Africa Centre for Energy Policy

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Policy Note: Withdrawal of the Ghana–Barari DV Lithium Agreement

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1. Background and Context

Following sustained public commentary, the lithium mining agreement between the Government of Ghana and Barari DV (Atlantic Lithium) that had been laid before Parliament was withdrawn. The withdrawal was driven primarily by concerns over the revised fiscal terms, particularly the royalty rate.

In Ghana's natural resource governance, mining and petroleum agreements are often approved rapidly by Parliament, sometimes with the suspension of standing orders. Against this background, the withdrawal of a resource contract in response to public debate is notable and reflects growing public engagement in extractive sector governance.

However, the absence of clear market signalling and coordinated communication contributed to a sharp decline in Atlantic Lithium's share price (approximately 30%), highlighting the importance of transparency and predictability in policy actions. Note that Ghana has invested in the company through MIIF in the Parent company and the local project.

2. Substantive Issue: The Royalty Rate

The core policy question is not whether Ghana should capture value from lithium resources, but how this value is captured in a manner that is legally sound, globally competitive, and resilient across commodity price cycles.

Under the original agreement signed in 2023, the royalty rate was negotiated at 10% of gross production value. In the agreement later laid before Parliament, this rate was revised downward to 5%, triggering public criticism and policy debate.

3. Mining and Petroleum Sectors: Different Processes, Same Fiscal Intent

There is an important distinction between the licensing structures of the mining and petroleum sectors, but this distinction does not imply a difference in fiscal intent from the point of exploration.

In the petroleum sector, exploration and production rights are granted under a single petroleum agreement covering a defined block. Upon a commercial discovery, the contractor relinquishes non-productive acreage and retains only the production area. In effect, the production area is carved out of the original exploration block, but the fiscal terms agreed at entry govern the project throughout its life, subject only to provisions explicitly contained in the agreement.

In the mining sector, the process is administratively different but fiscally analogous. Companies first acquire exploration licences, and upon a commercial discovery, apply for mining leases. The mining lease is negotiated later not to reopen fiscal intent, but because lease sizes are regulated and must be calibrated to the footprint of the mineralised area identified through exploration. To that extent, a company may require multiple leases to hold on to mineralized area after exploration. The separation of licenses therefore reflects spatial and technical considerations, not an opportunity for fiscal renegotiation.

In both sectors, the fiscal assumptions that underpin exploration risk-taking are formed at the point of entry. Investors assess geological risk, capital allocation, and project viability based on the prevailing statutory fiscal regime at the time exploration rights are granted. The subsequent transition from exploration to production, whether through acreage relinquishment in petroleum or lease sizing in mining, does not alter the original fiscal intent of the state.

This interpretation is reinforced by the Minerals and Mining (Amendment) Act, 2015 (Act 900), which amended Section 25 of the Minerals and Mining Act, 2006 (Act 703). While Act 900 empowers the Minister to prescribe royalty rates by regulation, Section 6 of Act 900 provides an important caveat preserving the application of the existing 5% rate until the new rates were set in regulation. Therefore in 2016 when the exploration license was granted the applicable royalty rate was 5%.

Accordingly, the mining lease process should not be treated as a discretionary trigger for introducing materially different fiscal terms once exploration risk has been resolved. To do so would blur the distinction between administrative sequencing and fiscal policy and would undermine regulatory predictability across the extractive sector, essentially defining the behavior of government in the global investment marketplace.

4. Policy Signalling and Investment Risk

Attempts to impose materially higher fiscal terms after exploration success risk signaling fiscal instability as alluded to above. Such signals extend beyond a single project and have implications for Ghana's broader investment climate, especially in emerging sectors such as lithium.

While Atlantic Lithium expressed willingness to accept a higher royalty during the peak of lithium prices in 2022–2023, this should not be conflated with a general policy precedent. Fiscal frameworks must be designed for long-term credibility rather than short-term price cycles. The example in the petroleum sector is almost tangible. Post discovery appetite for high fiscal take without effective benchmarking handed the industry to speculators rather than serious companies with financial muscle to operate the oil blocks. The evidence has been the dwindling production of oil, though high oil production was hurriedly modeled into the country's fiscal frameworks post 2018.

5. Global Context: Hard-Rock Lithium Royalty Comparison

Globally, hard-rock lithium royalties tend to fall within a relatively narrow range. A fixed royalty rate above 5% of gross production value is uncommon for spodumene operations. The 10% royalty rate drives All-In Sustaining Cost (AISC)[i] above $600, one of the highest in the industry. Even landlocked Mali has AISC under $400. Table 1 below shows how much of an outlier Ghana's royalty rate is.

Table 1: Indicative Global Royalty Rates for Hard-Rock Lithium

Jurisdiction	Royalty Basis	Typical Rate
Australia (Western Australia)	Gross value	5%
Canada	Gross value	2–3%
Brazil	Gross value	1–3%
Mali	Gross value	3%
Zimbabwe	Gross value	5%
Ghana (proposed)	Gross value	10–12%

6. Reserves and Market Position

The Ewoyaa project represents approximately 0.5% of global lithium reserves. Ghana is therefore not a dominant proven-reserve holder in the global lithium market. Fiscal rigidity at levels significantly above global norms is not supported by reserve concentration or market power; the feature that allows countries to dictate fiscals above competitive range.

7. Price Cyclicality and Fiscal Sustainability

Lithium markets are, like many metals, is cyclical. Fixed, high gross royalties are regressive during downturns and pose a direct threat to project viability. Royalties are the most sensitive fiscal instrument affecting mine survival; if a mine fails, all other fiscal benefits are foregone. This reflects the progressive shifts toward profit and price-linked royalties by market leaders like Chile.

8. Broader Fiscal Take Beyond Royalties

Royalties are only one component of government revenue from mining operations. Ghana also benefits from corporate income tax (35%), community development levies, growth and sustainability levies, local procurement and employment, indirect taxes on goods and services, and dividends from state participation. All of these must be modeled together to define government take.

9. Policy Conclusions

The withdrawal of the agreement reflects healthy public debate, but it also exposed weaknesses in policy communication and an overstatement of Ghana's position in the global lithium market. It is therefore important to elevate the conversation beyond the Atlantic Lithium case and focus on designing clear, credible, and consistent fiscal expectations for investors.

Whatever royalty rate the country ultimately adopts, that expectation should be communicated upfront, before exploration licenses are granted, so investors can assess risk with certainty. In this context, the following considerations are critical:

1. A 10–12% gross royalty for hard-rock lithium is globally atypical and places Ghana above the competitive norm.
2. Legal certainty is essential to sustaining investor confidence and credibility in the mining regime.
3. Progressive, price-linked fiscal mechanisms are more effective than rigid gross royalties in capturing windfalls while preserving viability.
4. Fiscal design must ensure project survival across commodity price cycles, as mine failure eliminates all other fiscal and economic benefits.

10. Next Steps

A follow-up note will examine:

1. The total fiscal take of Ghana under various scenarios, detailing the sensitivity of all fiscal components.
2. The industrial policy dimension of Ghana's lithium strategy, including beneficiation economics, sequencing of value addition, and realistic expectations for downstream development; primarily answering what is possible with 36 million tones of spodumene reserves, about 154,000t of Lithium Carbonate Equivalent (LCE).

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[i] This is a sustainability and competitiveness measure to determine the cost of running a mine, not profitability or government take. A more rigorous tool for investment decision is IRR and NPV which accounts for other cost such as capital investment, taxes, decommission cost etc.