

THE UNITED REPUBLIC OF TANZANIA

**REPORT OF THE PRESIDENTIAL MINING
REVIEW COMMITTEE TO ADVISE THE
GOVERNMENT ON OVERSIGHT OF THE
MINING SECTOR¹**

VOLUME 2

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¹ This is a translated version of the Report by Paperworks Associates Tanzania on behalf of Policy Forum. For the authoritative and official version of the Report, please refer to the Kiswahili version of this Report.

1.2 Terms of Reference (ToR)

The Committee was given the following Terms of Reference:-

- i. To go through mining contracts and other documents related to big mines;
- ii. To analyze the taxation system used in the mining sector;
- iii. To go through the government's oversight system in large mining activities;
- iv. To identify and analyze rights and responsibilities of the investor and the government;
- v. To meet the Tanzania Chamber of Minerals and Energy and other stakeholders so as to get their opinions; and
- vi. To give a report with recommendations.

The Committee went through the ToR and requested an addition of the following Terms:-

- vii. To go through other reports drawn by previous committees on the mining sector;-
- viii. To invite any person with expertise in the mining sector to give his views; and
- ix. To advise on any other issues related to the mining sector as may be deemed important.

1.3 Implementation of the Committee activities

The Committee officially started its job on 28th November, 2007 by laying down the implementation plan. In the implementation process, the Committee did the following:-

- a) To go through and analyze different documents on oversight in the mining sector in the country;
- b) To meet leaders of Government Departments and Institutions directly responsible for the running and oversight of the mining sector, including the following:-
 - i. Ministry of Energy and Minerals
 - ii. Bank of Tanzania;
 - iii. Tanzania Revenue Authority;
 - iv. Tanzania Investment Center;
 - v. State Mining corporation;
 - vi. Geological survey of Tanzania;
 - vii. Mining Advisory Committee;
 - viii. Gemstones Board;
 - ix. Dodoma Madini Institute;
 - x. Ministry of Land;
 - xi. National Development Corporation;
 - xii. Tanzania Civil Aviation Authority; and
 - xiii. Treasury Registrar.

(c) To meet with different stakeholders and institutions dealing with exploration, mining and trading minerals including Tanzania chamber of Minerals and Energy and to meet with different citizens who showed up to give their views on the mineral sector and others who submitted their views by writing as seen in **Annex 1 and 2**.

(d) To visit foreign countries so as to get more experience on oversight systems in the mining sector. Those countries are:-

- i. South Africa;
- ii. Australia;
- iii. Botswana;
- iv. Ghana;
- v. Japan;
- vi. Canada;
- vii. Thailand; and
- viii. Zambia;

(e) To visit large and minor mines in Tanzania, plus mining projects still in different development stages. Visited mines and projects are:-

- i. Bulyanhulu Gold mine in Kahama
- ii. Buzwagi Gold mine in Kahama;
- iii. North Mara mine in Tarime;
- iv. Geita Gold mine in Geita;
- v. Golden Pride in Nzega;
- vi. Buhemba Gold mine in Musoma;
- vii. Kiwira Coal Mine at the border of Rungwe, Kyela and Ileje districts;
- viii. Liganga Iron Ore project in Ludewa district;
- ix. Mwadui diamond in Kishapu;
- x. El Hilal Minerals diamond mine in Kishapu;
- xi. Tanzanite One mine in Mirerani;
- xii. Kilimanjaro mines mine in Mirerani;
- xiii. Small gold miners in Rwamgasa; diamond miners in Maganzo and tanzanite miners in Mererani.

(f) To conduct public meetings with citizens living around the mines so as to get their views on the mining sector. Public meetings were held at Karimjee (Dar es Salaam); Maganzo, Kakola, Buzwagi, (Shinyanga); Geita, nyakabale, Rwamgasa and in Mwanza City (Mwanza), Nyamongo and Buhemba (Mara), Mererani (Manyara), Kiwira (Mbeya), and Mundindi (Iringa).

Also, the Committee met with political, government and community leaders in regions and districts with mines and got to hear their views on the problems facing the mining sector.

1.4 Structure of the Report

This report has six chapters. The first one is on introduction. The second shows the real situation in the mining sector; the third presents different stakeholders' views; chapter four is on other countries experiences in managing mining activities; the fifth chapter gives the analysis, opinions and recommendations of the Committee and chapter six gives the conclusion.

CHAPTER TWO

2 THE REAL SITUATION OF THE MINING SECTOR

2.1 Mineral Resource and its contribution to National Development

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. According to that database, minerals that can be found in Tanzania are classified into five groups as follows:-

- a) Metallic minerals group – this includes gold, iron ore, nickel, copper, cobalt and silver;
- b) Gemstone groups – this includes diamond, tanzanite, ruby, garnets; etc
- c) Industrial minerals group - limestone, soda ash, gypsum, salt and phosphate;
- d) Energy-generating minerals like coal and uranium; and
- e) Construction minerals like gravel, sand and dimension stones.

Division of the mineral reserves confirmed to be available in the country is shown in Table 1. Also, map 1 shows where these minerals are in the country (final annex of the report).

Table 1: CONFIRMED MINERAL RESERVE

TYPE	AMOUNT
Gold	2,222 tones
Nickel	209 million tones
Copper	13.65 million tones
Iron Ore	103.0 million tones
Diamond	50.9 million ounces
Tanzanite	12.60 tones
Limestone	313.0 million tones
Soda ash	109 million tones
Gypsum	3.0 million tones
Phosphate	577.04 million tones
Coal	911.0 million tones

Despite the presence of such a huge amount of mineral reserves, the contribution of this sector to the national economy and community development seems not to be meeting citizens' expectations compared to other sectors of the economy. There are several reasons to explain this.

In the period since independence in 1961 to early 1990s, the mining sector did not attract huge and modern investment compared to other sectors. Due to this fact, the mines that were operational at that time were the ones initiated by colonialists and ran by the government. Most of those mines include the diamond mine in Mwadui and Buckreef and Geita gold mines in Geita and Buhemba in Musoma. Also, in that period, there was a tin mine in Karagwe district. Apart from those mines, there were also small gold miners in Lupa (Chunya), Mpanda and other areas in the Lake Victoria zone.

During 1980s and 1990s, the government made huge policy changes and recognized a huge contribution that can come from the private sector to the economic and social development. Hence, many policies were reviewed so as to provide room for the private sector to give its full contribution especially through investments in the production activities. This policy direction also focused on installing a modern management system so as to attract modern technology investment and bring in needed capital for investment in the economic sectors, including the mineral sector.

2.2 Mineral Sector Review

Following the government's decision on economic changes and by recognizing the opportunity and importance of the mining sector to contribute fully in the economic development, the government passed the Mining Policy (1997). This policy provides the direction of the mining sector in 25 to 30 years and it has become the vision to lead and direct the development of minerals activities in the country. The objectives of this policy include promotion of exploration and development of mining activities, to improve small scale mining, reduce poverty, to enhance social and economic infrastructure, to increase foreign currency and government revenue, to develop Tanzania into Africa's Gemstone center and encourage environmental safety and protection.

From this aim, the policy set out the following key objectives:-

- i. To promote exploration and development of mining activities;
- ii. To modify and improve small scale mining;
- iii. To make sure the riches coming from mining help in creating sustainable economic and social development;
- iv. To reduce or eradicate the negative social and environmental impacts of mining development;
- v. To develop successful plans for trading minerals and their products;
- vi. To develop and enhance Tanzania as Africa's gemstone center; and
- vii. To reduce poverty, especially among small scale miners

2.3 Implementation of the Mining Policy

As a first step in implementing this policy, the government made different amendments to different financial Laws in 1997 (The Financial Laws (Miscellaneous Amendments) Act, 1997). These amendments were intended to attract foreign private sector investment in 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 to the Mining Policy (1997) too.

So as to implement this policy, current taxation laws provide the following incentives:-

2.3.1 Income Tax

The Income Tax Act (2004) which is currently used on the income tax has special sections related to taxation in the mining sector as follows:

- (a) Section 15(3) which allows for a mining company to redeem provisional funds dedicated to environmental protection in implementing written conditions set out by the Income Tax Commissioner;
- (b) Section 83(1) (a) that requires mining companies to deduct withholding tax from the payments made for management and technical services provided by resident companies. The amount of tax on such services is stated in paragraph 4(c) of the first table of the Act which is 5%. Deductions for services provided by non-resident companies are done according to section 83(1)(b) which is 15%; and
- (c) The depreciation rate for exploration and mining equipments is 20%².

However, some sections which were in the repealed Income Tax (1973) are still being used in estimating income tax amounts for foreign mining companies. Section 145 of the Income Tax Act (2004) allows for the third part of the second table of the repealed Income Tax Act (1973) to be used. Key sections that were in the repealed Act and are still being used are the following:

- a. i. 100% capital allowance in the year of expenditure in the computation of that year's taxable income
- b. A capital allowance of more than 15%. Companies with Mining Development Agreements – (MDAs) with the government signed before 1 July 2001 are allowed to redeem more than 15% of additional capital allowance on unredeemed qualifying capital expenditure. This relief is given every year until when the companies start generating taxable income hence the companies get more relief on the compound interest. Companies with no agreements with the government and those with agreements signed after 1st July 2001 are not entitled to this additional relief. The main impact of that provision is that companies take too long time before they start paying taxes or not paying at all hence denying the government more revenues.

However, in 2006, some companies accepted the removal of this provision in the MDAs after negotiations with the government though the impact of that provision will continue for a long time.

² Fourth grade of the Third Table of the Income Tax Act, 2004

- c. The tax relief given in the computation of mining companies' incomes that are allowed to redeem all their running and capital expenditures on all projects without considering if those projects contribute to their annual income. Under that system, there is no ring fencing on the mine to mine basis. If a company has two or more mines, it is allowed to redeem the costs for all the mines without considering if they contribute to annual income.
- d. The withholding taxes rates that are applicable to companies without MDAs or those who signed the MDAs after 1st July 2001 are those stated in the Income Tax Act (2004). In some areas and for some companies with MDAs, the withholding tax rates are those stated in the repealed Income tax Act (1973). For example, under the Income Tax Act (2004), withholding tax rates for technical and management services fees given to mining companies is 5% for services offered in the country by resident companies and 15% for services offered by non-resident companies. However, companies with MDAs give 3% in tax as stated in the MDAs. In other areas, nonetheless, the rates states in the Income tax Act (1973) are not applicable. A good example is taxes on profits earned form loans acquired form related companies whereby some MDAs have provisions that prohibit payment of such tax.

2.3.2 Value Added Tax-VAT

Value Added Tax is charged on domestic and imported goods and services. A Law used to collect this tax is the Value Added Tax, Cap 148. According to sections 11 of the Act, different persons and institutions listed in Table three are entitled to VAT relief. Mining companies are listed in Table three. Paragraph 11 of the Table 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 para 8, mining companies are not subject to VAT relief on imported goods for which they do not receive Customs duty relief. So, companies are required to pay tax for those goods and redeem them through normal VAT processes. Therefore, because mining companies export their products and hence are charged 0% tax, almost all the companies are refunded their taxes by TRA.

2.3.3 Customs Duty

Mining companies and their contractors are exempted from customs duty depending on the stage reached in the mining activities as follows:-

- a) 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 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.

- b) After the first year of production, companies and contractors are supposed to pay customs duty not exceeding 5% on machineries, dynamite, spare parts, vehicles, oil and lubricants instead of the Common External Tariff (CET) payable for such products when entering East African Community. For example, according to CET, the rate for dynamites is (10%) but mining companies and contractors pay an amount not exceeding 5%.

2.3.4 Excise Duty

Mining companies are exempted from Exercise duty on imported or domestically purchased oil for mining purposes. This is according to the Government notice no. 480 published on 25 October 2002.

2.3.5 Fuel Levy

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 MDAs are exempted from 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 the Government Notice no. 22 of 1999, where the exemption was only for the first production year. Companies dealing with other minerals and small scale miners are not included in this exemption.

2.3.6 Stamp Duty

Minign companies with MDAs use duty rates stated in respective MDAs, which are lower as compared to those in the first Table of the Stamp Duty Act Chapter 189 when the agreements were signed.

2.3.7 Local Government Levy

The Local Government Finances Act (1982) requires all mining companies to pay to the Local Councils 0.3% of the turnover. However, the MDAs have set a ceiling of US\$ 200,000 per annum.

2.4 Mining Contracts

Between 1994 and 2007, six mining contracts have been signed for big gold mines. Mines with those contracts are:

- (a) Bulyanhulu in Kahama – owned by Bulyanhulu Gold Mine Limited. Contract signed on 5th August 1994;
- (b) Golden Pride in Nzega – owned by Resolute Tanzania Limited. Contract signed on 25th June 1997;
- (c) Geita Gold Mine in Geita – owned by AngloGold-Ashanti from South Africa. Contract signed on 24th June 1999;
- (d) North Mara in Tarime – owned by North Mara Mine Limited. Contract was signed on 24th June 1999;
- (e) Tulawaka in Biharamulo – owned by Northern Mining and Pangea Minerals Ltd. Contract signed on 29th December 2003; and
- (f) Buzwagi in Kahama – owned by Pangea Minerals Limited. Contract signed on 17 February 2007.

According to section 10(1) of the mining act, the Minister responsible for minerals is the one responsible for entering into agreement on mine development with the investor on behalf of the government. Key issues to be considered in the contract according to section 10(2) of the Act include the following:

- i) Fiscal stability during the whole period of the project according to the Laws and agreed rates of royalties
- ii) How the Minister or Commissioner of Minerals can use his discretion to implement the agreement according to the Law and its guidelines
- iii) To specify the limits of the investor's responsibility in protecting the environment;
- iv) How to solve conflicts arising from the respective MDA.

On top of the issues specified in the Mining Act, others issues included in the MDAs including the following:-

- v) The company to be allowed to open a bank account and to repatriate funds; and
- vi) To put a ceiling on the amount of revenue payable to Local Government Councils

Basically, these contracts are similar (**see attachment 3**), with only slight differences in some areas, for example:-

- In the Buzwagi Mining Contract, Pangea Mineral Limited was given an 80% declining balance for the first year and 50% for all the following years if he government will make any changes on the Act according to section 4.7 of that contract. Other contracts have a huge relief than this; and
- In the Addendum between the government and Bulyanhulu Gold Mine Limited and North Mara Gold Mine Limited of 17th February, 2007, an additional 15% relief of the capital expenditure was removed.

2.5 Big Mines present in the Country

The report on present mines and projects shows that there are several big mines which include six gold mines, one diamond mine, one coal mine and another for tanzanite. Also, there are other projects at different development stages.

Brief explanations on the history, ownership, production, life expectance of the mine or the revenues from those mines are as follows:-

2.5.1 Bulyanhulu Mine

This gold mine is in Kahama district, Shinyanga, 56 km from Lake Victoria and 153 km from Mwanza City. It is owned by Bulyanhulu Gold Mine Ltd which is a subsidiary company of Barrick Gold Corporation from Toronto, Canada. This mine started production in 2001 and up to the end of 2005, investment had reached US\$ 610mln.

The mine has a gold reserve of about 13.2 million ounces (equal to 411 tones) and produces an average of 300,000 ounces (11.34 tones) of gold and 200,000 ounces of silver and 8 million troy of copper per anum. The mine is expected to span for 30 years with the current rates of production.

For the period between 2001 to December 2005, the mine paid to the government a royalty totaling US\$ 15.18 million and US\$ 68.28 million in through other taxes. Also the mine has employed 1,913 workers, out of which 1,710 (equal to 89%) are residents.

2.5.2 North Mara mine

This mine is in Tarime district, Mara region, 43km from Tarime town and is owned by North Mara Gold Mines Limited which is a subsidiary company of Barrick Gold Corporation from Canada. This mine started production in 2002, under the ownership of Afrika Mashariki Gold Mines Ltd.

The mine has a gold reserve of about 3.8 million ounces (116.23 tones) and can produce up to 267,000 ounces (8.51 tones) per annum. Its life expectance is expected to be 12 years.

From 2002 December 2005, the mine had paid royalties to the government totaling US\$ 9.58 million and US\$ 20.92 million in other taxes. Also, the mine has employed a total number of 1,103 workers, of whom 923 are Tanzanians (equal to 84).

2.5.3 Tulawaka Gold mine

This is in Biharamulo district, Kagera region, some 160 km south west of Mwanza city. This mine is co-owned by Pangea Minerals Limited which is a subsidiary of Barrick Gold Corporation from Canada with 70% of shares and Minieres du Nord also from Canada, with 30% of the shares.

The mine started production in 2005. The mine has a gold reserve of 565,000 ounces (17.57 tones) and can produce an annual average of 120,000 ounces (3.88 tones). From that level of production, the mine is expected to last for 5 years.

Since its beginning to 2006, the government has collected US\$ 2.0million as royalty payments and US\$ 5.2 million in other taxes. Furthermore, the mine has employed a total number of 508 workers, of whom 481 are Tanzanians which is equal to 95%.

2.5.4 Buzwagi Gold mine

This mine is in Kahama district, Shinyanga. It is owned by Pangea Minerals Limited. As of now, the mine is in the final construction stages and is expected to start production in 2008.

The capital investment in this mine is expected to reach US\$ 372 million. The mine has a reserve of about 2.4 million ounces and production is estimated to reach 225,000 ounces per annum which makes its life expectance to be about 10 years. It is expected that the mine will provide employment to about 696, of whom 630 will be Tanzanians, which equals 91%.

2.5.5 Geita Gold mine

In 1994, Cluff Resources Plc from the UK was licensed to explore minerals in the Geita mining area. In 1996, Ashanti Gold field from Ghana bought the English company together with all its assets and licenses. Ashanti Gold Fields continued with exploration activities in Geita until 1999 when the actual mining started.

In 2000, AngloGold from South Africa bought 50% of the shares from Ashanti Gold Fields. In the same year, the two companies joined to form a partnership company called AngloGold Ashanti Limited which is the owner of Geita Gold Mining Limited responsible for mining activities at the Geita Gold mine.

This mine has a gold reserve of about 16.95 million ounces (527.02 tones) and the capacity to produce an average of 560,000 ounces (18.43 tones) per annum. Up to the year 2004, a total of US\$ 450.0 million had already been invested in that mine.

Since it started its operations to the end of 2005, the mine had already paid US\$ 36.0 in royalties and and US\$ 37 million in other taxes. The mine has a total number of 2,296 workers, of whom 2,222 are Tanzanians, an equivalent of 97%.

2.5.6 Golden Pride Gold Mine

The Golden Pride mine which is in Nzega district, Tabora region, is owned by Resolute Tanzania Limited. The mine started production in 1998 with a capital investment of US\$ 370 million by the year 2005. It has a gold reserve of about 2.47 million ounces (76.82

tones) and the capacity to produce an average of 180,000 ounces per annum. At first, the mine was envisaged to last for eight years, but due to discovery of new reserves, the mine now is expected to run till 2012.

Up to 2005, the government had collected US\$ 11.4 million in royalties and 16.95 in other taxes from the mine. Also the mine has 619 workers, of whom 604 (equal to 98%) are Tanzanians.

2.5.7 Tanzanite one mine

This mine is in Simanjiro district, Manyara region, 80 km from Arusha City. It started production in 1999 with a capital investment of US\$ 20.0 million and has the capacity to produce an average of 230 kilograms of tanzanite per annum.

Tanzanite mining activities were being done by Mererani Mining Limited, a subsidiary of African Gem Resources (AFGEM). In May 2004, Tanzanite One Limited took over AFGEM.

Up to 2005, the government had been able to receive US\$ 1.47 million in royalties and US\$ 5.5 million in other taxes from the mine. The mine has a total number of 579 Tanzanian workers, who form 97% of all workers.

2.5.8 Mwadui Diamond Mine

The mine started production activities in 1951 in Kishapu district, Shinyanga region and is owned in partnership by Willcroft Company (a subsidiary of South Africa's De Beers Group) which owns 75% and the government of Tanzania which owns 25%.

According to a report of an analytical assessment done in 2004, the mine was estimated to be having a reserve of about 50.9 million carats. Currently, the mine produces an average of 250,000 diamond carats per annum. However, there are plans to expand the mine's production capacity to an average of 500,000 carats per annum.

Since 1997 to 2005, the government collected US\$ 8.4 million in royalties and US\$ 16.7 million in form of other taxes. The mine has about 967 workers, of whom 959 (99%) are Tanzanians.

2.5.9 Kabanga Nickel Project

The Kabanga Nickel project is owned in partnership by Xstrata Nickel and Barrick Gold Corporation each with 50% of the shares. Currently, Xstrata is carrying out pre-feasibility studies with the aim of opening a large mine at Kabanga, Ngara district in Kagera region. According to reports from the company, the feasibility study will be over by the end of 2008.

Preliminary reports say that the project is expected to cost more than US\$ 2 billion. When it starts production, it will be the largest Nickel mine in the world. Together with Nickel, the mine will also produce copper and cobalt. Until now, the project has cost more than US\$ 100 million in exploration and feasibility studies.

Xstrata Nickel said that it would need about 40 megawatts of electricity to be able to produce nickel concentrates or 800 megawatts to be able to process the concentrate in the country. From the company explanations, the project is also being faced by other infrastructure problems like roads and railways.

2.5.10 El-Hillal Minerals Diamond mine

El-Hillal Minerals Limited is resident company with a diamond mining license in Mwadui, Shinyanga.

According to company reports, since they started production to the year 2007, the mine had produced a total of 30,000 carats worth US\$ 6.0 million. The company has about 220 Tanzania workers.

2.5.11 Buhemba Gold mine

Buhemba Gold Mine was co-owned by Suma Jumbo JKT and Australia's Tanganyika Gold Mines, each with 50% of the shares. In 2003, the government gave a gold mining license ML No. 143/2003 to a company called Meremeta Ltd, which is a partnership company between the Government of Tanzania and Triennex Proprietary (Pty) Ltd. from South Africa.

Production started in 2003. Up to 2005, the owners had already invested US\$ 65 million. Production was estimated to be about 75,000 ounces per annum. The tenure of the mine was expected to be 8 years. As of now, the mine has stopped production activities due to technical problems. Until the end of 2004, the mine had already paid to the government a total of US\$ 1.8 million in royalties and US\$ 3.0 in form of other taxes. It had about 438 workers, of whom 405 (92%) are Tanzanians.

2.5.12 Mchuchuma Coal project

The Mchuchuma coal project is owned by the National Development Corporation (NDC). The project's feasibility study was done in 1995 and 1996 so as to identify its economic profitability through power generation. The studies revealed the following:

- (a) A power generating center using coal at Mchuchuma coal mine would be economically and technically profitable;
- (b) The project is profitable for the base load in industries; and
- (c) The project is feasible for development by the private sector

The confirmed mine reserves were 159 million tones and the presumed reserve is 377 million tones.

The government, through Circular no. 14/2007 has ordered the search for big international investors and small investors with the capacity to invest in the Mchuchuma project. The costs for the project are estimated to be US\$ 612 million for the following activities:-

- i) Construction of a Coal mine;
- ii) Construction of a power generating center 400MW;
- iii) Construction of a power channel to transfer power to the national Grid ; and
- iv) Residence flats and infrastructure.

2.5.13 Liganga Iron ore project

As for Mchuchuma coal mine, the Liganga project is also owned by NDC. The project is in Ludewa district, Iringa region. Apart from Iron Ore, Liganga has high value Titanium and Vanadium.

The amount of Iron ore at Liganga is estimated to be 1,218 million tones as follows:

(a) Mkelema – Maganga Matitu	98 million tones
(b) Maganga – Luhaha	240 million tones
(c) Mgendiguruime – Mwaselega	160 million tones
(d) Liganga	320 million tones
(e) Ng’ongwa – Merere	400 million tones
Total	1,218 million tones

According to a study done by LURGI company in 1984, the investment costs for Liganga were estimated to be US\$ 720 million for starting an iron producing industry and US\$ 1,200 for the coal mine, power generating equipments and other infrastructures.

For now, the feasibility of the project is estimated to cost TZS 4.5 billion. The government has already set aside One billion Shillings for this purpose. In the FY 2007/08, the government has set aside 500 million TZS for the purpose which is too minimal compared to the actual need.

The government ordered fast tracking the use of small mountains with iron ore and coal by local investors for production of sponge iron. NDC in collaboration with a mineral expert did an analysis and found that Maliyatabu “A”, Maliyatabu “B” and Ng’olokolo mountains were the ones with iron ores feasible for production of sponge iron. However, Tausi Minerals (T) Ltd and Warthog Resources (T) Ltd which are private companies responsible for Platinum exploration in those mountains are not willing to partner with other investors in mining.

The government has also ordered setting aside of an appropriate space for local investors to enter into partnership with NDC to produce sponge iron at Maganga Matitu using Katewaka coal.

Residents who will be displaced to give space for the mining activities will be compensated according to the law. NDC has already conducted meetings with district and leaders *wananchi* as part of preparation for the exercise when the investors come. Preliminary assessment of the compensation was expected to start in February 2008.

NEMC did the environmental feasibility study and has already given a go ahead for the implementation of the project.

2.5.14 Kiwira Coal Mines

Kiwira Coal Mines Limited was formed under the Companies Act (Cap 212) on 3 October, 1988. It was formed to conduct coal mining for industrial use and power generating with the support from the Government of the People's Republic of China. The company was a subsidiary of the national mining company (STAMICO) for 100% before its privatization in 2005 when Tan power Resources Limited bought 70% of the shares and STAMICO remained with 30% on behalf of the government. The company has entered into contract with TANESCO for 20 years for selling to the latter 200MW of electricity starting at the end of 2009.

2.6 Government Corporations and Institutions in the Mining Sector

2.6.1 National Development Corporation

The national Development Corporation was formed by an Act of parliament in 1965 with the aim of enabling the government to participate in fostering national economic growth and involve the private sector through partnerships. The Act lasted until NDC was reformed for the first time under the Public Corporations Act (1969). The Act gave NDC a capital and legal powers to operate on commercial basis.

NDC together with its subsidiaries was put under PRSC for privatization under the Public Corporations Act (1992) as amended in 2003. In 2006, the government reversed its decision to privatize NDC and instead assigned it new roles. The decision by the government was unanimously done by the Cabinet and no Law was enacted to repeal the first decision. So NDC's current existence is merely administrative and not by an act of Law.

The roles of the Corporation include starting, developing and to manage basic industries in partnership with the private sector. Identified projects include Liganga iron ore project, Mchuchuma coal project and Lake Natron Soda ash project. NDC is currently developing Liganga and Mchuchuma and is searching for big and small investors as stated in Circular no. 14/ 2007.

2.6.2 STAMICO

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. In order to fulfill these roles, at first, the corporation owned shares in different mines like Kiwira, Bulyanhulu and WDL.

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. That caused the shift of the STAMICO shares and its subsidiaries shares to the like the Kiwira coal mine shares under the auspices of the Treasury Registrar.

Due to this situation, the corporation lost many workers and experts. Most of them left and went for other jobs elsewhere. Also SAMICO's duties were reduced because the government sold its shares in different mines.

2.7 Mining Sector Oversight System

2.7.1 Mining Department

The mining department which is under the Ministry of Energy and Mining is the chief supervisor of the mining sector activities in the country. This department is headed by the Commissioner of Minerals with the support of the Assistant Commissioner. The department has two main sections which are Mine section and Minerals Development section. These two departments are headed by Assistant Commissioners.

The mines section has the following three sub-sections:-

- i. Dynamite issues in the mines;
- ii. Mining license supervision
- iii. Mine inspection

The Mineral development section has the following four sub-sections:-

- i. Provision of extension services,
- ii. Oversight of mining licenses
- iii. Mining Taxes and Laws; and
- iv. Promotion of investment in the mining sector and keeping mining data.

Like wise, the Mineral Department has eight zonal offices headed by zonal mineral officers and fourteen offices headed by resident mining officers. All these offices provide mining related services in their respective areas, including representing the Mineral Commissioner. The distribution of zonal offices is shown in **annex 4**.

The Mining Act formed a Mining Advisory Committee which is responsible for advising the Minister on different issues related to running the mining sector. There is also a Gemstones Board which advises the minister on the development and supervision of Gemstones in the country.

This structure has proved to be weak in fulfilling its duties due to fast expansion of the mining activities compared to its capacity to cope. Due to that weakness, the ministry of energy reviewed it in 2006 and proposed a new structure so as to strengthen the performance of the Mining department. The structure was approved by the government in 2007 but is yet to be implemented.

2.7.1 Gold Audit Program

This program was formed in 2007 under the Mining Department via a Cabinet Circular no. 50/2007. It was formed specifically to perform the duties that were being done by the big gold mines audit company in the country named Alex Stewart (Assayaers) Government Business Corporation – ASAGBC, after its contract ended.

The main aim of forming this program was to audit and inspect production and transportation of gold so that the government can get due royalties and taxes from those activities.

The program is being faced by the following challenges:-

- (b) Insufficient tax and mineral economics experts, financial analysts, process engineers and information technology (ICT) specialists;
- (c) Inspection equipments which include laboratories for testing other minerals apart from gold and silver; and
- (d) Lack of close collaboration in the supervision of mining activities among different government institutions like TRA and TIC.

2.7.2 TANSORT

TANSORT is a Ministry of Minerals department situated in London, UK. The main role of TANSORT is to do the sorting and setting prices for diamond produced by Williamson Diamonds Limited (WDL) which runs the Mwadui Diamond Mine. This system is being used due to the partnership between the government and the operator of the mine which is a subsidiary of South Africa's De Beers which is the buyer of all diamond produced by WDL.

The department highly lacks workers, because as of now it has only six, where three are Tanzanians and the rest belong to other nationalities. These can only sort 15% of the diamonds delivered to the center. Running costs are also high.

2.7.3 Geological Survey of Tanzania (GST)

GST is a government agency under the Ministry of Energy and Minerals formed under section 245 of the Executive Agency Act No. 30 of 1997, and formally announced through the Government Notice No. 418 of 9th December 2005. However, GST started its operation in 2006, with its headquarters in Dodoma. GST main responsibilities are as follows:-

- (a) Identification of sites with mineral occurrences;
- (b) Prepare, modify, keep and speculate all geo-scientific data, include publishing and distributing maps showing such data;
- (c) Conduct monitor and Evaluation of geological impacts including natural Geo-hazards like earth quakes, volcanic eruptions, landslides, effects from mining activities and radiations and provide advice on how to limit these hazards and their impacts;
- (d) To provide geological laboratory services;
- (e) To provide geo-library services and keep all information on maps and rocks; and
- (f) To provide professional advice to the government on exploration and mining activities.

GST has about 114 with different professional qualification including Geology and Mineralogy.

GST faces the following challenges in its working:-

- i. Lack of working equipments, especially for analyzing the mineral reserves and in measuring geo-hazards;
- ii. Limited budget and personnel who can fully fulfill its duties and responsibilities;
- iii. Failure to publicize itself and raise public awareness on geo-hazards, its activities and their output; and
- iv. Lack of international recognition for its services due to lack of registration with the International Standards Organization (ISO)

2.7.4 The Madini Institute

The Madini Institute was founded in 1982 in Dodoma under the Ministry of Energy and Minerals. The aim of forming such an institute was to provide training in Full Technician Certificate to serve the mining sector in the country. Courses offered by the institute include the following:

- (a) Mine Engineering;
- (b) Geology; and
- (c) Mineral processing

Since 2005, the college has been providing training course at the National Technical Award (NTA) level which involves Industrial Practical Training. Graduates from this college are employed in the mining sector as technicians.

The college faces a number of challenges including:-

- i. Insufficient dormitories and class rooms, and lack of a laboratory;
- ii. Lack of field training places, because companies usually provide a limited number of chances;
- iii. Insufficient teachers and workers;
- iv. Limited number of students due to limited of sponsorships;
- v. Limited budget allocated for the college;
- vi. Poor remuneration for the teachers and workers; and

vii. Lack of recognition by NACTE and hence lack of International recognition

2.8 Exploration, mining and trading of minerals activities are done by possessing the following licenses:-

2.8.1 Primary Prospecting License (PPL)

This is acquired according to section 65(4) of the Mining Act for Tanzanians only. These are given for only one non-renewable year.

2.8.2 Primary mining License (PML)

These are given according to section 68 (1) of the Mining Act to Tanzanians only for a period of five years renewable.

2.8.3 Prospecting License (PL)

According to section 29(1) of the Mining Act, prospecting licenses are given for a period of three years and can be renewed twice for two-year terms. After that period, this license can not be renewed again, but can only be extended for completion of an already started feasibility studies. Furthermore, this license can include two years for preliminary exploration that do not involve digging of the soil – only geo-physics (by plane) and exploring of natural rocks are allowed.

2.8.4 Mining Licenses (ML,GML,SML)

This type of license is offered to Tanzanians only and spans for 12 months and can be renewed without limits. The license owner is allowed to buy minerals from the miners and sell them to dealers. However, it does not permit the holder to sell such minerals abroad.

2.8.5.2 Dealer's License

These licenses are given for a period of 12 months and can be renewed for another term without limit. These can be given to a foreigner only he is in partnership with a resident (s) who shall have no less that 25% of the shares. This license allows a dealer to buy minerals from the miners or brokers and export them.

Data from the Ministry of Energy and Minerals shows that since 1997 to 2007, a total of 6478 licenses were given for Primary Prospecting and Prospecting, 10,637 licenses for Mining and 1,064 licenses for trading minerals. The number and type of licenses offered annually from 1997 to 2007 is as shown below in Table .2

Table 2: THE NUMBER OF LICENSES OFFERED BETWEEN 1997 TO 2007

YEAR	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	TOTA
------	------	------	------	------	------	------	------	------	------	------	------	------

												L
PL &PLR	372	378	241	225	194	241	299	572	295	513	771	4,101
SML/M L/GML	23	28	20	9	42	15	19	40	23	20	36	275
PPL	n.a	n.a	2,377	n.a	n.a	n.a	n.a	n.a	n.a	n.a	n.a	2,377
PML	9	15	9	2,609	528	721	554	1,645	2,094	463	1,715	10,362
Dealers	n.a	n.a	n.a	36	111	152	124	111	49	170	311	1,064
TOTAL	404	421	270	5,256	875	1,129	996	2,368	2,461	1,166	2,833	18,179

n.a – data not available

Source: Ministry of Energy and Minerals, 2007.

2.9 Production and Selling of Minerals in the Country

Minerals that were produced and sold include those in metallic group like gold, gemstones like diamonds and tanzanite, industrial minerals like gypsum, phosphate and salt. The value of exported minerals between 1998 and 2007 is US\$ 4,829.15 million. Furthermore, the total sales of big companies between 2001 and 2007 were US\$ 4,084.6 million. Among those sales, US\$ 3,930.5 came from gold and US\$ 154.1 million from diamonds. Tables 3, 4 and 5 show produced and sold minerals between 1998 and 2007.

Table 3: PRODUCTION OF DIFFERENT MINERALS FROM 1998 TO 2006

TYPE	Unit	1998	1999	2000	2001	2002	2003	2004	2005	2006
Diamond	Carat	97,830	234,800	354,388	254,271	239,761	236,382	303,920	219,639	272,204
Gold	Kilo	427	4,890	15,060	30,088	43,320	48,018	48,176	47,270	39,750
Gemstones	Kilo	48,518	95,200	150,800	96,866	195,842	1,531,547	1,613,848	627,796	2,493133
Phosphate	Tone	1,437	7,250	5,100	4,000	1,182	3,738	6,570	1,975	2,881
Coal	Tone	45,073	75,044	79,184	77,789	79,210	54,610	65,041	30,795	17,940
Limestone	Tone	1,181,233	1,241,155	1,500,000	2,269,359	2,856,711	1,206,208	1,390,894	2,006,407	1,607,570
Gypsum	Tone	59,066	21,195	60,000	72,000	73,000	33,232	59,231	23,119	32,556
Salt	Tone	75,000	35,893	70,000	65,000	71,200	58,978	57,062	51,166	34,798
Pozzolana	Tone		2,274	57,014	41,468	52,000	105,911	152,679	163,499	129,295
Silver	Kilo				6,861	7,669	7,986	13,216	12,480	14,906
Copper	Troy				5,832,158	9,309,812	8,191,035	9,348,181	8,072,118	7,241,639

Source: Ministry of Energy and Minerals, 2006

Table 4: VALUE OF EXPORTED MINERALS FORM 1998 TO 2007 (US\$ Million)

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Diamond	11.10	26.40	45.80	30.60	28.13	31.86	33.68	25.35	25.91	28.91
Gold	3.30	39.80	120.50	256.80	274.33	504.14	596.62	639.63	772.06	888.87
Gemstones	8.10	14.00	18.50	18.80	19.77	19.05	26.89	40.53	31.01	35.58
Salt						1.32	2.05	1.63	2.00	2.17
Phosphate					0.04	0.06	0.51	0.03	0.28	0.72
Silver				1.00	0.95	1.32	2.95	1.60	5.54	5.32
Copper				5.01	6.54	7.33	12.17	11.64	19.90	21.06
TOTAL	22.50	80.20	184.48	312.21	429.76	565.07	674.87	720.41	856.70	982.63

Source: Ministry of Energy and Minerals, 2007³

Table 5: MINERAL EXPORTS FOR BIG MINES 2001 – 2007 (US\$ million)

Mines	2001	2002	2003	2004	2005	2006	2007	Total
GOLD								
Golden Pride	48.2	44.5	60.2	63.6	66.6	82.4	98.8	464.3
Bulyanghulu	52.2	114.4	96.5	134.9	125	181.3	170	874.3
Geita Gold Mine	148.5	176.6	232.3	307.6	271.6	184.7	227.7	154.9
Buhemba Gold Mine	0	0	27.8	34.3	29.9	28.7	0	120.7
North Mara Mine	0	0	70.3	89.4	111.1	219.9	167	657.7
Tulawaka Gold Mine	0	0	0	0	50.7	89.3	124.5	264.5
Sub-Total	248.9	335.5	629.8	629.8	654.9	786.3	788	3930.5
DIAMOND								
Mwadui	15.9	13.1	22.5	31.1	22.5	19.2	22.3	146.6
El Hillal Mine	0	0	0	1.5	1.8	3	2.2	7.5
Sub-Total	15.9	13.1	22.5	31.6	24.3	22.2	24.5	154.1
								0
TOTAL	264.8	348.6	509.6	661.4	679.2	808.5	812.5	4,084.6

Source: Bank of Tanzania, 2007⁴

³ Data in Table 4 and 5 differ because were delivered at different times

⁴ Ibid

2.10 The Contribution of the Mining Sector to the National Income and Government Revenues

The contribution of the mining sector to the National Income (GDP) has increased from 1.7% in 1997 to 3.8% in 2006. Also, the sector has been one of the fastest growing sectors in the country as shown in **Table 6**.

Table 6: THE CONTRIBUTION OF THE MINING SECTOR TO THE NATIONAL INCOME 1997-2006

YEAR	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
% of GDP	1.7	2.0	2.1	2.3	2.5	2.7	3.0	3.2	3.5	3.8
% Of Sector Growth			9.1%	14.3%	13.9%	16.9%	17.1%	16.0%	16.1%	15.6%

Source: Ministry of Planning and Economic Empowerment, 2007.

In this period, collection of royalties and mineral production increased from about US\$ 700,000 per annum in 1997 to about US\$ 26 million per annum in 2006 as shown in **Table 7**.

Table 7: ROYALTIES COLLECTION 1997-2006 (US\$ Million)

Year	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
US\$(m)	0.707	0.475	1,247	4,652	7,512	10,917	16,522	21,522	23,528	25,703

Source: Ministry of Energy and Minerals, 2007

2.11 Small Miners

Section 3.2 (ii&vi) of the Mining Policy mentions the intent to reform and improve small mining. Also, section 3.3.6 states the different strategies to help small miners which include facilitating accessibility of financial services and to put a good working system for small miners that are feasible and modern. These are the specific areas where the government intended to improve and support small miners:-

- (e) To identify small miners and allocate them mining sites legally.
- (f) To prepare loan processes for small miners for buying working equipments and enable them to access soft loans;
- (g) To give them training on extension services, better and safe mining practices, mineral processing and environmental protection according to current laws.
- (h) To prepare reliable markets for minerals that meet market requirements; and
- (i) To develop mineral trading systems that encourage transparency and deter smuggling; and
- (j) To promote partnerships between local small miners and foreign big investors so as to facilitate technology transfer and increase the amount of production

In order to ensure the implementation of those objectives, the Mining Act (1998) put a special procedure for giving licenses and monitoring of small mining.

Further, the Act directs the government to make sure that it sets aside special areas for small mining give tenure to the owners of those areas.

2.11.1 Problems facing Small Miners

Small mining has always been done using poor implements and technology and lack of clear information on mineral reserves in the respective areas.

There are many complaints from the small miners. Some of them include being evicted from their areas by big miners supported by the government through its agents like the police army. Examples of areas where scenarios like these occurred are Bulyanhulu where small, unlicensed miners were forced to leave the area to give space for the foreign big investor.

There are also complaints that small miners are usually allocated tiny mining site that make it difficult to operate without interfering each other. A good example is Mirerani where the 50 x 50 meters area allocated to each small miner is too small compared to Plot C which was allocated to big miners. Small miners also find themselves working in very dangerous conditions including disputes and frequent accidents like what happened in March 2008. In case of conflicts, they have set dispute settlement mechanisms to be used. However, in case of interference in a big miners' site, they report to be beaten up, tortured, dog biting, water boarding and even fired by live ammunition by the big miners.

Also small miners complain of being left like orphans in their own country and that the government does not take care of them for not putting favorable working conditions, providing them with professional advice and reliable markets for their products.

Despite those short falls, some of the small miners have started using modern methods and hence increasing their income and the national income at large. A good example is Mr. Christopher Kadeo who has a mining license in Rwamgasa, Geita district. He uses modern tools and abides with environmental protection guidelines. However, despite his success, Mr. Kadeo complains that the government does not support small miners especially in relation to accessing working tools and giving them tax relieves like how it does for big miners.

2.11.2 Allocating Mining Sites for Small Miners

Apart from their primitive working tools, they are faced by lack of working sites because most of the areas were taken over by exploration companies and that they also lack information of exploration activities. Due such situations, the government has been allocating sites for small miners as part of implementing the Mining Policy (2000 and 2007). The Minister responsible for Minerals allocated

Kilindi, Maganzo in Kishapu district and Mererani in Simanjiro district to be specifically for small miners.

The whole small miners' site in Mirerani was made a Designated Area for small miners in 2002 and was henceforth fenced for security and safety of the small miners and their properties. This was intended to make sure that the mining environment at Mirerani was feasible for the miners and the government in general.

2.11.3 Plans to support small miners

There have been plans within the government and among private companies to help small miners. In 2006, the government through the Mining Department started negotiations with foreign exploration companies working in the country so as to help in getting good areas for small miners. As a result of those efforts, the government in 2007 finalized talks with IamGold from Australia to set aside an area equal to 48.24 sq. meters at Nyarugusu in Geita district for small miners. There also ongoing negotiations between the government and Barrick so as to set aside areas for small miners in Tarime, Kahama and Biharamulo where the company holds exploration licenses through its subsidiary companies North Mara Mine Limited, Bulyanhulu Gold Mine Limited and Pangea Minerals limited.

In relation to companies, in 2007, WDL in collaboration with the government started the **Mwadi Community Development Partnership (MCDP)**. This partnership is intended to provide training to small miners on how to access loans and to leave part of its working space for small miners. This program is at a stage of forming a multi-stakeholders partnership. These stakeholders are like the Village governments bordering the WDL mine district leadership in Kishapu and the central government through the Ministry of Energy and Minerals.

The situation for now shows that in most cases, small miners have partnerships with big miners only during the exploration period and that agreements between the two parties are usually for exploring in the small miners sites only. After the exploration, a possibility is sought for the small miner to sell off the plot to the big miner. However due to lack of knowledge on compensation processes, some small miners seem not to be contented with the selling agreements and some of them keep demanding more payments.

2.12. Compensation for displaced people for Mining purposes

According to Mining Policy (1997), companies with mining projects are required to conduct social impact assessment studies for the communities surrounding the mine. Also, section 3.3.12(iii) of the policy requires the companies to formulate a sustainable system for establishing good relations with the people living around the mines. The National Land Policy (1995) in sections 4.2.19 and 4.2.20 clearly

states that compensation for land acquired for public interest, including mining, will consider the value and benefits that the owner will lose. Key issues involved in compensation according to the Land Policy are:-

- a) Market value of that piece of land;
- b) Inconvenience and transportation for the owner who will be leaving;
- c) Income lost by leaving that area;
- d) Structures that will be destroyed after the land is taken;
- e) Principle costs incurred to get that piece of land and the development costs; and
- f) An interest to be paid in case the compensation is not paid in time according to market value.

The Land Act (1999) and The Village Land Act (1999) are currently the two main Acts responsible for land issues including compensation. These two laws put a legal basis on ownership and compensation on land matters. However, there are other laws also with provisions on land acquiring for different uses including starting a mine

The Mining Act (1998), section 96 states that the license offered shall be used with according to values and without causing any harm to the land owner or the rightful resident. Section 96(3) states that compensation for the resident should match the market value, rightful and sufficient. Under section 96(5), the Act states that in case of any dispute relating to the compensation paid under section 96(3), the complainant may submit the complains to the Commissioner of Minerals who shall address them using his authority rendered to him under Part VIII of the Mining Act.

Despite the clarity in the Act about compensation, the real practice is different when it comes to compensation for those who are displaced. Main conflicting issues are the following:-

- i) There is no clear time set under the law for payment of compensations and preparing alternative residences for the displaced;
- ii) The people are not enlightened about the compensation process, their rights and the responsibility of the new land owner in compensating them so as to avoid the current inconveniences during payments;
- iii) Big investors are usually given big portions of land without considering the real use of it and of those who were owning the place;
- iv) Licenses are given depending on the capacity of the applicant to pay for the space applied for without considering the real needs of the mine and other economic activities that were taking place there before;
- v) The process currently used is for the mining companies to collaborate with district leadership without involving the citizens who will be

- displaced for the m to know their rights and the amount of compensation they will eventually receive;
- vi) The government valuer is used in valuing the compensation amounts for each property without informing and involving the citizens and after the valuing exercise, the people are paid through the office of the District Commissioner;

Despite the compensation guidelines set out in the Land Act, 1999, it is apparent that some of the criteria are not applied during the preparation and the actual payment of compensation. Also the citizens do not know the basic criteria for computing the compensation amounts. Basically, the real situation shows that the whole compensation process is not clear and not fair – hence, unsatisfactory. Valuing for compensation is usually done without heeding the key issues identified in the law (i.e. disturbance, transport and the value of the properties depending on where they are). Many people have been displaced without being paid the compensation or being allocated alternative places.

Furthermore, though the Act has directed on time payment of compensation, it usually paid late without interest and no any steps have been taken against any one responsible. Again, the Mining Policy does not also state clear about the compensation for the displaced people.

2.13 Government Ownership and Participation in Mining Projects

According to the Treasury Registrar, ownership and government participation in different mining projects are as stated in **Annex 5**.

2.14. Challenges in the Sector

Despite its contribution to the national income, increase in exports, increase in government revenues, increase in employment opportunities and the interlinkage with other economic sectors, the mining sector still faces several challenges.

Again, though the Vision 2025 and the Mining Policy focus on having a mining sector that contributes more than 10% to the national income by 2025, the growth rate of the sector in the last decade does not show promising signs to reach that target. Challenges facing this sector include the following:-

- a) The contribution of the sector to GDP is still low;
- b) The contribution of the sector to government revenues is unsatisfactory;
- c) Poor relations, especially between big investors and communities surrounding the mining areas;
- d) Environmental degradation from mining activities;

- e) Conflicts between big and small miners; investor and mine workers, and mining investors and other land users;
- f) Weakness in the mining sector oversight system and in the legal system
- g) Unfavorable compensation process, small amounts of compensation and non allocation of alternative residential areas for the displaced;
- h) The weak link between the mining sector and the wider economy;
- i) Citizens are not well informed on the mining sector;
- j) Local Government Authorities not receiving their due payments from the mining activities; and
- k) Poor or absence of necessary infrastructure like roads, railways, ports and electricity.

2.14.1 Government steps to Address those Challenges

In addressing the above mentioned challenges, the government took different steps to strengthen the sector itself, including forming several committees for dispute settlement, to look into how to increase the growth of the sector and its contribution to the national income. Committees that were formed and submitted report in the past include the following:

i) A Committee that probed into the source of the Dispute between AFGEM Small Miners in 2002 (the Mboma Committee)

This committee gave opinion and recommendation on the relations between the small miners and AFGEM. The Committee advised the government to stop giving mining licenses to big investors and instead give licenses small miners. From that recommendation, Mirerani was made a Designated Area in 2007 for small miners.

ii) A Committee to Review the Mining Policy of 1997 (the Kipokkola Committee, 2004)

This committee gave opinions and recommendations on how to improve the Mining Policy and the sector's oversight system. Further, it advised the government to participate strategically in the mining activities through STAMICO and NDC. Also, it advised that Tanzanians should be empowered take part in large mining. Other recommendations were on the distribution of the revenues from mining activities and review the mining taxation system, specifically, to remove unnecessary tax relieves. The committee's recommendations are listed in **Annex 6**.

iii) A Committee to Review Mining Contracts and Taxation System in the Mining Sector, 2006 (the Masha Committee)

In implementing the recommendations by the Kipokola Committee, this Committee reviewed and gave recommendations on the mining contracts and the taxation system and did an analysis on the performance of different institutions with oversight roles in the sector. The committee recommended launching of negotiations between the government and mining companies on some of the provisions in their MDAs especially those related to taxation. Also, the committee recommended changes be made on the taxation system. Those recommendations were taken by the Government Committee that is currently conducting negotiations with mining investors. Areas that were recommended for negotiations included the following:-

- a) To harmonize the tax relieves on Capital Allowances with those in other sectors like agriculture;
- b) To wipe out the annual 15% additional capital allowance on unredeemed qualifying capital expenditure
- c) Withholding tax rates be as stated in the Income Tax Act, 2004
- d) To implement the environmental provision in the Mining Act that allows the Minister responsible for Minerals to enter into contracts with the Mining Companies to establish a fund for environmental rehabilitation after the mining activities are over.

Recommendations from the Masha Committee are attached in **Annex 7**.

iv) Government Committee on Contract re-negotiation between the Government and Mining Companies (the Bukuku Committee)

This Committee was formed to implement the recommendations from the Masha Committee and is still going on with the exercise. As a result, some of the companies have already remove the 15% additional capital allowance on unredeemed qualifying capital expenditure in their MDAs and companies have started paying the US\$ 200,000 amount to the LGAs.

2.14.2 Reforms on Mining Acts

In 2004, the government amended the Mining Act (1998) in the following areas:

- a) Royalty for Gemstones processed in the country to be 0% instead of 5%; and for the un processed be 5%;
- b) To charge a fine to any license holder who fails to pay the license fee or the royalty on time;
- c) Response to notification for grant license time to be 28 days;
- d) To give the Minister responsible for Minerals powers to form a Gemstones Board; and
- e) To set underground vertical limits for each license offered

These steps were meant to improve the oversight system of the mining sector. However, there are consistent concerns of unsatisfactory ness from the people, leaders and even the investors. This is the real situation in the mining sector in the country. The next chapter will show the complaints, opinions and recommendations by different stakeholders and experts in geology, economics and law.

CHAPTER THREE

3. VIEWS OF STAKEHOLDERS

3.1 Introduction

In a bid to prepare recommendations on how to address different complains in the mining sector, the Committee met different stakeholders including mine owners, mineral traders, mine workers, mining sector experts and the public at large. Their opinions are summed up in this chapter.

In general, all stakeholders were of the view that the mining sector is very key in boosting the national economy and fast tracking social development. However, stakeholders differ on the strategy to reach these targets and the role of the government in supervising the sector. Views of each stakeholder group are mentioned below.

3.2 Mining Companies

The Committee started by meeting TCME so as to get general ideas and then visited some of the mines to see some of the activities being done in those mines. The main aim of the Committee in these meetings was to get the views of the mine owners and the mine leaders on the running of the mining sector in the country, available opportunities and how the contribution of the sector to the national development can be enhanced. The Committee visited the following mines:

- a) Golden Pride gold mine in Lusu, Nzega district;
- b) Bulyanhulu Gold mine, Kahama district;
- c) Buzwagi gold Projects, Kahama district;
- d) A diamond mine owned by El Hilal Minerals Limited in Mwadui, Kishapu district;
- e) Mwadui diamond mine, Kishapu district;
- f) Geita gold mine, Geita district;
- g) North Mara gold mine Tarime district;
- h) Tanzanite mines in Mirerani, Simanjiro district owned by Tanzanite One, Kilimanjaro Mines and a small mine owned by Hashim Masawe;
- i) A small gold mine owned by Christopher Kadeo in Rwamgasa, Geita district;
- j) Kiwira coal mine in the borders of Kyela, Mbozi and Ileje district;
- k) Buhemba gold mine, in Musoma district; and
- l) Liganga Iron Ore project in Ludewa which is under the auspices of the National Development Coporation (NDC).

The mine leaders informed the Committees on their operations and insisted that hey observe all the laws of the land and their MDAs. Also mine leaders seemed satisfied by the investment environment in the mining sector. Basically, they informed the Committee that the Policy and Legal base present in the country give an opportunity for the sector to

grow faster. Also, they emphasized the important of establishing good relations with the surrounding communities and informed the Committee that living in harmony with the communities was part of their main working policies. Despite those generic positive views, mine leaders proposed the following changes to be made in different areas as shown below:

3.2.1 Granting of Mining Licenses and Permits

Mine leaders seemed not happy with the performance of different government institutions responsible for serving them. Key areas identified include the following:-

- a) Delay in granting of exploration and mining licenses in the Prime Minister's office and Mineral Commissioner who are responsible for granting such licenses. According to mine leaders, this is due to long bureaucracies at the Ministry of Energy and Minerals;
- b) The Ministry of Labor delays to offer work permits for foreigners;
- c) The Immigration Department delays in offering residence permits for foreign workers; and
- d) The Revenue authority delays refunding of VAT and untimely completion of tax relieves and exemption processes.

Due to this situation, investors proposed that the institutional system be strengthened and improved so as to facilitate timely delivery of services and avoid corruption.

3.2.2 The Government not fulfilling its Obligations

According to the Mining Policy, government roles include building and maintaining enough infrastructures to cater for the needs of the mining sector, granting licenses, supervising the implementation of laws and mining guidelines and ensuring availability of enough and qualified experts. However, some of these responsibilities are not fully fulfilled. For example, some mines have to produce electricity for their production activities and some have to construct roads to and from their working site.

Also the government has failed to control small miners and citizens who ambush mining areas illegally and cause dispute between them and the mine owners. Such situations have occurred at TanzaniteOne, North Mara, Buzwagi and Mwadui mines. Leaders from these mines argued the government to fulfill its and policy and legal responsibilities.

3.2.3 Insufficient Experts in the Mining Sector

According to the Mining Policy, the government is responsible to ensure that there are enough mineral experts. The investors were concerned that the government is not doing enough in making sure that the nation has enough experts because they usually have to recruit them from abroad. Apart from limited availability of domestic experts, investors also raised concerns on lack of experience for the local experts due to infancy of the sector and those who get the experience leave the country to working abroad.

On top of those concerns, investors also complained about lack of experts in mines management and once again urged the government to increase the pace in nurturing more experts.

3.2.4 Control and Tracking of crimes

Almost all investors complained about continuing crimes in the mining areas done by Tanzanian security guards in collaboration with residents surrounding the mines. Due to this situation, many mining companies opt to hire foreign security firms and leave Tanzanian firms due to lack of trustworthiness. They also added that even when crimes are reported and suspects captured, they also have to spend a lot for follow up of the cases. This adds to the mines' running costs.

3.2.5 Compensation to citizens vacating mining sites

The mining management told the committee that though the payment of compensation is supposed to be done by the government, there has been a tendency of delay in the payment processes resulting to refusal of locals residing in the sites to leave for the mining activities to proceed.

In the process of speeding up vacating exercise for the locals, some mining companies compensated them with a better package than the one the government was offering though this step later raised the cost of investment.

3.2.6 Poor Infrastructure

The mining management expressed their dissatisfaction with the poor infrastructure in the mines, especially transportation and electricity. They said the Dar es Salaam port is too slow in clearing both imports and exports resulting to high cost of investment and operation of mines. Also other means of transportation especially railway and roads are poor.

Despite the long distance between Mombasa port from the mines in the lake region, it has cost these investors to use the foresaid port due to its effectiveness in clearing imports and exports and also have been linked to railway and shipping through Kisumu and Mwanza to reduce the operational costs.

It is also costing the mining companies to produce electricity which is costly due to use of fuel and this is because the company is not connected to the national grid.

For example, lack of electricity had been a major obstacle to development of the nickel mine at Kabanga in Ngara district.

The mining management suggested that the committee should advice the government to improve infrastructure especially the Dar es Salaam port and other transportation means

like railways and roads hand in hand with electricity so as to sustain the rapid growth of the mining sector.

3.2.7 Corruption in the Government

The mining management complained of corruption in provision of different services which delays most intended services thus causing soaring of production and operating. This destroys the investment environment in the country so they asked the government to improve its performance on that area.

3.2.8 Payment of commission

According to the mineral law and MDAs, a company is supposed to pay a commission of up to 5% for gold and 3% for other minerals. This standard of payment is estimated after calculation of processing and transportation cost to the buyer of that particular minerals (net back value).

The managements of the mines have basically agreed to these payments but they suggest that these payment standards should consider the possibility of the investor getting loss.

They also suggested that there should be a specific period for a grace period after the company has started production and before starting payment of the foresaid commission. Also the owners of the mines suggested that the government should give a period of one month from the date of sale of minerals so as to make arrangement for paying the commission to the government.

3.2.9 Increase in cost of employment

While the committee continued with its task, the government ordered the increment of the minimum wage for all employees in the private sector including the mining sector.

The mining management told the committee that due to that order from the government, the mines shall retrench some staff so as to remain with the magnitude they can sustain to pay because that step will minimize the profit and production of the mines. However they complained of the increment which has not considered productivity and the condition of employment in the market and how that could affect the orientation of the investment and production sector.

3.2.10 Relationship between Investors and the Communities

The mining management said that the investors are supposed to contribute basic services to the society surrounding the mines. These services include construction of schools, dispensaries, health centers, boreholes and many more. However these groups of shareholders lamented on the poor relationship between the mining sites and the community around. From their opinion this is due to high expectations of the society

from the mining companies which does not tally to what is actually offered by these companies.

3.2.11 Local Procurement

The leaders do not agree with the complaints from the citizens that the mines do not purchase products and services produced in the country especially food stuff.

The management said that importation only happens when there is scarcity of the foresaid goods and services, or does not meet the market standards. The management also said that they only purchase local products if they are available and meet the required standards and pricing.

3.2.12 Relationship between Management and Staff

The management disagreed with the claims that they are recruiting foreigners who do not meet the required qualifications and advised the government to seek information from immigration offices so as to verify the claims.

As far as the salary gap between expatriates and local employee of the same qualification being different is concerned, the management agreed with that and said they are following international protocol of paying expatriates much than locals due to domestic expenses to be incurred by the foresaid individual when he/she is away from home. These expenses include mortgages, school fees and much more. Thus the expense of hiring expatriate personnel in any given country is always higher than that of a local employee.

On claims against the management for not recruiting locals surrounding the mining sites, they said that they have always recruited them so long as the individual qualifies, but it has sometimes cost them to employ individuals out of the surrounding locals due to not meeting the qualifications and also reduce the chances of the staff who are locals from the area from sabotaging company properties with intruders.

3.2.13 Weak administration of TRA on the mining sector

The mining authority told the committee that TRA has no personnel who know exactly what tax rates mining companies should pay to the government and as a result they ended up colliding with the foresaid sector over taxation.

The management told the committee that government should recruit qualified officers from TRA who are conversant with the mining industry for tax from this sector be collected effectively.

3.3 Employees of the mining companies

The discussion that took place between staff representatives and committee the following views were derived;

3.3.1 Pay As You Earn (P.A.Y.E)

Employees claimed that the deductions made for P.A.Y.E is much and their allowances and overtime are also subject to the foresaid deductions. Therefore they asked the government to review the law of taxation to staff in the mining industries since they contribute a lot to nations' income and if possible they should not be subjected to tax when they import vehicles from abroad.

3.3.2 Side effects of working in the mines.

The employees told the committee that working in the mines is risking ones health. This is because they are exposed to every kind of risk like inadequate oxygen, noise, stinks, strong heat that could cause infectious diseases or even death. The staff gave examples to their fellow staff who have once been victims and the companies would never take care effectively.

Therefore the staffs have requested to be provided with personal protective equipment along with risk allowances. Also they requested the government to review the law of compensation to staff who have been injured at work be paid a considerable wage than the current which is too little.

The employees told the committee that despite their work being risky, hard there are no health facilities in the mining zones to cater for them should they become sick or get accident. Also there is no formality that provides the employees with health facilities to cater for them after leaving office or retirement from this sector.

Employees proposed that hospitals should be put to cater for those leaving office after retirement since mining activities would leave one with a long-term side effect. Also these hospitals will uplift the health standards of the locals around the mining zones.

3.3.3 Employment for Foreigners (expatriates)

The local employees are worried about mining companies bringing into the country officers who do not meet the job criteria qualifications compared to the ranks they hold.

This is revealed by their inability to performance according to standards of operations and this could mean that the qualifications they hold are void.

Employees suggested that the immigration officers should scrutinize these officers' qualifications to make sure they are employed per their work permits issued to them. They said the government should regulate work permits and be strict to all foreigners unless there is a necessity for such officers to be allowed into our country.

3.3.4 Staff Salaries

The employees told the committee that there is a big difference between the salaries paid to citizens compared to foreigners even though they hold the same qualifications. For example in one given mine a foreigner is paid six million (Tsh. 6,000,000) per month and a citizen with the same post and qualifications paid only eight hundred thousand (TZS.800,000) per month.

This signifies a sense of discrimination, demoralization and hatred amongst staff and the company at large.

3.3.5 Community services

Since the MDAs are not clear about the importance of mining industry in offering community services to the society, investors contribute to these services only voluntarily when they feel like doing. This has resulted to complaints from the communities surrounding the mining sites to the foresaid investors. The employees suggested that there should be specific services with standards that should be provided by the investors and be outlined to them when contracts are signed. Also same should be communicated to the intended community about the services they are supposed to be provided with by investors.

3.3.6 Workers' Labor Unions

The employees told the committee that some of the staff matters are rampant due to lack of labor unions in their places of work which are supposed to listen and forward their grievances to the right authorities in the mines. The management has therefore taken advantage of this and is not doing anything as far salary and other staff benefits are concerned. They told the committee that it has been a routine for locals to be sacked without being given chance to express themselves.

They also expressed their sighs by telling the committee that the government has been too reluctant into enforcing and sensitizing the labor laws to the citizens.

3.3.7 Control of other minerals

Experience has revealed that from any given gold mine there are always other minerals underneath like copper, silver and other gem stones. However there has been control on gold only but not over these foresaid minerals from the mines which the investor benefits freely.

The employees gave an example to the Bulyanhulu gold mine which is known for gold production only but practically the crust sand which is normally exported abroad for sorting is believed to contain many other minerals which are not included in the contract by the government.

3.3.8 National Holidays

According to administrative protocols in the mines, an employee is supposed to be paid overtime and other fringe allowances according to government standards that have been put in place purposely for national holidays. However the employees told the committee that these national holidays are not observed in the mining industry and staffs are not paid their overtime accordingly.

3.4 Local authority and the community surrounding the mining sites

The committee had a public rally both internal and external from different areas to collect views and suggestions from the locals. These meetings included strategic leaders and locals from the mining areas where these mining processes take place. Leaders present were regional commissioners, district commissioners, members of parliament and local government councilors and authorities.

The locals gave their grievances and views from different point of view as outlined below;

3.4.1 Fees paid by the mining companies for the services they get from the local government in the mining areas.

According to the financial law of the local government of 1982, the local authorities has been given the mandate to collect service levy to a rate not exceeding 0.3% for the turnover according to financial operations taking place within the given area of authority including mining operations taking place in the foresaid locality.

However the authority has been unable to collect the intended levy from the companies with MDAs since that is paid according to sales. Despite contract stating that a levy of up to US \$200,000 per year should be paid, all local authorities did not collect due to lack of transparency in contracts that have been in place.

Some companies started paying that levy voluntarily from 2006 when the government started negotiations with their companies.

Shareholders had these views over the levy of US \$ 200,000

- a) This levy is too small compared to the cost of operations the local government is incurring in rendering services to the mining companies and community at large. For example the cost of maintaining roads frequently which is always affected by heavy machinery and trucks from the mining companies and also other community services like health, education and water has increased due to increased population attracted by mining industry taking place. There was no agreement that was reached as per what rate these companies should pay, and it is possible that the levy of US \$200, 000 at the moment collected could be less than the 0.3% of the total sales of these companies.
- b) The concerned authority does not know the law governing levy collection thus failing to collect the levy from these companies. Also the mining company refuses

- to pay the foresaid levy especially when they know that the authorities concerned lack awareness.
- c) There is no proper comparison in this collection since this law formality affects gold only and not other minerals like copper, silver or tanzanite.
 - d) These collections of US \$200,000 are taken to the headquarters of local authority and cater for daily expenses within the authority leaving the real local layman suffering in the area of mining locality.

3.4.2 Compensation to the locals giving way to mining operations

The law of lands states that anyone vacating his/her land for the purpose of giving way for any operation to take place has the right to compensation.

Lack of enforcement to this law has led to complaints between the locals and the investors and on the other hand the locals and the government at large. Claims and views of the citizens from the mining locations were as follows;

- a) The compensation formalities in place are not beneficial to the locals as they end up in small compensations which does not sustain their needs of starting a new life after vacating.
- b) There are always delays when it comes to compensation processes.
- c) There is always confusion when it comes to payment of compensation as who exactly is supposed to do the payment; some would be referred to the government or to investors or to ministry of lands or ministry of energy and minerals and so on.
- d) The locals lack knowledge of their rights as how much exactly are supposed to be paid and whether the given amount is correct or not. It was therefore suggested that;
 - i. The compensation formality as stated in both the law of mineral and lands be reviewed to eradicate the present confusion between these two laws and make the vacate benefit.
 - ii. A specific compensation period should be set aside and make proper arrangement for the citizens giving way to the mining operations.
 - iii. The citizens should be sensitized over their rights for being compensated and who should pay them so as to eradicate the confusion they incur when making follow up for their payments.
 - iv. The standards of compensation should be reviewed considering the value of the resources an individual owns. Also the value of individuals land should be reviewed so that the concerned be fully compensated to enable him/her carry on with new life after vacating.

3.4.3 Investment/Share ownership in the mining sector

Most shareholders have suggested that lack of share ownership by the government in the mining industry has placed the government in difficulties as far as full supervision, control and production of national resources in the mining sector is concerned.

Without government participating in the ownership it will difficult to asses the income and production from the mines. The citizens and authorities suggest that there is possibility of government losing income from the levy of mining industry due to this kind of situation.

It was proposed that the government should own a certain percentage of shares and enhance full control of income, production, sales and orientation of the mining sector.

It was proposed that in the formality of government share ownership the locals from the mining areas be given priority to own a percentage of shares since this could be the effective means of uplifting their standards of living. Also for every land with minerals shares be given to authorities using availability of the areas specified. It was also proposed that the 25% shares owned by the government at Mwadui mine be increased so that the may own more shares.

3.4.4 Use of Security forces

Share holders said that security forces have been deployed to maintain harmony and security measures at large. However police forces have been used to send away locals from their lands before their compensation made.

The citizens' complained that the police forces are used to safeguard the investors than the locals. When the locals are in trouble with the investors they don't get any assistance from the police forces to recover their rights.

The citizens had the following views;

- i. The police forces should be there for the benefit of all the citizens.
- ii. Government should improve on security forces and make it functional to cub every kind of insecurity.

3.4.5 Involving citizens in land division in the mining locations.

Share holders said that villagers are the key factor to discovery of these mining sites therefore the government should consider involving them whenever land division takes placed to the strategic mining sites. It was said that there is no proper formula in land division for mining operations as the process would start from ministry of energy and mineral than beginning from the locals who are the rightful owners of the land here negotiations should start.

Under the current policy the locals are not shown the demarcation of the land sold to the investors hence causing chaos when one is told to vacate without prior notice that mining operations are in progress. Some locals complained of fearing to carry on with their duties as any time could be vacating moment hence ending up with losses.

The locals also complained of dispossession of their mining sites which they have legally owned for long but given to new coming investors. The tendency of not involving citizens in the land division of mining sites, mineral research, and no notification on boundaries of the mining plots has been the major problem of chaos between locals and the investors.

Practical examples have been observed by the committee from Maganzo village in Kishapu district, Kakola village in Kahama district, Nyakabale village in Geita district and Nyamongo district in Tarime district.

To avoid this problem, the following was proposed;

- i. The procedures of land division and mineral research should involve the small scale miners living in the mineral sites and locations.
- ii. The procedures of issuing mining licenses should be reviewed so that those wishing to carry out mining projects should seek negotiations from the locals residing in the mineral sites before issuing them licenses.
- iii. All mining sites boundaries should be made known to everyone so that no conflict shall arise from locals or investors.
- iv. Proper communication should be made between ministry of lands and the ministry of energy and minerals because at the moment the ministry of lands is responsible of land division while the ministry of energy and minerals is concerned with the issuing of licenses for the mining operations hence causing trouble to the citizens.

3.4.6 Contract Transparency between the government and investors.

The citizens complained about lack of contract transparency between the government and investors. After the government intervention over the mining policies in the contract the investors have started to adhere to the laws governing mining sector by fulfilling their responsibilities.

It is important for such laws be known to the authorities and the locals so that they may be aware of what is going on in their locality, effects of mining operations taking place and their rights as citizens within the foresaid location.

Also the awareness will make the locals know the possible effects from the contract.

In this issue the citizens proposed the following;

- i. Set aside awareness programs to the authorities and locals living in the mining locations.
- ii. Copies of contracts to be filed in the offices of local government level to the most high authority level so as to ease follow up procedures from the foresaid contracts.

3.4.7 Search for minerals

Most share holders said that due to weakness in the law enforcement in this sector some investors owning licenses change their names when their licenses have expired and ask

for another license with the same investment location or area thus holding these locations for too long.

Locals believe that search for mineral is successful and most investors doing these operations do succeed but they sell without the government getting any income due to unstable law enforcement and the tendency of holding mining sites for long lowers production in this sector.

Citizens are proposing that there should be a mineral law controlling it especially at production.

3.4.8 Control of minerals

The citizens expressed their fear of the government failing to control mineral production in the country. This was practically observed at mining operations at Mwadui where the control officer in charge stays at Shinyanga and he attends to the site only when the need arise. This kind of supervisory can easily lead to disappearance of nation's resources and income.

Also the locals expressed their fear when they said that those well established investors have at least an air strip at their site to facilitate their operations. And because there poor control in this sectors this could easily result to nation's resources and income getting lost to abroad.

To curb the vanishing of minerals just like that it is suggested that control of minerals at the mines and air ports be improved. This can be effective by recruiting more officers in these areas.

3.4.9 Collision of the law

Share holders said that the collision of the law in one way or another affects the production in this sector. It is said that this collision causes chaos in the operations.

For example the law of lands states that land is a public property while the law of local authority states that land is property of the locals. it was also said that in putting more emphases to the law of minerals operation in this mining sector has been done mostly through the law of lands only without considering the law of local authority and law of wildlife so as to eradicate the existing contradictions and bring in equity.

To erode the mentioned crisis the following was proposed;

- i. To amend all the laws affecting land in different perspectives and sensitize the citizens of their usage.
- ii. The law of lands of local authority should be given priority in land division instead of grabbing it from the locals using the law of lands only.

3.4.10 Delay of payment of Tax by mining companies

Contrary to small scale investors paying tax immediately they start the investment, the large scale investors are given too much time after investment to settle their tax bills. However these large scale investors end up changing their commercial names hence becoming difficult to track their record of operation and tax settlement.

Due to that tendency it is suggested that;

The period of tax payment should be reviewed in the mining sector so that the investors pay in the required period and to curb them from changing their commercial names.

Make a strict code of law to the investors to prevent them from changing commercial names.

3.4.11 Exportation of copper concentrate

It was said that there is no control over exportation of the copper concentrate by the government to abroad. To ensure good control it is suggested that the government put up a factory of doing all these processes in the country

3.4.12 Explosions in the mines

The citizens told the committee that the explosives being used in the mines (like that of Geita) do affect their environment and also causes cracking of the walls to the locals houses, but with all these there is no code of law which defines the investor giving notice to the public that these operations will be taking place or make compensation for any damage that may occur. The citizens suggested that;

The government should enforce a law that will require investors give notice to public that explosives will be used.

Investors to set aside compensation package whenever damages have occurred.

Proper procedures to be made by the government to ensure compensations have been made where applicable.

3.4.13 Neighborhood to mining sites

Some mining sites are close to residents which brings interaction of the locals with staff from the mines. Practical example is the North Mara and Geita.

In the village of Nyakabale in Geita district mining site has affected the residents who have given way for mining operations to take place and left their road they have been using and this has cost them to the extent of others losing their life, being raped and theft.

Due to that it is suggested that;

- a) Locals near the mining sites should be compensated and relocated.
- b) There should be a buffer zone between mining sites and the locals.

3.4.14 Services in the mines

In this industry operations are many; services and people are many as well. However, most citizens told the committee that some investors hire these services from outside the country. It is said that even some food stuff is also imported and same is available in the country.

In order for the citizens to get employment it is suggested that;

There should be law governing investors to use internal contractors and officers as mining service providers.

The procurement of food stuff should be done internally for those commodities available in our country that local farmers and businessmen benefit should benefit.

Share holders insisted that fulfillments of these proposals will enable the government increase income from tax paid by the locals who are service providers to the mines.

3.4.15 Environmental Conservation

Locals from the mining zones like Geita, Kiwira, Kyela districts and Buhemba in Musoma ditrict they told the committee about effects of mining activities intoxicating water and their farming fields. At Nyakabe the remains of excavated rocks are dumped into locals farming fields and when it rains these remains intoxicates the farm products and livestock due to the chemicals used in mining operations. This also affects the locals from getting unsafe drinking water. This also is experienced by the villagers from Buhemba and Kiwira.

It is said that there is no proper formality defining compensation to those affected like one of the farmers explained how he lost his livestock due to intoxication of water used by farm animals. Desperately he did not get any examination research report that was done by the public institutes since he was unable to pay fees for that service and when he went to ask for it from the mining company he was deprived of it for fear of suing them and may be ask for compensation.

Therefore due to environmental abuse by mining industry, the citizens suggested the following;

Government should fully supervise the formalities of safeguarding her citizens.

Government should have well defined formalities of compensating those affected by these mining activities.

Government should relocate her citizens that have vacated for mining activities to take place.

3.4.16 Community services

Citizens complained of the investors not offering adequate community services considering needs of the society. The committee was told that when investors come they

make empty promises to locals. In most mining zones a lot of effects to infrastructure were experienced like roads, boreholes, dispensary, schools and many community services due to giving way for mining activities to take place thus leaving locals without alternative services to the ones displaced. Also it was said that locals are not involved when it comes to investors' contribution to community services.

3.5 Small scale mining investors

Small scale mining investors are amongst shareholders given chance to express their views on the way mining industry is doing in the country.

Apart from meeting with small scale mining investors in the respective zones the committee went ahead to visit sites of the foresaid investors. These mining zones visited includes Rwangasa village Geita district a small town in Mwanza Kishapu district. Nyamongo village in Tarime district and Mirerani areas in Simanjiro district.

Collectively these groups of small scale mining investors were demoralized because of being left out in law and protocol enforcement in the mining industry. They told the committee of the difficulties they face in their operations and other related problems. However, they aired their views and opinions on how to improve working conditions to small scale mining investors. They include the following;

3.5.1 Methods of mining zones allocations to small scale mining investors

It is said that methods of allocation to small scale mining investors in disastrous. For example the foresaid individuals in Mirerani mining zones are allocated to an area of 50m.sq. This results into chaos due to smallness of site. On the other hand from geological point of view of these sites one is supposed to excavate in parallel orientation which ends up one reaching to somebody else mining site. Small scale mining investors have their way of solving this problem of one intruding to another investors' site but the large scale companies don't agree to these formalities.

Also there are instances where small scale investors are shot by the large scale security officers when they intrude to their mining zones. This intruding between small scale and large scale investors has been a critical problem in the mining industry.

To avoid such incidences the following was proposed;

- i. Methods of sites allocations to small scale investors be reviewed and the area allocated to be bigger than what is in place to enable them do enough mining.
- ii. The small scale investors should be allocated to the most appropriate mining zones according to their capital scale and the mining technology they use.

3.5.2 Empowerment of small scale investors

The small scale investors are faced with small capital margin which is making the own poor mining equipment and technology that has poor profit. They have been unable to secure loans due to harsh methodologies from the banks. Also the cost of mining is

becoming high, making it difficult for small scale investors do their work or even fail to do so.

It was suggested that the small scale investors be empowered by the government in giving them loans and mining tools and equipment so that these mining activities be beneficial to them and nation at large.

3.5.3 Specific stores for mining tools and equipment

The small scale investors said that there is scarcity of mining tools and equipment in the country. This equipment includes water pumps, oxygen and other gas cylinders, mining drills, dynamites and other important mining tools and equipment. The foresaid group is made to buy these tools from neighboring country in Nairobi Kenya through brokers.

It was therefore suggested that the government should make tireless efforts to put up enough and reliable stores for the mining tools and equipment to be available in the country for the mining industry.

3.5.4 Minerals and gem stones market.

The committee was told that so far there is no official market for the minerals produced by the local small scale investors. The unavailability of the foresaid market will create room for the small scale investors be cheated on the right price and value of their products in the local black market.

Also it will be difficult for the government to control and calibrate the income from the sales of the foresaid group of investors. The small scale investors told the committee that the government should put up a unit that will be responsible for defining standards of market to be in place and procurement of the minerals. Through this government shall be able to supervise and control income from the sale of minerals of small scale investors.

3.5.4 Discovery of minerals

It is said that local small scale investors are the key pioneers to discovery of minerals in most mineral zones in the country before the government or large scale investors come in.

Despite all this, the government always relocates them giving these sites to large scale investors without compensating or considering their contribution to discovery of these mineral sites. Normally they are lawfully sent away by being told hat they have no permits or licenses of residing into those areas or even do any kind of mining activities.

It was suggested that the government should let local small scale investors continue with their activities from their respective zones since they are the key to discovery of minerals to the foresaid zones than considering to who went to the ministry of energy and minerals to get license.

3.5.6 Writing off of Tax

Small scale investors should be written off of their tax and issued with a form to fill then is signed by the district commissioner and regional commissioner respectively.

The committee was told that the processes of obtaining the foresaid documents from the district commissioner are difficult and takes too long that by the time you get them, period of tax being written off given by the commissioner has expired.

This tendency of authorities slowing writing off processes demoralizes the small scale investors from following up with these formalities. To assist the small scale investors it was suggested that the government do away with these tiring formalities.

3.5.7 Issuing of licenses to small scale investors.

It is said that there is slowness in processing of licenses to small scale investors in the mining industry. This is so because all licenses are obtained from the main offices of the foresaid ministry in Dar es Salaam. This makes it too costful for the upcountry applicants who have to travel long distances for follow-up.

It was suggested that the licenses should be issued at regional offices to avoid costs than getting them from headquarters in Dar es Salaam.

3.5.8 Use of mining sites

Large scale researchers hold mining zones and give directives of the areas not to be used for whatever activities including restricting small scale investors not to touch the foresaid areas.

When the exploration license expires, another sister company takes over on the same by changing company name. This tendency causes small scale investors lack areas of operation or given small areas of operations which are not sustainable in the mining sector.

It is suggested that companies given licenses should make use of the sites considering the protocols of the license issued to them.

It is also suggested that when large scale investors are giving back sites to the government the locals and small scale investors from the respective zones should be considered first than considering new applicants.

3.6 Different specialists.

The committee got views, opinions and suggestions from different officers and specialists from institutions, community, departments and authorities in the mining sector.

Views from these specialists considered their knowledge, experience, research and their perspective in success and problems encountered in the mining sector and giving ways and means of improving and dealing with them.

Specialists appreciate the importance of mining sector in the economy of the nation but have different views over standard of this sector's contribution at hand is not satisfactory.

Their suggestions have been outlined as follows;

3.6.1 Reserving minerals

Importance of having mineral reserves was discussed by the specialists.

They said Tanzania has no formality of reserving mineral for future generations.

They suggested that there should be a well defined methodology of continuous and innovative mining operation then mining the minerals whenever they are discovered. Apart from having mining deposit known to be in place and mining exercise stopped there is need to have ready to sale mined minerals in place so that should need arise we can sale.

It was therefore proposed that the government should formulate a unit that shall be responsible of buying minerals from the investors and deposit them into national bureau of minerals where these minerals can be sold depending on the fluctuation in the market.

Along with that it was suggested that the BOT should put aside part of its foreign currency as gold. This formality used to be there before and was abandoned but now suits our nation because TANZANIA is currently amongst the top world gold producing country and due to unstable financial market in the world this could bring into our nation reverse currency.

3.6.2 Expenditure of the mineral income

At the moment income from the mining sector is included in the national budget and spent in the normal government expenditures. This makes it hard for the government to know exactly what profit mining industry produced and making people believe that the government is losing from this sector. Also the government should know that minerals are nonrenewable resources and that there is need to have alternative when we exhaust minerals.

It was suggested that income from minerals should be invested to other resources that would have a long term benefit then used in the national budget.

3.6.3 Tax network

All specialists agreed that at the moment it is known that tax writing off is due to investors claiming of not getting profit. But they suggested that there should be a proper tax network that would be fair, easy to understand and control, predictable and reliable.

Most specialists said that government needs a well defined tax network to cater for large scale investors who have been given long term contracts.

Also these investments take place in remote areas where there is poor infrastructure which causes the cost of investment being high. Some said that mining sector is a wealthy industry and therefore there is need for investors to pay considerable tax to the government than the little that they are paying.

Suggestions of the specialist can be summed as follows;

3.6.3.1 Royalty

At the moment the Royalty is paid at the rate of 5% for gold and other gem stones that are not sorted; 0% to purified minerals and 3% to other minerals.

Specialists had different views over standards of the Royalty. Some said the levy is to the standard required and that should be maintained while others said that its substandard and not comparable to the value of the minerals that investors should pay more that what is in place. Also some said that the government should review the payment of levy by considering gross value of the minerals; than what is currently considered is net back value.

Also it was suggested that the levy collected from these mining sector to be taken back to the mining zones for the benefit of the locals in the respective locations.

3.6.3.2 Custom duty

The current formalities has considered the MDAs signed from 1997, the mining companies are subject to customs duty according to the customs law of 1976 which was amended in 1997 considering specific needs of the mining sector. This formality allows free custom duty to all kinds of goods imported by the mining companies for their operational use from research, site construction to the end of first year of production period.

After first year of production the companies are supposed to pay custom duty not exceeding 5% to all products.

The specialists suggested that mining companies should pay normal custom duty outlined in the custom law of East Africa. This law states different standards to different goods. Thus the act of free custom duty given to mining companies should be done away with because capital goods and raw materials are charged 0% and are the most important elements.

3.6.3.3 Value Added Tax

Under the law of value added tax of 1997 mining companies are eligible to that tax. Also mining companies have an opportunity to VAT relief irrespective of whether they are in research or operational processes.

Specialists suggested that VAT relief to the registered companies should be done away with except for companies dealing with research and have no standards of being registered. Also VAT refund procedures should be amended and improved.

3.6.3.4 Fuel Levy (Road Toll)

As defined in chapter two mining companies are supposed to pay a road tax of US \$200,000 per year according to the act of MDAs and the government notice number 99 of the year 2005.

Specialists' proposed the following;

- a) Tax relief to fuel should only apply to fuel used for electric production.
- b) The rate of US \$200,000 per year as the maximum tax rate should be abolished, and;
- c) If tax relief shall continue then government should consider involving contractors because the current policy is not giving opportunity to local contractors.

3.6.3.5 Exercise Duty

Different views were aired as some specialist said that local companies should be free from exercise duty on fuel to minimize their cost of operation and production. However some said that law should be done away with since its not fully meaningful to the nation at large.

3.6.3.6 Income Tax

Due to abolishment of income tax law of 1973 to introduction of new income tax law of 2004, part of the old law is still being used in the mining companies with MDAs. This is due to induction of grandfather's clause in the mining sector.

Most specialists said that this condition has come about by the MDAs that took place before introduction of the new law and therefore considering the definitions of the outdated law than the current one and that means the contracts being signed are governed by the outdated law.

Though the specialists came to an agreement that it was not rightful for one sector to continue practicing an outdated law, there were different suggestions on what should be done to end such problems;

Some suggested that methods used to collect income tax in this sector to be put in the income tax collection act of 2004, and others said that tax should be collected basically on the proposed administrative law of income tax of 2004.

Proposals of the specialist to amend the formality of the law of income tax in the mining sector were as follows;

a) Tax rates

Most shareholders looked satisfied with the tax rate of 30%. It is this same rate used to collect tax from companies in other sectors.

However it is said that most companies don't pay this tax and those paying they do so after having not paid tax for too long.

To their opinion this is so due to 100% tax relief given to most company especially the 15% extra tax relief; a cost which has never been recovered for every year and the prevailing fraud over cost of investment and income from sale of minerals.

Specialists asked the government to improve and empower the tax and revenue authority unit in the country (TRA) into collecting tax from mining companies.

b) Withholding Taxes

Withheld tax collection takes place when there is need to know who is supposed to be paying and receiving that particular tax.

This practice enables tax collecting authority to know new registered tax payers and income of the already registered tax payers. Contract in the mining industry has defined the rate to be paid for withheld tax by the respective company given the foresaid contract.

However these rates are different from those outlined in the law of income tax collection of 2004 to be used in other different financial sectors. Specialists have suggested that the rates of withheld tax collection defined in the law of income tax collection of 2004 to be applied in the mining sector.

c) Capital deductions

Comparison between income and cost of production is one of the best acts of law in accounting and income tax collection. Therefore capital expenditure is considered and deductions made as relief from depreciation of the given product.

Therefore the law of income tax collection is used to rate the depreciation of resources to be used in the process of coming out with a full procedure of collecting income tax from a given company.

The law of income tax collection of 2004 is defining that procedures used in the law of income tax collection of 1973 same should be used to calculate relief of cost of

investment. That law defines; cost of investment of a given mining company to be written off by 100% in the year which production has taken place without considering resources used in the production shall continue in the years to come. The outcome of this is companies delaying to pay the foresaid income tax.

Most specialists said that the tax relief of 100% should be done away with instead the law of income tax collection of 2004 to be fully used.

d) Ring Fencing

Calculation of income for the purpose of tax collection in the mining industry can be done though all company operations or mine to mine or site to site. Ring fencing is formality used to define income and the cost of sites' foundation. This methodology of ring fencing was proposed by the specialists to be used to calculate the income tax paid.

e) Provision for Environmental Rehabilitation

The law of income tax allows provision for environmental rehabilitation especially at the end of mining operations. This provision is accounted for as cost and its tax relief is deducted from income to be taxed. This is because actual cost of this provision is calculated after the expiry period of a given mining site and relief tax is given in every year of production considering the cost of provision for environmental rehabilitation from production operations in the given year.

Experience shows that most mining companies set aside huge amount of money for this provision without paying to the government the actual revenue pretending that the foresaid company takes long to get profit so that they may as well delay to settle income tax to the government.

Specialists propose that the actual revenue set aside and put in special account as the cost of provision for environmental rehabilitation the same shall be subject to tax deductions in calculating the amount to be taxed in the income tax in the respective year.

3.6.3.7 Stamp duty

Suggestions from the specialists were in two different categories; the rates that are used to collect the foresaid duty from the mining companies; the documents of the mining contract not being included in these stamp duty collections. Some MDAs defines those rates of duty to be paid being smaller than those mentioned in the Stamp Duty Act (1972). Also ownership of the mines has been reported to have been changed by selling of shares from one company to another and contracts signed abroad making the law of stamp duty not functional.

Specialists have suggested that the law of stamp duty of 1972 to be used in mining industry instead of using laws found in MDAs. Also they suggested that stamp duty

of the past periods should be collected because the MDAs did not consider them. The aim of this duty is to scrutinize correctness of the intended documents, and it was suggested that it is important not to exercise this duty on documents whose agreement were made abroad for economic interest of the country.

3.6.4 Local Government Tax

The Local Governments Finances Act (1982) legalizes local government to collect tax and other duty collections like the service duty not exceeding 0.3% of total sale minus VAT and custom duty; from all companies in the respective municipality.

However the MDAs protects mining companies from these tax and duty considering profit, sales, standard of investment, or the value of the land or infrastructure in the respective municipality.

This means that MDAs prevents the authorities to collect service levy and other tax collections as it only considers taxation after sales. Also MDAs marks the rate of US\$200,000 per year as the maximum rate which includes all taxes to be incurred by the respective company.

Most specialists said that the MDAs and the high authority prevents the local government from collecting the foresaid taxes and also in these MDAs it is not defined how the rate of US\$200,000 per year was reached or whether that amount is worthy the expenses incurred by the local government due to mining operations taking place in the given areas.

It was suggested that the companies should pay more than US\$200,000 per year or 0.3% of the total sales.

3.6.5 Supervisory System in the sector

3.6.5.1 Institutional formation

Most specialists said that the current formation in the mining sector does not match with rapid growth of this sector. For example the department is lacking officers; like mining inspectors and poor training to the officers which does not meet the needs of the sector. Also the department is lacking enough materials.

These officers also suggested that there is no proper unity amongst the public institutions (TRA, BOT, ministry of energy and minerals, national environmental council, ministry of lands, TAMISEMI) that have the responsibility of supervising all the activities in the mining sector.

Though the ministry of energy and minerals has been improved, there is need for the government to mobilize and improve mining industry associations like the Tanzania Mineral Dealers Association - TAMIDA and Regional Mining Associations (REMA) so that they may contribute to the supervisory of the mining sector.

3.6.5.2 TANSORT

The officers have found out that the aim of forming TANSORT and basing it in London was not successful due to the following;

- a) Little capacity in sorting out gold and few officers to perform that duty. Only 15% of the gold sent there is sorted and its value calculated. There fore the government is due to the little capacity of the foresaid unit estimated to be US \$17.5 million per year.
- b) TANSORT has lacked senior administrative officer for long.
- c) High operational cost than income generated. For example in the year 2006/2007 TANSORT had a total income of Tsh.1,067,498,535.52 and operational cost of Tsh.1,613,624,241.61 and
- d) TANSORT does not sort gold from mining companies.

The specialists suggested that TANSORT should be based in Tanzania to reduce operational cost and empower it with more officers.

3.6.5.3 Issuing of Licenses

Officers with experience in issuing research and mining licenses said that the processes have a lot of administrative formalities. They said that most licenses are held by few individuals who do not make maximum use of them.

It was suggested that license applications should take place in zonal offices where the applied field belongs. And the current procedure of “first come first served” should be reviewed in license issuing to ensure even distribution.

3.6.5.4 Human Resource and Employment

It was said by the officers that the mining industry is lacking enough mineral processing engineering and technicians. For example it is said that there is only one lawyer in the mining industry which means it is will be hard for the foresaid officer to deal with contacts management.

It was also said that the teaching syllabuses in mining profession does not meet the actual needs in this sector. There is need of investing into putting up national professional capability in man power. The mining institute in Dodoma confessed that there being only few students joining and therefore only a few graduate.

Lack of internal man power makes investors hire expatriates man power which reduces profit that the government is supposed to get. It was said that most internal officers who have gained experience from these mining companies have gone to search for greener pastures in countries like DRC Congo and Mali.

3.6.5.5 Gemstones

The officers advised the committee that mining of gem stones like tanzanite and others should be done by local mining companies or inviting other foreign companies who should own shares not exceeding 25% of total shares.

It was also suggested that;

- a) Gem stone mining should be done using small machinery that they may take long period and be ushered to future generation before extinction of the foresaid minerals.
- b) There should be stockpile of gem stones to safeguard their prices.
- c) Gem stones should be sold when they have been sorted to create room for employment and income tax to the government.
- d) Participation in national and international minerals and gem stones exhibition.
- e) Gemstone board should be empowered to work to promote development of the foresaid minerals.
- f) Tax relief in the cost of mining tools and equipment to enable investors of gemstones afford them.
- g) Investors should be empowered into hiring the foresaid tools and equipment so that local investors with mining or procurement licenses may carry on with the investment.

Example was given from Mirerani that formally before the take over of AFGEM mining company there used be good production of gemstones and the economy picked well; locals put up modern houses and small different investments and Arusha municipality was economically stable; but currently poverty is all over due to lack of employment that has been done away by the coming of foreign investors.

3.6.5.6 Change of company names by investors

The officers were worried by the tendency of most mining investors changing their company names frequently which could lead to not paying tax to the government.

This worry is prevalent to the fact that close inspection shows investors being the same despite change of company names. It was therefore suggested that the government should have conditions over change of company name to any given investor as this will ease tax collection.

Formality from poaching industry should be copied into mining industry where it is not allowed to change former company name from the allocated zone.

3.6.5.7 Contracts

The officers had different views and opinions whether there is need or not to review mining contracts. Some said the contracts have well considered the law and correct network of tax collection but the problem is in the poor administration and supervision in the mining sector.

They warned that the 2007 exercise of reviewing mining contracts has shown put a bad implication to the environment of mining investment in our country and seriousness is needful into reviewing these contracts. They suggested the need to review attraction sites and not policies or law but some of the acts in the law should be reviewed.

On the other hand it was said that there is need to review the contracts considering experience got from fulfillment of the foresaid contracts.

It was proposed that review should be done in the following major three groups;

- a) Doing away with some tax relief since they are many.
- b) Shorten the longer periods of contracts which currently are 25 years and can be prolonged infinitely.
- c) Investors should not be allowed to deposit their revenue got from sale of minerals abroad. This makes it hard for the BOT to fulfill its financial functions in nationally. It was said that so far most loan institutions are giving out loans to investors since there is enough security and Tanzania has accepted to do away with current account transaction charges.

Officers from this group expressed their dissatisfaction of there being privacy in the mining contracts and suggesting that all contracts should be made known to eradicate some ill feelings in protecting national resources.

3.6.5.8 Law

Officers gave differed views over the law of minerals. Some said the law is oppressive to the locals especially those from the mining zones.

The officers explained the disadvantage of this law is due to the government being influenced by World Bank and IMF. The government should have known that the foresaid institutions are amongst shareholders of most foreign mining companies in the country and that their influences on mining law reforms were for their own good and not ours. One of their influences was us to attract foreign investors to our country in the mining industry especially large scale mining which does not tally with policies in place. Foreign investors to our country in the mining industry especially large scale mining which does not tally with policies in place.

Some of the officers said that the current mining law in place is fine as it meets international standards. They said that law is clear and defines important issues on mining activities.

For example the law defines types of minerals and its tax duty to be paid different from ownership of land for another type of use in the same zone (coexist), defines who should own minerals and different types of mining censes. They said that law was made after discussions which involved most shareholders including mining specialists; finance and law officers both from abroad and locals in the years 1990 to 1998. It was also said; that whatever they have found out is weakness from the unit supposed to control the mining sector.

However some locals said the disadvantage of law of mining is that they do not know how much is collected and spent by the government from the mining industry. Locals should be told under what circumstances was the law made; whether it made in

accordance with law reforms and tax and acts of the laws that defines attraction zones of the mining industry.

3.6.5.9 Government and private sector involvement

The officers realized that the government had formally participated in the control, ownership and management of mining industry through national mining corporation (STAMICO) that was managing mining industry and the companies in that sector. Amongst these companies are; Minjingu phosphate ltd; Nyanza salt mines ltd; Uvinza(Kigoma); Coastal salt works ltd Saadani,(Bagamoyo); Buckreef gold mine (Geita); Williamson diamonds ltd; Diamond cutting ltd – TANCUT(Iringa); Kiwira coal mines ltd(Mbeya); Pugu Kaolin mines ltd and Tanzania gemston industries ltd (TGI) (Moshi).

The officers did not agree with the idea of the government withdrawing from the share ownership in mining industry. For example the government had 15% shares in Bulyanhulu mines which have all been sold out. Also government had a share of 50% in Williamson Diamonds ltd which they sold half and remained with 25%. Also the government had 100% shares in Kiwira Coal mines under the STAMICO before the take over by Kiwira Coal mines company ltd that has left government with only 30% shares.

The officers said that the government should think again over participative ownership of mines like other countries do; for example Botswana and India. This will fully enforce mining policies. It was also said that government should venture into large scale mining of gold, copper (Liganga) coal mines, diamond and nickel (Kabanga) through its associations like NDC and STAMICO. Only by so doing the government shall see the value of investment being possible in this sector.

Officers outlined the advantages of government participating in ownership of mines; they include;

- a) Dividends of shares to shareholders due to ownership of mining projects.
- b) Participating in policy decisions by having representatives in the mining boards.
- c) Creates room for transparency between government and investors due to close supervision in cost of projects, financial statements and contracts between mines and different service providers.
- d) Through STAMICO government can perform basic geological research and geophysical surveys and shallow drilling. These services can reduce cost of research done by foreign companies thus the government can get payment or shares from these services.
- e) Provision of core drilling services. It's the costly basic operational service which is unavoidable in mining activities. Government through STAMICO can get income by providing these services and can empower itself in mining industry.
- f) STAMICO can provide mining advices to foreign investors and make decisions and thus increase income to the government.

- g) Through the data base of STAMICO and NDC government can advertise availability of mineral resources almost in every province in the country to attract foreign investors and improve economy in every region.

Concerning private sector and local government on share ownership from mining companies; the following was proposed;

- i. It is better for the mining companies to register with the Dar es Salaam stock exchange market so that the citizens can buy the foresaid shares.
- ii. Owners of the lands should own shares from those mining companies investing in those sites.
- iii. There should be policy to enable Tanzanians merge with foreign companies coming to invest in our country.
- iv. The foreign exchange act should be reviewed to enable Tanzanians explore foreign markets and buy shares from the mining companies.

3.6.5.10 Local small scale mining investors

There were different views over contribution of the local small scale mining investors to economic growth. It is said that they have contributed to poverty eradication and improved other economic sectors like hotel and housing sector especially in Mirerani; Arusha zone where tanzanite is found.

On the other side it was said that this group of investors cause noise in their mining activities, don't pay rent and are irresponsible to environmental policies. Therefore this group should be given allocations not to be used again by large scale mining companies.

It was also suggested that mining services should be improved to this group of investors; they include services like; mineral evaluations, tools and machinery equipment services in their respective mining zones.

3.6.5.11 Relationship between mining sector and wide market

Mining industry has made positive economic growth to other economic sectors like construction, factories, transport and other economic services. However it is said that the contribution made by this sector is not satisfactory despite rapid growth of the foresaid sector.

One element that can bring economic interaction between mining industries with other sectors is procurement. The officers said that nation has no strategic policies to enable citizens sell their goods and services to foreign mining companies in the country. Example given was TANESCO is unable to supply power to the mines which makes investors produce power on their own by importing diesel fuel for the foresaid use and therefore costing government lose a lot of revenue. However it is said that the mining contracts given to these foreign investors does not condition them to buy or not buy our goods and services. An example was given of these foreign companies not hiring our local procurement officers instead they hire from abroad.

Some officers said that there is weak relationship between mining sector and other economic sectors due to most large productive mines being owned by the foreign large scale mining investors and therefore all produce is taken abroad. The officers said there is need for the government to empower public mining associations like STAMCO and NDC to make them functional so that the government can have shares in the mines. Also all mining companies should be registered in the Dar es Salaam stock exchange to enable public buy shares from the foresaid mining companies. For the benefit of the nation government should empower local mining companies provide services in the mines and other mining projects.

3.6.5.12 Environment

The officers defined that Environmental management and protection regulatory act of 1999 gives mandate to the minister responsible in the mining industry to make the investor produce his security for the cost of rehabilitation of the environment; but that regulation has not been met.

Also all investors are supposed to go through the foresaid environmental regulation in the closure of a given mine but the law does not define the need for that.

Officers from the National Environmental Monitoring Council (NEMC) told the committee that despite presence of laws and regulation of the foresaid unit, the council is lacking officers and means to enable them tackle their duties due to rapid increase of mining activities and other economical operations that affects environment. Also they said there is need to rationalize formalities of monitoring environment by defining one institute to be responsible of environmental matters.

Almost all officers agreed that environment is one of issues causing poor relationship between the locals and the mining companies in the respective zones. It was suggested that District Mining Consultative Committee - DMCC be formed to monitor environmental effects caused by mining activities in the foresaid zones.

3.6.5.13 Corporate Social Responsibility

Collectively the officers realized the economical contribution of the mining companies to the locals in the respective zones and the nation at large. These services include infrastructure, education services, health, water, electricity, security, employment and income from business between locals and the mining industry. Most of the officers said the contribution of the mining industry in the mining zones was not satisfactory compared to the magnitude of the mining companies with the economic improvement in the foresaid zones. They said in most cases, aid is given out without considering the intended community.

Also there are mining zones whose locals have remained poor instead of being economically stable after the coming of foreign large scale mining companies.

Causes for the above mentioned economical status is due to the following;

- a) Reduced employment after the local small scale mining investors being left jobless and availability of few formal jobs in the mines.
- b) Low income from mining and agricultural activities due to scarcity of land taken with little or no compensation which does not sustain to get another land.
- c) Environmental effects like toxic refuse from the mines draining into the locals' farming lands (like Nyakabe village in Geita district) dust, noise and building deformities due to explosions from the mines which contributes economical losses to the locals.

The officers complained over social services provided by the mining companies to the community being too little and they suggested that rules and regulations governing mining contracts should be reviewed to enable enough revenue from the government and mining companies be deployed into the mining zones to compensate economical and social effects caused by mining activities and also influence economical growth of the respective zones.

However no one gave statistics over expenditure of the foresaid compensations or the required figure to be paid by the mining companies.

The officers from TCME said that the every mining company has a policy defining their participation and contribution to social and economical growth of a given mining zone.

They outlined the projects and activities being contributed by mining companies to the community. Also they complained over the formality of income tax in place that has no tax relief to the mining companies. Therefore the doing away of the tax relief makes the investors hesitate their contribution to social services to the locals in the mining zones.

In order to improve effective contribution of social and economical services by mining companies to locals, the following was suggested;

- a) Tax relief to be granted to mining companies for their contribution to economic and social services to locals in their respective zones.
- b) Mining contracts should have specific definitions over the amount to be contributed by the mining company as percentage of total expenditure per year.
- c) The mining law or contracts should have specific version demanding mining companies and locals agree over specific social and economical services to be provided by the mining companies.

3.6.5.14 Compensation

The officers who met with the committee said that there is need for locals to be compensated due to rapid growth of mining sector which affects environmental, economical and social growth. The law of lands states compensation should be done considering the value of what is on the surface of the land and not the value of minerals available.

Also the government is responsible for compensation and standards of payment ha been defined in the law of lands of 1999. Again the law of minerals of 1998 demands the holder of license for mineral research to deal with the owner of the land as per the law of lands on compensation.

Agreement between mining companies and the locals over compensation depends on the government administrative formalities to monitor compensation even after payment done according to evaluation of the resource done by the national evaluator.

Officers suggested the following;

- a) Not fare to carry out compensation negotiation individually with the investor because that could stop the whole process of the project.
- b) The law of compensation should be reviewed to consider difference in qualitative compensation during research.
- c) Availability of specific compensation unit.

3.6.5.15 Public Awareness

The officers told the committee that the government should sensitize the public over the knowledge in the mining industry. The government should sensitize public on mining policies, laws, contracts and the income collection from the mining industry and how the foresaid revenue is spent for benefit of the nation. It's not good for the mining companies make public believe that they pay income levy of 3% only because the government gets more of income tax and other levy collections from the mining company, contractors and employees.

They said it is important for public sensitization that they may know their rights and responsibility of the government and mining companies to their contribution in making, improving and preservation of infrastructure like roads, electricity, water, hospitals, and schools. There is need for public awareness to know who exactly is responsible in delivering the foresaid services.

There also need for public awareness on their dues and the unit responsible for the compensation before evacuation is made to give way for the mining activities to take place.

It was also suggested that those locals holding land licenses should negotiate with the mining companies to have shares in the respective company instead of selling land in a throw away price. Also need of public awareness to enable them get employment and service delivery in the mines.

The following chapter shows experience in monitoring mining industry from different countries. Experiences of the foresaid countries in mining sector shows challenges encountered in mining industry.

CHAPTER FOUR

4. EXPERIENCE OF OTHER COUNTRIES IN MONITORING THE MINING INDUSTRY

4.1 Introduction

As explained from the introduction the committee went into different countries to explore mining industry so that they can learn from them and implement into the nations' mining industry what other countries all over the world do. This idea was brought about by there being differences in the mining investment, negotiations with stakeholders who also advised the committee to learn from other countries whose policies and laws have contributed to expected success to the respective citizens and the respective nation at large without affecting aims of the intended investment.

Considering the suggestions from the stakeholders the committee visited the following countries; for the following reasons;

- a) South Africa; for the purpose of empowering the locals to participate in mining activities, government participation in the mining sector and how to monitor local small scale mining investors.
- b) Australia; on supervision of mines since some of the large scale mining companies in Tanzania are from there.
- c) Botswana; to know importance of the government owning shares in the mining companies and the compensations to locals giving way for mining activities and the tax network used.
- d) Canada; some foreign mining companies are from there; but also learn about compensations, environmental matters and the involvement of locals in mining activities.
- e) Ghana; about compensations and supervision of mining industries. Also about tax polices used, government involvement in owning shares in the mining industry, division of levy; rehabilitation of the environment after mining activities are over.
- f) Japan; on supervision, sorting of mining sand crust of gold from Bulyanhulu – Kahama and the need to have a sorting company in the country.
- g) Thailand; learn about developing small scale mining sector of gemstones and government participation in the art of gemstones.
- h) Zambia; over compensations, tax network used, environmental supervision, institutional format of monitoring mining sector.

In this chapter the committee is revealing experiences of the above mentioned countries over important matters in the mining sector.

4.2 Mineral ownership and Government participation in the mining industry.

In the first instance the committee wanted to know mineral ownership in the foresaid country from policies point of view. Just like in Tanzania minerals resources belongs to the public through the government ownership on behalf of the citizens. The difference is

the ownership of minerals by the government which is not there or very weak in Tanzania.

In the countries where the committee had visited for the foresaid purpose, ownership of the mines by the government is as follows;

4.2.1 South Africa

In South Africa the government has no ownership policies the mining industry and therefore mines are owned by private mining companies; however, there are Industrial Development Corporations – IDC who on behalf of the government buy shares from the foresaid private companies and sell them to locals and enable participate in the ownership of shares in the mines.

4.2.2 Australia

The government of Australia has no share ownership in mining companies and the mines are owned by the private mining companies by 100%; they unite with the mining companies in operational matters and exploration period in order to attract foreign investment.

The committee was told that the government of Papua New Guinea, ownership is through shareholding between the government and the companies where government owns 5% and 95% to the respective company. Out of the 5%, 2.5% is owned by local government.

4.2.3 Botswana

The government owns shares in all mines in the country. Concerning gold in De Beers Consolidated Company the government owns 50% and the other 50% to the foresaid company. The government owns 15% of shares in other companies mining other minerals apart from gold. From this formation the government also gets dividends from the shares it owns.

4.2.4 Canada

Basically the government does not participate in direct investment because it owns shares in the mining companies. However government participates in putting up of infrastructure like roads, railway, airports, water and electricity in the mines to attract investors in the mining industry.

Government owns 51% in the uranium mining projects only. It is fully participative in mining operations due to security reasons.

4.2.5 Ghana

To ensure involvement of both government and citizens in the mining activities, the following acts of law of mines have been enforced;

- a) Government owns 10% of the shares in the mines. Government owns those shares with free carried interest in all large scale mining companies with mining leases. Also the law demands the mining companies to carry out procurement of goods and services from companies registered in that country.
- b) There is localization policy – a program for recruitment and training of Ghanaians personnel to eventually replace expatriates.

4.2.6 Thailand

The government has no share ownership and mining operations is done by the private sector and the government participates in control and supervision. However the locals participation in the share ownership in the mining industry has great impact.

4.2.7 Zambia

The mining sector in Zambia is mainly concerned with copper production. Before the government started its privatization policy of public associations in mid 80's and 90's all shares of copper mining companies were owned by the government through Zambia Consolidated Copper Mines – ZCCM. After privatization and formation of Citizens Empowerment Act, 2006, ZCCM Holding Company; the government owns 10% and 26% of shares in all mines on behalf of the citizens. The aim is to later sell the foresaid shares to the locals.

According to their law of investment any foreign investor coming should share ownership of the shares with the government. That law of investment empowers the locals from owning shares in the mining companies.

4.3 Institutional system

The committee revealed that all the countries they have visited have institution unit monitoring and controlling mining sector. However the countries have different systems in the concerned ministry. In Ghana mining activities is done by mining commission with autonomous authority over the foresaid sector.

In countries like Thailand there are more than one institution monitoring mining activities.

The committee also found out that institutional formality depends on the formation of the administration of a given country. In Australia they have federation formation, where monitoring of the mining sector is done by respective states and not the federal government.

In other countries where chieftdom exists, the chiefs supervise the mining sector in their respective territories especially in contracts and mining processes.

For example in Botswana, Ghana and Zambia contracts cannot be approved by the government before getting a go ahead from chiefs from the respective mining zones.

4.3.1 Australia

Mining sector is monitored by states authority through the Department of Industry and Resources – DoIR. Only important matters like contracts are monitored by the federal government in collaboration with the states authority.

4.3.2 Thailand

The supervision and monitoring of the mining industry is done collectively by;

- a) Ministry of natural resources and environment through the ministry of minerals concerned with mineral exploration and mineral statistical storage.
- b) Ministry of industries through the Department of Primary Industries and Mines – DPIM concerned with the awareness of mining industry development and issuing of licenses.

4.3.3 Canada

Mineral matters are monitored by the department of Minerals and Metals which is under the ministry of natural resources of the federal government.

4.3.4 Ghana

Mining is monitored by the mining commission which is an independent institution under the ministry of Lands, tourism and minerals.

By format the commission is headed by the mining board with secretariat under the local administrative officer. The commission department 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 is from different duty paid by the clients which includes search fee and visa grant fee.

4.3.5 Zambia

The mining sector is monitored by the department of mineral development under ministry of mines and mineral development. Mineral development is divided into different four technical places namely; mines, dynamite and explosion, machinery and technical area and environment area.

4.3.6 Botswana

The mining department is under the ministry of Energy, minerals and water. Considering economic importance of this sector, mining department has been given priority to be

technically improved. Also the president is the chairman of a special committee monitoring mining sector.

4.4 Compensation to the locals being relocated

Procedures for Compensation are divided into two;

- I. Locations of resettlement
- II. Financial Compensation to cover resettlement and value of resources left by the locals being resettled.

The committee has found out those procedures for compensation differs from one country to another. From the counties visited it is found that their compensation procedures are different from the Tanzanian.

In the foresaid countries mining operations cannot take place until compensation, relocation and resettlement has been done including housing. Apart from housing provision, locals in Zambia are also given land for agricultural activities. In these countries the mining companies are responsible for compensation, relocation, settlement and housing to the locals.

Procedures used in different countries are;

4.4.1 Zambia

In Zambia land is owned by the chiefs who are representatives of the locals from their respective areas. Before the investor is given mining license he is supposed to go and negotiate with the owner of the land over compensation. Cause for locals to be resettled is investors; therefore he/she should set aside for alternative land to do agriculture. Locals participate themselves pointing where they should be resettled. They agree on the price to be paid considering area and value of the investment to take place.

4.4.2 Botswana

Like in Zambia land in Botswana is owned by the chiefs as locals' representative from their respective zones. Before an investor starts investment he or she is supposed to agree with the owners of the land and pay them according to agreements. The government is responsible if the local's rights have been violated. According to the law of Botswana, investor is supposed to do the compensation and purchase of land where the locals shall be resettled.

4.4.3 Canada

Most mining activities in Canada take place in areas where there were no settlements. Most of these areas are owned by the aborigines (first nationals) for hunting. Therefore the investors make agreement with the locals from the foresaid locations. The contracts are well stated that the compensation should be; cash, infrastructure (schools, health centres and .water. also the rate of compensation is between the investor and locals and

the government does not interfere but protects the locals especially when there is no justice justified. Negotiation could take up to 2 or 3 years before the agreement is reached.

In protecting the aborigines the government provides an individual from the aborigine group to work in the department of natural resource. Though mining has been taking place in open zone where there is no settlement but the locals have legal rights to claim compensation as they use these fields for hunting. The contracts are well defined over compensations to be made. it is the duty of the government of Canada to help locals of the foresaid zones to get technical support when contracts are given.

4.4.4 Ghana

Compensation is an important issue in the mining law of Ghana. Compensation is given due to deprivation of use of land or part thereof, destruction of resources and farm produce and disturbance.

The company does negation with the owner of the land over compensation standards used. In case the two parties don't agree, then government standards are used. It is said company rates are low compared to rates the companies offer and therefore locals prefer negotiations without involving the government.

Also alternative lands are provided and good housing done than before.

4.4.5 Australia

All land belongs to the citizens and therefore mining companies negotiate with the locals and compensation is done before evacuation and mining processes. The company is supposed to return the land to the owner after completion of mining activities.

- a) License for the mining activities is not issued before compensation negotiations are met and made.
- b) Compensation is made by the holder of the mining license and not the government.
- c) Procedures of land ownership are defined in the states laws of mining, for example act no. 6.4.4 of Western Australian Mining Act and rule no. 35 of that law defines.

4.4.6 Thailand

Compensation and resettlement is done by the investor. Construction of infrastructure to the resettled zones is work of the government. Compensation and resettlement depends on the following factors;

- a) The rates of compensation consider the value of resources in the markets for that period.
- b) Compensation procedures demand the investor to have a clear assurance of compensation to effects of mining activities to the locals and present it to Economic social development committee.

- c) The committee scrutinizes the report looking at different issues including resettlement areas, compensation budget, construction of infrastructure, and cost to be incurred during resettlement processes.
- d) When the committee is satisfied with the report it is taken to ministerial council where the prime minister forms a committee that would make the rates of compensation and procedures of resettlement.
- e) The foresaid committee comprises the following officers;
 - I. Regional commissioner as the chairperson
 - II. A government officer responsible for supervision of minerals; and
 - III. Village authorities

The problems encountered in this exercise are availability of land for resettlement and preparations for resettlement processes. Also the foresaid relocations require high cost for putting up of different infrastructure for better resettlement.

4.5 Infrastructure for mining activities

Mining activities requires infrastructure like roads, water, electricity and so on. The committee has found out that from the countries they visited, government is responsible for the construction of infrastructure. Inside the mining site that responsibility belongs to the mining company. However the basics for putting up infrastructure differ from one country to another.

In Botswana, Ghana and Zambia infrastructure is used as source of owning shares in the mines by the government.

In South Africa, the government put up infrastructure as responsibility as is not involved in ownership of shares.

In Australia the government unites with the mining companies in putting up infrastructure and is not involved in share ownership.

The formation of putting up infrastructure in the foresaid countries is as follows;

4.5.1 Australia

Basically the construction of infrastructure to the sites is done by the government and within the mining sites is done by the respective mining company. In Australia just like in Tanzania the cost for infrastructure is high due to large areas being unsettled. When there is need for railway and port for the purpose of mining activities the government join hands with the investors to make them in place. When an investor participates in construction of any given amenity that was supposed to be done by the government, cost of investment is included in the investor's capital.

4.5.2 Thailand

Collective infrastructure is by the government whereas in the mining site and compensation to locals is by the respective investor.

4.6 Tax System

The committee explored the tax systems of these countries in returns, income tax, custom duty and specific tax relief given in the mining sector, compared to other economical sectors. This is due to the fact that in Tanzania there is special consideration in tax collection in the mining sector.

In all the countries apart from South Africa where the committee visited, 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 respective mining zones. This kind of system is used in Australia, Botswana, Ghana, Thailand and Zambia.

Most mining contracts in Tanzania give different tax relief. In the countries visited by the committee, tax relief is not there. Apart from collecting tax in standardized rates compared to other sectors, some countries collect extra tax in the mining sector. For example Zambia have reformed their system of tax in 2008 and started new tax (windfall) which considers inflation of minerals in the global market.

Generally the system of tax in the countries where the committee visited is outlined below;

4.6.1 Zambia

The tax system in mining companies of Zambia includes the following important aspects;

- a) Returns that were taxed at the rate of 0.6% in cobalt and 2% in other minerals, has been raised to 3% since April 2008. Returns are calculated according to the gross value of the minerals at the departure centre after deducting cost of transportation to the foresaid centre.
- b) Withholding tax in the interest and operational fee of corporate companies and contractors rate of 15% is charged.
- c) Income tax rate of 30% is charged per the given year.
- d) Variable tax rate of 15% of the profit exceeding 8% of total sales. In other countries this tax is known as Additional Profit Tax- APT
- e) Capital allowance is at the rate of 25% year.
- f) Hedging as a risk management mechanism is counted as a different activity and is taxable.
- g) Withholding tax in the dividends is 0% chargeable.
- h) Windfall tax in the sale of copper is as follows;
 - Amount that exceeds a price of US\$ 2.5 but doesn't exceed a price of US\$ 3.0 per unit measure is charged 25%
 - Amount that exceeds a price of US\$ 3.0 but does not exceed a price of US\$ 3.5 per unit measure is charged 50%

- Amount that exceeds a price of US\$ 3.50 per unit measure is charged 75%.

4.6.1.1 Custom Duty

Companies with mining licenses are custom duty free to machinery tools and equipment including special vehicles to be used in the mining operations.

4.6.1.2 Excess Duty

Companies with mining licenses are Excess Duty free to machinery tools and equipment including special vehicles to be used in the mining operations.

4.6.1.3 Value Added Tax – VAT

Companies with mining licenses are exempted from Value Added Tax for machinery tools and equipment including special vehicles to be used in the mining operations. Procurement tax and services used during exploration period can be recovered after a period of five years.

4.6.2 Botswana

It is the leading country in Africa with good administration systems in mineral resource putting that sector in progressive economic plans of the nation. Mining is dominated by production of diamond done jointly by the government and De Beers of South Africa. Tax system in mining sector is due to ownership of mining activities by the government, value of diamond compared to other minerals produced and high production at a low cost.

4.6.2.1 Returns

The rate of returns depends on the type of mineral as follows;

- a) Valuable gemstones with diamond 10%
- b) Precious metals with gold 5%
- c) Other minerals 3%

Certain amount of returns remains in the mining sites.

4.6.2.2 Income Duty

- a) There is a special formula to calculate amount of tax of a given company depending on the profit collected where the minimum rate is 25%. This formula considers the amount of profit collected in a given year and therefore it can be included in the aspect of Excess Profit Tax. Profit from Debswana Company of Botswana which produces diamond is distributed according to agreement with its shareholders and it's duty free.

- b) Capital deductions are recovered by 100% in the year that has been used.
- c) Loss of tax of financial year is carried forward to include it in the next financial year.
- d) Botswana has a system of evaluating cost of operation in the mines by ring fencing on mine by mine basis.
- e) Corporation tax to mining companies producing other minerals apart from diamond are charge a rate of not more than 25% but the rate can be increased depending on the profit collected.
- f) The government of Botswana ensures that part of the income is remaining to the mining zones. The government has no proper policy of tax relief or even tax holiday to the mining company and all tax payment in done in the department of tax collection.

4.6.2.3 Custom Duty

Mining tools and equipment are free from custom duty.

4.6.2.4 Value Added Tax

The mining companies are not free to VAT and therefore are considered like any other companies.

4.6.3 South Africa

The tax collection system in South Africa is outlined below;

4.6.3.1 Returns

Currently the government of South Africa does not collect returns from the mining companies. However there is a bill to be passed so that by the year 2009 this collection shall be effected.

4.6.3.2 Income Duty

- a) Total rate of income duty is 30%;
- b) Capital deductions is made and is recovered by 100% in the next financial year
- c) Unredeemed capital deduction of the previous year can be carried forward to the next financial year and can be used to reduce the income tax of the foresaid year.
- d) The amount agreed to be paid by the mining company for environmental rehabilitation same shall be calculated on the amount to be taxed.

4.6.3.3 Value Added Tax

Mining companies are subject to the value added tax, so they pay tax in procurement of goods and services in normal rates which is 14%

4.6.3.4 Custom Duty

Custom duty is collected at the rate of 15% on crude diamond exportation.

4.6.3.5 Fuel duty

Mining companies are free to fuel duty.

4.6.4 Australia

Australia has no specific system of tax collection in the mining sector. However change in the system of tax collection affects new projects only. Australia has a system of royalty relief by deferment if the respective mining company has reasonable cause for the foresaid relief.

Apart from paying returns to the government, mining companies pay other dues to the local government for social and community development.

The Australian western province has three main forms of taxes;

- a) Returns of between 1.5% and 2.5% depending on the inflation of the respective minerals.
- b) Corporate tax of 30% paid to the federal government
- c) Other taxes to be paid as per the laws on the federal government.

4.6.5 Thailand

Tax system has been divided into the following major groups;

- a) Corporate tax of 30% of the profit.
- b) Value added Tax of 7%
- c) Land utilization fee, which is paid according to the type of license owned by the mining company
- d) Depreciation allowances on the company machinery of up to 5 to 20 years
- e) Returns are paid to the government depending on the standard of a given mineral as defined in the law of The Mineral Royalty Rates Act B. E. 2509.

According to the foresaid law the rates of returns are as follows;

- I. Raw materials for metallic ore like tin, zinc, lead, tungsten and gold is 5% to 15%
- II. Metallic ore for lead or zinc is 2.5%
- III. Other metallic minerals is 10%
- IV. Gemstones is 10%
- V. Industrial minerals is 2%, 4% and 7%

Income dividends from these taxes depend on the system of administration which gives rights to the local government get part of the foresaid income.

Therefore the returns are divided as follows;

- Local administrative organization get 20%
- Other local administrative organizations in their respective areas get 10%
- Local administrative organizations and other provinces gets 10%
- Ministry of finance gets 40%

However the committee was told that this system of division of income is not satisfactory and the foresaid government is in the processes of reforming that system.

Among the dissatisfaction of the above system was; dividends given do not meet expectations of locals in their respective areas where mining takes place.

4.6.6 Canada

The tax system is quite difficult but clear. Policies, law and regulations in place are used on all companies without discrimination. The central government and provincial government have no mining development agreements with the mining companies. There is no difference in tax collection between one company to another depending on the agreement with the government.

Also before making reforms to systems of tax collection the government gets enough consultations from different stakeholders.

4.6.6.1 Mining Tax

This is collected by provinces as per the law of a given province. The rate is usually between 10% and 18% if there is profit and basing on the royalty rate. Also the returns are collected when the company has started making profit.

4.6.6.2 Income Duty

Income duty is collected by the federal government and also the provincial governments. The current rate of tax collected by the central government to mining and other companies is 19.5% considering collective economic policy. The government of Canada is planning to lower the foresaid rate to 15% by the year 2012.

Other important aspects of tax collection in the central government are;

- a) Relief from pre-production and capital expenses which includes exploration expenses and expansion expenses.
- b) Deductions of investment expenses after the start of production are done at the rate of 25% to 30% per year depending on the kind of asset being invested.
- c) Returns, mining tax and capital gains tax are charged by provinces and can be deducted when calculating the income tax.
- d) Tax loss can be deducted if relief from income after 20years or back in calculating income of up to 3years before the intended financial year (loss carried back or forward)
- e) Development expenses can be recovered by 30%. Un recovered amount can be carried forward or transferred to shareholders

Together with the income tax of the federal government, every province in Canada has its income tax rate in place. Income tax in a province is collected from income of all business activities done by companies in the respective province. Average income tax rate in those provinces currently is 9.9% to 16%

4.6.6.3 Minerals income division

The federal government and provincial government of Canada divide mining income by basics of the regulation that was formally agreed between them.

For example in the year 2005 the provinces got 53% and the federal government got 47% as outlined bellow;

Central government income tax	47%
Provinces income tax	28%
Provinces returns tax	25%

4.6.7 Ghana

The tax system to mining companies is as follows;

4.6.7.1 Returns

Returns are collected by the central government at the rate of 3% to 6% of the gross value depending on the level of operating profit margin of the respective company though most companies pay 3%.

Formally the rate of returns collection was 3% to 12% and payment was quarterly but now it is on monthly basis and collected by the International Revenue Services – IRS.

80% of the returns collected is taken to the government grand fund and 20% to the department of mineral development and the chiefs from the mining areas for the development of their areas. The government gives directives to chiefs on expenditure of the foresaid revenue.

4.6.7.2 Income Tax

The income tax charged by the central government and collection done by IRS. The general rate of income tax to all companies is 25% except for a company registered to Accra stock exchange where tax is charged at the rate of 22%.

Other aspects of income tax are as follows;

- a) Capitalization of exploration expenditure that means there is no ‘ring fencing’.
- b) 75% of capital allowance is given at the rate of 75% of expenditure in the first year or in the year when the foresaid expenditure was paid and 50% of declining balance in every year that follows.
- c) Loss in a year can be used to deduct income for 5 consecutive years.

4.6.7.3 Withholding Tax

Withholding tax is charged at the rate of 15% for foreign companies and 5% for those registered in Ghana.

4.6.7.4 Custom Duty

Mining companies are custom duty free to importation of mining machinery, tools and equipment.

4.7 Conservation of Environment

The committee got statements on experiences over rules and regulations of conservation of environment in the countries they visited and found that every country has rules and regulations of environment which involves mining industry and other economic activities.

In mining industry, experience shows that in each country, environmental conservation fund was founded for rehabilitation during and after mining activities has taken place.

Examples of environmental conservations are;

4.7.1 Zambia

There is the National environmental conservation fund monitored by the mineral commission under the ministry of mineral development. Also there are environmental conservation funds in all communities in the mining zones under the local authorities by their respective area chief.

4.7.2 Botswana

Contribution for the environmental conservation fund is compulsory to any mine in place. It is under the ministry of minerals and every mine is supposed to contribute to the agreed rate.

4.7.3 Australia

According to the law of environmental conservation, supervision and monitoring of environment is done by the Department of Industry and resources. This task is from the exploration period to the end of mining activities of a given mine. The law demands the mining companies to set aside environmental conservation fund after exploration license is granted. Also there is the system of Bank guarantee to a mining company where the investor does not contribute to the foresaid fund and revenue is deducted depending on the expenditure of the environment.

On the effort to improve environmental conservation, awards are given to those excelling in conserving environment. Also there are regulations of approximating revenue for environmental conservation.

4.7.4 Thailand

Conservation of environment has three steps which are;

- a) Basic step involves investigating true value of a given land with its environment. The locals are also involved during this process. The result from the foresaid process the investor initiates objectives of environmental conservation which is fulfilled by the respective authority during fulfillment of the project.
- b) The mining step which requires follow ups in fulfilling the objective of environmental conservation in the whole mining processes. This step involves

- different departments in making strict initiatives to those breaching environmental regulations.
- c) In the mine closure step, there is the involvement of supervision in rehabilitation processes of a given environment.

In 2003 the Department of Primary Industry and Mines – DPIM responsible for monitoring effects of mining and other industrial activities to environment, handed its duties to the local government.

The duties include inspection and follow ups over effects caused by mining activities and the enforcement of the law of minerals in the monitoring of environment. These initiatives went along with public awareness and appointing an officer to monitor environment in all authoritative levels in the local government. Therefore the locals in their respective mining areas participate fully in monitoring their environment that may be affecting by mining activities.

4.7.5 Canada

The government of Canada has prioritized the importance of environmental conservation. Each company is supposed to follow the rules and regulations of environmental conservation from the beginning of the mining process to the end and must have a mine closure plan respectively.

Some provinces collect funds from mining companies for contribution of a trust fund which is aimed at rehabilitating environment. The collections are accounted for as production cost and relief is given in order to get the rate at which tax shall be charged even before rehabilitation has taken place.

4.7.6 Ghana

In stabilizing and monitoring the system of environmental conservation, Ghana has formed the Environmental Technical Review Committee-ETRC which includes different institutions like; Minerals commission, Geological Survey, Inspectorate department, Environmental Protection Agency – EPA, Local government, Forestry commission and Water commission. Each company is supposed to have a Reclamation Bond and agreement is made with the EPA over the value of the foresaid reclamation bond.

The mineral commission suggested that the formation of Community Development Fund and Minerals Development Fund so that environmental rehabilitation is done those areas where mining took place. In Ghana mining has been practiced over 100 years ago and the initiatives by the commission shows that former environmental policies did not meet the needs for environmental rehabilitation after mining activities have taken place.

4.8 Knowledge in the Mining Sector

Building knowledge so as to meet the needs in the mining sector, education and different training is necessary to improve the foresaid sector.

Government in those countries where mining has been practiced for long have the institutional power of building mining professions and making sure that experience and

professionalism is obtained from the foresaid institutions. Amongst countries visited by the committee which have special mining universities includes; Australia, Canada, Ghana and Thailand. Thailand has 4 universities; Ghana has one mining university for degree level. The committee was told that India has higher learning mining institutions with geology, construction and design professionalism in gemstones.

4.9 Corporate Social Responsibility

The participation of mining companies in social responsibility is meant to strengthen relationship with the locals in the mining zones and ensuring they benefit from the foresaid activities in their areas.

The committee got experience from mining companies in Canada and Australia as follows;

4.9.1 Canada

Mining companies participate in social responsibility activities like water, roads, schools and dispensaries. In order to make sure that these services are beneficial, mining companies consult the local authorities on what and how the services should be provided to the community.

Income and expenditure reports from mining activities are published to the public to fulfill the international unit of Extractive Industries Transparency Initiatives – EITI. Fulfillment of EITI policies by the government, mining companies and citizens know the income and expenditure thus increasing transparency and handwork

4.9.2 Australia

Social Responsibility is done by the government and is responsible in all mining areas.

4.10 Smelting and Refining

Smelting is done to separate different types of minerals from concentrates and determine their value. The Bulyanhulu mine produces gold with copper concentrates which is exported to Japan and China for smelting to separate the foresaid minerals. Australia and Japan have smelting industries; therefore the committee went and got the following explanations;

4.10.1 Australia

The committee was informed that in Australia some minerals produced there are smelted before exporting them abroad to be sold. Smelting helps in eradicating cheating during evaluation of the minerals produced and also creates room for more employment to the citizens.

4.10.2 Japan

The aim of the committee visiting Japan was;

- a) Processes of smelting
- b) Type and quantity of minerals got after smelting.
- c) Cost of investment and smelting
- d) Important requirements for starting a smelting industry

The committee had scheduled to visit Sumitomo Smelting Industry which smelts sand concentrates from Bulyanhulu mine. The management of the foresaid industry disapproved visit by committee delegates but the Tanzanian embassy in Japan enabled the committee to visit another smelting industry known as Tamano Smelter & Refinery owned by Hibi Kyodo Smelting company limited in order to have the know how of smelting activities of gold concentrates.

The committee was told that Japan does not produce mineral but has 21 smelting industries which smelts imported minerals. The construction of these industries was a result of mining activities that used to be there before extinction. After extinction these smelting companies had to be invested abroad to continue production in the mining industry. Also these industries buy concentrates from different countries abroad like Bulyanhulu Gold Mines Ltd to continue production.

The industry visited by the committee was found in 1972 and used to smelt concentrates produced in Japan with a capital of approximately 4700 million Japanese yen. Currently the foresaid industry smelts concentrates from abroad.

Long term agreements for mineral sale are done between the industry and the company producing the respective minerals.

The foresaid industry mostly produces copper and it requires 700,000 tones of copper concentrates per year. This industry produces three main products: copper, sulfur acid and gypsum.

The foresaid industry is capable also of producing 260,000 tones of copper cathode per year. Other minerals produced include; silver, gold, and iron slag.

From that visit the committee learned the following;

- i. There is small scale smelting companies depending on the quantity of concentrates to run the industry.
- ii. The visited industry has constructed a port near it with ability to dock ships with a maximum weight of up to 50,000DWT to ease transportation of bulk concentrates.
- iii. Considering trade agreement of the concentrates all minerals smelted is property of the smelting company and is bought through spot price after deductions of Treatment Charges and Refinery Costs – TCRC.
- iv. There are no environmental effects caused by the smelting activities from the foresaid industries due to modern technology in place which considers higher standards of security during smelting processes.
- v. The industry consumes almost 40 megawatts to run the smelting activities.

The challenges encountered by the smelting company include scarcity of copper concentrates and cost cutting of operational cost by using electricity from coal mines.

From the above explanations the committee was taken to the industry to see how it worked. They found out that the machinery was of high technology. They also found out that smelting services and activities have contributed a lot to economic growth of Japan.

4.11 Use of Banks

The amount of capital required by an investor to run a mining company is big. Therefore the mining sector needs a financial institution with stable financial systems. On the other hand use of internal local banks by the mining companies is important because it promotes growth in the local financial institutions. Therefore, mining industry requires stable banks and also should in return assist the growth of the foresaid banks as it continues using them.

The committee got experience from the countries they had visited as follows;

4.11.1 Australia

Formerly mining investment was owned by the citizens before the foreign investors thus enabling growth of internal local banks along with mining industry. This has stabilized financial institutions in Australia in giving serving to mining industry. From that environment;

- a) There are rules and regulations over usage of national or international banks.
- b) The bank system is open and this has done away with special treaties to mining sector.
- c) The government has close supervision and monitoring over what is produced and sold by the mining companies and loans to ensure refunds are made accordingly.

4.11.2 Thailand

Internal banks are used to offer services to the mining companies since most investors are citizens.

4.11.3 Canada

Since the financial institutions are stable there are no rules over usage of national or international bank services.

4.11.4 Ghana

Companies keep a balance of foreign revenue in their account from national or international banks to be able to pay their debts and international procurement after getting permission from the minister of finance and the central bank of Ghana. At the moment companies are allowed to keep up to 20% of sales to banks in abroad and at least 80% in local banks.

4.12 Mineral Contracts

The mining contracts and agreement are done by some nations with large scale mining and promoting mining sector in order to initiate important issues that are not in the laws and by laws to assure investors of reliable and predictable tax system in the life span of a given mine.

The committee learned the following;

4.12.1 Australia

Before 1978, mining required contracts and agreement where supervision was problematic due there being different laws over mining sector. In 1978 the government made the law of minerals which collectively meets important needs for the mining industry and sector and therefore it was needless to have the mining contracts because the investors follow the laws. However contracts and agreements still exist between Australia and foreign large scale mining and those that have been there before the making of new laws.

Contracts between Australia and foreign large scale mining are made like bills and passed by the parliament.

4.12.2 Canada

In Canada no contracts between the government and the mining companies. This is due to the system of governance which is the federal government. 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 aspects over harvesting the mineral resources to create a sound environment in the mining sector.

4.12.3 Botswana

The government of Botswana has contract with mining companies who aim at diamond minerals. (Diamond is produced by Debswana Company owned and operated by special agreement between the government and De Beers Company). The process of the foresaid contract has a long process from discussions, preparations to agreement. The process involves a group of officers with different qualifications and experience that is given enough time to review the contracts before accepted and signed. Just like in Tanzania contracts aim at defining the law and rights and responsibility of the government and investors. And also to assure the investor long system of tax.

Botswana has build capability for long time and have special unit responsible for monitoring mining benefits to the locals from the mining industry. Apart from the capability and good specialists; sometimes they hire auditors abroad incase there are irregularities or need to do so.

4.12.4 Ghana

The government has two types contract;

a) Stabilization Agreement

This agreement protects the company which owns a license over any changes in the system of tax for 15 years. After the foresaid period the company switches to the system of tax used by all companies in the country.

b) Development Agreement

The government agrees with a mining company that has invested with a capital of not less than USD 500 million.

4.13 License Issuing

Harvesting of mining resources is crucial because it involves distribution of nation's resources between citizens and sometimes foreigners. The right to harvest the foresaid resource is given through license and that makes it very important aspect of monitoring resources in any given country.

In monitoring mining sector it is important in making sure that the systems used in issuing licenses are open and righteous.

The committee got experience in license issuing from Australia where by it is issued by the provincial government. License between a country and another processes are made by the central government before issuing of license is done.

Issuing of license is open and can be done through the net – on line application. Also the data base of licenses is easily and openly acquired in the net.

4.14 Small scale mining investors

Small scale mining in most countries is done by crude tools and equipment and small capital. These activities go hand in hand with damaging the environment. However there are advantages from the small scale mining if the government stabilizes the small scale sector. The advantages are employment in remote areas, harvesting of reserves whose areas cannot attract large scale investors. Therefore there need for supervision in small scale mining sector.

The committee got experience of supervision in small scale mining as follows;

4.14.1 Ghana

The commission has six district offices in mining areas especially where there is small scale mining investors. (Galabashati). The duty of these authorities is to ensure availability of mining fields for the small scale mining projects. It is said that most of these fields are got from research fields left by research companies and reports of long time of possibility of mineral bases.

As seen from this chapter the system of supervision differs from one country to another depending on the environment of a given country in the mining sector.

Tanzania can therefore emulate according to its nature of environment in mining industry.

The following chapter shows comparison, views and suggestions from stakeholders in mining sector from the countries visited by the committee.

It is also showing the suggestions from committee on how to monitor mining sector in the country.

CHAPTER FIVE

5. COMPARISON, VIEWS AND SUGGESTIONS OF THE COMMITTEE

5.1 Introduction

In the previous sectors the committee has shown how the mining sector is at present and how different stake holders are seeing it. The committee has also shown the experiences and developments in different countries. Views from stakeholders who met the committee shows that the situation is not clear in the mining sector that there is need to review a number of aspects.

Views from the committee are as follows;

- a. Investors say the system of monitoring the mining sector should be improved especially in infrastructure, security services and the system of tax supervision though they attracted a number of investors.
- b. Citizens in the mining zones do not benefit from the mining industry taking place in their areas. They say they want to see more social amenities like health services, education, road, water and more employment than present.
- c. The small scale mining investors say the coming of large scale investors has done away with their mining areas as well as losing their jobs. Also services given to small scale investors are not sustainable compared to those offered to large scale investors most of them being foreigners. They had also hoped for getting capital, technology and other important services from the government but so far they have not.
- d. Officers in mining industry, law, environment, economy, land, tax, central bank and finance who offer services to the mining industry say that they have not been empowered by the government.
- e. Most stakeholders say that the attraction sites given to investors are as a result of weakness in the policies, law and the contracts monitoring the mining sector.
- f. The government on the other hand has severally expressed its disappointment in the mining industry for its small contribution economically to the government where the government had to form different committees to review mineral laws and policies used in the mining industry. Examples of these committees are Dr. Kipokola's committee of 2004 and Hon. Masha's committee of 2006.

Apart from there being different views and opinions, all stakeholders have suggested that all processes and policies used in the mining sector need to be reformed and improved so the foresaid sector can meet the expectations of the nation.

5.2 Issues that arise from the mining sector

Considering the points from the foresaid views and suggestions and experiences from mining sector in different countries, important issues that arose and that the committee found the need for those issues to be dealt with in order to improve the mining sector is as follows;

- i. Responsibility of the government and the investor

- ii. Mineral policies
- iii. Mineral laws
- iv. Monitoring of the mineral sector
- v. Ownership and involvement of the government and citizens in the mineral sector
- vi. Taxation fund
- vii. Dividends from the mineral income
- viii. Mineral contracts
- ix. Payment of compensation
- x. Small scale investors
- xi. Contribution of social services by the mining sector to the community
- xii. Human resource and employment
- xiii. Mineral investment
- xiv. Environmental monitoring
- xv. Mineral smelting and refining
- xvi. Interaction of mineral sector with the capital market
- xvii. Interaction of mineral sector with the small power sector

5.3 Responsibility of the government and the investor

The responsibility of the government as defined in the mineral policies of the year 1997 includes making policies, laws and monitoring their enforcement. Other responsibilities are making conducive environment for the investors which includes putting up of infrastructure that will meet the mining sector, issuing license, making sure that there is availability of human resource, making of systems of tax, security to the investors and their properties, canceling and technical services to small scale investors.

These responsibilities have been defined in different policies and laws of the country like the law of minerals and tax. Responsibilities of the investors have not been well defined in the policies but in the law, license and as it will be shown in the contract.

Generally the investor has a responsibility of following laws of the country, contract rules and regulations and license rules and regulation. This responsibility is along with paying different tax being charged according to the law and is defined in the contract. Also the investor is supposed to follow the laws, rules and regulations and processes of work which includes insuring the staff against accidents.

Evidence the committee has got from the mines and the views of the stake holders is that the government has been able to make laws and pass policies and a system of developing the mining sector. However the government has not fulfilled some of the responsibilities like infrastructure and human resource in the mining sector.

Also the government has been unable to stop small scale investors from invading mining areas causing theft, spoilage of properties, beating up of foreign investors and molesting their staff. These incidences have been experienced in mining areas like North Mara, Tanzanite one, Mwadui and Buzwagi.

The committee believes that the inability of the government to fulfill the responsibility is due to unavailability of the budget set for the mining sector. As explained by the stake holders in chapter three this has resulted in some of the investors have their own means of infrastructure thus increasing cost of investment and operation.

Experience from the countries visited by the committee shows that construction of infrastructure leading to the mining sites is the responsibility of the government. For example in Australia the government has constructed a 600 kilometers water pipe to the mining sites called Kaligoorlie, a big airport and roads to ease transport to the mining areas. Also the government and the investors have joined and build a new town with all important social services.

Other examples where the government has teamed up with investors in putting up infrastructure is Botswana, Thailand and Canada. In Japan investors in smelting companies have build a port. Cost of putting up these services is included in the cost of investment.

Suggestions

- i. Any place where minerals have been discovered and investors are attracted should have infrastructure like roads, electricity, water and other social services like health centers, schools and security services.*
- ii. For large scale projects like Kabanga the government should start earlier in putting up infrastructure like electricity, roads, railway so as to enable smelting of the minerals that will be produced from the foresaid mine. This is step shall be of great importance to our nation.*
- iii. Like in other countries the government should sensitize the investors to participate in putting up of infrastructure and the cost shall be part of investment cost.*
- iv. The government should take serious measures on reconstructing and improving the present infrastructure, for example the Dar es Salaam and Tanga port in order to take care of the lake region mines; and that of Mtwara to cater for tin and coal mine from southern highlands. Also the government should improve on railway services present in the country and put up more to meet the needs of the mining sector.*
- v. The government should ensure security to the investors, locals and their properties to improve security in the mining areas.*
- vi. The government should persuade the investors to give their staff insurance against accidents at work.*

- vii. Towns that are developing in the mining areas, the government should team up with the mining company to plan the development of a respective area.*

5.4 The Mineral Policy of 1997

The committee has scrutinized the mineral policy of 1997 as defined in chapter two of this report. Also the committee has views from different stakeholders and thought of it.

The committee has also gone through mineral policy of 2007 prepared by ministry of energy and minerals. This is aiming at improving mining policy of 1997.

Along with good basics of the policy being outlined, the committee has discovered weaknesses which there are need to have reforms for the purpose of improving mining sector so that it may bring revenue to the nation. Some of the weaknesses are;

5.4.1 Government participation in the investment in mining sector

The committee has discovered that the available policy government participation in the mining investment was not open and instead the government was sensitizing in private sector. This has resulted the government not participating in the ownership of the shares and instead has sold its shares to the mining companies. Suggestions on the participation of the government are well defined in chapter 5.7 of this report.

5.4.2 Policy of insisting on tax system as a way of attracting investors

The committee has realized that in order to attract investors in the mining sector the best way is to have tax system in place as fiscal incentives. By using this kind of tax policy and system enables the government get income. As it is going to be seen in the scrutinizing of the views of the committees in chapter 5.8 this policy will make the government lose income and thus bringing a lot of complains to the public.

5.4.3 Policy of not separating exploration and mining in removing attractions

The policy has put a special priority in exploration and mining together to improve attraction to investors. This policy does not consider whether the investor is possibly risking or not during exploration than after exploration in discovering only enough reserves for commercial mining. The result of this is to remove large amounts of attraction which do not meet mining activities.

5.4.4 Policy of continuous mining without outcome.

This policy shows that there is no continuous mining that has given results since minerals get extinction. Experience shows that in other resources like forest without having bases for continuity the resources get extinction thus causing loss to the nation. The committee suggested that there is need to have a continuity bases in the mining industry for the benefit of the government and citizens at large.

Other lacking aspects in mining sector that makes it contribute little to the income of the nation is some of the aspects in the policies are not explored. The views of the stakeholders in chapter 3 of this report are due to the following;

- a. No fulfillments are made to the local small scale mining groups in order to empower them with tools, capital, loans, marketing and technology.
- b. No fulfillments are made to putting up of smelting and refining industries in our own country.
- c. Lack of means and services in the mining sector
- d. Mineral department not having the capacity to supervise the mining sector considering its rapid growth of market due to unavailability of specialist, materials and limited budget.
- e. Little prioritization of environmental management
- f. Not linking the mining sector to other economic sectors hence hindering those sector from benefiting from it
- g. Lack of consultations and coordination of the mining activities between different institutes and ministries i.e. the Bank of Tanzania, water, lands, infrastructure, power, environment, finance, constitution, labor and municipal councils
- h. Poor compensation payment process to citizens displaced from their land for mining purposes

Recommendations

Due to the weakness of the policy and its performance as outlaid above, the contribution of the mining sector on economy and community development have not reached the expected level. Due to that the committee recommends the following.

- i. The government should outline and balance between attractions of tax course and others like mineral occurrences and political stabilities and other attraction like tourism*
- ii. The policy should clearly state the position of the government in participating in the mining sector. To insist on strategic minerals like metals, nickel, uranium, that will create an opportunity to construct industries and power generation*
- iii. The policy should outline openly the advantage of merging the mining sector with other economic sectors as a way to speed up development*
- iv. iv] The policy should recognise the importance of having strategies for sustainable mining of available minerals and revenues (for present and future generations)*

- v. *The policy should outline the relationship and coordination of the mining sector, other ministries and institutions that in one way or another, affects or are affected by the mining process i.e. land, water, power, infrastructure, environment, finance, constitution, labour, municipal council and local government.*
- vi. *The policy should direct priorities in exploration than mining.*

5.5 The Mining Act

The Mining Act, 1998 was enacted to support the implementation of the Mining Policy, 1997. The Act has been used for 10 years although there has been some weakness, hence need some amendment. The law was amended in 2004 on some sections to satisfy the needs of the policy. The amended sections have been outlined on the second chapter of this report.

5.5.1 Licensing

- a) Licensing to be made open as section 4 of the Mining Act requires without considering other land uses like agriculture. Also, there are weaknesses in implementing section 4 whereby section 95 of this Act that demand the owner of the License to have a written permit first before starting mining
- b) Application for the minor licenses to be passed through regional offices where they are issued by the mineral commissioner. This legal procedure delays license issuing
- c) Application of special mining license to be passed through the office of the ministry and to be issued by the minister. This procedure cause misunderstandings when it comes to issuing the license by the minister for an application submitted to zonal offices.
- d) Special mining licensed owners have big lands which do not match with quantity of mineral reserves thus the land is usually used for other non-mining activities
- e) The first come-first served principle has been outlined on section 12 and 24(5). However, this procedure has some weakness especially when the government and its institutions are put into competition with private applicants on the first-in basis without considering the broad national interests
- f) Although section 23 of Mining Act establishes Zonal and Residential Mining Offices, those officers have no power to issue licenses. In stead, the small mining Licenses are issued by mineral commissioner under section 68. Since the mineral commissioner is based in Dar es Salaam, there are normally delays.

Recommendations

The committee proposes that any issues relating to issuing of License be as per the rules to be outlined by the mineral authority that has been proposed to be formed in this report. Also the committee proposes the procedure to consider the following:

- i) *Small license application to be made at local authorities and license to be processed at regional offices so as to speed the mining activities*
- ii) *Application to one site to be made on the nearby offices of the site to avoid crises that may be caused by the application to more than one office*
- iii) *Special mining license to be given as per the reserves*
- iv) *The current procedure practiced in attainment and issuing of license in general is good and should continue. In that case in any application made by the government or its institution should be given a priority for the betterment of the nation*
- v) *Section 68 to be amended in order to give powers to zonal mineral officers to issue license of small scale miners*
- vi) *The current mining cadastral management information system to be strengthened in all mining offices*
- vii) *Mineral experts in all levels to be educated on mining cadastral management information system.*

5.5.2 Minister's Authority to cancel Licenses

The Mining Act powers the minister to cancel a mining License after a notification of rectifying in 60 days. Also the minister is supposed to have advice from the Mineral Advice Committee before canceling the License. However this section does not outline the timeline given to the minister to act on his decision.

Recommendation

The committee proposes that section 57 should be amended to oblige the Minister to act on his decision within 60 days.

5.5.3 Small mining

Ownership of small scale mining is for Tanzanians only as per section 8(2). This sections favors Tanzanians to own a License of small scale mining. However the little lifespan of five years of the small scale mining license as stated on section 68(2) deny that miner from accruing financial loan from any financial institution.

Recommendation

The committee proposes that the licensing small scale miners should be extended to 10 years to at least give them room to acquire more loans from financial institutions.

5.5.4 Minister's Authority in contract agreement

As per section 10 of the Mining Act the minister with directive with minerals has the authority to enter into contract (MDAs) with big investors so as to improve the mining sector on the behalf of the government. The section has some weaknesses since it allows signing of a contract and to bind the Government of United Republic of Tanzania without involving any government authorities like the Cabinet, Bank of Tanzania, ministry of finance, the parliament, revenue authorities and municipals where mining activities take place. This has lead to contracts not to adhere to some laws, for instant the local government financial law of 1982 on municipals revenues it consider on the tax of the mining company and the law of foreign financial protection

Recommendation

The committee proposes that section 10 to be amended demanding the minister with directives to have a dialogue with respective authorities on before signing issue pertaining that contract. Also more proposals on this act are on verse 5.10 of this report

5.5.5 Mining advice committee

As per section 20 the committee is of advice only where the minister can decide not to adhere with the advice. Also if the minister happens not to adhere with the advice given by the committee, he is forced to announce the advice given and the reason of not adhering to them, however law does not indicate an optional way on how the committee advice will be applied

Recommendation

The committee proposes that as soon the mineral authority is started as it is proposed by the committee in this report, the Mining advising committee to be cancelled and its obligations that will be strengthened to be shifted to that authority

5.5.6 Compensation

The Mining Act does not state compensation payment to anybody evacuated to allow extraction of minerals. Section 96(3) of the law outline the compensation of those goods destroyed on mineral searching. Although this potion intended co-existent, in many case the community surrounding the mines have been evacuated which is bigger weakness to local people who find themselves on those site.

Recommendation

The committee proposes the Mining Act to be amended by including compensation sections to the displaced due to mining process (some of the key proposal on compensation are on section 5.11 of this report).

5.5.7 Dispute Settlement

Section 101 of the Mining Act gives the mineral commissioner the mandate to cater for disputes that are within compensation and licensing, the same section gives the commission authority not to solve any disputes without forcing him to explain why he did so. The situation lead to owners presenting there matters to the first court where it last for quite sometime before judgment thus delaying some of the community development.

Recommendations

The committee proposes that

i) Section 101(2) of the Mining Act to be amended in order to power the commissioner to solve disputes presented to him or to give reasons on to why he refuses to solve the case

ii) A special council be formed that will solve mining disputes (mining tribunal)

5.5.8 Royalty Charging

According to section 86, the act has outlined the net back value in computing the royalty. This process eliminate some of the transport expenses, processing and insurance thus making the government not to obtain the right fraction

Recommendation

The committee proposes that the computation of the royalty be based on the gross value and not the net back value (more proposals on royalties are given on section 5.8 of this report that outline taxation system)

5.5.9 Environmental Issues

Section 47(1) of Mining Act has outlined restriction on environmental management and protection especially to special licensing owners. However that law under act 31 of the mining (Environmental Management and Protection) Regulation 1999 gives the minister discretion to enter into contract with special license miners on locating funds for environment management through escrow account, capital bond, insurance / bank guarantee/ pledging or asset. The committee was informed till now the minister has not yet got into contract with any mining company a weakness that allow those companies from not locating budget for environment management although they benefit from cheap taxation.

Recommendation

The committee proposes that section 31 of the mining environment management and protection regulations, 1999 to be amended and demanding the minister to get into contract with special license miners and to force then set aside environmental management and protection funds.

5.6 Oversight System of the Mining Sector

According to the Mining Policy of 1997, the government understands the importance of having a good and strong an institutional system to oversee the mining sector. Following the Mining Policy (1998), the government passed Mining Act to implement this policy. The mineral department is headed by the commissioner. In 2006 this system was reviewed and amended in 2007 as a way to strengthen the department effectiveness. The formation was amended after proposed by committees including that of Kipokola and Masha.

The TANSORT department in England was established in 1996 to sort gold extracted by WDL. This department is under the mineral department. It is also facing different problems that include lack of enough employees and running fund. Due to those problems the government is intending to return home that department as to speed up those processes.

Further, in 2007 the government established the gold Audit Programme (GAP) division that replaced Alex Stewart (Assayers) Government Business Corporation which was handed that work on 2003. Those mandate included verifying production and transportation of gold and assurance of investing and environment surrounding those sites.

However, due to the increase of mining in the country, together with stakeholders ideas as seen on the third chapter of this report. The committee has discovered that the structure has some weaknesses as follows.

- a) The current system has lot of bureaucracy on the side of license giving whereby it's only the minister who have the authority issue and cancel the license
- b) Limited experts who have specialize in mineral sector
- c) There is a weakness in harmonizing and coordinating the mining sector with other sectors like land, forest, water, environment, and financial institution
- d) Inspection is only done on Gold
- e) Lack of involvement of regional and district council leaderships in issuing licenses
- f) Limited funds allocated for fulfilling departmental obligations

The ministry of energy and minerals has two major departments, mineral department and power department. To the real fact is that the two departments are very broad and very important in our economy thus the ministry being overloaded with responsibilities. However the energy department has always been given priority due to the high importance of its duties.

Countries like Botswana and Ghana have formed mineral commissions for better sector management

Recommendation

Due to those weaknesses the committee proposes the following:

i) To be formed an independent mineral authority with the mandate to develop the sector. Also, he government should take a responsibility to take specialist from this department of minerals to study on how to manage such an institution in Ghana

ii) That authority to be empowered with specialist with good knowledge, experience in the mineral sector and with access to adequate finance

iii) The authority to be honored with its own budget as proposed in section 5.9 of this report

iv) The gold production and investment costs inspection department be strengthened and supplied with more workers, equipments and working premises so as to be able fulfill its duties and conduct such inspection for other minerals too

v) Regarding TANSORT, the committee agrees with the government intention to bring back the department, to be also empowered so as to inspect other minerals.

5.7 Government and Public Ownership and Participation in the Mining Sector

5.7.1 Experience on Government Ownership and Participation

According to the current policy, the government has the duty to create a fare environment for investors as to attract private sectors on extracting minerals. This proves itself in some few shares the government have in some of the mining companies as shown on the second chapter of this report. Due to lack of ownership of the government to the mineral sector the government has failed to know the exactly amount of minerals harvested, tax and expenditure.

Experience from some countries has shown how different governments are involved in mine ownership. In 4 out of the 7 countries visited by the committee, governments own shares in the mining companies. Apart from the scheduled and different taxation, those governments benefit from dividend of the shares from the minerals when those mining

companies generate profit. Other profit from this system is together with the government being involved in decision making of the management that will help to identify sales from the mineral business.

The committee has also learned from other government it visited like Botswana where the government own 50% of the shares in gold miners and 15% on other minerals. In Ghana the government own 10% as free carried interest

After a keen discussion on government mineral ownership as indicated on the second and third chapter of this report the committee come up with the following idea in respective to the following mining sites

5.7.1.1 Buhemba mining

This site is owned by MEREMETA company a company that is owned by the government with 50% shares and a South African based company Triennex Proprietary (pty) that's own the other 50% of the shares. Due to financial instability, lack of experts and stable management the mining site has been shut down

Also, the mine had a debt of \$ 10m from a South African based bank (Nedbank) that was meant to run the costs of the mine. According to a report from the Governor, the Bank of Tanzania paid Nedbank a total amount of \$ 132m equivalent to 158 billions TZS. regarding MEREMETA. Also there are reports that the debt was only \$ 104m

The committee was not also satisfied with the information it got on the registration, ownership and how Tangold end up bankrupt which was registered out of the country.

After shutting down the Buhemba mining site there has been a negative environmental effect due wrong procedure of closure. Also the company did not clear its debt it had with its workers. There has been a tight security on the materials which were left behind

There have been a lot of complains from the surrounding community of to what they claim the site disrupted infrastructure that were surrounding that place i.e. roads, health, education and water which also lead to drought to some water sources, breakage on some houses due to explosions that were used by the site and other health problems that affected both human and animals.

Recommendation

The committee proposes the following

- i) ***The government to do a thorough investigation on the registration of both Meremeta and Tangold, government share ownership and the accuracy of the payment of \$ 132ml that was made by B.O.T to South African based bank Nedbank***

- ii) *The government to make sure that any closure of the mining site proper procedure are followed since from registration and procedure to recover conducive environment at Buhemba are done*
- iii) *The government to make arrangement to pay former 127 Buhemba workers who are claiming Tsh. 282 ml*
- iv) *The government should take into consideration claims that have been made by the Buhemba residents that include renovating of damaged infrastructure*

5.7.1.2 Bulyanhulu

The committee has discovered that in 1994 the government had 15% shares of Bulyanhulu mine with Sutton Resources Company of Canada that owned the rest. However, the government relinquished the 10% after the introduction of withholding tax. Since the contract that the government signed with Sutton did not have that 10% tax, the government was to charge a 10% tax till the company started generating profit, what the committee learned is that government has earned nothing since then. Also the committee was informed that Sutton Resources that owned 95% of Bulyanhulu shares was bought by Barrick through Toronto stock exchange market for \$ 348 ml.

Also the committee has discover that the 5% of the shares that remained from the government were sold to Barrick at US\$5ml and a charge of \$100,000 each year as expenses to used to educate Tanzanians.

The committee was informed that the reason that made the government to sell the 5% include.

- i) International bank doesn't support any involvement of the government in share ownership in mining companies and if they render funds in that case they charge a huge interest due to risk that can arise due to involvement of the government.
- ii) The shares are free carried such that the government is not suppose to contribute in mine construction
- iii) The government discovered there was a possibility of attainment dividend or not since it had no representative in the board
- iv) The government discovered that the pay back period of seven years was not convenient for it to benefit from dividend

The committee recommends that the procedure that was used by the government to release those shares was not keen and did not consider the well of the government. The committee did not see any logic or benefit of the government selling its shares with the aim of getting withholding tax which was not sure of. Also the government had a room to

continue with the shares it had at Bunyanhulu without interfering with the contract that changed it inform of paying in tax that was not to be used for Sutton Resource.

Also the information that was given by the government on why it sold the 5% was not convenient and did not consider the government long term strategies

Recommendations

The committee proposes that if the movement has a plan of selling its shares that it owns, a keen statistic should be done considering long term benefits.

5.7.1.3 Kiwira coal mine

The government ownership of Kiwira coal mine has been elaborated on the second chapter. The following are some of important matters that showed up.

- a) Previously the site was owned by the government through Kiwira Coal mines limited, a 100% STAMICO Company. In 2005 the company was privatized by selling 70% of the shares that were bought by a Tanzania based company called Tan Power Resources Limited for Tsh. 700 ml. for that reason the mine is owned by the government and Tan Power Resources Limited
- b) Kiwira power and company Limited signed a 20 years contract to supply 200 megawatts of power to Tanesco
- c) The committee was also informed that the company spent Tsh. 13bl to renovate the site which showed no evidence to the committee.
- d) There has been a lot of complains from ex-workers and stakeholders against the company regarding their pension and ways which was used to privatize the site, management, poor production, selling of companies properties and pollution of Kiwira river.

Recommendation

The committee proposes that:

- i) *The government to take quick measure and investigate the accurateness to privatize that site, to consider ex-workers pensions claims and pollution on River Kiwira*
- ii) *The government to examine the spending of the 13bl that is said to be used to renovate the site*
- iii) *To also examine the reports of selling of companies equipments and how the share contract state*

5.7.1.4 Mwadui diamond mine (WDL)

The committee has discuss the participation of the government in owning the Mwadui mine as outline on the second chapter and recognised that from 1958 the government was owning 50% shares of the Mwadui mine where the other shares were owned by Dee Beers. In the 1994 the government sold 25% of its shares to WILCROFT, a subsidiary company of Dee Beers under agreement.

- a) WILCROFT to pay the government \$ 180,542 for the 25% of the shares that were owned by the government
- b) WDL will be given a withholding tax relief in five years from the signing of the contract and there after to pay a interest tax of 20% and 10% share tax
- c) WDL to pay the government a package of \$ 4.5 in every carat of diamond cleaned however WDL was not to pay any running cost of Tansort which were to be paid by the government
- d) WILCROFT to give WDL a US\$ 7.5million loan where by US\$ 3million was to be used to pay WDL debts, and 4.5 to purchase new mining machines
- e) WILCROFT to manage the Mwadui mine for not less than 10 years
- f) WDL was to be given a three year duty free on diamond na royalty and there after will pay a royalty and diamond duty that does not exceed 5%
- g) According to thorough study, WDL was supposed to pay the government revenue of US\$ 12.2 ml as dividend, tax, diamond duty, royalty, custom duty and corporate tax in ten years between 1994 and 2004.

According to a feasibility study done by WILCROFT in 1994, the WDL mine had diamond reserves weighing 8 million tones with a measure of 6.1 carats per tone of sand (annex 8). Also, WDL management told the committee that the current production goes up to 250,000 carats per year. The committee was further informed that the current price of diamond in the world market is \$ 100 per carat, according to this price, the estimated WDL reserve is worth US\$ 4.8 bln.

WDL sells the diamond De Beers Company that is owned by WILCROFT after being graded and valued by TANSORT. This shows that DE Beers Company is the owner of WDL through WILCROFT Company that locate prices and the only buyer of WDL diamonds

Instead of the government earning \$ 12.2 ml in ten year since the beginning of 1994, WDL continued to make loss all that time. Also WDL has a debt of \$ 23 ml

In 2005 WDL presented suggestions for conducting a feasibility study which was to cost US\$ 8ml and later more funds could be needed for expanding the mine (annex 8). Due to that fact, WDL has suggested the government should reduce its shares to 5% where both recommendations are yet to be endorsed by the government.

As elaborated on the second Chapter, WDL is facing various problems that including:

- a) Land ownership
- b) Water rights
- c) Disturbance from small miners
- d) Poor security
- e) Unstable electricity
- f) Capital for expanding of the site
- g) Royalty and tax payment in general

Recommendations

The committee proposes the following:

- a) *i) Taking into consideration the estimate of reserves of the WDL mine in 1994 which was US\$ 4.3 bl as showed above, there is a need for the government to continue owning the 25% shares instead of selling 20% and remaining with 5% of the share as requested by WILCROFT. This will help the government to management and secure the WDL mine.*
- b) *ii) Considering all this time WILCROFT has been working at WDL mine and resulted in having a lot of debts of more than US\$ 23, the government should carry an in-depth investigation on why the company has been running under loss.*
- c) *iii) The government should launch a programme that will build competition in selling diamond extract at WDL*
- d) *iv) The government to take responsibility of solving some of the problems facing WDL as indicated above*
- e) *v) The government to stabilize its presenters in the board of directors where it is a share holder like WDL by appointing delegates with mine, business or law knowledge.*

5.7.2 Government Participation through STAMICO and NDC

In this section, the committee analyses government involvement through STAMICO, a public corporation, in mine ownership and gives recommendations. STAMICO was establishes in the year 1972 for conducting research, mining and production, processing and grading, storing, distribution and selling within the country, among others.

To accomplish those duties, at first, the corporation used to own shares in different mines on behalf of the government like Kiwira, Bulyanhulu and WDL.

Considering the current situation in the mineral sector as elaborated in the second and the third chapters, the committee is of the view that this corporation still has an outstanding importance in the mining sector. However, STAMICO has been surrounded by running difficulties due to lack of enough funds from the government. Furthermore, there was a change in policies where by STAMICO was listed among the public corporations to be privatized. This led to transferring of STAMICO and its subsidiaries' shares to the treasury registrar. Due to this, the corporation lost experts and workers who applied for other jobs. Also, STAMICO duties were reduced due to the government selling its share to other mining companies

The duties of NDC were to establish, run, and manage major companies in collaboration with private sector. The outlined projects include Liganga Iron ore project, Mchuchuma coal mine project and Lake Natrone soda ash project. Currently NDC is managing the Mchuchuma and Linganga projects while looking for both small and large investors as indicated on Government circular no. 14/2007

The committee has examined the STAMICO and NDC issues and considered different stakeholders ideas on government involvement in the mineral sectors through the two corporations. The following are the benefits of involvement of NDC and STAMICO

On the side of STAMICO

- i. Was enabling the government to earn more since the organization was selling information under action or otherwise running a geophysical research and basic geological investigation
- ii. Providing high and low mapping as to improve government revenue on the side of NDC
- iii. Improving and mining of minerals that targets opening of basic industries
- iv. improving basic industries

STAMICO management informed the committee that it would like the organisation to carry the following tasks:

- a) To provide business consultancy to investors that help them to decide on which location to invest and which may possibly increase government revenue
- b) To guide those companies on how to add value on the minerals, this will also increase employment

- c) Promoting the resources through the database
- d) To give advice to the government on better location for small, medium, large scale mining as a result of studies
- e) To offer technological advice to small miners as to make sure that they are protected and also the environment is not polluted
- f) to advice the government on strategies of season mining so as to guarantee continuous mining

However, the committee's view is that these are better suited to be addressed by the proposed Mining Authority or GST.

Recommendations

The committee proposes the following

- i. The government to review its idea of privatizing STAMICO and to exclude it from the list of the corporations for privatization. Instead, the corporation be enhanced as a resource development vehicle by conducting surveys, selling of statistics, mine development by collaborating with large miners and to involve in other business related to minerals
- ii. the government to own mining site through STAMICO and mineral rights that is under other government organization to be transferred to STAMICO
- iii. Development of mining that aim to fulfill production to the basic to continue being under NDC
- iv. GST to be empowered with equipments, experts, and enough budgets so that it can satisfy its need.

5.7.3 Local governments

As stated above, the policy does not outline share ownership in the mines. However the sites are on the local government locations although they are not involved in ownership to those mines. After visiting the sites the committee has learned that local government in respective areas of the mines are being affected by the presence of those sites.

According to some experience from other government the local governments are involved in ownership of the mining sites. i.e. in Papua New Guinea (PNG) local government are involved in matters concerning ownership of the sites. I.e. the government owns 5% and the other 95% by the investor. The 5% is divided between the government which gets 2.5% and the other half goes to the local government

5.7.4 Citizens

Most mines have been constructed within residential areas whilst the residents are not involved in the ownership of the mines. The Central and Local government policies do not outline any involvement of the society ownership in large scale mining companies. According to information the committee got from the community surrounding the mining areas after having a meeting with them. The committee was informed that the surrounding community is never involved in ownership of the mining sites even though the site are located on their land, and they are also the big victims of those mining sites.

The committee failed to acquire some of the experience from other states, however in North Mara mine owned by Barrick Tanzania, there is a system where by the community benefit from dividends generated as income whereby before they were the owner of mines. This system was under contract and restriction between Barrick and the former license owners of the mine whereby the investor is suppose to pay 1% of the minerals income. Apart from the weakness on this procedure the community prefers this kind of payment rather than compensation.

Overall Recommendations

As to make sure that the government and its people owns shares on large mining sites the committee propose the following.

- i) Since the government is the owner of the mineral resource in the country there is a need for the government to own shares
- ii) The Mining Act should outline and elaborate restriction on government mineral share ownership
- iii) The government to have not less that 10% free carried interest in every mining company. Also, the possibility of the government owning more than 10% through early entry or outright purchase
- iv) the government to motivate its people or villages owning license to come into share with investors so as to benefit from the income than selling their land as it is at Nyamongo village in Tarime District where its people benefit from 1% of the income within its area of license
- v) The government to set a strategy that all mining companies are registered in Dar es Salaam stock exchange so as to enable its people from buying shares
- vi) The government to give its people a room to review foreign currency law, to own share of the mining companies in the country that are recorded foreign stock exchange

5.8 Tax System in the Mining Sector

The committee has reminisced the tax system in the mining sector. This system has played a big role in attracting investors in mineral searching, mining and increased mining trade whereby there has been a rapid growth of mineral search as shown on the second chapter of this report

Also this structure has remained firm for a long period, predictable, uncharged for a period of 10 year since the Mining Act was establish, however most stakeholders in this sector the government being one of them believe the current duty structure does not equally benefit the government and the investor. This has been due to most mineral companies have not been paying the right tariffs under different laws due to excessive incentives.

The committee have revealed that most laws on the mineral sector has got a lot of weakness as shown bellow

5.8.1 Royalty

The royalty is charged under section 86 of the Mining Act. Under this section the basis charge is netback value. Royalty is one of the perfect taxes that is targeted in the mineral sector. The committee categories currently charges that include 3% to all minerals, 5% in diamond and 0% to all unprocessed minerals. The current charges are mainly opposed by both the public and experts that it's very little hence denying the government enough revenue although it does not differ much where compared to other states. Some of the charges that are charged in other countries especially those economy rimes with ours are Ghana, (3-6%) Zambia which raised from 0.6% to 3%, Botswana 10% in diamond and 5% in other minerals, however this countries charge royalties according to the gross value, which differs with Tanzania which as stated there above use netback structure, which minimize government revenue thus enabling the government from catering for the mineral sector.

Smelting and refinery cost are deducted on minerals price as to get the accurate royalty rate.

The committee has revealed that mineral sector requirements, especially convenient infrastructure has improved a lot. The mining sector is also able to amend contribute much higher to the government if it amend its structure of payment in royalty. Also the structure of payment in terms of royalty is convenient since it's strategies that market mining endlessly, gain revenue for infrastructure construction, management, local government and increase of employment.

Recommendations

The committee proposes the following

- i. The royalty base should be the gross value and not the netback value as in Ghana*

- ii. *Royalty rates to be change as follows*
- iii. *The value of royalty in diamond and unprocessed gemstones to rise from 5% to 7% and for the processed to rise from 0% to 3%*
- iv. *Royalty for metallic minerals like Gold , silver and copper to be elevate from 3% to 5%*
- v) *The royalty rate for industrials and construction minerals to be 2% instead of 3%*
- vi) *The royalty rate for coal mines to be 2% for power generation in the country and to remain 3% for exporting*
- vii) *The royalty value for uranium minerals to be raised from 3% to 10%*

5.8.2 Income Tax

5.8.2.1 Redeeming of Capita Expenditure (Deductions)

Section 145 of the Income Tax Act (2004), third portion of the second table of the Income Tax Act (1973) that deals with redeeming expenses related to mineral duties is still on use even after it was eliminated on 2004. The committee was informed by experts that there was a pressure from somewhere that directed the inclusion of that section in the Income Tax Bill (2004) that was submitted to the parliament so that the mineral sector can continue with the cost recovery system which was used under the Income tax Act, 1973. Considering experts suggestion, the committee advises the government not to bow down to pressure/interest groups in decision making especially when the proposal does not benefit the government.

The committee also understand that investing in mines require a lot of capital and also take quit some time before getting profit and there for it need some favor so as to recover those expenses, in most countries among them which the committee visited, relief in the mineral sector in revenue charges especially in capital deduction. For this example South Africa and Botswana offers a fare charges in search and mining development to 100% in Ghana and 80% in Zambia which also in the begging of the 2008 was giving 100% .

The committee also discovered that the favor that was given and elaborated on section three of the second element of revenue law of 1973 exceed. Some of the areas where the committee saw that favors exceeded and affected revenue collection to mining companies is among the favor that let those companies recover expenses signed during the revenue year for any expenses

Section 17 of second division of the income revenue law of 1973 state that:

“Subject to this schedule, where a person carrying on mining operations has incurred expenditure in year of income there shall be made in computing his gains or profits for such year of income, a deduction equal to the amount of such expenditure”

Due to this section mining companies are allowed to incur all expenditures in any year of income in all mining operation even if the mining sites have not started to develop such that have not contributed in any year of income. Also depreciation allowances which normally are given according to the machinery yearly expenditure for that year of income and not all the incurred expenses on the year as it is in mining companies

The current income tax charging deny mixing of revenue deduction equal to the amount of expenditure to the ring fence in computing the amount the amount to be charged. Also the depreciation allowance is given equally to the expenditure of the machinery for the respective income year thus all expenditure to be incurred for year and not immediately as done in the mining sector, by using this act, mining companies incur some expenses that have no relationship with respective yearly income tax, for example are mineral search and construction expenditure which don't contribute in the respective year income.

Lack of ring fencing is one of the major that lead big mining company to continue running under tax losses even though some of the companies acquire profit since most of them run business for more years and hicks to some mineral especially gold. For example in 2006 Tulawaka mine owned by Pangea Mineral Limited obtain a profit of \$ 28.2 ml but the company never paid tax on that respective year due to the company mixing some of other project expenditure and incurring its machinery in one year, however the expenditure uncured while constructing the Buzwagi mine are contributed by the tax which would have been paid by the Tulawaka

5.8.2.2 15% Additional Capital Allowance

Additional capital allowance of (15%) on unredeemed qualifying capital expenditure was included in the financial law of 1973 (miscellaneous Amendment) Act, 1997, all mining companies were benefiting from this relief till 2001 when the section which was giving privilege was abolish in the revenue income law of 1973 through the financial law of that year. Although the financial law of 2002 returned that fragment to MDA companies which were under contract before 1 July 2001. This relief has a very big negative impact in government income that is obtained from income revenue since most of the companies being reluctant and there is a possibility that some of the companies that are being favored till now won't pay till the closure of their mines. A good example is Resolution Company which in the year 2007 finished the extracting of gold reserves for which the license was provided. However, it went on with extraction after new reserves were discovered using the same contracts that provides for this relief.

According to report given by the revenue authority, one of the company (not identified due to the law basis) is suppose to pay income tax \$ 35.0ml in the year 2003 and 2005 according to the current law that allow a gain of more than 15%. If there was no gain the company was supposed to pay \$ 45.9ml in that period as shown in the attachment no. 9.

Also, according to Alex Stewart companies report that involved inspection of five big gold mining companies showed that those companies misinterpreted section 18 of the second chapter of the Income Tax Act of 1973 hence glutting expenditure for \$ 235.4ml if the companies were paying taxes, amount that would have been generated from the extra expenditure of \$ 70.6 ml

Bulyanhulu Gold Mine Limited and North Mara Mine Limited that are MDA's and which according to their contract are suppose to have extra tax gains, decided to dump that gain from 1 January 2007 after discussing with government. Resolution Tanzania Company has already finished its discussion with the government and the contract is due to be signed any moment. Also discussion between the government and Geita Gold Mine Limited are on the table. The committee recommends that the government should speed up the discussion with investors with Geita gold mine so that Geita Gold Mine Company Limited can release its extra gains of 15% and also to finish the contract with Resolute Tanzania Limited as early as possible. According to some reports and forecast done, the committee have revealed that the extra gains effects will continue for a long period, regardless of the company decision to abandon it due to the loss it under went that is estimated to be \$ 883ml and will take long to be recovered

5.8.2.3 Environmental costs

According to act 15(3) of the year income tax of 2004 the funds were estimated by the mining companies for environmental repair are allowed to be deducted as actual expenditure during computation of taxes to be paid and its not a must to bank on a special account (trust/bond) and the tax commission to adhere. The current procedure used enables the companies to claim many gains than the actual environmental repair caused by the mining in the respected year thus minimizing the yearly revenue income tax. Also there is a possibility of a certain amount that given a gain tax not to be available when the mine is closed.

5.8.2.4 Withholding Tax Rates

As stated on Act 2.3 (a) of the second chapter of this report those companies with MDA charge withholding tax to the payment done to to different service render as the contract state instead of those outlined on the 2004 income tax law. The committee has also discovered that the actual withholding tax in shares paid by mining companies to related parties is different and what was there according to the law when MDA signed, that indicate that contract are much powerful then the law that is prepared by the parliament. The committee sees this as a bleach of law.

Recommendations

After a keen discussion on income tax in the mining sector and by considering different advice fro experts the committee propose the following

- i) Section 145 of income tax law of 2004 to be discarded such that section three of the second part of the law of yearly revenue income of 1973 not to be used in the mineral sector.
- ii) The government to speed up dialogue to those companies contract has that part as a way to rub it completely
- iii) The government to avoid retrospective effect on law as it did on section that allow extra gains of 15% to MDA mining companies in 2002 after dumping that section on 2001
- iv) Capital deduction to those starting companies should be as stated in table 3 of the Income Tax Act, 2004
- v) The government to discuss with MDAs companies and those with the standard stated on the contract such that they can also use the proposed charges proposed by the committee
- vi) The authorized deduction as environmental expenditure deduction to be the actual charge, special account or trust that will be approved by income tax commissioner, the aim is limiting those companies not to over provide the actual charge than an aim of avoiding or delaying to pay tax.
- vii) To use the withholding tax rates outlined on the Income Tax Act, 2004 , and the government to enter into dialogue to MDA companies to follow the new formation
- viii) due that the contract provision on some of the MDAs companies that allows those companies not to pay withholding tax during the interest payment done to related parties defy the section (10)(2)(a) of the Mining Act, the committee propose the government to make a dialogue with respective companies for those companies to pay for the withholding tax as the law state
- ix) Any contract signed from now to consider respective tax laws on the respective date as by section 10(2) (a) of the Mining Act.
- x) If there is any tax paid since the beginning of the contracts, officially withheld tax should be collected under the law and any section in the contract that differs with the law not to be considered

5.8.3 Value Added tax

As it was stated on the second chapter of this report, research companies, mining and processing benefit from VAT special relief, due to these relief mineral companies are permitted to purchase and service from internal producers or to import without paying VAT. Also, most companies that have already started production and those under site construction are registered due to VAT thus by following the correct guidelines inform of VAT this companies can recover their taxes paid when purchasing different

commodities for mining purposes. Basically exploration companies are not supposed to be registered due to VAT since they have no commodities or services to sell unless they are hired by other companies for payment. Those miners who don't have companies don't benefit from this relief of VAT. Paragraph 8 of the second table of the VAT Act is read as following

“ the importation by or supply to registered licensed exploration, prospecting , mineral assaying, drilling or mining company, of goods which if imported will be eligible for relief from free duty under customs laws, and services for exclusive use in exploration, prospecting, drilling or mining activities”

According to the committee suggestion VAT relief is needed on small miners than in registered large scale mining companies which if they pay VAT when purchasing can redeem that tax through regular means of VAT. A large quantity of small miners are not supposed to register since their sales don't reach the registration target that is \$ 40ml thus can't redeem the tax that they pay when purchasing their goods hence being their expenses.

The basis of eliminating the relief VAT to mineral companies was to minimize cash flow problems to those companies taking into consideration that in the beginning of investing those companies spend a lot of cash in importation of machines and to pay for constructors. This has now changed since investors' capital goods that include machinery and other materials outlined by each investing company in the third table of the VAT law and to be implemented starting from 1 July 2005. Counting on investing materials in the third table of the VAT law has minimized burdens to most mineral companies which they had there before whereby they were forced to go for financial assistance for in order to pay for VAT and so many more materials

After the committee met with mineral companies, they insisted that VAT relief was very important since the revenue authority delay to refund tax. The committee does not adhere with the idea that tax refund is the bases of giving VAT relief to mineral companies. Also the committee has been informed by the revenue authority that;

- a) That the process of tax refund has been modified and there are no delays only when the company fails to prove its claims
- b) that even if there is tax refund delays, the delay will comprise of all tax payers supposed to be refund VAT by the authority
- c) that the duration of VAT refund has been indicated on the Act 17 of the VAT law also Act 28 of the that law order the head commissioner to pay interest if he will delay in refunding the actual VAT. Also the tax payer can appeal to the tax revenue appeal board if the head commissioner will fail to pay the actual tax on the given time on the law
- d) That basically VAT relief is given to people or institutions that offer community services and cannot recover their tax because they are the last beneficiaries. Mineral

companies do business and are not last beneficiaries. Delays in VAT refunds cannot be due to VAT relief

the committee was informed by experts that some of the commodities and services that mineral companies obtain without paying that include cement and iron sheets which are abuse used which include constructing of workers house, schools, health and police centers. Also the committee was informed that the process of issuing permits of VAT relief increase operation cost of the revenue authority which does not increase government revenue. The committee adheres with the experts' suggestion that the best way to avoid misuse of VAT relieves by authorizing mining companies to pay tax during purchase and redeem that tax by using normal VAT procedures whose management and protection is simple.

Recommendations

Considering the above statement the committee recommends the following:

- i. The revenue authority to amend its VAT refund and other taxes process
- ii. Para 8 of the third table of the Value Added Tax to be amended so that VAT relief to be left to exploration companies which are not supposed to be registered due to VAT.

5.8.4 Fuel Levy

The committee understands that fuel duty levy is a very sensitive source of income for the government more so in constructing and renovating of roads. Fuel levy have contributed a lot on the achievement seen today on the road sector. Even though as its stated on the second chapter of this report mineral companies that mine gold and MDAs are supposed to pay this levy of not more than \$ 200,000 per year without bothering the quantity used. This is according to the government announcement no. 99 dated 15th October 2005 which removes all levy that exceed \$ 200,000 per year

According to statistic given by the revenue authority in the financial year 2006/07 the government wiped out levy to five big gold mining companies of Tsh. 11.56 billion and on the financial year 2007/08 an amount of Tsh. 32.7 billion, supposed to be abolished as showed on attachment no 10

The committee recommends that the abolishment of the fuel levy supposed to be paid by mineral companies has weaken the government potential to construct roads and if the abolished levy was collected and got into use in constructing and renovating of infrastructure the government and its people could benefit a lot

The committee was informed by some stakeholders that the abolishment of fuel levy that exceed \$ 200,000 was done with an aim of supporting those companies in recovering extra expenses that the companies underwent due poor infrastructures and electricity.

However the committee did not get the basis of how the US\$ 200, 000 agreement was reached.

The committee has suggestion that the government announcement no. 99 to be used by mineral companies and MDAs companies only bring a different picture in the same picture and have brought complains to some companies who pays the full percentage, also this fuel levy exemption minimize the ability of the government to construct and renovate infrastructure that are needed by the mineral sector stake holders.

Recommendations

According to the above statement the committee proposes the following

i) Exemption on fuel levy to gold mining companies and MDAs of more than US\$ 200,000 per year to be abolished such that those companies should pay tax as stated in the law. So GN 99 of 2005 should be repealed

ii) The government through TANESCO to improve electrical infrastructure more so in the lake region where mining processes take place most as a way to minimize fuel consumption

iii) Those companies which are not connected to grid power not to pay fuel levy for quantity of the fuel spent during production.

5.8.5 Exercise Duty

As stated on the second chapter of this report the companies that enjoy excise duty exemptions are those companies that exports their mines, while those producing for domestic market does not benefit from that exemption. There has been a problem in management especially in classifying the actual fuel utilization for export or domestic mining. Also the committee was informed by TRA that their have been a lot of fraud especially in medium licensed companies who buy fuel without paying levy and instead of using it on mining for export they sell that fuel in the local market hence interfering with the local market business and also denying the government its revenue for other development

However the committee understands that one of the factors why there is levy in different commodities, including fuel, is to avoid misuse of those goods is due to side effects that are caused by the goods in human environment. Mineral companies have been consumption a lot of fuel thus contributing a lot in environmental pollution and therefore there is a need for them to be paying fuel levy.

According to statistic issued by the Revenue Authority in the financial year 2006/07 the government exempted levies for six mining companies worthy Tsh. 39.8 billion and in 2007/08 Tsh. 59.0 billion is expected to be eliminated as shown on annex 10. By

considering the above information, the Committee recommends that exemption of excise duty in fuel is not reasonable and is not a must.

Recommendation

The committee recommends that of excise duty exemption in fuel to be abolished such that those companies pay that duty as outlined on the excise duty of chapter 147.

5.8.6 Custom Duty

As it's illustrated on the second chapter, mineral companies and contractors don't pay custom duty depending on the level and the work the company is undergoing when importing those goods as follows

a) Since the begging of the mine development until the end of the first year of production and their contractors are exempted from all levy on excise which after the custom commissioner and the respective minister after discussion adhere the materials were used as authorized.

b) After the first year the company and its contractors are charged not exceeding 5% which after the custom commissioner and the respective minister after discussion adhere the materials were used as authorized.

The committee has analyzed the exemption of custom duty given to mineral companies and their contractors and sees no important of it especially to mineral companies that started production where that tax can be estimated as normal running cost.

Recommendation

i) Production companies not to be given free custom duty

ii) Free custom duty to be given on building materials and imported for mining site construction only

iii) The government to submit a copy of required materials for the mineral sector to the East Africa ministerial council for discussion in order to have one riming list of requirements

5.8.7 Stamp Duty

As illustrated on paragraph 2.3(f) of the second chapter of this report, the stamp duty as outlined on MDAs is different with those outlined on the table of Stamp Duty Act chapter 189 when the contract was signed which was against section 10(2)(a) of the Mining Act chapter 123. The committee has suggestion that this charges are not legal and therefore it's a good indicate that contracts has more power than the law it self which was approved by the national assembly

Recommendations

The committee proposes the following

- i) All contracts signed from now to consider the respective tax law of that date*
- ii) Contracts with this weakness to be amended in consideration of the value of the stamp duty which was on the respective law and the signing date of those contracts*
- iii) if there are any documents supposed to be charged stamp duty since the begging of those contract, that duty to be collected in law basis of the contact provision which is against the law not to hinder anything*

5.8.8 Selling of Company Shares Abroad

Some of the foreign companies that owns shares in some mineral companies that are registered and owns license or mines in the country in some incident has been selling some of there shares in the foreign stock exchanges and benefiting a lot due to the value of the licenses and mines in Tanzania. The benefits that this companies gets include financial aids for their security of assets that is in Tanzania from the foreign banks while the country that own those resources that is Tanzania does not benefit from any income. Since the business done include unregistered companies and also outside the country , the country have not been benefiting from various taxes since the tax law misses some parts that elaborate how such taxes are supposed to be paid. For example Sutton Resources Company of the lake zone that later owned Bulyanhulu from STAMICO sold its shares to Barrick at \$ 348 ml without paying any taxes to the government.

The committee has suggestion that the beneficiaries that this mineral companies get from this resources they must be charged taxes

Recommendations

The committee propose that the tax law should be amended more so on the stamp duty chapter 189 and the income tax act chapter 332 such that any controlling tax of foreign companies which in one way or another depend on the resources available in the country to be taxed in Tanzania

5.8.9 Skills Development Levy- SDL

The committee has discovered that the SDL paid by almost all employees except the government is not one of levy that those companies are supposed to pay since the MDA does not propose that tax to be one of the tax those companies are suppose to pay, however the committee has discovered that mineral companies pay's those taxes.

Recommendation

According to the above information the committee suggest that the government to discuss with mineral companies with MDAs to see on how they can allocate the SDL as the law state

5.8.10 Local Government Taxes

The committee has learned that even after the contract mineral companies to pay tax to local governments for an amount that do not exceed \$ 200,000 per year, it's been long time since these companies paid this tax. The tax is charged under the local government finance Act of 1982 of a 0.3% value of the turnover. Due to this on those contracts even if the required tax exceed \$ 200, 000 the mineral company will pay the fixed amount. Also, the committee discovered a section on the contract that denies local government taxation which because the computation is based on the sales of the minerals. Thus even if the \$ 200,000 barrier was not into place the municipalities were in a position to collect that tax.

The committee recommends that the ceiling on the amount to be paid by under those contracts should not be there so that all companies running in a certain council are obliged to pay according to the Local Government Finances Act requires.

Recommendation

The committee recommends that all companies to pay Municipal levy according to the local government finances Act 1982

5.9 Distribution of Revenues from Minerals

Mineral revenues include royalty, different tax, registration and renting fee. This revenue as it is in other government revenue are collected and allocated as government asset for other use.

However the committee has discovered that there are no proper procedures on separating revenue collected from minerals. Due to lack of this procedure there are a lot of doubt and tension on proper usage of this revenue for the well of the government and its citizens

In Ghana, the distribution of royalty is 80% which is allocated on the main government basket and the remaining 20% distributed to various department that are engaged in the mineral sector development and chiefs in mining areas. This procedure creates some efficient ness in revenue obtained from minerals and its expenditure within its mining sites.

The committee suggest that when this mining process are starting there are normally huge populace around the mining site hence there is a great need for community services i.e.

health, education, and infrastructure. For that reason the populace and the municipality need efficient source of income to cater for those needs.

The committee also suggest that there is a need of sorting revenues harvested from minerals and using them in developments i.e. railway infrastructure, road, port, electricity, water, health and education (mineral institution, higher learning institution) for that reason there is need to launch a mineral development fund that will be monitored by the government.

For such that the aim of the government is to make sure that the mineral sector benefits both the government and its citizens in general there is a need of the government to sort its revenue of royalty to its different sector as in Thailand and Ghana, whereby this kind of formation has showed a great impact in community development. Also the government to give priority of this expenditure such that the government can later asses and control its expenditure

Recommendation

On distribution of the royalty, the committee proposes the following:

- i) 60% of royalty to be allocated on the mineral development fund for developing project
- ii) 20% of royalty to the mineral Authority proposed in this report
- iii) 10% to the district where the mines are
- iv) 7% to be located to the respective municipal where the mine is
- v) 3% to the villages surrounding the site

However, the committee recommends that the government should consider the municipal revenue and respective regions in resources sharing in the general budget to avoid any big different between the municipal and respective regions with mining site.

5.10 Mining contract

The committee has reviewed those contracts and noting there is some sensitive parts as follows.

5.10.1 Taxation System

Section 10 of Mining Act powers the minister with the authority of entering into contract with investors in order to ensure of the unchanging tax formation and to ensure him the continuation with the tax formation agreed with the government since the signing of the contract and during the time of mining.

The following are some of the tax formation as in the contracts;-

- a) Royalty is be paid at a value of 3% of the net value
- b) Income tax at the rate of 30%
- c) Stamp duty paid at the rate of 0.3%
- d) Customs duty
- e) Excessive duty
- f) Fuel levy
- g) VAT
- h) Withheld tax
- i) Local government tax at \$ 200,000
- j) 100% capital allowance at the first year
- k) 15% additional capital allowance for contracts before 2001

5.10.2 Foreign Exchange control

The government and investors to enter into agreement that will permit investors to open foreign currencies accounts within and outside the country with the following intension;-

- a) To bank their investment, vend, in foreign bank and spending as they desire as long as they pay the required tax to the government of Tanzania
- b) To enter into foreign financial aid contracts with foreign banks for their running cost, those financial aids to be bank in foreign banks
- c) Leasing of mining license and all companies properties as security when applying for financial aid
- d) To open foreign currencies account in the country and banking the money obtain from mining
- e) To be permitted to sell all mines extracted from their area of licensing

Also, the contract demands the governor to issue a restriction permit in 30 days however some of the contacts shows that this restrictions can be issued without with out authority of the governor if the permit will not be issued on the located duration.

5.10.3 Dispute Settlement

A contract outlines the procedures of national conflict resolution

5.10.6 Domestic service and commodity purchase

Investors to purchase domestic material provided they meet quality

5.10.5 Foreign employees

- a) Investors to be permitted to employ any amount of foreign workers for mining purposes
- b) Foreign workers to be paid in foreign currencies
- c) Foreign workers to be permitted to import car and other household equipment without paying import duty

5.10.6 Ownership alteration

The investors is not permitted to alternate his right under contract with permission from the minister of Energy and Mineral

5.10.7 Committee's Opinion

After a thorough debate on the contract the committee has the following suggestion

- a) Mineral contracts in most countries have been like a traditional of many years. According to the experience that the committee has experienced in countries like Australia, before the Mining Act of 1978 there were contract mining contracts MDAs. The law was then made which included some key issue meant to run the mining extraction; the law outlined some of the thing that the country experienced for a long time. The law is used up to date and have shown no meaning of having MDAs, the currently used contracts are those involving two states, earlier signing; this contracts process rimes with law making.
- b) In Ghana the contact are signed when the investing value exceed \$ 500ml and fiscal stability contracts

in Zambia in 1990's under World Bank and other stakeholders were forced to promote with different attraction, like eliminating royalty and giving free tax so as to attract investors. On the same time mines price especially silver had deflated due to tax absolve

and promotion. At last Zambia realized that it was not benefiting in mining. In the last two years Zambia decided to review its mineral sector. Due to this, the government decided to employ different experts for guidance. The experts advised the government to review some of its policies so as to benefit from that sector. For that reason the government decided the following.

- i) Dropping the MDAs and other mining duties to be carried according to the Law
- ii) Royalty to be returned from 0.6% to 3% of the mineral gross value
- iii) To dump some of the tax relief in MDAs
- iv) launching of wind fall tax of not less than 25%
- v) Investors to allow Zambians to own mining ownership

Zambia decided to review those changes through the national assembly. This law introduced a new mining sector regime and was to be introduced to new investors thus request the current investor to migrate to the new regime to avoid dragging each other to the court. The Zambian government believes that the investor will accept it.

In Tanzania contract bases are outlined on the contract cap. It's obvious that there is need for change such the mineral sector can firmly manage to control contributions expected in the economy

Recommendation

For the changes to give the expected results, it's better for the following Recommendations to be approved early in advance.

- i) To be a firm formation of law that will make the investing in mineral will be carried according to the government law that monitors the investment in general instead special contracts MDAs*
- ii) Private contracts and MDAs to be carried only when investment is of \$ 200 ml or more*
- iii) Contract that will be signed under Section (ii) above must be submitted to the national assembly*
- iv) The Mining Act to be amended so as to add all parts that involve investment in the mineral sector so as to have a comprehensive law*
- v) Contracts to be open to the community and to be available in regional office, districts and Municipal councils where these mining sites are.*

vi) Contracts to be reviewed after every 10 years.

vii) All contract to be in one model thus having a model agreement that will be scheduled by the Mining Act

viii) The charges that are in municipals in the contracts differ with the charges in the local government law. The committee then propose that those charges to rime due on the signing day

ix) Contracts point out the custom charges of roads as \$ 200 without considering the actual amount of fuel used in mining site. The committee therefore proposes that fuel levy to be rubbed except to the fuel that will be used in generating power to those mining site.

x) Investors are allowed to bank their cash in foreign banks under B.O.T. governor permit and he has no alternative when requested. The committee requests the governor to be powered and act according to the law.

xi) The investor to be permitted to bank his investment and selling on foreign banks and utilize them as he wish, if only he meet his obligation of paying his tax in Tanzania. This configuration is not correct since after interrogation with some investors show that they only spent 60% in expenditure. Also in Ghana they return 60% to the government. The committee recommends at least 60% of the money obtain mineral to return for domestic use.

xii) The investor has to buy local material as long as they meet the required quality. This section does not direct the investor to buy local material. The committee proposes that to be there a section of the law that demand investor to buy material locally as long as they meet quality. Due to this the government should empower local companies from using the opportunity of presence of mineral companies in the country.

xiii) the contract have a section that permit foreign employees import different commodities for private use that includes one vehicles without paying custom duty and other taxes. This section denies the government from benefiting from income generated from taxes and duties. The committee propose that contracts have to press foreign workers when importing such goods to pay for other customs and taxes as per the respective law as done to employees from other sectors.

xiv) The committee has discovered that there are some sections on contracts especially those concerning stamp duty fixed tax from the funding interest from related companies as placed differently in the related law. The committee recommends that this rates to be paid according to the law and as during the signing of the contract.

5.11 Compensation for the Displaced

Mining activities involve areas with people's residences and economic activities, this means some time the people have to shift from their respective areas to other places to pave way for mining activities to take place. This shift goes hand in hand with payment of compensation for the affected.

The mineral policy does not explain anything to this kind of people. The Mining Act neither outline anything concerning compensation of this affected people nor outlining the process of helping them acquire new land, instead, Act 96(3) list some compensation restrictions of property damages caused by the investor when carrying his mining duties. On this Act the investor is the one supposed to compensate

When it happens one is transferred to another location to for mining purpose the procedure followed to ensure that compensation is paid is that of the Land Law no. 4 of 1999 as outlined on the compensation estimate regulation. The compensation is paid as per the land assessment of the value of the land for compensation regulation of 2001 given by the government notice no. 78 of 4th May 2001.

According to the experience got by the committee from the mining site area shows some weakness in compensation as follows.

a) Even that the land law orders the compensator as the government or the District or town municipal, there have been slackness between this parties and the investor.

b) the law demand the compensation to be paid on a period that don't exceed 6 months the committee has discovered that in places like Geita, Nyakabale, Kakola and Nyamongo there are some citizens who have not been compensated, even though their assessment were done since the year 2001 when the mining sites were sign.

C) According to complain that compensation is not enough, the committee has noticed that those claims are due to the rates that were emplaced on valuation regulations were very low. This weakness shows that the value of the land considered the properties on the land without considering the hick of the land due to the discovery on that land.

d) The committee has also revealed that even after the law outlining the importance of compensation, there is a need of preparing a place where the affected people will settle. According the experience learned fro Zambia and Botswana show that apart from compensation there is always a place for those people to settle, where there are already houses and firms. The committee understands the procedure that was used to compensate Buzwagi residents who were displaced due to mining activities.

Experience from other countries like Australia and Thailand shows that they have good compensation systems. In those countries, the investor is not allowed to start the mining activities until when all the compensation activities are finished.

Recommendations

- i) *Since compensation procedures to those leaving their land for mining extractions are not well placed in the mineral policy, the committee propose that this procedure to be located in the policy and to be explained in the mineral law. Either the mineral law to restrict that this compensation to go hand in hand with looking for new settlement and effeminateness of infrastructure to those new area. The law to outline that the investor is the one with compensating mandate and to include it in the Mineral Law*
 - a) *the opportunity of the owner from discussing with the investor*
 - b) *restrictions that hinder investor from starting mining services before finishing compensation and new settlement allocation processes*
 - c) *Compensation valuation to consider the current new land value due to exploration of minerals on that land together with other related expenses.*
 - d) *Compensation to be done by investors*
 - e) *Compensation not to exceed six month after valuation*
- ii) *To the compensations that the government is being claimed, the committee propose that the government and the mining site owners to speed up and ensuring that those claims have been paid to solve the pressure that is surrounding those place.*
- iii) *The procedures that were applied at Buzwagi to be adapted and developed in other mining projects, instead of leaving the affected people to search for settlement.*

5.12 Small Miners

Among the strategies that have been illustrated on the second phase of this report, the committee has observed that in any area relating to small miners is enclosed with the following difficulties;-

- a) Small miners has no enough capital to facilitate them with new equipped material for improved mining
- b) There is no development fund basket for improving small miners in financing them or equipping them.

- c) There is no special body that monitors small miners thus no income monitoring.
- d) Transferring them from their mining site so as to offer room for investors without considering them
- e) Lack of inter trade relation between small and large thus crating a lot of misunderstanding between the two parties
- f) Bureaucracy in license giving to small miners
- g) There is no specific market for mines extracted by small miners

Either the committee has decided that so as to stabilizing small mining, the government should establish special department in the mineral Authority. Experience obtained by Zambia, Sri Lanka and Ghana shows that special department that tables small mining services in those countries thus minimizing misunderstanding between those parties.

Recommendations

Among the procedures that are outlined on the mineral policy that has revealed the importance of small miners and way which they can assist in local developments

The committee proposes the following

- i. Small scale miners to be empowered in equipment so as to improve their mining task*
- ii. The government to contribute on a special fund basket, for financing and capital, the basket to involve different stakeholders*
- iii. To be launched finance institutional to finance small scale miner through SACCOs*
- iv. in the new mineral Authority structure, to be located a special department that will deal with manage small scale mining*
- v. The government to accomplish the law and policy strategies that aims to allocate special areas for small scale miners*
- vi. To strengthen trade relation between the large scale miner and small scale miners that will also minimize misunderstanding*
- vii. The government to practically accomplish technical education, entrepreneurship to power local investors*
- viii. Management Stabilizing by allocating mineral offices in the level of district and if possible those offices to be resourced with equipments*

- ix. *The government to conduct a research by understanding the mineral treasure in small scale mining area*
- x. *The law and regulations of security and health in mining site to be monitored so as to protect workers health's and to avoid accidents as it have been happening in small scale mining areas especially Mererani.*
- xi. *The government to put into place a law that will instruct investors to cover their worker*
- xii. *Environmental Laws and regulations due to small scale mining to be improved. Either , the government to launch and manage a n environmental conservation programme in mining area*
- xiii. *Areas returned by large scale miners to be allocated to small scale miners*
- xiv. *License giving to small scale miners to be given by the local government so as build good relation with owners*
- xv. *The government to motivate small scale minors fro introducing SACCOs due to mining*
- xvi. *To areas that the back born of the economy is mining i.e. Nyamongo, the government should isolate a special location for small scale miners.*
- xvii. *According to The situation that is in Nyamongoi , the government and Barrick Company Ltd have no other wise but to allocate a special area for small scale miners and to place a buffer zone between them*

5.13 Gemstones

The mineral law state that a foreign investor is not supposed to be licensed to extract gem stone, if only by collaborating with Tanzanians whom in general owns not less that 25%. To permit foreign investors to extract gem stones in share with Tanzanians owning less than 25 % leads to those Tanzanians not to benefit from those gem stones. Either un publicize on specific places with gem stone in the country, like not special location for Tanzanians only has lead that foreigners are allowed to enter in gem stone mining processes

Extracting of gem stones by using heavy duty machines lead to un developing mining of those mines, either those minerals are normally stockpiled in foreign countries, which can temper with our mineral market.

Recommendations

- i) Gemstone mining to be for Tanzanians 100%

ii) On the point where a Tanzanian want to be in partnership with a foreigner to be permitted as long as he the Tanzanian owns 50% or more

iii) All location approved to have gem stone to be announced as special locations and to be allocated in sequence that will make sure that Tanzanian benefit with this wealth of gem stone in the country.

iv) Gemstones to be mined with small machines so as to prolong its life spans so that the next generation can also benefit.

v) Tanzanians to be educated and empowered enough in all mining process, purification, designing, selling valuation and stockpile so as the government to benefit with that resource.

5.14 Corporate Social Responsibility

The committee has reflected suggest from local people, investors, and workers on contributions and developments in human development and outlining different problems that's result to mineral sector contribution not be noticed. Most populace especially those surrounding the mine had a lot of expectations in human developments (infrastructure i.e. health canthers, schools, roads, water e.t.c) they also expected job opportunity increase and rapid area economy growth. However elders in this area surrounding the mine have revealed there are additional of economy activities in their areas due to mining services.

Also TCME told the committee that according to their policies it's an obligation to every company to build a good relation with the community surrounding their mining site in contribute in human development.

Together with economy growth, the surrounding community sees the contributions made by the sector does not sustain as intended. The committee has discovered that some of the barriers that hinder the mineral sector contribution to be seen is as follows;-

a) There is no good relation between the investor and the local councils, due to that, in most case the provided services are normally missing in the development plans of the council and even the councils have no opportunity to supervise and coordinate them.

b) There is no strategy in place to empower the local authorities where there is mining sites, to use those opportunities within that area.

c) As no copies of the Mining contracts are taken to the regional and district levels, leaders at these levels do not know the roles and responsibilities of the mining companies to the development of the community.

The committee sees the importance of the policy and law to outline the responsibility of the investors in human development and involvement of stakeholders in areas around the

mining. The committee believe that investors would help developing infrastructure i.e. roads, railway if this commitment is included in the contracts especially in areas that they are supposed to contribute.

Due to minimum contribution in human development and lack of involvement to the targeted people, the committee has revealed that within the mining site the relation between the surrounding community and the investor is not good since the community believe that the investors come to benefit from their properties. The most affected areas include villages like Kakola, Nyakabale, Mererani na Nyamongo.

In many countries the committee visited, mining site owns contracts with its surrounding society, thus making contributions done by the mineral sector be noticed. On the other side poor relationship between the municipals and investors in development planning show a weakness between them. This has played a big part in hindering development in some areas.

Recommendations

i) Considering that investors are not forced to contribute in human development, it's good if they were given opportunity to participate in District Consultant Council so as to understand the importance to those developments.

ii) Investor to be directed to contribute in human development so as to strengthen good relationship

iii) Part of the returns that goes to the municipal and District with mines to be used in human development so as to benefits the surrounding society

5.15 Employment in the Mining Sector

According to stakeholders views and committee preview, employment in mineral sector can be elaborated under the section of employment as follows;-

- a) Preparation of experts is supposed to be done by the government as per the Mining Act of 1997
- b) Mineral expert's employment and the way they are manpowered including beneficiaries and their developments.
- c) Foreigners employment
- d) Employment to the surrounding society
- e) Relationship between the workers and the management

5.15.1 Nurturing of Experts that has to be done by the Government according to the Mining Policy, 1997

According to paragraph 3.3.11 of the mineral policy of 1997, the government targeted to motivate development in workers needed to ensure that there is availability of teaching and different professionals and also to use technology developments in the mineral sector. Some of the professionalism that need to be improved include geology, mining engineering, mineral filtering, gemology, geophysics, environmental science, geochemistry, mineral economy, law, computer science and other professionalism.

According to information from the ministry of energy and Minerals, the government has not yet benefited from that section, even after having institutions that specialize in mineral professionalism, that include department of geology, department of engineering in mining sites in the University of Dar es salaam that offers degree and university of minerals of Dodoma, which offers vocational education.

This institutions have not produced a good number of experts as needed, may be due to the government budget. Also other professionals are not offered in the country since they need special lessons that are found in foreign countries, and thus needing a big budget.

Experience from other countries show how the issue of experts how its importance and is given priority. Australia decided to build special institutions that produce all kind of experts in mineral professionalism. Ghana, Zambia and Thailand also have special institutions that offer minerals professionalism.

Apart from those institutions there are also medium institutions that offer vocational education, as in Botswana. Also, since Botswana doesn't have a higher learning institution it has invested in the mineral professional education for quite sometime.

Recommendations

Due to this information, the committee recommends the following

i) due to the need of having enough experts in the mineral sector one over eight of the skill development levy paid by mineral company which at large is used to promote technical engineering through VETA, to be used mineral sector professionalism. That finance to be given by mineral Authority with the mandate to manage the development of the mineral profession in the country.

ii) The government to establish a structure of monitoring investors undertakes responsibility of training their workers, since it is according to the law for them to do so.

iii) The government to increase its budget on this institution and also to motivate student from registering to professional related to mining and expand opportunities of learning security in medium institutions and higher learning.

5.15.2 Mineral experts' employment, their responsibility, beneficiaries and development

Despite that experts produced by our institutions are few, due to the rapidly growth of this sector, they are needed in the civil society sector and mining companies in the country. Also due to globalization there are reports that some of the local experts have been employed outside of the country. However according to the meetings with the committee, mining employees has seems not to be pleased with balancing of employment and the work they do.

Since this companies are permitted to employ foreigners, Tanzanians who are employee seen a lot of favor to foreign workers when it comes to job restrictions, especially in salaries and other commission. Also there are roamers that those foreign employees do not meet the professionalism of Tanzanian in their respective positions. According to experience fro other countries it does not nationalism does not matter when it come to employment as long as you can deliver in you position.

Recommendation

Due to the above weakness the committee recommends the following

i) due to feelings of discrimination's that are rising among Tanzanians employees, the government to review Labor law to make sure that employment to any employee consider experience and qualifications and not otherwise.

ii) about working environment, the government to strengthen the Ministry of Industry and trade inspection department and mineral department in the Ministry of Energy and Minerals so as to meets its Law mandate. Also Tanzania Occupation Safety and Health Agency –OSHA to open centers in areas around the mines

iii) The government to make sure that those bodies that were by law formed that include groups of mining workers that are independent.

5.15.3 Foreigners employment

According to the available contacts, investors are permitted to employ foreign workers. Restriction of foreign employment are ruled by the labour law of 2004, and that of migration of 1997, the committee has discovered that in mining contracts, foreign employee benefits from some commission that Tanzanian employee are not given by the government. Among those favors are importing of different commodities that include vehicle without paying tax and import duty and a lot of favoring when it comes to salaries and commission even when their professionalism match with that of Tanzanians

Recommendation

The committee proposes the following

- i) The government to do away with free import duty and tax to foreign workers which deny them income*
- ii) Foreign working permits to be issued only when there is a need and that professionalism is not available from Tanzanians*
- iii) Coordination between the mineral authority to be launched, migration, and the ministry of labor and respective company to follow up and see whether the work done by foreigners match with their permit*

5.15.4 Employment for the Communities surrounding the mines

As indicated on the third chapter of this report, one of the complains from the local people is lack of employment in mining site even those don't need a lot of expertness, like cleaning of the environment, cooking, security and even running of the machines, the committee collect ed investors views who confirmed that problem is there, they further elaborated that it is caused by Tanzanians lacking experience, creativities and not being faithful. This normally happens in stilling of fuel to all machines in all mines, and theft of the mineral soil that was being transported from Bulyanhulu in the year 2007.

Recommendations

Due to this complains the committee recommends the following

- i) The government to motivate its people to avoid engaging from un lawful incidents so as build good relation with investors.*
- ii) The government to help Tanzanian with knowledge that will help them from acquiring job in mining.*
- iii) the government in collaboration with mineral companies to offer education of good neighboring , countable in employment, security of the surrounding society so that they can be employed there*

5.15.5 Relationship between workers and the management

According to the Employment and labor relation Act no. 7 of 2004, relationship between workers and the management were focused to go through employees groups, whereby in the mineral sector is TAMICO. However the committee discovered that almost all mining don't have TAMICO branches thus missing an official structure of joining workers and the management as in other institutions.

Recommendations

Due to this the committee proposes the following

i) The government to make sure those investors obeys the law

ii) Investors to be educated to obey the official structures of solving misunderstand is of their benefit also, and it's not for workers only.

5.16 Mineral Trading

Mineral trade is done by using dealers' License that is issued by the mineral commissioner or any mining license. Procedures of transporting mines out of the country for trade purposes, the traders are supposed to apply for a permit to export those mines. This permit is normally given after ensuring that the returns of this mine are paid.

Despite of having procedures of issuing license to mineral business people, there is no specific procedure of market or even specific places of buying. This leads to this business to be carried anyhow and anywhere thus making it monitoring very difficult. Unavailability of these special locations for trading may be the one of the course that lead to illegal exporting of these minerals especially in neighboring countries.

Apart from buying and selling of minerals there are other trading activities that can play part in increasing income from minerals. This activity includes cutting of minerals so as to increase its value that include gem stones mines. However in the country these activities are normally very low due to lack of capital, materials and educations to those carrying that activity

Lapidary increase the quality of the minerals and employment to Tanzanians, how ever this activities that were carried in different areas such that Tancut industry in Iringa region was closed due to lack of materials and failure to pay its debts. Also in the year 2003 and 2004 the government targeted to develop the lapidary activities and standardization with an aim of adding quality to those mines. In fulfilling that aim, the Mining Act was reviewed by removing the returns to mines standardize locally. Due to this there has been a big increase in this activity, especially Tanzanite in Arusha. Also the government has launched a gem stones lapidary centre and giving education in Arusha

The committee was informed how many countries i.e Thailand how it motivated the improvement of the value of the minerals and to run a gem stone exhibition. Also in the years of ninety's, the government in collaboration with TAMIDA was preparing similar exhibitions in Arusha. How ever this procedure does not exits again, also the committee was informed that in South Africa there is a procedure of diamond buyers having their centre of trade which is called "diamond both".

About jewelers, the committee revealed that the Goldsmiths and Silversmith Ordinance Section 228 of 1932 is out dated, discriminating and hinder the development of jewellery in the country. Also this law in monitored by the ministry of Industry and trade

Recommendation

The committee proposes the following

- i) Since there are no procedures of buying and selling minerals, the government to place one and to monitor it to avoid illegal exporting thus losing income*
- ii) Since lapidated mines have a higher value than those undecorated, its importance for the government to empower and motivate businesspeople to undertake those duties, also the government to launch lapidary centers*
- iii) The government to organize gem shows and gemstone auction centers so as to increase income*
- iv) To have a good monitoring of gemstones produced in the country to attract investor in lapidary industry*
- v) The government to place a law that will direct gemstone miners to allocate a special area where it will be selling it mines to lapidary experts in the country*
- vi) The government to push on diamond booths*
- vii) Goldsmiths and Silversmith Ordinance to be reviewed and to be monitored by the ministry of Energy and minerals*
- viii) To have a special department in the Authority to be formed so as to monitor the gemstone trade and diamond*

5.17 Environmental Monitoring.

The government aim to make sure that mining process does not affect the environment is seen in paragraph 3.3.12.1 of the mineral policy, also environmental conservation is illustrated on the Mining Act of 1998, and environmental law of 2004 which requires to licenser to submit to the government his research on environmental impact assessment, (EIA), and Environmental Management Plan, (EMP)

According to the discussion with the society that surrounds the mine, and expert, the committee revealed that the issue of environment impact is not taken seriously, there are some points that can support this.

As illustrated above the buffer zone is very limited , that lead to interference between the society and miners, some people of Nyakabale, Geita, have found themselves losing animals after taking contaminated water from those mines

In location where there are small scale miners there have been attendance o using mercury where by they don't have experience in storing them, apart from that this miner are not even supposed to submit their environmental conse3rvation schedule.

In conjunction to the above information the committee has revealed that there is weakness is undertaking the environmental management and protection regulations of 1999, and environmental law of 2004. While the regulations 31 of the environment regulation indicate that the minister with mandate of the ministry of minerals can enter into contract with license owner for environment conservation bond, till to date the respective minister have not bond to any company. However the committee has discovered that even though environmental law of 2004 has mandatory to order those companies to submit those pelages, the same law has not worked since regulations concerning bond are not yet designed. All this law are been made intentionally, if it happens the mine is closed the government not to spend its resources to repair the environment.

Also NEMC that is supposed to monitor environment in all sides together with the mineral sector, have proved that its powers to monitor this sector is very limited due to lack of finance expert. The issue of environment monitoring needs firm procedures, if it has been revealed that the procedures are weak

The committee has discovered that due to lack of environmental contracts, regulation under the environment law and due to lack of procedures leads mineral companies to benefit from expenditure deductions without setting aside the actual amount

Recommendation

The committee proposes the following

i) Regulation no. 31 of the Mining (Environmental Management and Protection) Regulation 1999 be amended so as to power the minister of energy and mineral to enter into contract so as to manage it. Also the minister with mandate to the environment to compose regulations that will bond with environment

ii) Small scale miners to be educated on environment conservation and better use of chemicals that are used to refine mines more so mercury

iii) The government to help small scale miners to prepare EIA and EMP

iv) NEMC and the mineral Authority (to be formed) to be powered so as to monitor the mineral sector

5.18 Mineral Smelting and Refinery

The committee has reviewed the situation of smelting and refinery activities in the country as elaborated in the second, third and fourth chapter of this report which have shown these activities are at a low quality. Also there is no infrastructure i.e. energy and railway that will help in starting of these activities. This is due to lack of a policy that promotes investing in smelting and refinery.

According to experts suggestions and other stakeholders there is a need of these activities to be carried within the country so as to improve and monitor mining activities, however to carry these activities within the country will promote employment thus improving the life style and decrease poverty.

The committee has revealed that due to lack of these activities in the country leads to companies like Bulyanhulu Gold Mine Ltd to transport copper concentrate to Japan and China for refinery. If these situations are not amended, it will force the Kabanga Nickel mine that is expected to be opened so as to export concentrate outside the country for refinery. This will lead to the government not to be sure of the mines in that concentrate and will affect the government income.

Also due to lack of smelting and refinery activities in the country makes small scale miners to sell their mine as materials to a low price thus making that kind of mining undeveloping.

However the committee understands there is a company for refinery gold “Mwananchi Gold Refinery” located in Dar es Salaam. The committee has been told that the industry lacks enough gold to make it efficiently run. The committee was not able to visit this company hence has no ideas of ownership.

However the committee visited countries Australia, and Japan and obtained experience in smelting and refinery of minerals as elaborated on the fourth chapter of this report.

Due to this, the committee has a suggestion that there is an important of smelting and refinery activities to be carried within the country so as to contribute to economy development.

Also, the committee has revealed that there is no specific law that monitors smelting and refinery activities, therefore lacking the opportunity of those activities carried in the country and deny the government income and employment to Tanzanians

Recommendations

i) The government to place procedures on mineral policies and to review or compose Mining Act so as to insert some section that will help in introducing and improving of smelting and refinery companies in the country.

ii) The government to examine Mwananchi Gold Refinery Company for efficient refinery.

iii) for big project like that of Kabaga Nickel, the government to start placing of power infrastructure, road and railway so as speed up the smelting process to be produced from that mine to be processed in the country this will also improve the economy

iv) Considering high cost of investing in building smelting company, the government to look for a possibility of collaborating with other African countries more so those of East, and South of Africa on this issue.

5.19 Mineral sector inter relation with the Wider Economy

After reviewing the mineral policy, the committee has reviled the important bounding the mineral sector with other financial sector as in that policy

As it is in the third chapter, the relation between the mineral sector and other sector are lead by that sector working with the mineral sector by supplying it with machines and other materials, engineer services, transportation through roads, railway and water, human development services like food. Also other activities like smelting and refinery or making of other material from those mines is extra economy opportunities. To build create an environment that will make the mineral sector from being served by other sectors, the society will be assured of benefiting from selling good and other services and increase employment. To be remembered that the ability of the country to continue benefiting from the mineral resources even after the sediments are over.

Mineral sector leaders in the countries that the committee has visited explained how mines contributed on the growth of other economical sectors, even having towns that have been formed due to mining activities. In Tanzania these have started to in towns like Kahama and Maganzo Kahama District, Arusha, and Mererani in Manyara region. However, this are beneficiaries are very little if compared to other countries. These developments are very limited if compared to other countries.

Apart from those weaknesses other sectors have not been place in a position of benefiting from mining activities in neighboring areas. In areas where the committee has visited, agriculture and pastoralist for example still is run locally thus having no option than selling to mining companies. It will be remember that in most contracts show that investor will use local materials as long as they meet standard. It's obvious that agriculture and livestock keeping in mining areas and the way goods are taken to the market don't meet international standard. The real situations of involvement of other sectors like energy and infrastructure have been elaborated in respective chapter. The important things is that investment in this sectors is very limited makes them not to benefit from the mining sector.

Recommendations

To make sure that there is a bond between the mining sector and other sectors the committee proposes the following

i) Those sector that have direct relationship with the mineral sector i.e. road infrastructure, railway, and port, minor energy sector, water, to be strengthen so as to benefit from mineral sector.

ii) the committee suggest that TANESCO to empowered to supply power to all mining site, including Kabanga. Since Kabanga mine is very big and needs a lot of power and transport infrastructure, there is need of the government to prepare a special procedure that will enable to have those important infrastructure. And to make sure that the minerals that are produced by those mines are processed in the country.

iii) The system of the central railway to be improved so as to meet the needs of the mineral sector which is growing at a high rate.

iv) the government in collaboration with TCME to prepare a plan that companies will purchase good and services from local companies implementation of this system, to be measured by the mineral Authority proposed by TCME

V) Areas with minerals to be positioned, to be improved and monitored by following procedures outlined on guidance of land use as given inn the regulations of land law, land use and town sketch. The committee proposes that from now and some years to come the government to priority in town planning and Ngara District by considering the investment to be done at Kabanga

vi) The government to finish the aerial photographing for topographical maps purposes in all parts in the country so as to outline locations with resources and to compare them with geology maps for locating different land activities.

5.20 The bonding between the mineral sector and the energy sub-sector

Tanzania has got a lot of different resources that can be used to generate power cheaply; they include rivers, natural gas, coal mines and uranium. Stiglers George power project need an investment \$ 2 billions, for example it's estimated that it can generate power to the maximum of 2,000 megawatts by using hydropower, the Kiwira coal mine stock, Mchuchuma and in other parts of the country had been discovered can generate 100 megawatt for years to come before they are finished together with the gas which has already been establish at Songo Songo, Mnazi bay and Mukuranga , there Has been reports of geothermal sources in the country which can also to generate power to some parts of the country. Also the efforts of searching for petroleum in the country are showing some hope.

The possibility of the country having a cheap energy gives opportunity to bonding bond production sectors. The committee has already explained the important of energy infrastructure to be extended to all mining site available. According to the committee suggestion high needs of power to mining companies, this assures market to the power that will be generated in this power generation stations.

The committee has suggestion that the important of boding this sector is broad including the following:-

a) To minimize the production cost, especial those mining companies with a lot of expensive in energy consumption like Kabanga Nickel. In managing this, the committee had complains from mine owners that due to lack of efficient power the companies need more attractions to make their project lives.

b) To launch smelting process in the country that needs a lot of power so as to improve the standard of those mines as elaborated on the mineral policy of 1997

c) to improve TANESCO income such that it can run its duty by supplying power to its small customers in both town and in villages, for example investment for supplying power to mining sites that supply power to the mining surrounding .

d) to minimize energy cost to some producers in the economy especially in industries that will be an attraction to investors in industries.

e) to use mineral sector as minimum based load required to power generation for export market by considering the geographical and its participation in zonal economical groups. Tanzania to take this opportunity to generate power for supply to SADC and EAC countries thus improving its income

f) In order to accomplish this, the committee recommends that a national strategy for the energy sub-sector be designed. This will not only be good for business in that sub-sector, but will also contribute to other sector of the economy.

Recommendation

So as to bond the mineral sector with the energy sub-sector, the committee proposes the following

i) The government to empower TANESCO to be able to supply energy to supply power to mining site by also involving those companies so as to contribute on that construction and to refund those expenses according to the usage of that power. The government to empower TANESCO to invest even if is through government security or mineral development fund proposed to be launched

ii) TANESCO to be given this opportunity of using this market for the benefit of small energy sector overall

iii) Cheap power sources, i.e. Stieglers' George, Kiwira, Mchuchuma, and Ruhudji to be improved under TANESCO management so as its use to consider development of other sectors, including the mineral sector

CHAPTER SIX

5. CONCLUSION

We the committee delegates and our government, are giving a hand of thanks to you His, Excellence Jakaya Mrisho Kikwete, for giving as this opportunity to learn, understand, discuss and finally proposing, which we believe will improve this sector

Structurally, research duties, mining, refinery, smelting and trading of minerals are complex to understand. Most countries with minerals continue to strengthen this sector so as to benefit in feature. The interference of duties in this sector normally creates misunderstandings from the country with resources with experienced companies' capital and owns mineral markets. In the country there have raised misunderstanding between the government, mining companies, small scale miners and the society around the mining sites.

Due to its benefits, mining activities have its unique attractions international even to those countries that do not produce minerals. Also international organisations have seems to be attracted by mineral activities. The committee has discovered that government that this mineral companies and organisation come from have been insisting in policy making, law and procedures to monitor mineral sector

After suggestions and Recommendations that have been given by the committee in this report, the committee concludes by saying that

i) Tanzania has been blessed with minerals of different kinds. The already developed treasure does not exceed 10% of the treasure which is there, for that reason this sector is very important in the economy growth of the country and is suppose to be given the first priority by the government. In the current situation mining activities has widen and its contributions in the economy has also been widening at a very low rate in a period of ten years.

With good intention, the government entered into contract with foreign mining companies after advertising its different attractions, it's obvious that the current procedures, in good intention does not sustain. Both sides of the contracts are not satisfied with the real situation, the society that leaves around the mining sites and the public in general, are bitter with how this resources is being used which they believe it's for the foreigner benefits. For that reason the law, contracts and procedures of management of mineral activities there after have to differ with the current ones. However new investors to be channeled in the new formation, however the government is advised to make dialogues with the current companies so to rectify the problems which are there, by agreements on contracts which are being followed.

The committee would like to be recognized that the special formation that was placed on top of tax formation in attracting investors is not correct. Other attraction like democracy and political stability good governance and law, peace and good security are supposed to be considered. On top of all this it's the committee suggestion that the big attraction here is availability of mineral in the country.

2) The big treasure of minerals is beneath the earth, and is located very deep which are extracted using machines which are very expensive to mine, refine and smelt and by also using expensive technology. Investor's in this sector are companies that are financial stable, advanced in technology and internationally experienced. These companies are the ones controlling the whole system of minerals and the international market currently this kinds of companies are foreign companies to 100% apart from companies like Williamson Diamond Limited where the Government of Tanzania owns 25% of the shares. This structure of foreign ownership is ok to the government.

There are some few companies owned by Tanzanians which are carrying mining at a medium level which are mostly found in mining of diamond and tanzanite. Others are in gold mining; all these are weakened by Lack of materials, technology and capital.

Under the medium investors, there are small miners who are scattered all over the mining areas. For the government to benefit from this, the committee insist of the important of doing the following:-

a) Enough involvement of Tanzanians in share ownership of the large mining companies. Because private sectors in Tanzania has no powers in participation of ownership of large mining, the government, through STAMICO, to enter into partnership with this foreign companies so as to make sure that the country participates in all mining activities and its trade at that high level. So as know all parts of the mining and trading, STAMICO to build a Mining Industry Development Centre

b) All big mining activities and medium mining companies of other minerals to be owned at 100% or not less than 50% by Tanzanians for empower reasons. The government should establish a special department in the Tanzania Investment Bank for the development of the mining sector. Due to this the government will be forced to empower TIB for that mandate.

c) All small scale mines to be owned and managed by Tanzanians, so as to empower this kind of entrepreneurs, the government to create an environment that will contribute in growth of micro finance activities, with good intention of promoting small miners, the government to motivate relationship between the large minerals companies and small scale miners.

3) the mineral sector to offer the required benefits to the society only when it start broad mining, for the begin the government to make sure all mining locations are supplied with infrastructure, energy, road and water by considering the important of this sector in economy growth. This infrastructure to be given priority and to be carried by the government instead of leaving it to those mining companies , also the government to speed up the renovation of Tanga, Dar es salaam and Mtwara ports and railways.

The committee also understands the construction of the above mentioned infrastructure is expensive and they are over government ability but if the government shown interest this money will be acquired, currently our country is convincing to international level for connecting different institutions that will be attracted to invest in the infrastructure. Whenever the government has no capacity to this alone, it should partner with the private sector or the mine owner under special agreements.

Due to lack of an economy that can currently enable the government fro producing material used in mining there is a need of collaborating with private sector in importing of this material , how ever time have reached to build townships with efficient infrastructure . This can also included in building of residence to evacuating people for mining activities

4) to make sure that investing in natural resources is over, is done openly the committee has learned on international procedure which was launched recently for that reason,

Extractive Industry Transparency Initiative (EITI) has already attracted membership to some countries, like Ghana and Nigeria and other big mining companies. Almost all mining companies in the country are about to review this procedure. The committee advises the government to think of joining this body.

5) in this work of look into misunderstanding and problems in the mineral sector, the committee has revealed the importance of weight of the expectation from the society. In most case the committee was told that the society has placed their belief in President Jakaya Kikwete and this committee. Their expectations are very high the committee will give out Recommendations that will abolish all the misunderstanding and there after there will be no need of another committee, investors also have the same expectations.

All committee Recommendations have aimed to help the government to create an environment that will offer equal rights to all side involved in mining.

The committee recommends that the government should take quick action on what will be agreed. However, as it will be possible, this report and the government judgment, both, to be made public for the public to know what is going on.

6) Quick wins areas include the following that need to be prioritized include the following:

a) the issue of leaving condition of those who were seriously affected by mining activities especially when the large mining investor come is supposed to be taken care of quickly, lack of being paid the correct compensation, allocation to new settlement and un conducive neighboring have lead to misunderstanding which have caused tension and insecurity in mining site. The committee believes that the respect of government, this people believes on their government will return if this problem will be solved. The only way to retaining peace and security in mining site is cater for this people as early as possible as proposed by the committee. Otherwise the committee believes there can be human violation in sometime to come, since this people believe that these minerals can play a big role in changing their life.

b) Claims of Buhemba and Kiwira mine workers to be urgently paid. This is because Buhemba mine have stoped its activities very urgently without consider those workers. Also the Kiwira coal mine was privatized in the year 2005 but even to date some workers have not been paid their dividend.

c) To change the basis of charging of returns instead of charging in net back value, to be charged in gross value and to increase standard from 5% to 7% and from 3% to 5% in metal mines that include gold. If this new rates were to used in the year 2007 the government would have collected returns of \$ 46.7ml instead of \$ 28.12ml which was expected to be collected in that year over the sales of Diamond and gold which were \$ 917.78 ml

d) Division of returns under valuing procedure as this proposed in this report. This procedure will lead to the society to see the importance of the mine site around them and thus minimize complains which are there

e) To abolish the free fuel levy that exceeds \$ 200, 000 which is given under government notice no.99 of 15 October 2005. due to this relief will increase government income, for example, if that relief was not there the government would have collected income that exceed Tsh. 32.7 billions in the financial year 2007/08

f) Excise duty relief in fuel to companies producing minerals, gold and with MDAs. Due to this relief not increasing any income to the government, for example in the financial year 2007/08 it is estimated that the government will miss an amount of Tsh. 59.0 billions due to this relief

Strategies for implementation of the recommendations in this report

Since the implementation of these Recommendations will comprise of different Ministries and institutions, the committee then recommends that a task force should be formed that will manage the implementation. As seen in this report the recommendation consist of different sectors including human resource, railways, roads, energy, water, tax systems, legal system, mineral and land , it will be feasible if the all the delegates of this body come from the ministry and institutions that monitor this activities. It will be very pleasant if this group would be led by a high ranking officer from the President or Prime Minister Office.

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