Sierra Leone at the crossroads: Seizing the chance to benefit from mining

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Summary

This report considers how the people of Sierra Leone could benefit more from the country's mineral resources, especially diamonds and rutile.* The task is urgent since the country is one of the poorest in the world, still emerging from a brutal civil war. Although minerals account for around 90 per cent of exports, ordinary Sierra Leoneans are failing to benefit significantly since government revenues are so low. Tax laws have given too much away to mining companies, while government policies to monitor and regulate the mining sector are poor or non-existent. Unless these change, the current expansion in mining will not translate into benefits for the people.

Sierra Leone now has an opportunity to turn this around. The government, supported by donors, is redrafting the country's mineral legislation and reviewing individual contracts signed with mining companies. This process is positive, but the National Advocacy Coalition on Extractives' (NACE's) analysis is that it will fall short of what Sierra Leone needs to ensure that mining provides a route towards prosperity. Officials from government and donors need to rethink their strategy.

Some individual mining and tax agreements signed by the government with companies have provided extraordinary concessions. A 2003 agreement with Sierra Rutile, one of the country's two largest foreign investors, reduced the company's royalty rate to a minuscule 0.5 per cent until 2014 and scrapped entirely the payment of corporate income tax on profits until 2014. NACE's calculation is that the country will lose US$92 million from the royalty concession alone. Despite sales of US$28 million in 2006, NACE's understanding is that the company may be paying less than US$1 million in annual remittances to the government.

Government revenues from mining are miniscule. Of mineral exports of US$179 million in 2006 (of which diamonds accounted for US$125 million), only around US$9 to US$10 million returned to the government – between 5 and 6 per cent. Studies suggest that with significant institutional and capacity reform, Sierra Leone could export US$1.2 billion a year in mineral exports by 2020 – a sevenfold rise over current levels. With good government spending, nearly a million people could be lifted out of poverty. The government appears to have adopted a target to receive 7 per cent of the value of mineral exports as government revenue; NACE believes the government should be aiming to take a minimum of 10 per cent. This would mean its annual revenue by 2020 could be US$120 million – 12 times greater than currently.

No mining company in Sierra Leone is currently declaring a profit. But profit projections from the two major companies – Sierra Rutile and Koidu Holdings, which is the country's largest diamond miner – suggest that the government could significantly benefit in the future. Sierra Rutile itself states that the government will receive US$580 million over 20 years; Koidu Holdings says that it will remit to the government US$399 million over the next 17 years.

However, if these benefits are to materialise, massive problems in Sierra Leone's mining sector, all associated with governance, need to be overcome.

- There is an extreme **lack of transparency**, with a lack of information at all levels, creating mistrust and ignorance about the financial position and intentions of government and companies. Some companies provide no public financial information on their activities while the government does not publish a figure showing how much it earns from mining overall.
- There is a severe **lack of capacity** in all government departments associated with mining to, for example, assess and collect revenues and taxes and acquire basic geological information.
- The country **lacks adequate monitoring mechanisms** to ensure that mining companies are behaving in a lawful manner; there are concerns that some companies claiming to be exploring are actually already exporting, for example. Diamond exports are believed to be at least double the volume of what is officially declared.
- There are extremely serious **gaps in the mining regulations**, creating uncertainty among companies and communities as to who is responsible for what. For example, there are no laws dealing with underground mining, despite the fact that there is one underground diamond mine in the country; there are no comprehensive laws on blasting, despite the fact that this occurs; there is no functioning institution in the country with the legal authority to monitor Environmental Impact Assessments (EIAs); and there are no formal procedures laid down on relocating communities affected by mining, despite over a dozen such relocations in the rutile mining area.
- The **prevalence of corruption** is well-recognised. The director general of the Ministry of Mineral Resources (MMR) has stated that 'reducing corruption and rent seeking' is one of the challenges facing the department which he recognises 'has had a reputation for corruption'. Sierra Leone is ranked 142nd out of 163 countries in Transparency International's Corruptions Perceptions Index.[1]

* Rutile is a mineral composed of titanium dioxide, used mainly as a feedstock in the production of a white pigment used in producing paints, paper, plastics and pharmaceuticals.

The government under President Ernest Bai Koroma, elected in September 2007, is committed to reviewing the country's mining laws and the individual agreements signed with companies, and has stated that the country is benefiting too little from mining. A new Minerals Act has been drafted (under the previous government) and a Task Force has been put in place to report to the president. However, it remains unclear whether the government really intends to implement the new Act and how far the government will go in revising the country's mining laws. The current draft of the new Minerals Act contains some positive features but, very disappointingly, fails to propose any changes to the key tax aspects of the country's mining legislation.

The World Bank is also playing a key role. One of ten 'triggers' (policies the government must implement) for the government to receive a US$10 million World Bank loan is changes to the mining tax regime 'in line with recommendations from the International Monetary Fund (IMF)'.[2] Some of these recommendations, outlined in 2004, are reasonable, but they do not call for any increases in the royalty or other tax rates; they call for the diamond royalty rate to be retained at 5 per cent and for the rate for precious metals (currently at 4 per cent) to be reduced to 3 per cent. More worrying is the recommendation that the terms of the 2003 agreement with Sierra Rutile 'should be implemented'.[3] It is quite unacceptable that the World Bank should be enforcing any recommendations at this level of detail, when this is clearly the task of government – and still more when they are the wrong ones anyway. The triggers are contained in a confidential 2007 document shown to NACE researchers by an official in the World Bank.

Furthermore, the impact of mining on desperately poor people in the mining areas is a mixed bag and sometimes harsh. On the one hand, Sierra Rutile and Koidu Holdings (at least until Koidu Holdings' recent suspension of operations, which forced the company to lay off over 500 workers) both employ hundreds of people, offering relatively high salaries in rural areas where there is no other economy than subsistence farming. These salaries benefit thousands of people in poor households and have stimulated local economies, though the precise effects have never been quantified.

On the other hand, many hundreds of people have been made poorer, notably in the rutile area:

- Dozens, and perhaps hundreds, of households are currently losing farmland as Sierra Rutile expands its mining operations across hundreds of acres of new land. All villagers spoken to in this research have said their incomes, food production and consumption have decreased since they lost their land; many say openly that they have been plunged further into poverty.
- Mitigation programmes by the company are inadequate: rental payments for the use of land and compensation for the loss of crops (both set by the government) are exceedingly low and insufficient to cover losses. Company commitments to rehabilitate land and provide agricultural support programmes and alternative sources of income are either meagre or have failed to materialise at all, as far as NACE has been able to establish.
- Although Sierra Rutile has developed a voluntary community development programme, this has failed to spend any significant amounts of money so far and, at around US$150,000 a year, is a relatively small sum anyway. Furthermore, the company has bizarrely chosen for its first major project a plan to convert 5,000 acres to producing palm oil for biodiesel production (the use of agricultural crops to produce energy). Yet community needs in the area are overwhelmingly basic such as access to safe water, electricity and good schools.

The adverse impacts of mining on local communities are certainly not all the companies' fault. Expectations in the communities affected by mining are high. Yet the lack of adequate government regulations mean that it is unclear – to the companies, the communities and the government itself – who is responsible for providing infrastructure and social services, what companies' precise obligations are (and how these differ from *voluntary* spending on local development), and what the right process is to be followed in relocating or compensating communities.

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Recommendations

Many laws and policies need to change if ordinary Sierra Leoneans are to benefit significantly from mining. In the next six months, as the Presidential Task Force reviews the mining contracts, the following is needed:

- The government must commit to meeting the recommendations on transparency outlined in the draft Minerals Act and implement all the criteria needed for full membership of the Extractive Industry Transparency Initiative (EITI).
- It must follow through on its commitment to review the contracts signed with individual companies.
- The review of the Sierra Rutile agreement must revise its various terms, and increase the royalty rate significantly.
- The government must revisit the draft Act to ensure that some of the tax rates and laws change. Consideration should be given to:
  – Raising the 3 per cent royalty rate for diamond companies *alongside* making improvements in monitoring diamond production
  – Inserting a provision for the government to impose an excess profits tax when commodity prices are higher than a specified level
  – Requiring firmer commitments by companies to employ Sierra Leonean nationals and conduct skills training programmes, and specific commitments to spend money on local goods and services
  – Revising the clauses that allow companies to offset a full 100 per cent of their start-up costs against tax.
- The government should aim to accrue at least 10 per cent of the value of exports as revenues – not the apparent current target of 7 per cent.
- The government should consider increasing the percentage of the royalty allocated to the Diamond Area Community Development Fund (DACDF) from 0.75 per cent to 1.5 per cent, at the same time as establishing proper regulations (mainly concerning transparency and accountability) to ensure good allocation of these resources.
- The government should consider introducing a Rutile Area Community Development Fund.
- The large mining companies should be subject to an independent audit.
- All companies operating in Sierra Leone should immediately commit themselves to publicly report (a) their basic financial data, including their annual accounts, (b) their remittances to government and (c) their community development spending.
- Donors such as the UK should champion these changes to the fiscal regime rather than, as currently, simply focusing on improvements in government transparency and capacity.

In the longer term:

- The government must establish clear regulations for relocation, blasting, consultation and underground mining.
- The government should undertake a review of the environmental impacts of the mining companies and ensure there are mechanisms in place to monitor them.
- The government must increase crop compensation and surface rent payments to poor farmers, especially in the rutile area.
- The government should outline a strategy for combating diamond smuggling.
- Donors should increase their aid to improve government monitoring, capacity and regulation of the mining sector.

Introduction

This report analyses how the people of Sierra Leone could and should benefit more from the country's mineral resources. The task is urgent since Sierra Leone is one of the poorest countries in the world, still emerging from a brutal civil war:

- Ranked 176 out of 177 in the UN's Human Development Index, 66 per cent of the country's 5 million population lives in poverty (on less than US$2 a day), with 21 per cent in extreme poverty (consuming less than what is needed to meet basic needs).
- Average annual incomes are just US$200 while average life expectancy is a mere 48 years.
- Less than half the population has access to clean water.[4]
- Two-thirds of the population engages in subsistence agriculture.

The decade-long civil war, which ended in late 2001, killed over 20,000 people, displaced 2 million and involved widespread human rights abuses. Since then, however, impressive economic growth rates have been recorded – just over 7 per cent for 2004-06, for example. The latest poverty headcount shows a reduction of 6 per cent since 2003.[5]

Sierra Leone has considerable deposits of diamonds and other minerals, which potentially provide one of the pathways out of poverty. Minerals now account for around 90 per cent of the country's exports by value – and diamonds alone, around 70 per cent of this.[6] Yet ordinary Sierra Leoneans are failing to benefit significantly from mining, mainly because government revenues from mining are so low. The reasons are that tax laws have given too much away to the mining companies while government policies to monitor and regulate the mining sector are poor or non-existent. Unless these change, the current expansion in mining will not translate into benefits for people.

Sierra Leone now has an opportunity to turn this around. The government, supported by donors, is currently redrafting the country's mineral legislation and reviewing individual contracts signed with mining companies. This process is positive, but NACE's analysis is that it will fall way short of what Sierra Leone needs to ensure that mining provides a route towards prosperity. Officials from government and donors need to rethink their strategy.

Sierra Leone was in the past known for 'blood diamonds' and for illegal diamond smuggling, where revenues from diamonds financed a brutal civil war. Diamond smuggling still continues, as we note later; however, this report focuses mainly on the legitimate mineral trade and the need, in the current post-conflict situation, to establish laws and regulations to ensure the people of Sierra Leone benefit.

1. Mining in Sierra Leone

1.1 Overview

Diamonds were first discovered in Sierra Leone in 1930 and kimberlites, a type of igneous rock that can contain diamonds, in 1948. The country has significant deposits of diamonds, bauxite, rutile and some gold, with good potential for additional discoveries.[7] The established diamond fields cover an area of almost 20,000km² in the eastern and southeastern parts of the country, concentrated mainly in the Kono, Kenema and Bo districts. The fields are situated mainly in the drainage areas of local rivers with alluvial diamond concentrations occurring in river-channel gravels, flood plan gravels and in gravel residues in soils and swamps.[8] Although best-known for diamonds, Sierra Leone also possesses one of the largest natural rutile* reserves in the world.

Before the civil war between 1991 and 2001, mining generated around 20 per cent of the country's GDP, 90 per cent of registered exports and about 20 per cent of fiscal revenues.[9] In the period from 1975 to 1986, diamonds worth US$727 million were exported from the country, according to official statistics.[10]

During the war years, diamonds mined by small-scale miners financed the activities of the brutal Revolutionary United Front (RUF) rebels, helping to prolong the conflict, perpetuate horrendous human rights abuses and making the country synonymous with 'blood diamonds'. At the same time, large-scale, mechanised mining came to a standstill: the large bauxite and rutile mines closed after rebel attacks in 1995 destroyed company plant and equipment.

Since the end of the war, there has been a resurgence in mining, in three main ways:

- There has been a more than fivefold increase in the amount of diamond exports passing through official channels since 2001. As of early 2008, the government's Gold and Diamond Office (GDO) had registered 24 diamond exporters in the country, the three largest of which – HM Diamonds, Koidu Holdings and Kassim Basma – accounted for nearly 80 per cent of all exports.[11]
- Three large-scale, mechanised mines have been reactivated – in rutile, bauxite and diamonds, managed by the country's two largest foreign investors: Titanium Resources Group (TRG), which mines rutile and bauxite, and which began production again in 2006 after mining of these minerals had stopped in 1995; and Koidu Holdings, the country's only large-scale kimberlite diamond miner, which began operations in 2004.
- Over 150 prospecting and exploration licences have now been granted to more than 100 companies covering around 60,000km² of the country (82 per cent of the country's surface area).[12]

Most of the country's diamonds are produced by artisanal miners: these are *diggers* who usually work in gangs with a boss, who is often the *licence holder*. The licence holder pays the diggers and supervises their operations, and subsequently sells the diamonds to *dealers*, who in turn sell their output to licenced *exporters*. There is no reliable information on the number of small-scale artisanal miners in the country – figures vary from 100,000 to 400,000. The World Bank estimated in 2005 the figure as between 200,000 and 400,000 people dependent on artisanal mining for the greater part of their livelihood, meaning 4-8 per cent of the population.[13] The MMR estimated in 2002 that mining accounts for around 14 per cent of the labour force in the country.[14]

1.2 Legislation and taxes

Sierra Leone's mining legislation is principally embodied in the Mines and Minerals decree of 1994, adopted as an Act of parliament in 1996 and slightly amended in 1998.[15] The 1996 Act sets the royalty rates for precious stones at 5 per cent, for precious metals at 4 per cent and for all other minerals except building and industrial minerals at 3 per cent. These royalties are calculated as a percentage of the 'ex-mine price' (Section 96). The Act also requires mining lease holders to pay 0.1 per cent of their sales (that is the ex-mine price) to an Agricultural Development Fund (ADF), to benefit the areas in which the mines are located (Section 107).

The Act also provides several favourable conditions for mining companies, but which are consistent with mining laws in other African countries:

- Royalties paid are considered an 'operating cost' of the company and are a deductible expense in calculating income taxes (Section 96, para 5).
- A zero per cent import duty is applied on machinery, plant and other equipment intended for prospecting and exploration (Section 106).
- All 'outgoings and expenses' of the companies are deductible against tax provided that head office expenses do not exceed 1.5 per cent of sales (Section 103).
- Companies are able to repatriate 100 per cent of profits (section 111).

* Rutile is a mineral composed of titanium dioxide, used mainly as a feedstock in the production of a white pigment used in producing paints, paper, plastics and pharmaceuticals.

In addition to the 1996 Act, several other Acts embody legislation on the fiscal terms of mining companies, principally the Income Tax Act of 2000[16] and the Customs Act and Customs Tariff Act (for import, customs and excise duties). The Income Tax Act set the corporate income rate (for all companies, including mining companies) at 37.5 per cent, but this rate was reduced for mining companies in 2003 to 30 per cent. This Act also:

- Allows mining companies to offset 100 per cent of their capital expenditures against tax in their start-up phase, that is for prospecting and exploration (Sixth schedule, section 2). Once mining companies are in development, they have a first-year capital allowance of 40 per cent followed by 20 per cent in the three subsequent years.
- Allows companies to carry forward losses in any one year and offset them against tax in subsequent years (Sixth schedule, section 5).

These concessions are, again, consistent with those provided to companies in most other African countries. However, as we will see later, the key issue is that the government has signed individual mining agreements with some companies, giving them a much deeper set of tax concessions. This means that there is inconsistency across the mining sector and a distinctly un-level playing field.

In the diamonds sector, the taxes levied on exports vary according to the type of company:

- Koidu Holdings, as an industrial, large-scale miner, pays a 5.5 per cent export tax, of which 5 per cent is a royalty.
- The artisanal mining companies (those employing small-scale miners) pay a 6 per cent export tax, half of which (thus 3 per cent) is paid as a royalty. There were seven of these companies registered in Sierra Leone in 2007.[17]
- The export licence holders (those companies who are not miners but who buy and export diamonds) pay a 3 per cent export duty. There were 16 of these companies registered in Sierra Leone in 2007.[18]

The 3 per cent export duty or royalty paid by all diamond exporters (except Koidu Holdings as an industrial miner) is allocated by the government into different accounts. (Though it should be noted that Sierra Leone's mining sector is so untransparent that there are contradictory versions of precisely where this 3 per cent is allocated.) NACE's understanding is that:

- 0.70 per cent goes to the government Treasury
- 0.75 per cent goes to the DACDF to be spent in the communities where the mines are located
- 0.75 per cent funds the GDO (a department of the National Revenue Authority (NRA) responsible for valuating diamonds for export and collecting export taxes)
- 0.40 per cent goes to the GDO to be spent on independent diamond valuators
- 0.25 per cent goes to the MMR to fund mines monitoring officers who monitor company production
- 0.05 per cent goes to a rehabilitation account held by the government
- 0.1 per cent is spent by the government on public information and on the Precious Mineral Monitoring Team of the police.

1.3 Problems with the mining sector

Sierra Leone's mining sector has huge problems. The five major challenges, which are all concerned with transforming political governance, are:

1. Low transparency

The mining sector suffers from an extreme lack of transparency. There is a lack of information at all levels that creates mistrust and ignorance about the financial position or intentions of government and companies.

- Some companies do not have websites and provide no financial information on their activities, including their tax payments. Koidu Holdings, the largest diamond company, established a website only in 2008; it still does not publish an annual financial report that is available to the public.
- Government provides only sporadic figures about mineral production, and those figures that are published probably understate the amount. It does not publish a figure showing how much the country earns from mining overall.

The Sierra Leonean government announced its intention to implement the EITI in June 2006. A steering committee was established including industry, government and civil society, and an official launch of Sierra Leone's EITI was held in June 2007. The country is now a candidate member and a workplan on implementing the EITI was agreed by the steering committee in February 2008; the country has until 2010 to fully implement the EITI commitments.[19] However, two years on, there have been few practical outcomes from the process; the key is for the government to meet the commitments on transparency outlined in the draft Minerals Act, noted below. NACE is appalled that the government has not yet established an EITI secretariat nor provided sufficient resources for it to do its job.

Parliamentary scrutiny is also weak. Unlike in some countries, parliament in Sierra Leone has the formal ability to scrutinise individual contracts signed by the government with companies since, curiously, they are often made into Acts of parliament. In practice, however, the ruling party has invariably been so strong that dissent or questioning has been difficult, or else MPs have displayed a lack of interest. One member of the parliamentary committee on mines and minerals, Augustine Torto, said that his committee never saw the 2002 Sierra Rutile Act, for example.[20] The result has been that the public has played no role in shaping these agreements, which tend to have appeared out of the blue.

This may be changing. Torto, now the chair of the parliamentary committee on mines and minerals and also the MP for Kono district, is taking a number of steps to increase parliamentary scrutiny over the mining sector. The committee has written to the government asking to interview mining companies in the committee. It also wants to be able to regularly question the MMR minister and to increase overall accountability over mining policy.[21]

Are companies making profits?

No mining company is reporting a profit in Sierra Leone. Yet ask any informed observer, and most will express scepticism about this:

- A senior civil servant in the MMR said: 'I have my doubts but who is there to see? The mines monitoring officers are bought. It's easy.'[22]
- One interviewee, a former senior civil servant in a government department related to mining, said: 'It's very difficult to tell if they are making profits because you have to go by what the companies say. But it is easy to raise operating costs to a fictional level. You can also inflate local costs. What's lacking in Sierra Leone is the ability to monitor and regulate this. You can also easily bribe the mines management officer. It's quite possible for the system to be abused.'[23]
- A senior NRA official said: 'They are recording losses. **Recording losses and making losses are two different things.**' He also spoke of the NRA's difficulty in properly auditing some of the companies due to a lack of sufficient specialisms in mining tax issues.[24]
- An official in a bilateral donor said: **'The companies wouldn't be here unless they were making profits. But the government's capacity to regulate them is very limited.'**[25]

2. Poor capacity

There is a severe lack of capacity in all government departments associated with mining to, for example, assess and collect revenues such as income taxes, collect basic geological information and monitor mining operations with the requisite skills. For example:

- The GDO, whose main purpose is to value diamonds for export and collect export taxes, employs just 13 people.
- The MMR is woefully short of technical capacity, qualified human resources and equipment, which reduces its ability to monitor the sector and also to negotiate on equal terms with the companies.[26]
- Although the 1996 Act stipulates that expatriates can be employed only when there are no competent nationals for the job, the Ministry of Labour, Social Security and Industrial Relations has insufficient capacity to vet work permits; thus 'companies more often than not do what they like', a recent study commissioned by the World Bank notes.[27]

Salaries are also very low across government – the director of mines earns US$200 a month; the deputy director US$150. A government mines engineer earns around US$100 a month, ten times less than what he/she would earn in a private, large mine.[28]

3. Inadequate mines monitoring

The country's lack of adequate mines monitoring capacity is well-known. A recent report commissioned by the World Bank notes that 'there is currently little capacity to monitor if mining companies are behaving in a lawful manner and carrying out the commitments they agreed to'.[29] There are also concerns that some companies claiming to be exploring only are actually already exporting. The director general of the MMR has stated that monitoring is 'ineffective and prone to corruption'.[30] Most important are the problems associated with around 250 mines monitoring officers (MMOs) and mines wardens, whose function is to monitor mineral production:

- They are paid poorly – at around US$50 a month – and therefore open to corruption.
- They are few in number – in 2006, there were only 64 MMOs and six mines wardens in the whole of Kono district, for example.[31]
- They are often poorly educated, requiring only three subject passes at 0-level, with even ministry officials sometimes complaining that some of them are functionally illiterate, meaning they cannot satisfy reporting requirements.
- Some are considered to be political appointees – 'party loyalists' – believed to be enriching themselves at certain locations. 'Those who are more loyal to the government go to the big places', a senior civil servant told the researcher in this project.[32]

A senior official in the NRA said: 'Diamonds are the easiest commodity to manipulate, to undervalue, to understate your income. It's easy not to declare all your finds. You can also overstate your expenditure. The companies are highly sophisticated compared to the government, and it's easy to get away with murder.'[33]

Diamonds smuggling

The illegal trade in diamonds is assumed by most commentators to remain rife. The NGO coalition, the Peace Diamond Alliance, estimated in 2005 that the total production of diamonds to be around US$400 million – 3.5 times the official figure. The International Crisis Group estimates a lower figure – around US$200 million.[34] Other informed observers suggest that the country loses double the amount of recorded diamond exports through smuggling or under-valuation.[35] The latter estimate would mean the country has lost around US$142 million (£71 million) in 2007 alone.

4. Lack of regulation

There are numerous serious gaps in the mining regulations, creating uncertainty among companies, communities and the government as to who is responsible for what. Most seriously:

- There is a total absence of laws dealing with *underground* mining, despite the fact that there is one underground diamond mine in the country, with the prospect of some more.
- There are no comprehensive laws on *blasting*[36]; yet the country's largest foreign investor – Koidu Holdings – has been conducting blasting for years.
- There is no functioning institution in the country with the legal authority to *monitor EIAs*[37] Compliance or otherwise with environmental standards is left to the company and informed sources state that the Environmental Department has not reviewed any EIAs in the past three years.[38]
- Although the 1996 Act allows for the *relocation of communities* affected by mining, there are no formal procedures laid down for this. This is despite the fact that over a dozen such relocations have occurred in Sierra Leone in the rutile area, while others are imminent.
- There is no clear law on *consultation* – outlining with whom, when and how companies need to consult in matters of, for example, relocation and paying compensation for losses.

Providing infrastructure – whose responsibility?

Sierra Leone's mining legislation does not require companies to provide either social or infrastructural services – such as electricity, water, education or healthcare to local communities affected by mining. The large investors, such as Sierra Rutile and Koidu Holdings, have made some commitments to improving such infrastructure in their EIAs and in their own voluntary community development plans. The problem is that the EIAs are not monitored or enforced by government, while community development spending is voluntary only. The companies have sometimes reneged on these commitments but have not been challenged by government. Meanwhile, the local communities affected by mining have retained their original high expectations about the commitments made by the company.

The result is often a messy lack of clarity over exactly who is at fault:

- The companies for failing to meet all their commitments?
- The government for failing to enforce the companies' commitments and build the infrastructure itself?
- Or even the community for having unrealistic expectations of what a private investor will deliver when it is the government that should be developing infrastructure.

5. Enduring corruption

Finally, the prevalence of corruption is well-recognised. The director general of the MMR has stated that 'reducing corruption and rent seeking' is one of the challenges facing the department, which he recognises 'has had a reputation for corruption'. The head of the President's Task Force, while reviewing mining contracts with companies, has said that 'the public sector is marked by rent-seeking and these are the people we put in front of international investors'.[39] Sierra Leone is ranked 142nd out of 163 countries in Transparency International's Corruptions Perceptions Index.[40]

The problem is endemic in Sierra Leonean society. A recent World Bank study shows that 'gratifications' (sums of money paid by households to use public services) are widespread: over 90 per cent of users of health services pay such gratifications, while a typical household will spend around Le 35,000 across all services – a small amount but not insignificant for some households, and indicative of an entrenched problem.[41]

These five key problems combine to produce two poor outcomes for the people of Sierra Leone, on which this report now focuses:

- Very low government revenues from mining
- Adverse impacts on people in the mining areas.

2. The problem of low government revenues

Government revenues from mining come from two major sources – licences (which companies pay to operate) and taxes (principally export tax or royalty, corporate income tax and surface rents, and the contribution to the ADF). Unfortunately, it is very difficult to establish exactly how much the country is earning from mining:

- An overall figure is not published (and appears to be not even calculated) by a single government department.
- Responsibility for monitoring and collecting mining revenues is split across several departments: for example, the MMR tracks licences and royalty payments for minerals other than diamonds; the GDO tracks export taxes paid on diamonds; and the NRA collects taxes from mining companies but does not disaggregate its revenues by industrial sector; Customs and Excise collects import taxes.
- The figures provided by different government departments are often contradictory.

These are serious transparency and governance failures in themselves given that mining is critical for export revenues.

2.1 How much is the government earning from mining?

According to the government, mineral exports amounted to US$179 million in 2006 and US$142 million in 2005.[42] As for how much of this returned to the government in revenues, a study by Adam Smith International (ASI) estimates the figure to be US$10.45 million in 2006 – a minuscule 5.8 per cent of the value of exports. (This figure excludes some government revenue streams such as taxes collected by the NRA and import duties collected by Customs and Excise, which are, however, likely to be negligible).

Table 1: Government revenues from mining (US$)

Revenue source	Revenue
Artisanal mining: licenses, monitoring and surface rent payments	407,000
Diamond export royalties (3% of US$124m)	3.7m
Diamond exporters: licences	690,000
Diamond dealers: fees	391,000
Non-diamond licence fees	954,000
Prospecting: licences	3.01m
Exploration: licences	1.28m
TOTAL ESTIMATE	**10.45m**

Source: Figures provided by Adam Smith International.
Figures may not add up due to rounding

In another report, ASI has estimated that mining contributed Le28.7 billion to the government in 2006 – equivalent to US$9.86 million. This represented just 3.1 per cent of total public revenues and just 5.1 per cent of GDP.[43]

Figures provided by government sources provide slightly different totals:

Revenues from diamonds

The following table outlines the overall value of diamonds exports:

Table 2: Exports of diamonds: 2000-07 (US$ million)

2000	2001	2002	2003	2004	2005	2006	2007
10.07	26.02	41.73	75.97	126.65	141.94	125.30	141.56

Source: Figures provided by Gold and Diamonds Office

In 2007, 74 per cent of all diamonds exports were accounted for by the export licence holders (who source from the artisanal mining companies); Koidu Holdings accounted for 20 per cent; and the artisanal mining companies accounted for 6 per cent.[44]
Table 3 shows that of the US$142 million worth of diamonds exported in 2007, the government received US$5.2 million (£3.5 million) in royalties and export taxes.

Table 3: Diamond exports and revenues, 2007 (US$ million)

Exports	Revenues	(of which)					
		Royalties	Consolidated fund (0.75%)	DACDF (0.75%)	GDO (0.75%)	Independent valuer (0.45%)	Mines monitoring (0.30%)
141.56	5.19	2.44	0.921	0.886	0.570	0.352	0.025

Source: Figures provided by Gold and Diamonds Office

Figures for other years are:

- In 2005, US$141 million (£94 million) of diamonds were exported, from which the government received US$4.7 million (£3.1 million) in revenues from export taxes.[45]
- In 2004, revenue from diamonds export taxes was US$5.2 million (£3.5 million), of which US$2.9 million (£1.9 million) came from licences.[46]

Revenues from non-diamond licences and royalties

The MMR tracks and collects mining licences and export taxes/royalties on minerals other than diamonds. Recent government figures are outlined in the following table:

Table 4: Government revenues from mining licences and royalties, 2000-05 (Leone million)

	2000	2001	2002	2003	2004	2005
Mines department	1,518	1,196	2,034	3,040	7,720	10,244
(of which)						
Mining licences	729	1,196	2,034	3,040	7,720	8,243
Royalty on rutile	786	0	0	0	0	318
Royalty on bauxite	3	0	0	0	0	1,683
Percentage of total government revenues	1.0	0.6	0.8	1.1	2.2	2.5

Source: Government of Sierra Leone figures cited in IMF/World Bank, *Sierra Leone: Annual Progress Report on the Poverty Reduction Strategy Paper – Joint staff advisory note*, 1 December 2006, p 11

These figures include all licences and royalties on non-diamond minerals, but exclude all diamond export taxes and other taxes. The total in 2005 of Le 10,244 billion is equivalent to £1.72 million.

The following table outlines the government's projected income from the same sources:

Table 5: Projected mines department revenues, 2006-09 (Leone million)

	2006 (estimate)	2007 (budget)	2008 (indicative)	2009 (indicative)
Mines department	17,774	30,003	38,029	37,622
(of which)				
Royalty on rutile	1,816	2,000	3,300	4,500
Royalty on bauxite	2,024	4,200	5,324	4,267
Licences etc.	13,935	23,803	29,405	28,855
Percentage of total government revenues	1.9	2.5	2.8	2.6

Source: Government of Sierra Leone, *Government Budget and Statement of Economic and Financial Policies, Financial Year 2007*, October 2006, Annex 1

The Le 37,622 million figure for 2009 is the equivalent of £6.3 million.

Total government revenue

The following table incorporates information from Tables 4 and 5 into a single table, presented in Sterling figures:

Table 6: Overall government revenues from mining (£ million)

	2004	2005	2006	2007
MMR revenues (mining licences and non-diamond export taxes)	1.29	1.72	2.98*	5.03*
Diamonds revenues (diamond export taxes)	3.5	3.1	N/A (3.1**)	3.5
Other government revenue streams (such as taxes collected by the NRA, ADF contributions, Customs and Excise)	N/A	N/A	N/A	N/A
TOTAL	**4.79**	**4.82**	**6.08**	**8.53**
Total revenues as percentage of total mineral exports	N/A	5.1	5.1	N/A
Diamond revenues as percentage of diamonds exports	4.1	3.3	3.8	3.7

Source: As for Table 5 above. * = government projections. N/A = not available. ** = Estimate based on other years

This table confirms that government revenues from mining are miniscule, amounting to an estimated £6 million in 2006 and £8.5 million in 2007 – only around 5 per cent of the value of total exports. Proportionate revenues from diamonds are even lower, amounting to just 3-4 per cent of the value of total diamonds exports.

2.2 How much could the government earn?

ASI estimates that, with significant institutional and capacity reform in the mining sector, Sierra Leone could export US$1.2 billion a year in mineral exports by 2020 – a sevenfold rise over current levels. It states that with new investment in mining, GDP could be 17 per cent higher in 2020 than currently – meaning that 900,000 people (18 per cent of the population) could be lifted out of poverty.[47]

ASI has urged the government to aim to capture 7 per cent of the value of exports as revenues and estimates that by 2020 the government could be earning Le200 billion (US$68 million).[48] The government seems to have adopted this 7 per cent target.[49] NACE believes this target is far too low, and that the government should be aiming to take a minimum of 10 per cent of the value of exports. This is the proportion of mineral exports captured by the government in Tanzania, which is widely regarded there as already far too low; meanwhile, the Malian government is believed to be earning around 15 per cent of the value of gold exports in revenues, also in a context where the mining industry has been heavily criticised for being given favourable government treatment.[50] If the Sierra Leonean government captured 10 per cent, its annual revenue by 2020 could be US$120 million – 12 times greater than currently.

A World Bank analysis of 2005 estimated that within a decade Sierra Leone could be exporting US$370 million worth of minerals. It noted that the country has the potential for developing eight mines within the decade (compared to the current three – in diamonds, rutile and bauxite): two mines each for rutile, bauxite, kimberlite diamonds and gold. This included US$138.6 million worth from two rutile mines, US$65 million from two bauxite mines, US$76.5 million from two kimberlite diamond mines and US$90 million from three gold mines. It also noted that the mines could employ around 38,000 people, from whom around 300,000 people could derive their livelihoods.[51]

However, mining by itself is no panacea. Another World Bank study notes that it 'draws labour power away from agriculture and into a highly speculative activity which holds the promise of wealth for a few, but continued poverty for the majority'.[52] Clearly, mining revenues need to be invested by the government into supporting broader development, notably agriculture.

This report now turns to the two largest foreign investors in the country, asking: are they paying a fair amount in taxes to the government?

3. Sierra Rutile: taxes and revenues to the government

3.1 Background

The Sierra Rutile mine is located 135km southeast of Freetown and contains one of the largest natural rutile deposits in the world. It produces 23 per cent of the world's annual supply of rutile, according to the company.[53] Sierra Leone exported US$28.5 million worth of rutile in 2006, accounting for 16 per cent of the value of all the country's mineral exports and the second largest mineral export after diamonds.[54]

Sierra Rutile has been actively mining rutile since 1979. In 1991, it was producing rutile and ilmenite worth US$86 million and employing nearly 2,250 workers, making it the largest private employer in the country.[55] When the mine closed in 1995, as a result of attacks by the RUF, which destroyed the plant and equipment, Sierra Leone was the largest producer of rutile in the world and Sierra Rutile accounted for around 30 per cent of the world's annual supply.[56] Production was resumed in 2006 and Sierra Rutile has embarked on a programme of investment and increasing production. The company states that it has invested around US$150 million and that it planned a further US$60-70 million investment in 2008.[57]

The company's re-opening of the mine is being supported by European Union (EU) taxpayers and underwritten by the US government:

- The EU's European Development Fund has provided a grant to the Sierra Leone government of €25 million which has been on-lent to Sierra Rutile. The EU delegation to Sierra Leone notes that 'after repayment of the €25 million loan… the funds will be used, for example, for development of the mining and environment sectors, and socio-economic development of the surrounding areas of the mine. The details will be agreed upon by the government of Sierra Leone and EC [sic] at a later stage'.[58] The TRG (see box) reports that, at the end of 2007, this loan was worth US$44 million and is subject to 8 per cent annual interest. However, the terms of the loan agreement with the government are that the company was scheduled to begin paying interest only in June 2008.[59]
- Furthermore, an agency of the US government – the Overseas Private Investment Corporation (OPIC) – has provided a US$25 million investment guarantee to Sierra Rutile to expand its operations in the country. This deal was announced in March 2003 during a US government visit to the country headed by Walter Kansteiner, then asistant secretary of state for Africa. Kansteiner left the State Department in 2003; a few months later, in January 2004, TRG announced his appointment as chair.[60]

Titanium Resources Group

Sierra Rutile is owned by TRG, which also controls Sierra Minerals Limited, which produces bauxite from several deposits in the country. TRG, which works solely in Sierra Leone, is 'incorporated and domiciled' in the British Virgin Islands, a well-known tax haven.[61] The company lists ten of its subsidiaries – holding and marketing companies – as incorporated in the British Virgin Islands.[62]

TRG's non-executive chairman, Walter Kansteiner, is, as noted, a former US assistant secretary of state for Africa, where 'he was responsible for US foreign policy in Africa', according to the company's website. He was also director of African affairs on the National Security Council and a member of the 'strategic minerals task force' in the Department of Defence.[63]

Baroness Valerie Amos, a former British secretary of state for international development and a Labour peer, was appointed as a non-executive director of TRG in March 2008[64] but resigned in October 2008.[65]

3.2 A series of extraordinary concessions

The financial terms under which Sierra Rutile is currently operating are quite extraordinary. The company has signed three agreements with the government, outlining a range of tax concessions. NACE has obtained and analysed all three.

The Sierra Rutile Agreement Act, 2002[66]

This agreement, an open document, was made in November 2001, just as the war was ending, and was enacted in parliament in March 2002. The terms are favourable to the company, but not dramatically so by international standards. The royalty rate was set at 3.5 per cent of total sales and income tax at no less than 3.5 per cent of turnover or no more than 37.5 per cent of profits (section 6 (c)).[67] Crucially, the Act contains a stability clause that allows Sierra Rutile to continue paying the taxes specified in the Act for the duration of the mining lease (25 years) even if the government enacts new legislation raising taxes and royalties for the mining sector (section 11 (e)). Other terms are:

- Import duties set at 5 per cent for imports of mining machinery, plant and equipment (section 6 (g)).
- No restrictions are placed on the company employing expatriate staff; Sierra Rutile is required only to 'give preference' to Sierra Leoneans (section 10 (e)).
- The Act allows Sierra Rutile to 'create and maintain a

security force to provide a deterrent, defence and reaction capability to incidents'. It also allows the company to 'import such arms and ammunition that are appropriate to such a security force' subject to government approval and that the security force 'may carry and use arms and ammunition for the purpose of carrying out its functions' (section 11 (q)).
- In undertaking refurbishment work at the plant sites, all third-party contractors are allowed to be exempt from paying all local taxes, immigration and labour fees and income tax (section 11 (t)).

Memorandum of understanding, June 2003[68]
In June 2003, the government signed a further agreement with Sierra Rutile, overturning some of the provisions in the 2002 Act. This memorandum of understanding (MOU) gives the company a range of extraordinary concessions. It:
- reduces the royalty rate to a minuscule 0.5 per cent until 2014 (section (a) 9), after which it would revert to 3.5 per cent
- also reduces the turnover tax to 0.5 per cent, again to 2014 (section (a) 10)
- scraps entirely the payment of corporate income tax on profits until 2014
- reduces import duty on fuel imports to 1 per cent until 2014, a reduction from the 12 per cent outlined in the 2002 Act (section (a) 11).

Most crucially, the memorandum also provides for the government to purchase 'up to' 30 per cent equity in the company, but on two critical conditions:
- the 'assignment of PAYE taxes as they accrue up to a maximum of US$37 million' – meaning that the government will forgo company payment of up to US$37 million in such taxes
- 'in lieu of applicable royalty, minimum turnover tax and duty on fuel thru [sic] December 31, 2014' – suggesting that even the miniscule royalty and turnover tax payments noted above may be being foregone.

A World Bank review of Sierra Leone's mining industry in 2005 noted that Sierra Rutile had recently negotiated a fiscal package with the government, and that this was 'largely driven by the mining company'.[69] The reference is presumably to this 2003 MOU. A senior NRA official explained to the researcher for this project that at the time of the 2003 agreement, the government was in 'desperate circumstances' and wanted to attract further investments at all costs. The company argued that it needed to embark on a large refurbishment programme and that it had previously lost tens of millions of dollars worth of equipment during the war.[70]

The amendment agreement, 2004[71]
In February 2004, a third agreement was reached, entitled (rather misleadingly, in light of the 2003 MOU), a 'first amendment agreement' of the 2002 Act. This agreement:
- confirms the royalty and turnover tax rates of 0.5 per cent and the fuel import duty of 1 per cent (section 2)
- also confirms that in exchange for the government securing 30 per cent equity in the company, the government 'hereby irrevocably and unconditionally assigns to Sierra Rutile Limited… all its right, title and interest in, to and under the future PAYE taxes due from the company to the government in an amount not exceeding thirty-seven million United States dollars' (section 3).

Review of the agreements
A commission established by the previous government to review the mining legislation and company agreements committed itself to reviewing Sierra Rutile's agreements with the government.[72] A senior NRA official told NACE that the 2003 MOU is 'null and void' and indeed illegal in that it overturned some of the provisions of the 2002 Act, such as the royalty rate, and contravenes some provisions of the Income Tax Act, and therefore must by law (and by the terms of the 2002 Sierra Rutile Act) go back to parliament for scrutiny.[73] In August 2007, the official wrote to the company to this effect. In an interview with the company, Sierra Rutile told NACE that it regarded the agreement as legal but that it was perfectly happy if the government wanted to conduct a review of it.[74]

3.3 What is Sierra Rutile currently paying to the government?
This is a difficult question to answer, since neither the company in its financial reporting nor the government provides clear figures. A senior NRA official told NACE: 'The 0.5 per cent royalty is not the right way to go. Sierra Rutile are paying 1 per cent on fuel imports; they should be paying 12 per cent. Their machinery and goods enter duty free. When you add it up, these are huge losses. They're not paying much. They have never paid more than US$1 million in total [that is taxes per year]'.[75]
- **PAYE taxes.** TRG's recent financial figures state that the government had acquired a 2.063 per cent stake in Sierra Rutile at the end of 2007.[76] NACE's understanding is that this means that the company is foregoing the payment of PAYE taxes to the government for the same amount; thus these taxes are being retained in the company. Sierra Rutile has been quoted by the media as saying that the government will secure an annual 3 per cent increase in equity in the company for ten years, until it holds 30 per cent.[77]
- **Royalty**. Company reports do not state how much Sierra Rutile is paying in royalties. According to Table 5, above, on mines department revenue from the royalty on rutile, expected government receipts in 2007 were just Le2 billion (£334,000). This accords with what a senior official in the NRA estimated – that the figure may be around US$700,000 (£335,000 at the then exchange rate) a year.[78] Figures provided to NACE by the NRA in July 2008 show that the government's target for royalty receipts for rutile in 2008 was Le1.7 million (US$580,000) only.[79]
- **Turnover and other taxes.** Company reports state that TRG as a whole (not Sierra Rutile alone) paid US$204,000 and US$61,000 in turnover taxes in 2007 and 2006 respectively.[80] The company is responsible for paying only relatively minor other taxes, including mining and surface rents, port charges, a contribution of 0.1 of gross sales to the ADF (amounting to around US$75,000) and a road users levy.

3.4 What might the government earn in future?
Sierra Rutile's parent company, TRG, does not provide separate financial figures for Sierra Rutile from its bauxite operation in Sierra Leone, meaning that Sierra Rutile's precise financial situation is impossible to gauge. Overall, TRG has been reporting financial losses:
- A loss after tax of US$16.7 million for the year 2007.[81]
- This followed a profit after tax of US$34 million in 2006 – however, the company reports that this profit was 'due to the recognition of deferred income tax losses from previous years': it made an operating loss for the year of US$1.47 million.[82]

Sierra Rutile expects to begin making profits soon. In an interview with NACE in February 2008, the companies then general manager, Bob Lloyd, said that the company will make a 'book profit' in 2008 which will be invested back into the company, and that by the end of 2009, a major capital investment programme will have been completed and the company will start making real profits.[83] In an interview with the researcher for this project in July 2008, the company CEO, John Sisay, said that Sierra Rutile will start making profits in 2010.[84] Sisay also said that the company will make very substantial profits – of US$1.16 billion over 20 years, which will be split virtually half and half between the company and the government; meaning both will see returns of US$580 million – or an average of US$29 million a year.[85] This would be a significant gain to government revenues.

However, these figures do not appear to tally with other information. The most detailed public study of Sierra Rutile's financial model – conducted by the IMF in 2004 – provides vastly different figures. It shows that revenues to the government from the company will amount to between only US$11.2 million and US$20.1 million for the entire period 2005-2016. Indeed, the IMF report concluded by noting that the terms of the 2003 MOU 'should not set a precedent for future mining investments, since the main long-term benefit from mining is likely to be government revenue'[86] – in other words, the government will not see much revenue from this deal.

Lost income from rutile
An internal government review estimated that revenue losses from the tax concessions granted to Sierra Rutile would amount to US$98 million (£66 million) from 2004 to 2016 – around £5 million a year.[87] NACE's own calculation suggests the figure may indeed be substantial.

Sierra Rutile's current royalty rate is 0.5 per cent with total remittances to the government likely to be around £335,000 a year, as noted above, at current levels of production. If Sierra Rutile had been paying the original 3.5 per cent royalty agreed in 2002, the government would have netted seven times that amount (£2.34 million) each year since the 2003 agreement reduced it to 0.5 per cent. For the five years from 2003 to 2007 inclusive, the lost income on these royalty differences is around £10 million.

Future losses will be even greater since company projections show rutile production more than tripling over current levels of around 75,000 tonnes per year to reach around 240,000 tonnes by 2009.[88] Thus the lost royalty income per year will also triple. As a rough estimate, if production levels are three times higher than currently in the six years from 2009 to 2014, then the difference in royalty paid at the 0.5 per cent rate and the 3.5 per cent rate for those years is £36 million. Added to the other £10 million loss, the total loss to Sierra Leone from now until 2014 is around £46 million.

4. Koidu Holdings: taxes and revenues to the government

4.1 Background

The Koidu kimberlite project, situated 350km from Freetown on the outskirts of Koidu town in Kono district, eastern Sierra Leone, is the country's largest diamond mine processing kimberlite ore. The project is the single largest private foreign investment in postwar Sierra Leone and resumed operations in January 2004.[89] In 2007 it exported US$28.2 million worth of diamonds, accounting for around one-fifth of the country's diamonds exports.

Koidu Holdings' operations were suspended by the government in December 2007 following a bloody conflict at the mine. The police opened fire on a group comprising 400 villagers, killing two and injuring many more; they were protesting against the company's policy of continuing blasting before villagers had been resettled away from mining operations, and over the perceived lack of adequate compensation.[90] The financial effect on the company (and the community) of the suspension has been serious; by mid-2008, Koidu Holdings had laid off over 500 of its 600 workers and was employing only 65 Sierra Leoneans and 14 expatriates; it now states that it needs to invest a further US$120 million just to recover its position before the suspension.[91]

Koidu Holdings and the Beny Steinmetz Group

The Koidu kimberlite diamond mine concession was granted to Branch Energy in 1995, a company which had links to the private mercenary firm, Executive Outcomes, employed by the government to fight the RUF in the war. Following the end of the war, the mine restarted operations and in September 2003, Koidu Holdings was formed. Like Sierra Rutile's parent company, TRG, Koidu Holdings is also incorporated in the British Virgin Islands. The company is wholly controlled by BSG Resources (BSGR), a group owned and managed by the Israeli company Beny Steinmetz Group (BSGR has a 65 per cent interest in Koidu Holdings while Magma Diamond Resources, a Geneva-based company which is also part of the BSGR group, has 35 per cent).[92] In addition to the mine at Koidu, Koidu Holdings also has four exploration licences in Sierra Leone.

The Beny Steinmetz Group, based in Geneva, describes itself on its website: 'With seven decades of expertise in the diamond industry, Steinmetz has interests ranging from cutting, polishing and manufacturing, jewelry and e-tail. Known for its unique approach to marketing, the group has promoted high-profile events such as the Oscars, the Baftas, the Smithsonian Institute, Natural History Museum and the Monaco Grand Prix'.[93]

Koidu Holdings' operations in Sierra Leone are set by two agreements with the government – the original mining lease agreement signed in 1995 and a 'profit-sharing agreement' made in August 2006.

The 1995 Koidu kimberlite mining lease agreement[94]

This agreement, signed in July 1995 by a government facing rebels at the gates of Freetown, awarded a mining lease to Branch Energy for 25 years. It still provides the basic legal framework for the company's operations in the country. It sets the royalty rate at 5 per cent, the corporation tax rate at 37.5 per cent and outlines the range of rents and minor taxes to be paid by the company. It also provides a variety of concessions to the company, in tune with the 1996 Minerals Act (and indeed international practice):

- Charges paid by the company such as royalties, imports fees, contributions to the ADF, rents and other taxes are considered as 'operating costs', some of which can be offset against tax (section 13.3.8).
- Losses made in one year can be carried forward and deducted from taxable income (section 13.3.9).
- Imports of equipment intended for exploration work are duty-free while equipment intended for mine development are charged a 5 per cent duty (section 13.6.3-4).
- All profits and employees' salaries may be repatriated (sections 15.5.1 and 15.6.1).
- The agreement requires the company to 'give preference' to employing Sierra Leone nationals (section 10.1) and to buying products made in Sierra Leone (section 9.1).

The 'profit-sharing agreement', August 2006[95]

This agreement outlines that the government and the 'Kono community' are each entitled to a 10 per cent profit share, once the company starts to make a profit. Of the Kono community's share, 3 per cent will go to Kono District Council, 2 per cent to Koidu New Sembehun Town Council and 5 per cent to the Tankoro Chiefdom (section 1.1.10). The government is also permitted to appoint a senior financial officer as part of the senior management team of Koidu and a representative to the board of directors (who can act in a representative capacity, however, not as a director) (section 3.3) – the representative is the local paramount chief, Paul Saquee.

4.2 What is Koidu Holdings currently paying to the government?

In the past, Koidu Holdings was notoriously untransparent in its financial reporting to the public, providing neither a website nor significant public details of its tax payments and revenue projections. It appears that the authorities have also had difficulties with the company. A senior official in the NRA told NACE in February 2008: 'I've had a year-long battle with Koidu to audit their books. It's one impediment after the other. They'll say their papers are always elsewhere. They do seem to keep their records here but they don't make them all available to us. This is a contravention of the Minerals Act and income tax law'.[96]

However, in 2008, the company finally established a website, which provides some information on company activities. In a meeting with NACE in Freetown in July 2008, the company's CEO, Jan Joubert, provided the authors with a full breakdown of the company's current tax payments and its profit projections, along with numerous other company documents – signifying a willingness to be more open, as well as to work with civil society groups. However, the company's website does not contain an annual financial report, although Joubert states that it may publish its financial figures in future.[97]

Exports and tax payments

Figures provided by Koidu Holdings show that the company remitted a total of US$3.2 million to the government in 2007, of which US$1.4 million was in royalties, as the following table shows – revenues to government were just over 11 per cent of diamond sales. In the four years from 2004 to 2007, Koidu Holdings has remitted a total of US$9.97 million to the government – again, about 11 per cent of the value of its diamond sales.

Table 7: Koidu Holdings, exports and payments to government, 2004-2007 (US$ million)

	2004	2005	2006	2007
Diamond sales	13.86	22.51	23.45	28.19
Payments to government	1.63	2.42	2.67	3.22
Of which: royalty	0.69	1.12	1.12	1.41

Source: Koidu Holdings

4.3 What might the government earn in future?

Figures provided by Koidu Holdings show that the company's financial projections envisage:

- That profits will start to accrue in 2011, and that over a 17-year timescale, the Koidu mine will generate profits of US$280 million for BSGR as the major shareholder and total remittances to the government of US$399 million (which includes all royalties and taxes and its 10 per cent profit share).
- In addition, the Kono community's 10 per cent profit share will start to accrue in 2014 (it is unclear why this does not begin in 2011) and will amount to US$35 million from then until 2024 (the end of the 17-year period).

These figures indicate that government revenues could be very substantial – amounting to an average of US$23.5 million a year over the 17 years (more than seven times what the government currently earns from the Koidu mine). However, the direct payments to the Kono community are relatively small, amounting to just over US$2 million a year.

5. Changes to the Minerals Act – good, but not good enough

'There are certain generous tax and duty concessions, embedded in bilateral agreements between government and private sector entities, which continue to undermine revenue collection. Most of these agreements were negotiated and agreed by government from a relatively weak position, especially immediately after the war when economic conditions in the country were still precarious and fraught with uncertainties. Both the condition under which these agreements were entered into and the assumption on which certain concessions were granted have changed substantially over the past few years. In addition, it has become clear that some of the concessions have had a distorting effect on the investment environment, while some are being abused in various ways.'
Statement by John Benjamin, then Sierra Leone's minister of finance, 27 October 2006.[98]

Both the previous Sierra Leonean government and the new government under President Ernest Bai Koroma, elected in September 2007, have stated that the country is benefiting too little from mining and have committed themselves to reviewing the mining contracts signed with the companies and rewriting the Minerals Act. President Koroma has stated: 'We have not benefited as much as we should have from our mineral resources and that is why we are going to… put in place a mining policy that will ensure that we move away from having low returns'.[99]

As far back as July 2004, the then government requested the Law Reform Commission (LRC) to lead a consultation process to redraft the Minerals Act. A full three years later, in 2007, the LRC presented its report to the government; the draft Act is now at 'final draft' stage. In early 2008, the president appointed a task force to review the individual contracts signed with the companies, beginning with Koidu Holdings, Sierra Rutile/Sierra Bauxite and another company, African Minerals.

However, it remains decidedly unclear whether the government really intends to implement the new Act, not least since it was redrafted under the previous government. Moreover, government strategy towards foreign investment and the companies appears very ambivalent. On the one hand, ministers profess their support in public for attracting new private investors. On the other hand, they are presiding over a very lengthy mining review process that creates uncertainty about government intentions. Some senior business leaders have accused the government of a 'pathological hatred' of foreign investment.[100] No one really knows how far the government will go in revising the country's mining laws and whether these will provide a haven for foreign investors, much toughened fiscal terms, or a path somewhere in the middle.

The current draft Act contains a number of positive and negative features.[101]

5.1 Positive features

Most importantly, the process has resulted in agreement that a consultative committee established jointly by the MMR, the UK's Department for International Development (DFID) and the LRC will:

- 'review all mining and related laws and the current mining policies and recommended changes that will create greater transparency, consistency in the law and regulations'[102]
- 'review and assess all current mining contracts, leases and licences to determine their conformity with the new laws and regulations and negotiate proposed changes with affected companies and individuals'[103]
- 'review' the Sierra Rutile agreement of 2002 and the MOU of 2003 in particular.[104]

These are very important commitments. The key is clearly in following through to ensure these commitments are met. But details are also crucial, in terms of precisely what changes result, especially in terms of tax rates payable by the companies, which we discuss further below.

With the draft Act itself, there are a number of other positive features. As regards financial/tax issues, the most important changes concern transparency and financial reporting. The Act commits the MMR to:

- 'develop a framework for transparency in the reporting and disclosure… of revenue' to be paid to the government (section 137)
- publish its revenues from the extractives sector 'at least annually' (section 137)
- ensure that 'all payments due to the government… are duly made' (section 137).

Again, the key here will be holding the government to account for these commitments.

5.2 Negative features

Most critically, and very disappointingly, the draft Act makes no proposed changes to any of the key tax/financial aspects of the country's mining legislation. The draft Act:

- Retains the royalty rate for precious stones (diamonds) at 5 per cent (section 124).
- Continues to allow duty-free import of machinery and other equipment intended for prospecting operations (section 129).
- Requires companies to continue to pay only 0.1 per cent of their minerals sales to a new Chiefdom Development Fund (section 130). Thus there is no increase over the current 0.1 per cent allocated to the existing body, the ADF.
- Retains the clause for companies only to 'give preference' to buying Sierra Leonean goods and services or to employing Sierra Leoneans (sections 140 and 141).

Furthermore, the process of reviewing the Minerals Act deliberately left out the Income Tax Act 2000, even though several of its key provisions relate to mining companies. As noted above, the Income Tax Act allows mining companies to offset 100 per cent of their capital expenditures against tax in their start-up phase – for prospecting and exploration.[105] Thus this concession, which may mean that government accrues zero revenues in the first years of operations, has been retained.

Donors: helping or hindering?

Donor policy is a mixed bag. The UK's DFID has provided £2 million over two years to support management and institutional capacity in the MMR, in a project implemented by the consultancy ASI, and which partly involves funding an expatriate in the position of director general of the MMR. ASI is helping to finalise the new Minerals Act, drafting new mining regulations and implementing a project to promote civil service reform in the MMR.[106] DFID has also been championing the need for much greater government transparency on mining revenues through the EITI agenda, and is also planning to spend £16 million to help reform the NRA.[107]

Given Sierra Leone's severe capacity problems, this support is broadly welcome. However, NACE has a number of concerns about donor policy:

- Most importantly, donors must champion mining tax reforms that bring greater revenues to the government. Hitherto, DFID has been silent on such reforms and its agenda appears to be solely focused on improving government capacity and transparency and establishing conditions for the country to attract foreign investment.
- There are particular concerns with the role of ASI, an international consultancy that has a track record of promoting privatisation in various countries.[108] ASI's interest is to 'attract large multinational mining companies' to Sierra Leone.[109] As with foreign investment generally, this may not be a bad thing in itself – but it must be accompanied by pro-poor tax reforms and adequate democratic monitoring and regulation.
- NACE also has concerns about an expatriate occupying the senior position in the MMR. Expatriates should serve as consultants and advisers in government ministries not as mainstream civil servants, which surely encourages over-dependence on donors and will fail to adequately build national capacity.

The World Bank – hands on the trigger

One of ten current 'triggers' (policies the government must implement) for the government to receive a US$10 million World Bank loan is changes to the mining tax regime 'in line with recommendations from the IMF'.[110] These recommendations, outlined in 2004, are far from all bad, but they do not call for any increases in royalties or other tax rates; they call for the diamond royalty rate to be retained at 5 per cent but for the rate for precious metals (currently at 4 per cent) to be reduced to 3 per cent. More worrying is the recommendation that the 'terms of the 2003 MOU [with Sierra Rutile] should be implemented'.[111] It is quite unacceptable that the World Bank should be enforcing any recommendations at this level of detail, when this is clearly the task of government – and still more when they are the wrong ones anyway. The triggers are contained in a confidential 2007 document showed to the researchers by an official in the World Bank. Further information was requested from the bank but none was provided.

Sierra Leone reached completion point status under the Heavily Indebted Poor Countries debt initiative in December 2006 and in so doing gained debt relief of around US$1.6 billion spread over 30 years.[112] This relief is being delivered after the World Bank and the IMF accepted that Sierra Leone had made 'satisfactory progress' in implementing the Poverty Reduction Strategy Paper set out in 2005.[113] One of the 13 'triggers' then agreed by the bank/IMF and the government to reach completion point was: 'adoption by the government of a revised mining policy to promote formal activities (including artisanal mining) and attract private investment for medium- and large-scale mining'. The bank/IMF's assessment of this trigger was that the MMR had 'adopted a Core Mineral Policy in 2003 that promotes formal activities (including artisanal mining) and the attraction of private investment for medium- and large-scale mining'. Indeed the bank/IMF notes that the Core Mineral Policy commits the government to 'review and amend mining laws, regulations and associated laws *to make them as attractive as possible for investment* in Sierra Leone rather than in neighbouring countries with similar mineral potential'.[114]

The World Bank is funding a US$6 million technical assistance project aiming 'to accelerate sustainable development of extractive industries through strengthening the policy, fiscal and regulatory framework and thereafter to attract investments in large-scale mining to continue sector growth'. The project intends to yield 'increased payments [sic] receipts from the extractive industries to the government', according to the bank's project document. Yet it appears to do this not by reducing tax concessions or raising royalty rates but primarily by 'strengthening assessment and collection of royalty payments' and through 'improved fiscal regime and improved regulatory enforcement of payments from small- and large-scale mining'.[115]

6. The impact on people in the mining areas

6.1 Mining's limited potential

Mining can potentially bring a number of economic benefits to local communities. In particular, companies can provide specific cash injections into the local economy by paying local taxes, they can create jobs and also stimulate local economic activity by buying local goods and services. Companies' voluntary community development spending can also help develop local infrastructure and services.

In practice, however, as experience around the world and especially in Africa has shown, these local benefits are usually much smaller scale than many people – governments, companies or communities – expect or claim; at worst, but also common, is that people are made poorer. Local people often have particular expectations of being employed by mines that establish themselves in their communities. Yet studies by the UN's trade body, UNCTAD, show that the:

> 'employment effects [of mining] are negligible… large-scale mineral extraction generally offers limited employment opportunities, and hence has little impact on employment, at least at the macro level. This applies especially to projects involving multinational corporations, as these companies tend to use more capital-intensive technologies and processes than domestic enterprises.'[116]

In Sierra Leone, employment in the formal mining sector is a way out of poverty: only 2 per cent of formal mine employees live in poverty, compared to 63 per cent of those dependent on agriculture, according to a recent World Bank study.[117] The problem is that formal mining in Sierra Leone employs very few people: only a handful of companies employ more than a few hundred.

Whether benefits materialise in the mining areas depends on the terms under which companies operate, not simply that they do operate. Key factors include:

- how much of the companies' tax payments are required to be remitted locally
- how many national/local people are required by law to be employed by the company
- whether there are legal requirements for companies to purchase a certain percentage of their goods and services locally.

Yet on all these counts Sierra Leonean law is inadequate or non-existent:

- Company payments to local communities are very limited, consisting of the contribution to the ADF (0.1 per cent of sales), the contribution to the DACDF (the 0.75 per cent of the 3 per cent royalty for diamond miners) and a small amount payable for surface rents.
- The Mining Act places no *requirements* on companies to employ either nationals or locals rather than expatriates (though it says expatriates should be hired only when nationals are not available) while companies such as Sierra Rutile and Koidu Holdings have agreements stating that they should simply 'give preference' to Sierra Leonean nationals. It should be said that the requisite mining skills are often simply not available locally.
- Neither are there any requirements on mining companies to source goods and services locally.

Worse still is the lack of adequate and clear regulations on critical areas of mining operations that can affect people in the mining areas, such as relocation of villages, blasting and underground mining, noted above. Overall, companies are working in, and local communities living in, a legal vacuum.

All in all, it is no surprise that Sierra Leone – whether in peacetime or in war – has had a poor record of ensuring that local communities benefit from mining. Kono district, the centre of the mining industry, which has produced hundreds of millions of dollars in diamonds in the past decades, has a higher level of poverty than some other areas of the country that are primarily agricultural. Rural areas of Kono have a poverty rate of 80 per cent compared to 60 per cent in Pujehun, a southern district bordering Liberia, for example.[118]

All this is even before we look at the actual policies of the companies.

6.2 Sierra Rutile

The Sierra Rutile concession stretches for 582km² across part of two provinces, Moyamba and Bonthe. NACE has focused this research on one of the five chiefdoms in which Sierra Rutile operates – Imperri chiefdom in Bonthe province, where Sierra Rutile is significantly expanding its operations. People in the region, who are predominantly Muslim and of the Mende tribe, depend overwhelmingly on farming for their livelihoods, working on small plots (average size of 1.2 hectares) and consuming most of the food they grow. The main food crops are rice, cassava, sweet potatoes and vegetables, while cash crops include coffee and cocoa. Both Moyamba and Bonthe are desperately poor regions, where 72 per cent and 85 per cent, respectively, of the population, lives in poverty. No local villages have access to electricity, there are few good roads (except those refurbished by Sierra Rutile), schools are basic and lack key materials and healthcare is rudimentary to non-existent.[119]

Positive impacts

Any investment of capital in this area likely to help address poverty is certainly much needed. NACE also understands that Sierra Leone is a high-risk country for foreign investors, having poor infrastructure, unclear government regulations and only recently having emerged from conflict. Realistically, investors will be attracted only if returns on investment are likely to be high.

TRG's investment amounted to US$292 million by the end of 2007, most of which has been spent on plant, machinery, equipment and mine development; it is the only significant non-farming economic activity in the area.[120] The biggest positive impact of this investment on the local community so far has been on employment:

- Sierra Rutile states it employs 1,400 permanent workers and 300 casual labourers (and fewer than 15 expatriates).[121] Estimates by NACE members are, however, that the number of casual workers employed may well be more than double that figure. Nevertheless, Sierra Rutile is the only significant employer in the area. It remains unknown how many of its employees are from the local area.
- Salaries paid by Sierra Rutile are much higher than people can expect to earn in any other way. Average monthly salaries are Le250,000-280,000 and, in addition, workers receive an allowance for rice, education and food and free medical care.
- The company claims that around 20,000 people are benefiting from its mine, either those in the households employed by the mine or secondary businesses or contractors.[122]

These mine employees and their beneficiaries are the lucky minority, since it can be assumed that over 150,000 people live in the mining area (a 1985 census put the figure at 95,000). Mine employees could also benefit more. The 2002 Sierra Rutile Act specifies that 'the company shall…establish a systematic training programme as to enable Sierra Leoneans to assume technical and managerial functions in the company'.[123] Yet when NACE asked Sierra Rutile in February 2008 whether it has established such a training programme, the company stated: 'so far it's informal, and will start in 2008'.[124]

Negative impacts

There are, however, various adverse impacts on people in the mining area, many of which have been documented and addressed by the main local NGO in the area, CADEM, a member of NACE. The most serious is the loss of farming land:

Loss of farming land

Rutile is found in the topsoil and mined by a process of flooding, dredging and separating the soil from the rutile, leaving behind large lakes and destroying the topsoil. Sierra Rutile's mining plan, outlined in 2001, was scheduled to impact on 1,583 hectares (3,910 acres) of land across its concession area. Of these, 1,210 hectares (2,989 acres) is farming land that was to be flooded, most of which is in Imperri chiefdom.[125] The most recent company figures, given to NACE, show that in 2007, Sierra Rutile acquired 1,272 acres of land for its operations and intended to acquire 714 acres in 2008.[126]

It is not known how many people have lost land in the past two years but it is certainly dozens and possibly hundreds of households. The overall effects are hard to quantify but certainly serious. All villagers to whom NACE has spoken have said their incomes, food production and consumption have decreased since they lost their land; many say openly that they have been plunged further into poverty. The paramount chief for Imperri told NACE that every day villagers came to her complaining of hunger and that less land has meant less food. Loss of land means less money available for school fees and for healthcare. It should also be said that many people now losing land in Sierra Rutile's current expansion were themselves relocated in the past – and lost land then also.

Sierra Rutile is completely aware of the massive risks of depriving poor subsistence farmers of farmland. Its 2001 Environmental and Social Impact Assessment (ESIA) – one of the documents guiding its current mining plans – recognised that:

- Eighty-four per cent of households regarded increasing land pressure in the area as a problem.[127] (Similarly, a November 2006 company report notes that 'due to large areas taken up by mining, there is significant local pressure on the land for competing agricultural purposes'.[128])
- Sixty per cent of family land is used for growing food (with 40 per cent reserved for tree crop cultivation) and therefore there was a risk of 'increased poverty due to the inability of the local population to produce adequate food supplies. Therefore, it is critical that Sierra Rutile implement effective reclamation strategies aimed at providing improved-productivity food supplies on reclaimed land disturbances'.[129]
- 'There are few sources of wage or cash income in the region other than farming'.[130]
- Contact with agricultural extension agents and services (to provide training, credit, improved crop and livestock) is 'virtually non-existent'.[131]

Thus Sierra Rutile committed in its ESIA and other documents to doing four things to mitigate the loss of land for farmers, the first two of which are its legal obligation:

1. Paying a **surface rent** for the time the company uses that land for mining.
2. Paying **compensation** to farmers for the loss of crops.
3. After mining, **reclaiming** some of the land back to agricultural use, and specifically promoting **'agricultural support programmes'**, notably to promote intensification to improve production.
4. For land that cannot be reclaimed, establishing **'alternative sources of income'** to improve livelihoods, notably by promoting a local fishing industry.[132]

However, according to the evidence acquired by NACE, the first two of these compensatory mechanisms are woefully inadequate, while there seems to be a big gulf between company promises and reality as regards the second two.

Inadequate surface rent payments

Surface rent payments – paid by the company annually for using land – are very low in comparison to what the land can produce in food or cash: the 2008 rate was US$11.29 per acre. All villagers consulted in this research say that surface rent payments do not cover their loss. One section chief who lost 200 acres of land told NACE that he received Le3 million (45 per cent of the compensation – see box), but that 20 households farmed on this land and also needed to be compensated – thus this sum was split across the 20 households, meaning that each household averaged just Le150,000.

Surface rent payments

Surface rent payments are paid by the company for using land. Their rates were set at US$10 per acre in 2003 rising by 3 per cent per acre per year thereafter – thus the payment for 2008 was US$11.29 per acre. The money is paid as follows: 45 per cent to the landowner, 20 per cent to the district councils, 20 per cent to the Chiefdom Development Fund and 15 per cent to the paramount chief.

The surface rent rates are set in the mining agreements made between the government and Sierra Rutile; thus it is the government that is ultimately responsibility for providing such low levels of payments.

Low compensation

Sierra Rutile's 2001 ESIA stated that the compensation rate for the loss of crops agreed with the government was based on one year's production and does not consider investment and replacement costs. 'Therefore, SRL will work with the government of Sierra Leone' for 'new compensation rates to cover replacement costs' and 'in addition to the agreed compensation for loss of the year's production, farmers will be provided with an equivalent number of seedlings for replacement of lost trees and shrubs'.[133]

However, NACE has spoken to no one who has been given, or knows about, the provision of seedlings. The reality is that compensation rates are very low, especially as they are one-off payments. For example, a coffee tree can last for 30 years and produce millions of Leones worth of coffee, but farmers receive just Le35,000 in compensation. Compensation rates rarely even cover one year's production – a kola nut tree, for example, can produce over Le200,000 worth in a year, whereas farmers receive a one-off payment of one-fifth of this in compensation. A mango tree can produce Le200,000-400,000 worth each year, yet the compensation rate is just Le50,000. In Lungi village, one farmer recently sold an orange tree to a neighbour for Le150,000 – had this tree been lost to Sierra Rutile's expansion, he would have been given only one-third of this in compensation.

The low compensation rates are not the fault of Sierra Rutile, since they are set by the government. However, it is widely believed that mining companies as a whole seek to exert some influence over the rates that the government sets for compensation.

Crop compensation payments

These currently amount to:

- Le35,000 for a coffee tree
- Le45,000 for a cocoa tree
- Le40,000 for a kola nut tree
- Le20,000 for a banana tree
- Le50,000 for a mango tree
- Le50,000 for an orange tree
- Le200,000 for a half-acre of rice
- Le150,000 for a half-acre of cassava.

The 1996 Minerals Act states that fair and reasonable compensation should be paid, but only at the present market value of the land; this does not take into account the enhanced value of the land under mining. A recent report commissioned by the World Bank states that 'it is not enough to give "fair market value" for their land and then expect rural, uneducated farmers to begin life anew'.[134]

Meagre rehabilitation

Sierra Rutile has committed itself to significant reclamation of land flooded in its operations. For example:

- Its 2001 ESIA stated that the company will reclaim more land than it planned to disturb during the current project expansion, since it will also reclaim a small portion of land affected by past mining operations.[135]
- It 'anticipates reclamation of mining disturbances to either agricultural land or fisheries in order to re-establish an income-generating post-mining land use to the maximum practical extent'.[136] Reclamation activities will involve 'providing topsoil or soil amendments and fertilisers to enhance the agronomic properties to provide a productive plant growth medium'.[137]
- TRG also states in its 2007 annual report that it has 'consulted widely with local communities on the best method for the rehabilitation of mined out areas' and is 'now developing a series of trial rehabilitation plots to provide results with which to support the development of these policies'.[138]
- Sierra Rutile has recently stated that 'over 70 per cent of the pond areas [created by mining] would be reclaimed/rehabilitated prior to cessation of mining operations'.[139]

These pledges are clearly welcome. So far, however, NACE has seen no evidence of any significant rehabilitation in the rutile mining area at all. Estimates of the amount of land affected by past rutile mining vary widely: the company's ESIA states the area is a total of 3,675 hectares of land[140]; a recent report commissioned by the World Bank suggests 13,000 hectares[141]. The latter report, from May 2007, estimates that just 80 hectares out of the 30,000 have been reclaimed.[142]

Sierra Rutile's 'rehabilitation' programme involves establishing a series of experimental rehabilitation plots, of which there are, according to NACE's information, 16 measuring 0.25 hectares. These are areas affected by mining where topsoil has been scooped away and where planting of a variety of crops, such as mangoes and cashews, is underway, to see how they will grow. However, this appears to be an exercise in experimentation rather than rehabilitation; there are presumably no guarantees that such methods will succeed.

'Agricultural support programmes'

The company's public plans make much of 'agricultural support programmes' to be provided to farmers who lose some of their land. The ESIA states that agricultural support will be provided in a programme called Livelihoods Assistance and Income Restoration 'and through various community development programmes'. It would involve 'assistance in establishing new plantations and crops' while 'education and training programs and extension services will be provided during the life of the mine to encourage sustainable agricultural intensification and agroforestry'.[143]

These programmes remain a mystery to NACE and the company has, to NACE's knowledge, provided no details in the public domain about its spending or support in this area. The Sierra Rutile Foundation (SRF) is not funding these programmes, as was confirmed by Sierra Rutile's community affairs officer, who added that 'Sierra Rutile does not even have an agricultural department'.[144]

It is likely that the company's funding for agriculture comes solely from its (obligatory) contribution to the ADF. Interviews with villagers in Imperri chiefdom showed that when villagers were aware of any agricultural programmes involving Sierra Rutile, they believed these to be ADF programmes only. If this is correct, the ESIA commitments are highly misleading since these clearly imply that the company will provide additional support to agriculture other than through this fund.

More confusion. What is obligation? What is voluntary?

Sierra Rutile's agreement with the government is to contribute annually to the ADF the higher of 0.1 per cent of gross sales of rutile and ilmenite or US$75,000, to be used for the development of agriculture in areas affected by mining. The annual amounts are paid to a separate fund controlled by the government, chiefdom representatives and company representatives.[145]

When NACE researchers asked company officials in different interviews why they did not appear to be supporting agricultural programmes for those that have recently lost land, as promised in the 2001 plans, the reply was that company rutile production was currently less than expected and that the cash was not available. Yet nowhere in the company documents committing to promoting these programmes is it stated that they are dependent on the level of company performance; rather, they appear as a commitment. After all, people are losing land however well or badly the company is doing.

It is crucial to note that the company's commitment to mitigating losses suffered by farmers from its mining operation, as outlined in the 2001 company documents, is *separate to and in addition to* its other community development spending in the SRF (see box below). The latter spending is purely *voluntary* and there are no legal commitments to spend anything or even implement promises. This, however, is not always clearly understood by the community, who tend to regard all promises made by the company as needing to be implemented. By failing to differentiate clearly between what are its specific commitments and what may be aspirations – and more importantly, by failing to implement either in full – Sierra Rutile is contributing to confusion and overly high expectations in the mining communities. The government of Sierra Leone is also to blame, since it fails to make clear in the mining regulations what is expected of companies, and what is not.

'Alternate sources of income'

The company also made commitments to support farmers who would lose all their land, and who therefore require alternative sources of income. The ESIA states that 'alternate sources of income will also be developed through the Initial Community Development Plan'; a key part of this is that 'the fishing industry will be supported through the Initial Community Development Plan', notably by converting the dredge lakes produced by mining into sources of fish.[146]

NACE has not been able to establish how much the company is spending on developing local fishing. However, our understanding is that this is very rudimentary and may amount to one project breeding fish for ponds.[147] If so, this hardly amounts to a significant programme for providing alternative sources of income for hundreds of people in households who have lost land.

Sierra Rutile's community development spending

Sierra Rutile's plans outlined in 2001 envisaged two bodies for supporting community development in the areas affected by its rutile and bauxite operations. The first was an 'Initial Community Development Plan' to be managed by the company, which would support the agricultural programmes and the alternative sources of income projects, such as fisheries, mentioned above. It had an indicative budget of US$96,000 for the first two years.[148] However, NACE has never seen a more recent budget or plans for this programme, which is not published on TRG's website. This programme therefore remains a mystery.

The second body was the SRF, which was eventually established in January 2007. Sierra Rutile will contribute a 'minimum' of US$100,000 each year, to which a further contribution is made by the company as production increases; company officials say that the contribution will be around US$150,000 a year but could increase to around US$350,000 a year, dependent on the rate of rutile production.[149] As of April 2008, the company states that 56 projects costing around US$135,000 are being 'verified for funding' by the foundation. However, as of July 2008, TRG's website states that just one project has been approved so far (the biodiesel project; see below).[150] A steering committee to manage the foundation has been formed, comprising representatives of the company, local government, community and NGOs and the paramount chiefs.[151]

The latest company material lists a number of projects that will be supported by the foundation.[152] The major projects include:

- A biodiesel project involving plans to cultivate 5,000 acres of palm oil to produce biodiesel, involving the commissioning of a biodiesel refinery and the recruitment of staff for the plant.
- Support for a banana project being undertaken with the transnational corporation, Chiquita Brands International, in which 3,000 acres of land have 'been surveyed and demarcated' near (but not in) the Sierra Rutile concession area. The company states that the project will provide 5,000-6,000 jobs to Sierra Leoneans, most of whom would come from the mining communities.[153]
- An educational resource centre that is supplying textbooks and reading materials that the company claims will benefit 25,000 children.[154]
- A technical vocational centre to conduct skills training for 75 students initially, rising to 200.
- A series of other small projects such as refurbishments of various community structures such as a school, a market, the provision of five new water wells, the provision of building materials to 30 families and a donation of 182 bags of rice to the community.

The company is clearly making some voluntary efforts to improve the conditions of the local community, while NACE finds that the company's individual community affairs staff do appear personally committed. However, NACE has two major concerns about Sierra Rutile's community development spending.

Company choice of projects

It is utterly bizarre that the first (and only) major project chosen for support by the SRF is a biodiesel project. The local community is crying out for support for basic needs such as water and decent school equipment, for example, which are surely far more critical than a speculative, more long-term venture which may anyway involve further displacement of people from their farmland.

Local resentment against the company comes from the fact that much of the plant infrastructure benefiting the mining operation bypasses the villagers. Most notably, a water pipe supplying the village of Mobimbi, built by Sierra Rutile for its employees, runs right through the village of Mogbwemo. However, villagers have no access to this pipe and there is only one shallow-dug well serving the population of several hundred people. The company states that the pipe does not provide enough water for the community as well as the company.[155] This may be true, but hardly explains why the company does not focus the SRF on providing such water. Company literature notes that in the area 'drinking water sources are unsafe, leading to prevalence of water-borne diseases, such as worm infestations, malaria, diarrhoea and cholera'.[156] It also notes that malaria affects nearly everybody.[157] Similarly, an electricity line also runs through parts of Mogbwemo, again serving the company village of Mobimbi, but not the community, which lives without electricity.[158]

Sierra Rutile states that 'the TRG board selected the biodiesel project as the first major project of the SRF because the location of the mine in the districts of Bonthe and Moyamba, where palm oil production is the mainstay of the economy of these districts' [sic]. The use of palm oil as feed in the biodiesel project is meant to boost oil palm production through the granting of support from the SRF to farmers to enable them to either expand their existing farms or to establish new oil palm plantations.[159]

NACE also question why the company is promoting a banana project with Chiquita , one of the biggest banana companies in the world, despite Chiquita's reputation for poor labour relations. The project lies outside Sierra Rutile's concession area.

A consultation among villagers conducted by NACE in March 2008 found that people's perception of the foundation was that nothing had changed and that the fund had yet to address community needs. There was particular concern that it was really the company, not other stakeholders, controlling the use of the funds and that, for example, funds were being used for the biodiesel project without the approval of the community.[160]

Low amount of spending

The amount pledged to be spent each year – at around US$150,000 – is relatively small in comparison with the future profits that are likely to be generated by the project. As noted above, it is also clear that, after two years of operations, very little has so far actually been spent.

The relocation of villages

Sierra Rutile's operations caused the relocation of 13 villages in the area from 1985 to 1994, involving 5,781 people – around 6 per cent of the regional population.[161] Precise figure are not available to ascertain whether relocated villagers are worse or better off than before. On the one hand, NACE interviews suggest that people believe they now have better houses, and some a better quality of school buildings. On the other hand, almost all relocated villagers have lost agricultural land, translating into decreased incomes and, often, a loss of food security. What people have gained in one area has been lost in another. The danger is that this will continue as Sierra Rutile embarks on a new phase of relocations.

To make way for mining another rutile deposit through flooding and dredging, the village of Foinda was scheduled to be relocated in 1994; plans were at an advanced stage but were delayed when the mine ceased operations in 1995 due to rebel attacks. After the war, in 2001, a Resettlement Action Plan (RAP) was drawn up and after production began again plans have resumed to relocate the village and its current population of 80 households or 769 villagers (compared to 533 villagers recognised in 2001).

However, the Foinda relocation has been repeatedly delayed by Sierra Rutile, meaning that the villagers have long been in a state of limbo. In 2006, the company told villagers to stop planting cash crops (but not food crops) even though it could not guarantee when the relocation would begin. Company officials told NACE that they had told villagers to stop planting to prevent 'fraudulent compensation' by planting more crops than the company had already assessed. The company argues that none of the villagers actually wants to plant new cash crops. In interviews and a focus group discussion, Foinda villagers also told NACE that they have not been shown a proposed new village plan, so they do not know to what they are moving. Most importantly, villagers say they do not know what the new land they will be farming will provide, and whether this will be sufficient for their livelihoods. The company says it has quarterly meetings with the paramount chiefs on the relocation issue and has conducted eight separate meetings with the Foinda villagers.[162]

The Foinda villagers could benefit from relocation. They are almost all subsistence farmers and desperately poor, earning less than US$34 a month, with access to only a makeshift village school and other poor amenities. The houses to be built by the company are likely to be better than villagers' current houses and have walls made of concrete rather than wattle mud.

Sierra Rutile's consistently stated policy is that every household should be 'at least as well off as, if not better than, it was before the move'.[163] Whether or not this happens depends on whether the company meets it promises. The company promised in its 2001 plan to implement community development programmes to restore any income losses from the relocation.[164] This includes supporting skills training, the provision of micro credit and developing 'new agricultural production systems' to intensify land use and improve yields, which includes the provision of tools and seeds or seedlings for oil palm, coffee, cocoa and vegetables.[165]

It remains unclear how much the company is paying for the relocation. The 2001 plan budgeted around US$500,000, of which the largest portion would be spent on the construction of new houses at the new site[166]; the same figure was given in an interview with the company's CEO[167]. However, the community affairs officer told the authors the figure would be 'more than US$500,000' while a former company official said it would be spending around US$3 million.[168]

The signs are not good that the company will meet its promises. The Foinda villagers are to be relocated next to Madina village with whom they will share amenities. Madina was relocated in 1994 and now contains 354 people. In the new village Sierra Rutile built a market building, a mosque, a school and building for use as a clinic, many of which were destroyed or harmed during the war to the extent that they are no longer useable. If the Foinda villagers are to improve their lives after relocation, the company will have to do much more to put in place amenities. Currently, these are next-to-non-existent in Madina:

- School. This was constructed by Sierra Rutile in 1994 as part of the relocation. A company report of November 2006 stated that the school is 'collapsing and posing a serious threat to the safety of the teachers and the taught'.[169] An April 2008 report stated that Sierra Rutile has refurbished the school.[170] However, the report authors visited this school in July 2008 and discovered that the company has done two things: replaced the roof, but not the old timber beams that supported it, and undertaken some painting of the outside walls, which was not completed. School equipment, such as tables and chairs, remains old and dilapidated. Khadiya Kpabom, a senior teacher at the school, told NACE that the school's 400 children have to be housed in six classrooms; there are just five teachers. This is the school to which the relocated Foinda children will be sent.
- 'Clinic'. There is a clinic building in Madina built by Sierra Rutile which has never been used as a clinic and in which people are currently living. Company material notes that, currently, there is only one clinic serving Foinda, Madina and nearby Gbangbama, which was constructed by the NGO, World Vision, but where the availability of basic drugs is 'irregular'.[171]
- Water. At Madina, company material of November 2006 recognises that 'there is only one protected dug well', which was built by World Vision after the war and that 'all the wells constructed by SRL at Madina before the rebel war are now non-functional'. The company also recognises that all the water sources in the area are 'unsafe'.[172]
- Houses. The houses are better quality and larger than in the old village. But the company did not build kitchens or inside toilets, leaving the villagers to do this themselves.
- Land. Madina villagers told NACE that they have no land of their own to farm, but that ever since relocation have rented land from neighbouring villages.

Conclusion: Sierra Rutile – positive or negative?

Viewed over the past 20 years, Sierra Rutile has had a harsh impact in the region, especially on the nearly 6,000 people who have been relocated. They have received generally better houses but quite possibly all have seen their livelihoods made more vulnerable through loss of land.

In the current phase of expansion, it is unclear whether the overall impact will be positive or negative. Clearly, the number of people benefitting from mine employment – if it really is close to 20,000 people – is significant, and likely to be higher than the number of people affected by losing land. Further benefits could come once Sierra Rutile generates profits to the Sierra Leonean government – but only if the company is made to pay fair royalty and other payments, and only if the government ensures some of these benefits are spent on the communities affected.

Even if Sierra Rutile's overall impact stands a chance of being positive overall, hundreds of poor rural farmers may become still poorer; the company should be doing much more to mitigate these impacts, especially by meeting its promises to promote agricultural support programmes, and by increasing and improving its community development spending.

6.3 Koidu Holdings

Kono district, the site of Koidu Holdings' kimberlite diamond mine, has a poverty rate of 70 per cent and was the centre of the struggle for 'blood diamonds' during the war.[173] People in the area are overwhelmingly subsistence farmers or artisanal miners, while the Koidu Holdings mine is the only large economic activity. As with Sierra Rutile, Koidu Holdings' most significant positive impact has been as an employer. Until it was forced by the government to suspend operations in December 2007, the company had around 600 local and 70 expatriate employees.[174] The average salary for Koidu Holdings employees is around US$250 a month, with the lowest paid US$130; employees receive some medical cover, a meal a day and a transport allowance.[175] These incomes, together with the other business activities generated by the mine, provide an important stimulus to the local economy, and Koidu town has grown significantly since the mine re-opened in 2004.

Employment in Kono

A recent survey by the Sierra Leonean NGO, Network Movement for Justice and Development (NMJD), shows that many companies are reluctant even to reveal the number of workers on their payroll.[176] However, it is believed that the total number of people employed by mining companies in the district is relatively insignificant, with most companies employing fewer than 50 people.[177] The exceptions are the larger companies, such as Koidu Holdings, noted above, and African Minerals, which is believed to have around 500 staff, of which around 65 are expatriates.[178]

A recent study suggested that:

- only three (out of ten) diamond mining companies operating in Kono district have registered their workers with the National Social Security and Insurance Trust – Koidu Holdings, African Minerals and Bassam Mining Company
- only three companies provide medical facilities for their workers (Koidu Holdings, A-Z Mining Company and Sandor Development Corporation)
- only one company provides leave allowances for its workers.[179]

Other Koidu Holdings contributions at the local level include the obligatory proportion of the royalty that is allocated to the DACDF (see section 6.4) and the contribution to the ADF. As noted above, once the company begins to make profits, the returns to central government are projected to be significant, and this will include a 10 per cent profit share going to the Kono community.

However, Koidu Holdings has been the focus of considerable criticism locally and nationally for various adverse impacts of mining on local people. NACE's understanding is the following:

- Some criticisms are unfounded. For example, there is no evidence of serious adverse health impacts or serious dust and noise pollution from mining, as has sometimes been reported in the Sierra Leonean media.
- Some apparently poor company policies are mainly the fault of unclear government regulations, such as the lack of a legal framework for resettlement, the lack of adequate monitoring of the EIA, the lack of laws on underground mining and the lack of comprehensive laws on blasting
- Some accusations levelled at the company – in terms of what it has not delivered in social services, for example – are the result of unrealistic expectations. The company itself argues that the gap in earnings between company employees and others causes animosity, and that community expectations are not in line with what the company can realistically support: 'Managing these expectations and helping the community understand the scale and timeframe of benefits to flow from the operation is one of the most significant challenges we face'.[180] There is some truth in this; however, expectations have also been raised by company promises themselves (see below).

This said, some criticisms of the company are justified and some adverse impacts on local people are the result of specific company policies. The two most contentious areas of company policy are blasting and relocation.

Blasting

In 2003, Koidu Holdings commissioned independent consultants to produce various social plans for redeveloping the Koidu kimberlite project, including an EIA, a RAP and a Community Development Action Plan. In the RAP, Koidu Holdings committed to relocating 284 households (2,380 people) – a process which has never been completed.[181]

In December 2007, hundreds of demonstrators gathered at the company's gates in Koidu town to protest against the policy of continuing to blast without having adequately relocated people. After the company's blast siren sounded, indicating that blasting would start, the police fired teargas to disperse the crowd and blasting then took place, following which the crowd went wild, according to the commission established by the government to investigate these events. This commission, headed by a former attorney-general, Blyden Jenkins-Johnston, reported in March 2008. It accused the police of acting in an 'indiscriminate, disproportionate and reckless' way, in shooting two people dead. It also stated that had Koidu Holdings 'shown a little bit of restraint and sensitivity towards the demonstrators… by not proceeding with the blasting', the deaths 'could have been avoided'.[182]

The Jenkins-Johnston commission accused the company of continuing to blast without having relocated all the people it committed to five years previously.[183] However, it should be noted that the RAP, although committing Koidu Holdings to 'a rolling or continuing resettlement process', states that 'blasting activities will be initiated prior to the completion of the resettlement process', and that during blasting people will be temporarily evacuated from all houses within a 100m and 250m radius from the blasting site; thus it does not state that blasting will take place only once resettlement has been completed.[184]

The commission recommended that all people within a 500m radius of blasting (compared to the current 250m radius) should be relocated before any further blasting takes place;[185] and the government White Paper which followed the commission's report accepted this recommendation.[186] Koidu Holdings argues that the 500m recommendation has no technical or legal basis, and that it would require relocating houses beyond the mining lease area.[187] In evidence to the Jenkins-Johnston commission, Koidu Holdings' chief executive, Jan Joubert, said that 'it would have been ideal for us to evacuate everyone before blasting started. But without blasting, there is no mining, and without mining there is no job creation'.[188]

Blasting can in some cases lead to cracked houses and harm to individuals, but this has not been a problem in the Koidu Holdings area. Company policy is to mend any structural defects on houses, which appear to have happened infrequently, while individuals are notified two days in advance of blasting.

Relocation

As well as committing to relocate 284 households, Koidu Holdings also pledged to build around 360 houses plus 199 secondary structures (latrines, kitchens and storage huts).[189] However, the relocation process has been delayed since 2004 owing to the failure of the company and the community to agree a way forward. The company says that villagers originally agreed to the size and layout of the new houses, following which the construction of the first ten went ahead and were handed over to the new owners in July 2004. It was only after this, the company says, that some members of the community complained about the quality of the houses (wanting mud rather than the concrete houses built by the company). At the same time, some in the community questioned the original relocation site, arguing that it was no longer suitable, which also delayed the construction process. The company states that it was eventually agreed that the town planning officer, in conjunction with the affected people, would draft the house plans themselves; however, after six months no alternative plans had been produced and so Koidu Holdings went ahead with the resettlement programme.[190]

Seventy-eight houses have so far been completed at the resettlement site with the construction of a further 35 in progress.[191] The Jenkins-Johnston commission stated that these are 'not of sufficient standard as would be expected of any building being constructed for human habitation in 2008, in that none of them have a kitchen, bathroom or toilet or even running water'.[192] This failure appears to contradict the promise in the RAP that 'basic sanitation and water supply will be provided for households at the new site'.[193] The company argues that villagers did not have inside kitchens and toilets before, and that the houses are of better quality, and many are larger, than at the old site; the company website, citing a government survey, states that the houses are worth 10 to 20 times more than the old houses.[194]

Where Koidu Holdings has mainly failed is in not providing the social amenities in the resettlement village pledged in the RAP. The Jenkins-Johnston commission states that the resettlement village has 'no community facilities such as a school, market, shops, church or mosque or recreational facilities, notwithstanding the lofty goals and pronouncements in the Community Development Action Plan'.[195] The failure to meet these pledges is the root of much of the local community's complaints about Koidu Holdings' operations.

A school is currently being constructed at the new village. As for healthcare, in evidence to the Jenkins-Johnston commission, Jan Joubert said: 'Our clinic is a very small clinic and people are expecting too much from us with all our constraints. We cannot open up to everybody as we will not achieve anything that way.'[196]

The Jenkins-Johnston commission recommended that an 'independent team of arbitrators' be appointed to determine the type of houses and amenities to be provided;[197] to which the government agreed in its White Paper[198]. The company states that it already commissioned evaluators to make recommendations and also that any changes now would create discrepancies between those already housed and others.[199] Koidu Holdings has commissioned a new resettlement plan that will relocate around 200 more households to the new village, the plan being to build 30 houses a month.[200]

Community development spending

Koidu Holdings' website does not provide a breakdown of the company's community development spending – and company estimates vary widely: a senior Koidu Holdings employee told NACE that the company spends around US$150,000 a year on community development[201]; the company's CEO told the authors it spent US$30,000 a month (which would amount to US$360,000 a year)[202].

The company's website provides some details of this spending, which includes refurbishing some local schools, providing scholarships to 150 secondary school children, the drilling of some water boreholes for community use, refurbishing a hospital and promoting a pilot agricultural project to improve local farming. The company also highlights its refurbishments of roads, notably a 68km stretch between Koidu and Tongo, a benefit to the local community but which also benefits the company as it transports ore from mining in Tongo for processing at Koidu.[203]

6.4 The Diamond Area Community Development Fund

The DACDF was established in 2001 with the aim of supporting development in the mining areas. Managed in the MMR, it receives 0.75 per cent of the 3 per cent diamond export tax; diamond mining companies paid US$885,561 (£593,000) into the DACDF in 2007, according to the latest GDO figures.[204] The money is disbursed twice yearly (in June and December) to each chiefdom development committee, headed by the paramount chief, and including representatives of local government and the community. District councils receive 15 or 20 per cent of the funds and town councils can receive 5 per cent, dependent on whether or not the chiefdom is part of a town council. The amount of funds received by each chiefdom is determined by the number of mining licences in that chiefdom; as of early 2008, around 50 chiefdoms were eligible for funds.[205]

One of the perceived advantages of the DACDF is that it means the chiefdoms have a personal interest in combating smuggling and other illegal mining activities since an increase in legal diamond revenues will mean increases in funds to them.[206] Another advantage is seen as being that the fund contributes to local development, with prioritisation given to community infrastructure projects (such as schools, health centres and roads), agricultural projects and skills training programmes.[207] An October 2006 study of the DACDF by the NMJD concluded with three main findings:

- that the fund had contributed significantly to improving road networks in some chiefdoms
- that social infrastructure had increased in chiefdoms receiving DACDF funds compared to non-recipients
- that there was a marked reduction of illegal mining (and thus increase in legal mining) in most DACDF chiefdoms.[208]

However, the DACDF has also been fraught with problems since its inception, which are linked to poor governance at the local and community level in the country. The major problems in some chiefdoms have been:

- corruption – with funds having gone missing
- cronyism – with questionable projects being awarded to personal connections of the chief and not focused on community needs or aligned with broader development plans at local/community level
- centralisation – with the chief often being too powerful and undemocratic to ensure ownership over projects to be supported
- lack of transparency and accountability – with poor scrutiny by outsiders, including the MMR, over projects.

Soon after its introduction, it became clear that a number of chiefdoms, though by no means all, were abusing the funds; in 2004 the government temporarily suspended the disbursement of funds.[209] The MMR is aware of the lack of transparency and accountability in the use of DACDF funds in some chiefdoms and of the need for more rigid controls.[210]

A recent study by NMJD/Campaign for Just Mining notes that of the 14 chiefdoms in Kono district, mining takes place in only five (which are thus eligible for DACDF funds) – the other nine chiefdoms do not benefit at all.[211] This is precisely why central government revenue is also important, alongside the DACDF, to ensure that the country's resources are distributed according to need. As well as problems associated with the management and monitoring of the programme, the DACDF's major problem is that it has insufficient funds, due to the tiny proportion it receives of a small royalty rate applied to diamond sales. Improvements in monitoring/management need to take place alongside a significant increase in proportion of the royalty rate allocated to the DACDF, in NACE's view.

7. Recommendations

Many laws and policies need to change if ordinary Sierra Leoneans are to benefit significantly from mining.

Recommendations for the next six months (to the presidential task force reviewing the mining contracts, the government and companies):

- **The government must commit to meeting the recommendations on transparency outlined in the draft Minerals Act.** The government must also implement all the criteria needed for full membership of the EITI.
- **The government must follow through on its commitment to review the contracts signed with individual companies.** The government should not offer specific concessions to individual companies but set a level playing field for all companies in the revised Act.
- **The review of the Sierra Rutile agreement must revise its various terms, and increase the royalty rate significantly.** This must be done openly and not behind closed doors and suddenly presented as a *fait accompli*.
- **The government must revisit the proposals in the draft Act to ensure that some of the tax rates and laws change.** It is completely unacceptable that the current draft Act has retained all the financial provisions of the previous Act. Consideration should be given to the following:
  – raising the 3 per cent royalty rate for diamond companies *alongside* sequenced improvements in monitoring and enforcement of diamond production
  – making provision for the government to be able to impose windfall taxes (excess profits taxes) when commodity prices are higher than a specified level
  – requiring firmer commitments by companies to employ nationals and conduct skills training programmes
  – requiring more specific commitments by companies to spend money on buying Sierra Leonean goods and services.
- **The government should aim to accrue at least 10 per cent of the value of mineral exports as revenues – not the apparent current target of 7 per cent**
- **The government should consider increasing the percentage of the royalty allocated to the DACDF from 0.75 per cent to 1.5 per cent, at the same time as establishing firmer regulations (mainly concerning transparency and accountability) to ensure proper allocation of these resources.** The allocations to each chiefdom should be based on production levels not – as currently – on the number of leases in each area, as this approach encourages reworking of exhausted areas.[212]
- **The government should consider introducing a Rutile Area Community Development Fund**
- **The draft Minerals Act must prevent agreements being made that include 'fiscal stability' clauses.** The current draft Minerals Act says nothing about 'fiscal stabilisation' that is, the extent to which government may be bound in future agreements with companies to maintain current tax rates. The absence of any such clause is positive if no such tax stability agreements are to be signed. Yet the government is likely to come under pressure, in negotiating new contracts with companies, to make such tax stability pledges. The Act should state that any stability agreements must not restrict the freedom of Sierra Leone, including its parliament, to change laws and policies, without incurring financial penalties.
- **The large mining companies should be subject to an independent audit.** This audit will be a signal that the government is welcoming respectable companies to operate in the country and a further sign of its commitment to transparency. The results of this audit must be made public.
- **All companies operating in Sierra Leone should immediately commit themselves to publicly report (a) their basic financial data, including their annual accounts, (b) their remittances to government and (c) details on their community development spending.**
- **Donors should champion changes to the fiscal regime, as outlined above, rather than solely focus on improvements in government transparency and capacity.**

Longer-term recommendations: to the government

- **The government must establish clear regulations for relocation, blasting, consultation and underground mining.** In particular, it needs to be made clear, at the beginning of each medium- and large-scale mining project, who is responsible for the provision of services and infrastructure.
- **The government should undertake a review of the environmental impacts of the mining companies and ensure there are mechanisms in place to monitor environmental impacts.**
- **The government should outline in a public strategy document how changes to the mining regime will better benefit Sierra Leoneans and how it will ensure this.** This should include how the government is going to increase capacity, transparency and monitoring of the sector.
- **The government must reconsider crop compensation and surface rent payments to poor farmers, and revise them upwards, especially in the rutile area.**
- **The government should outline a strategy for combating diamond smuggling.**

To the donors

- **Donors should increase their aid to improve government monitoring, capacity and regulation of the mining sector.** This should be in the form of capacity-building support.
- **The World Bank must not link specific fiscal changes in Sierra Leone's mining tax regime to the provision of aid.** Instead, it should help improve government capacity to improve the mining sector and support national dialogues on mining legislation.

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Front cover: Finda Bongay was relocated by Koidu Holdings after they began blasting to access diamonds. The houses look attractive, but the mud bricks that have been plastered crumble easily. As there is no health facility, Finda has to spend 4,000 leones each day taking her sick husband Komanda to the health centre. NMJD and Christian Aid are part of the National Advocacy Coalition on Extractives, which hopes to see better regulation of both small- and large-scale mining.