

=

## **|CSOs Response to the Implementation of the Minerals Income Investment Fund and Matters Arising**

**25<sup>th</sup> August, 2020**

Ladies and Gentlemen of the Press,

We, members of the Alliance of CSOs Working on Extractives, Anti-corruption, and Good Governance, have been following keenly, the raging disquiet among sections of the Ghanaian population about the government's decision to leverage Ghana's present and future mineral royalties for international credit to finance the country's development programmes.

While the intention of government may be genuine, and aimed at optimising the benefits of gold royalties to the state, we are of a firm conviction that, the lack of, or inadequate consultations on the bill that eventually passed into the Minerals Income Investment Fund (MIIF) Act, (2018), Act 978, with its 2020 amendments is responsible for the lack of public support for its implementation. A consultative process that respects the views of Ghanaians on such an important decision would have been useful in shaping government's policy and potentially exploring other investment options that could achieve greater impact for citizens.

The opaque manner in which the Act is being implemented: the relatively weak transparency and public oversight arrangements, and the haste with which the government is running to the market, in spite of concerns being raised by a broad spectrum of the Ghanaian populace, do not engender public trust and consensus building around matters of public policy. This approach rather raises moral and governance questions. The assumption that, once everything goes through parliament, it is above board and represents the interest of all Ghanaians is deceptive, and turns democracy on its head. It makes the elected, the only relevant stakeholders in policy making, and as former U.S. president, Barack Obama once indicated, it wrongly assumes that democracy is a transaction executed between leaders and the people only at elections.

We note that, within the context of good governance, such an important decision requires consultation even with the poor woman in Tarkwa, Daamang, Obuasi, Kenyasi, and other communities, who have lost their livelihoods to mining, and continues to bear the negative consequences, in a language she will understand. The Chiefs and Queen mothers who have given their lands and continue to engage government with the hope that one day, at least, the requirement of the Mineral Development Fund Act to cede 10 percent mineral royalties to develop their communities, will be respected in full. Any assumption that the people will not understand such policies is very disrespectful in a democracy. In fact, the people do not only understand "vote for me".

We are deeply worried that if government proceeded to the market amidst the public outcry, and threats of future policy reversal from the major opposition party, Ghana may suffer the

undesirable consequence of a rather high premium, as investors may be sensitive to the political risks

associated with such investment. It is also worth noting that the current financial difficulties of the country, imposed by Covid-19, and the pending elections, present lethal disadvantage for Ghana on the London Stock Exchange; as a desperate country looking for resources to invest.

Ladies and gentlemen, the recent amendment to the Minerals Income Investment Fund Act creates more suspicion. The rushed amendments inserted worrying clauses, including clauses that lifts the Special Purpose Vehicle (SPV); Agyapa Royalties, above Ghanaian tax laws, waves Ghana's sovereign immunity, and by that exposes the country to the risk of damaging lawsuits should any future government seek to reverse this transaction.

What we find even more repulsive about this whole transaction is the provision that permits Agyapa Royalties, a supposed company of the sovereign state, registered in a tax haven, to borrow money or raise equity in foreign currency from any source on the back of the gold royalties of Ghanaians without the requirement for any further approval, consent, or administrative act of the Government of Ghana - Sect.33(2)(a).

We acknowledge, ladies and gentlemen, that postmortem attempts are being made to engage the public by the MIIF to provide answers to some questions Ghanaian have on the Agyapa transaction. This, in fact, underscores the point that prior engagements would have better served the national course and deepened consensus on the policy. Regardless of the attempt to clarify some concerns, significant questions remain unanswered:

1. Are the managers and directors of Agyapa not politically exposed persons, and were they not selected through a non-competitive process? Just last week, we sighted a call for expression of interest, placed in the Daily Graphic, inviting prospective consultants for the development of a strategic plan for the Mineral Income Investment Fund. While we welcome the open and transparent process for the firm selection relative to this assignment, we have not found evidence of the same openness in the creation of the SPV and the appointment of its directors. Again, it beats our imagination as to why an entity, without a corporate strategy, and approved spending plans, will proceed to raise \$1 billion and cede US\$500 million to government in such indecent haste, especially when there is no known national emergency to warrant such rush.
2. Were the transaction advisers and legal intermediaries not handpicked by the government, and are they not politically exposed persons?
3. What is the dividend policy on the investment being sought on the London Stock Exchange (LSE)? This is a crucial part of the entire transaction which will tell Ghanaians how the investors will benefit from the royalties of the state. This also allows the public

to see whether indeed the deal is beneficial or not. Shockingly, parliament showed no interest in this and rather waved its oversight.

4. To convince Ghanaians that this is a good deal, don't we need to know how the Agyapa investments compare with other investment options?
5. Agyapa Royalties is going to invest risk-free royalties on investments unknown to the state. Don't we need to know the level of risk the royalties will be exposed to, and how those risks will be mitigated by the managers of Agyapa Royalties. What will Agyapa be investing the \$500 million dollars in? This interestingly was not before parliament. Neither did the house demand for the investment options before approving the transaction. In essence Parliament has agreed to cede Ghana royalties to a company to undertake investments at its pleasure.

We take this opportunity to also draw the attention of the Government to its own 2016 manifesto commitment in respect of the mineral sector, Ref. Page 27, Natural Resources – Land, Forestry and Mining, paragraph (f), where the NPP pledged to:

**“Ensure that mineral revenues are efficiently managed for the benefit of Ghanaians, and to enact a consolidated Mineral Revenue Management Law, similar to the Petroleum Revenue Management Act 2011 (Act 815), to guide the use of mineral revenues in strategic sectors of our economy”.**

We however, regret to note, that what we are being served, and against which we are holding this press conference, is a far cry from what was promised.

Indeed, the transparency and accountability provisions in Ghana's Petroleum Revenue Management Act (PRMA) have been hailed world-wide as a best practice. The 2017 global Resource Governance Index placed Ghana's petroleum sector governance at 13<sup>th</sup> position, among 89 countries; and the best in Africa. Its value is reflected in the fact that Ghanaians today have adequate information on how their petroleum revenues are being managed on their behalf. Issues of poor spending decisions, or monies that cannot be accounted for under current and previous governments, are all matters of public knowledge, thanks to the PRMA, as well as the annual reports of the Public Interest and Accountability Committee (PIAC).

Ladies and gentlemen, Ghanaians will probably not have lost sleep over this Agyapa – Mineral Income Investment transaction, if it had been orchestrated under an open and transparent regime such as the PRMA provides. Indeed, what the government is intending to do with our mineral royalties would not have been permissible under the PRMA. For instance, Sect.5 prohibits the use of the Petroleum Holding Fund, which includes royalties, as collateral for borrowing. It also prohibits borrowing against the country's petroleum reserves, which sadly, is what the Minerals Income Investment Fund seeks to do.

Ladies and Gentlemen, we are happy to engage as always, to learn, debate and challenge government on ways to optimise the mineral royalties if government is willing to activate those democratic channels. Those who have divergent views are equal stakeholders in the mineral

revenue. Therefore attempts to disregard dissenting views, is most unfortunate, as they defy the principle of participatory decision making, which forms the bedrock of democratic practice.

We take this opportunity to call on his excellency, Nana Addo Dankwa Akufo-Addo to:

1. Acknowledge that, though, the MIIF and its SPV may be legal without public input, it fundamentally goes against his pact with the Ghanaian people, particularly the mining communities to cede 20 percent of mineral royalties to develop the communities.
2. Suspend the implementation of the MIIF until all documents relating to the establishment of the SPV, and its beneficial owners have been disclosed. As concerned Ghanaians, we sought to access the transaction documents on the MIIF's website, only to discover that it has none.
3. Establish a multi stakeholder process to review all options to optimise the mineral royalties in order to secure risk-free revenue to the state. Gold royalty is the most certain revenues to the state. Even though commodity prices tend to be cyclical, Gold has only oscillated within 20 percent, which makes it a more stable commodity than oil. And with oil losing demand growth to alternative fuels, Gold is expected to continue to be a stable source of revenue.
4. Recognise that, by its current approach to the implementation of the MIIF, government may appear to be encouraging citizens to transact business in tax havens.

Ours is a struggle against the elite capture of resources that commonly belong to all Ghanaians, and we call on every one of us, regardless of our political persuasion, to join hands in safeguarding the national interest.

Thank you.

Participating Organisations:

1. CSOs Open Licensing Monitoring Group
2. ACEP
3. Centre for Extractives and Development Africa (CEDA)
4. ISODEC
5. Citizens Movement Against Corruption (CMAC)
6. Civil Society Platform on Oil and Gas (CSPOG)
7. Penplusbyte
8. Oil Watch Ghana
9. IDEG
10. CDD
11. NRGi
12. PWYP
13. CEPIL

14. Imani Ghana

15. Women Aspire