INTRODUCTION

Tanzania is endowed with a variety of mineral resources in categories of metallic, gemstones, industrial and energy minerals. It also possesses various types of building materials (**TEITI**[1] report 2018).

Is the 4th sector in terms of contribution to the GDP. The top three contributing sectors are crops, manufacturing, and livestock sectors

The sector showed slight growth in recent years compared to the past

- ✓ In 2017 and 2018, the share contribution of the extractive industry being (EITI, 2020),
  - 35% Exports
  - 5% GDP
  - 1% Government revenue (TZS 194 billion in 2016/17 to TZS 479 billion in 2020)
  - 1.4% to the total employment
  - Overall growth of 17.7 in 2019 as contributed by;
    - Introduced mineral markets and centers in the country that has helped more miners to reach markets and sell their products differently than before where smuggling was rampant which denied government, revenue from royalties.
    - Wall construction to fence tanzanite mining site at Mirerani
    - Stringent measures to limit exportation of raw minerals

Production and Exports

- ✓ production value of gold dominated other minerals.
  - from large-scale gold mining production and Artisanal and Small-Scale Mining
- ✓ The country is the 4th largest producer of gold in Africa after South Africa, Ghana, and Mali.
- ✓ amendments of the Mining Act in 2017, which saw the country export processed minerals, led to an increase in mineral export performance.
  - In line cognizant with the Africa Mining Vision (AMV) aspirations-exporting processed mining products ensures that the country gets more direct benefit from the mining sector, including employment creation,, revenue, and stimulating technology transfer.. Value addition also cushions countries against falling commodity prices
- ✓ control of illegal mineral exportation, issuance of mining license and attracting local and foreign investors in the extractive industry are some of other aspects of Mining Act, 2017
- ✓ So far, Tanzania did not record any production of oil but exploration activities were ongoing in different parts of the country. The country still depends on the importation of oil from other countries.
- ✓ However, the production of natural gas is rapidly growing due to the government's desire to industrialize the Tanzanian economy

[1] Tanzania Extractive Industry Transparency Initiatives.

Appreciate some of the major steps taken by the government of Tanzania to address tax evasion, avoidance, and illicit financial flows.

As for Legal and Regulatory Framework;

Mining activities in Tanzania are guided by the Mining policy of 2009, The Mining Act, 2010 and its various regulations -all **amended** in 2017- hence The **Mining Act 2017**[2].

- ✓ to protect the interest of Tanzanians and increase the benefits that the Country could obtain from the Mining sector
- ✓ provides for the allocation and registration of mineral rights and licensing arrangements for participating in mining activities.
- ✓ it also determines the royalties, fees and other charges payable by operators of the mining sector.
- ✓ The Act also addresses issues of local content, CSR, integrity pledge, and disputes settlement.

SPECIFICALLY.

- ✓ The amendments increased the **royalty rate** from four to **six percent** for minerals export such as gold, copper, silver, and platinum and from five to **six percent** for diamond and coloured gemstones.
    - The increase in royalty rates intends to increase the revenue contribution of the mining sector to the economy.
- ✓ As for gas and oil, depending on the area where the hydrocarbon is being exploited, the royalty rate[3] being 12.5% in the onshore and shelf areas and 7.5% in the offshore areas.
- ✓ The amendments introduced a clearing fee of 1 percent (as a **new requirement**) on the value of all minerals to be exported
- ✓ the amendments introduced a new **shareholding structure requirements** to strengthen state control of natural reserves
    - give the Government at least a **16 percent free carried interest** in the capital of their (holders of Mining Licenses) companies.
    - the Government is also entitled to acquire (in total) up to 50 percent of the shares in a mining company, proportional to the quantified value of **tax expenditures (such as tax incentives)** incurred by the Government in favour of the mining company.
    - Through these amendments, the Government has also **prohibited exportation of mineral concentrates and ores for metallic minerals** such as gold, copper, nickel, and silver,
- ✓ the amendments included provisions relating to local content. The provisions require the mineral right holder to buy goods that are produced in Tanzania or the

[2] It was one of the means on how government can technically offset losses of incentives and raise money to invest more in public infrastructures such as education, health services etc. however, some of the most lucrative mines are still working on contracts agreed before the revisions, which the government feels obliged to honor.

[3] Payable out of gross production before the operation of the sharing formula

services (insurance, legal[4], and financial services[5]) that are rendered by local companies or citizens

These amendments also established the Mining Commission, which replaced the Mining Advisory Board. The Commission has been empowered to perform additional functions apart from the advisory role. These functions include (i) issuing licenses, (ii) regulating and monitoring the mining industry and its operations, and (iii) ensuring orderly exploitation and exploration of minerals (as well as the utilization of minerals). In addition, the Commission is vested with the power to resolve disputes arising from mining activities and carry out inspections and investigations on safety issues in the mining sector.

Through the Natural Resources Act 2017, the amendments allows the Government (through National Assembly)to review and re-negotiate agreements entered between the Government and mining companies prior to the enactment of the Mining Act 2017.

- ✓ to re-negotiate any unconscionable terms identified, particularly those that restrict the Government's sovereignty over its natural resources.

The amendments introduced the requirement of settling disputes within Tanzania, especially those that relate to the extraction, exploitation, acquisition, or use of natural wealth and resources.

- ✓ Before the enactment of the Natural Resources Act 2017, parties were free to choose the governing law and jurisdiction with respect to dispute resolution.

In pursuit of developing the mining sector in Tanzania, in 2019 the government introduced the Tanzania Mineral Trading Centres (TMTC) and established the centres of excellence and demonstration centres for Artisanal and Small-Scale Miners

- ✓ Helped in curbing the rampant smuggling (illegal mineral trading) of these minerals out of the country
- ✓ Increased the benefits of mineral trading to the Government, small-scale miners, dealers, and brokers
- ✓ The TMTCs serve as a valuable source of information forminers, brokers, and dealers in a respective region and for the industry generally. The information from TMTCs allows the government and other stakeholders to monitor tax and revenue collections as well as design interventions for promoting mineral business.

Centres of Excellence and Demonstration Centres for Artisanal and Small-Scale Miners

- ✓ Objective of the centres is to provide technical knowledge to artisanal and small-scale miners in the areas of mining exploration, mineral value addition activities, mineral trading, and mineral processing, particularly using environmentally friendly technology (i.e. free from Mercury technology)

[4] requires contractors, subcontractors, licensees, or allied entities engaged in mining activities in the country to retain the services of Tanzanian legal practitioners or firms of Tanzanian legal practitioners whose principal offices are located in Tanzania. Again, the Mining Regulations impose penalties and fines of up to five billion Tanzania shillings or imprisonment of up to five years for non-compliance with the local content provisions

[5] demands the mining companies to terminate existing relationships with foreign-owned financial institutions and procure services from institutions that have been licensed by the Bank of Tanzania

Revenue Distribution

Revenues received from the extractive sector are deposited into the Government Consolidated Fund. The Annual Appropriation Act, on the other hand, provides powers to the Minister for Finance to draw money from the Consolidated Fund and allocate and/or reallocate it to the various votes. The allocation of the revenue is totally independent of whether there is a presence of a mine in the district allocations.

- ✓ Therefore, the contributions by extractive companies lose their identities once they are deposited into the consolidated fund and cannot be tracked to a specific expenditure or project
- ✓ Under the AMV, a system where part of the mineral revenue is allocated to communities near mining areas is anticipated.

Gaps on legal, Fiscal and Contractual Regimes

- ✓ Limited state control over the mineral reserves (partly resolved in Mining Act 2017)
- ✓ Limited fiscal regime controls on issues like hedging transactions/harmful tax practices
  - o Our tax authorities might be blessed with tax officers with knowledge in taxation and auditing skills, but lacking expertise in industry itself such as geologists, financial analysts etc. This being a challenge on our side in the area of determination of profitability of an extractive industry.
    - ▪ Lead in disputes with the extractive industry on the correctness of their declarations on: Resource quantity (production levels), cost of production and resource prices (prices of sales)
- ✓ The dilemma of MNC by their expertise in international business operations including negotiations, being well advanced business institutions, use of very advanced and sophisticated technology in their operations, most of them have related parties/entities outside the host countries making it difficult to governments to follow-up their business arrangements.
- ✓ Lack of official extractive statistics in area of production volume/deposits and resource value is providing loopholes for investors to evade taxation through asking for tax incentives as well as misreporting of their declarations on production volumes, production cost and sales.
- ✓ Lack of comprehensive and coherent TAXONOMY on taxation in the midst of government hunger for revenue, has led to a multitude of taxes and levies of a similar purpose but with varied names with different collectors-thereby burdening poor taxpayers at expense of foregone tax incentives revenues

WHAT NEEDS TO BE DONE?

The government goals should be to see the resources benefit the people. So, our focus is to fighting any loopholes that we see could lead to the loss of revenue from this sector. The Government should obtain not only a bigger share of profits but also;

- ❑ stronger control over the natural reserves
- ❑ Ensure connectivity of tax revenue from mining industry versus poverty reduction via provision of quality public services, be able to develop other sectors for the benefit of present and future generations

Tax Compliance Issues/Skills Gap

- There is a great need to the Tax Authorities (TA's) to have competent staff with necessary skills and knowledge.
- The state should invest and undertake deliberate efforts to evaluate and administer the exploration, development and operations of such projects by doing the following:
  - Capacity Building – sufficient administrative capacity to:
    - Negotiate DTA's, APA's, etc.
    - Evaluate and administer the exploration, development and operation of such projects.
    - Cross check and audit the declared profits of MNE's.
    - Analyse Hedging transactions and harmful Tax Practices
    - Analyse offshore mergers and acquisitions.
      - Gain on licence /interest transfers where most mergers and acquisitions are done overseas and commonly in a tax haven jurisdiction
- Do empirical research comparing amounts of exemptions granted each year with grants received to fill the resource gap in the budget
  - As this would address the dependence on foreign aid, among others

Whether a country benefits from tax incentives depends not only on how much it gains from FDI, but also whether this gain offsets any tax revenue loss. By committing to several tax exemptions in the hope of attracting investment, a country is reducing its tax revenue at any given level of inward investment. Key question should be**: is granting tax incentives (lowering tax burden) as effective to encourage investment in countries with a relatively unattractive investment climate[6] as it is in countries with a relatively attractive investment climate?**

Not ALL tax incentives are bad BUT do ALL investors- say in extractive industry need tax incentives to set up their investment?

Despite the lack of comprehensive information, Tanzania is losing at least an estimated TShs 1.1 trillion (US$531.5million) per year due to tax revenue foregone through corporate VAT exemptions and SEZs. It is equally losing USD 1.83 billion from tax incentives, capital flights, failure to tax informal sector and other forms of tax evasion. At least USD 265 million loss in the mining sector due to excessive low royalty rates, tax incentives and tax evasion

Thus, a need for the government to **Scrap wasteful tax incentives granted to extractive industries through**;

→ All current tax incentives – including discretionary tax incentives and those applicable to special economic zones – should be reviewed to assess whether they are fit for purpose, including undertaking a cost-benefit analysis.

→ Subject all tax incentives – both statutory and discretionary – to public scrutiny, including by parliament, media, civil society and citizens. This

[6] Investment climate in Africa is so poor that granting tax incentives is not sufficient to compensate for the poor investment climate, Sebastian James (2013)

should include publishing an annual overview of the costs of tax incentives as part of the annual budget, so the public can see the impact of corporate tax incentives.

→ Set a minimum and maximum level of incentives to investors to minimize on tax evasion and avoidance

→ A relook on Why offer incentives to a unique extractive sector such as TANZANITE mining over which we have a monopoly on it globally

→ Put in place Tax Incentives Management and Transparency Act to enable government to monitor, review, and analyze the economic impact of tax incentives

→ The government to refrain from use of CERTIFICATE of EMERGENCE[7]/rushing to pass mining bill methodology when it comes to Mining contract signing and or approval. The parliament should be given enough time to read the contract documents so that they can have constructive inputs on it prior country approval.

→ CERTIFICATE of EMERGENCE leads into approving the contract document BLINDLY

→ An unusual and compelling urgency in mining contract precludes full and open TRANSPARENCY and competition and is merely locking out the people of Tanzania from their NATURAL WEALTH RIGHTS

→ The government must allow for meaningful participation in mining contract making processes by giving people (through their representatives in national assembly adequate time to review, collate and present their views on a contract signing/approval that will impact their lives enormously

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[7] A certificate of urgency is a legal document that requires an urgent response. This document is filled by the holder to tell the addressee that his/her case consists of issues that require immediate help. In a civil case, for example- those issues may include; your house is up to be demolished, or when your house is up to be sold by Bank after breaching mortgage terms, etc. In investment contract, this may involve; an investor being in scramble by different countries because of his potentialities, etc