptions given to six large mining companies (URT, 2008).

Lissu & Curtis (2008) revealed that Barrick Gold mine failed to make payments in royalties and taxes to the government. Anglo Gold Ashanti, producing 3 million ounces of gold from the Geita mine, valued at US\$1.43 billion at current gold prices, paid taxes averaging US\$13 million per annum, totaling US\$96 million (2000-2006). AGA's 2006 own country report reveals remittances of corporation tax of US\$1 million paid to the government, along with royalties of US\$5.6 million, import duties of US\$11 million, and other indirect taxes of US\$8.2 million. Since 2000, stated AGA's Alan Fine, the company has paid US\$266 million in tax.

Meanwhile, Sharife (2009) pointed out that both companies have failed to pay a cent toward corporation tax (pegged at 30 per cent), consistently declaring losses despite making heavy capital investments. In 2008, it is noted, Barrick's General Manager stated that, 'Barrick is not paying corporation taxes, it will only start paying corporation taxes in 2014 when we will begin realizing profits.'

Despite the fact that the major gold mines have been operational in Tanzania for over five years now, and the gold price on the world market has recorded a steady increase

since 2000, none of the mining companies has declared taxable income. They claim they have made heavy losses, despite a steady rise in the price of gold since 2002. Paradoxically, the same companies incur large amounts of additional capital expenditure, according to the Ministry of Energy and Minerals' review of mining development agreements and the fiscal regime, September 2006 (Lissu & Curtis, 2008).

A leaked report of the US auditing firm Alex Stewart Assayers (ASA), contracted by the Tanzanian government in 2003, revealed that four gold mining companies, including Barrick and AGA, deprived the government of US\$132 million via tax avoidance, by overstating losses of US\$502 million from 1999-2003 (Sharife 2009). The report made it clear that, "if all taxes were paid, if no gold was undervalued and if there were no over-declaration of total cost, this year we should get slightly more revenue from mining than what the donors give us"^{xi}. On that note the government should rectify the situation by increasing the tax and royalty rates charged on mining and related profits and this should be ensured before being bound by mining contracts. The public should be made aware through parliament so that the interests of the majority are taken into account.

Institutional Capacity

The government bodies dealing with minerals include the ministry and parliament, though ministers seem to have been negligent in carrying out their duties. For example, Lambrechts (2009) spelt out that the Minister of Finance failed to implement any of the tax increases recommended by the presidential commission tasked to review the country's mining tax regime in his June 2008 budget speech, although he did introduce a turnover tax on companies declaring losses for three or more years in a row. The obvious conclusion is that the minister was in favour of mining companies at the expense of the country's economy in terms of government revenue.

The institutions are very weak. For example, the Parliament made a decision to suspend an opposition parliamentarian from attending the parliamentary session in August 2007 for introducing his motion to investigate the government after signing a new mining agreement, despite the fact that parliament had promised not to review the Buzwagi contract until the mining contracts review had been completed. This is one evidence that our institutions are very weak, as they can decide to do anything in favour of their interests or those of foreign companies at the expense of local citizens.

According to Lissu and Curtis (2008), parliament does not have any access to the contracts signed by the government. 'The government's repeated refusal to make these

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agreements public, means that elected representatives cannot influence the terms under which foreign mining companies extract the country's most lucrative resource.' None of the six contracts signed between the government and mining companies has been made public, and the commissioner for minerals has warned that possession of these contracts is illegal (Lissu and Curtis, 2008).

CONCLUSION AND POLICY RECOMMENDATIONS

Conclusions

Mining in Tanzania has quickly become a major part of Tanzanian's current macroeconomic performance with its recent successes in achieving a higher rate of economic growth than that of traditional agricultural products. But the sector seems to lose too much revenue which eventually undermine the development of the country in general. The policy makers (Ministry of Minerals and Energy, together with Parliament) are hereby advised and cautioned that the impact of mining on development is ultimately determined by how mining royalties and other taxes are legislated, collected and redistributed to agencies involved in developmental activities. Nevertheless, even if the lion's share of revenue has to flow abroad, a considerable part of the mineral resources should be kept in national ownership. Therefore, the government should make sure that mining companies integrate their mining activities into the development strategies of the country. In addition, the government should increase the amount of taxes collected from mining, which will be possible only if the government increases its share or enters into joint ventures with mining companies.

Policy Recommendations

The government should design policies and decision processes most suited to the country's economic and social conditions, by mobilizing political support and by improving governance in relation to minerals. Also the government through policy makers should ensure that policies, acts and regulations are adhered to by mining companies. As observed in this report, the mining companies have declined to obey the laws and regulations in the way they are stipulated, yet no action is taken by the government.

The government should have power over these resources. Before signing any mining contract, all the terms should be weighed to see if they favour the country. Policy makers should facilitate the negotiations resulting in a win-win situation. Moreover, it is high time that the government made mining contracts public so that the leasing process is known and people are given the right to speak.

As it is seen in this report, the government owns shares in only two companies among the all large-scale miners registered in the country. The lack of ownership by the government in the mining industry has placed it in a weak situation as far as full supervision of and control over the production of national resources in the mining sector are concerned. In fact it will be difficult to oversee and assess all the processes in the value chain. The government is therefore advised to increase the number of shares, it owns or to form joint ventures with mining companies in order to reap the benefits.

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END NOTES

ⁱ Tanzania Mining Report Quarterly 2, 2009. In Business Monitor International, May 7, 2009 65 Pages - Pub ID: BMI2267465 (See web; <http://www.marketresearch.com/product/display.asp?productid=2267465>)

ⁱⁱ Tanzania Mining Report Quarterly 1, 2009. http://www.abnnewswire.net/press/en/60420/Resource_Capital_Research_March_Quarter_2009_Equity_Research_Report_On_Global_Uranium_Companies

ⁱⁱⁱ STAMICO is a public corporation formed in 1972 with the aim of conducting exploration, mining, production, processing, sorting, cutting, reserving, distribution and selling of minerals in the county, among others. For several years, STAMICO has been facing a lot of challenges in the implementation of its activities due to receiving a limited amount of funds from the Government Budget. Changes in economic policies like privatization led to STAMICO being added in a list of public corporations for privatization.

^{iv} The reforms of the Mkapa government (3rd president of Tanzania) from 1995/96 involved a wider ranging programme based upon tighter fiscal controls and the structural reform of institutions. These included investment deregulation, a privatization programme, the freeing up of goods and factor markets, and a complete reform of the financial sector (Naschold & Fozzard, 2002). The key to this programme has been the government's willingness to entrust productive activity to the private sector.

^v Government of Tanzania, Ministry of Planning, Economic and Empowerment, Macroeconomic policy framework for the plan/ Budget 2007/08 – 2009/10, May 2007, Table 6, p.24

^{vi} United Republic of Tanzania Ministry of finance budget 2003/4. See http://www.mof.go.tz/index.php?option=com_content&task=view&id=37&Itemid=52

^{vii} Net back value means the value of minerals free-on-board at the point of export from Tanzania or, in the case of consumption within Tanzania at the point of delivery within Tanzania, or is a summary of all the costs associated with bringing one unit of mineral to the marketplace, and all of the revenue from the sale of all the products generated from that same unit. The netback is calculated by taking all of the revenue from sale of the mineral, less all costs associated with getting the mineral to market. These costs can include, but are not limited to, importing, transportation, production and refining, and royalty fees.

^{viii} This is a statement given by the Commissioner for Minerals, Dr. Peter Kafumu.

^{ix} This amount is stipulated from Income Tax Act (2004)

^x The exchange rate for the Tanzanian Shilling at that time was 1US\$ per 1300 Tshs. (with the assistance of <http://www.exchange-rates.org/history/TZS/USD/G>)

^{xi} An argument according to Zito Kabwe, a Tanzanian parliamentarian and a member of the Bomani Commission