

TRANSPARENCY INTERNATIONAL: U.K. SHOULD STOP RISKY GHANA AGYAPA ROYALTIES & JERSEY TAX HAVEN SCHEME

By Prof Lungu



“...This is the story of Agyapa Royalties...’A mysterious company based in the UK tax haven of Jersey, Agyapa Royalties, has inserted itself into the middle of what looks like a highly unwise financing arrangement’...This year would seem like an opportune time for the world’s largest gold producers to consolidate their control over this vital natural resource. Alternatively, they could follow the example of Ghana and try to sell off almost all of their rights to future gold royalties in perpetuity...Authorities, lawyers and bankers in London have a responsibility to stop a risky proposal that would deprive Ghana’s people of much-needed gold revenue....”, Kush Amin, Transparency International, 26 November 2020.

For us, we call the scheme being engineered by the Akyem faction of the NPP under Nana Addo Dankwa Akufo-Addo the “Agya-Bo-Ne Royalties” scheme.

It is bad.

It is rotten.

It is a testament to cronyism, nepotism, and on-going theft of Ghana's national resources.

For us, we were not surprised that the next level of nauseating corruption-inducing scheme after the so-called "Ghana Hybrid System" for Ghana oil revenues would come forth from the NPP government under Akufo Addo.

It is increasingly becoming obvious to many Ghanaians and Ghana supporters that the Akyem faction of the NPP is totally in agreement, and are conniving to sell-off Ghana's natural resources.

That faction of the NPP are using political power, one major institutional authority, and local "expertise" of individuals in natural resources, energy and international financial institutions and capital markets, in Ghana and abroad to deprive Ghanaians of their natural resources. They are selling the resources to foreign interests.

However, what is not clear at this time is who all are behind the rotten Agyapa "misdeed", in Ghana. Who all are the transaction counsellors with embedded opaque interests in the scheme, who have already collected, are collecting, or will soon collect, in the future?

What is not clear, is unknown to many Ghanaians, is what are the leading corporate and commercial law firms and professional enterprises in Ghana that participated, and still are participating in the sell-off of Ghana's natural resources, continuing now with Ghana's gold, after the debacle with Ghana's Oil and Gas resources.

Just in case, the reader should note that almost exactly 4 years ago, we took Ghana-based Attorney Ace Anan Ankomah of the Bentsi-Enchill, Letsa & Ankomah law firm to task on his declarative statement about "tax havens", that "Merely Using A Tax Haven Isn't A Crime-Ace Ankomah" (Prof Lungu, 2016).

In our 2-part essay, we said in part:

"...(W)e will admit that from our lowly vantage position, unlike Ace Ankomah, we've not seen citizens anywhere...in "...the whole world...jumping up and down like... (they)... have ants in...(their)...pants because some people choose to keep monies and incorporate companies in tax havens...".

Clearly, with respect to Agyapa Royalties (Agya-Bo-Ne Royalties), the gate has been breached by the Akyem faction of the NPP: they are actually proposing to hide Ghana's natural resources in a tax haven without accountability by current and future Parliaments of Ghana, the People of Ghana, and international observers such as Transparency International (TI).

ITEM: From the point of view of a nation that is not the source or operator of a tax haven, the primary purpose of a tax haven is to hide financial resources gotten either legally, or illegally,

from that national authority. More important, tax havens like Panama and the case of the and Mossack Fonseca law firm are established to avoid taxes on capital and profits, and to rob nations of funds that could be used to support public services and national welfare, and spur national development.

Clearly, Osagyefo Dr. Kwame Nkrumah would never have dreamed of implementing such an obnoxious, rotten deal for Ghana and Africans. Certainly, not for merely \$500 million and in exchange for depriving Ghanaians, living and unborn, in perpetuity, of all the gold resources, from Accra to Bolgatanga, from Oboasi to Tarkwa, from Iduaprim, to Asanko, to future Z-discoveries; and pass it all off to the People of Ghana as Agyapa Royalties, forever.

This is Agya-Bo-Ne Royalties without any redeeming value to Ghanaians.

This is Agya-Bo-Ne Royalties, a development deprivation scheme, not unlike like the so-called Ghana Hybrid System that continues to deprive Ghanaians of millions of dollars in oil revenues every year since 2009, and counting.

As reported by www.nsenergybusiness.com, with respect to the production of gold on the African continent, beginning in 2019, "Ghana grabbed the top spot from South Africa after mining more than 142 metric tonnes of the precious metal...([https://www.nsenergybusiness.com/news/top-gold-mining-countries-africa/#:~:text=While%20traditional%20companies%20and%20artisanal,Asanko%20Gold%20\(A%20sanko%20mine\)](https://www.nsenergybusiness.com/news/top-gold-mining-countries-africa/#:~:text=While%20traditional%20companies%20and%20artisanal,Asanko%20Gold%20(A%20sanko%20mine))).

We are pleading to Asantehene Otumfuo Nana Osei Tutu II and every other traditional authority in Ghana to lend a voice of resistance to the Agyapa Royalties misdeed and stop it from becoming a fait accompli. When Transparency International (TI) and other bodies and agencies outside Ghana are fighting to stop Agyapa Royalties, Ghana's traditional authorities should do no less. This, after all, is "merely" a good governance initiative, an effort of a lifetime that they will be remembered for what they did or didn't do, for eternity.

Below....

The article below, sourced to Transparency International (TI) provides information about the suspicious Agyapa Royalties scheme and the handiwork of a mysterious company based in Jersey, the British tax haven. Transparency International (TI) is asking British authorities to hold approval of the scheme, and allow it to expire in December.

READ:

"In the midst of a major global economic crisis, one asset has consistently beaten the impact of COVID-19: gold. As investors look for safety from volatile markets and increasing national deficits, gold prices hit an all-time high in August 2020.

This year would seem like an opportune time for the world's largest gold producers to consolidate their control over this vital natural resource. Alternatively, they could follow the

example of Ghana and try to sell off almost all of their rights to future gold royalties in perpetuity. This is the story of Agyapa Royalties.

CONTROVERSY:

Ghana is Africa's leading producer of gold, accounting for 4 per cent of government revenue in 2017. Well-spent, that means money for public goods and services for the country's citizens. Who wouldn't want better-resourced health services or improved education facilities? Given the sector's strategic importance, it is beyond curious that Ghana is proposing to sell almost 76 per cent of its future receipts from gold royalties to a special corporate vehicle in the British overseas territory of Jersey – a known tax haven and secrecy jurisdiction.

A mysterious company based in the UK tax haven of Jersey, Agyapa Royalties, has inserted itself into the middle of what looks like a highly unwise financing arrangement, writes Nick Shaxson.

MURKY GHANA GOLD DEAL RAISES QUESTIONS ABOUT JERSEY | TAX JUSTICE NETWORK

Under the deal, Ghana would own 51 per cent of the Jersey-based company Agyapa Royalties and the remaining shares would be listed on the London Stock Exchange.

In return for handing over such a large share of their future revenues, the government has argued that it could raise US\$500 million in capital to ease their growing debt crisis by listing the remaining 49 per cent of shares. This values the rights at around US\$1 billion – far less than they are potentially worth, as Ghanaian think tank IMANI has argued.

THE RUSH:

In September 2018, at the end of a one-week emergency sitting, the Parliament of Ghana approved the Minerals Income Investment Fund (MIIF) bill. The bill allowed the government to set up the fund to receive royalties from mineral resources and invest them. It also allowed for the creation of a special purpose vehicle (SPV) in any jurisdiction to undertake such investments.

President Nana Akufo-Addo signed the bill into law later that month. Since then, the Government of Ghana worked to put in place a supposedly “innovative financing solution” to the perpetual problem of sovereign debt in Sub-Saharan African economies.

But in July 2020, the Parliament was asked to amend the Act to allow more independence for a sovereign-owned special purpose vehicle and less government oversight.

With less than four hours to review the documents and serious concerns surrounding the probity of the project, the minority in the Parliament staged a walkout and the measures were passed by the majority in their absence.

Civil society organisations in Ghana decried the government's failure to hold broad consultations given the importance of these revenues to the country.

SPECIAL PROSECUTOR WEIGHS IN:

The project also attracted the attention of the Special Prosecutor in Ghana, Martin Amidu. His office was created in 2017 as an election promise from the incoming Akufo-Addo administration to tackle corruption and criminal wrongdoing.

After resistance from the Ministry of Finance in the submission of documents, Amidu sent his report to the President on 16 October 2020. As the administration delayed acknowledging his findings, Special Prosecutor went public on 2 November.

In the report, the Special Prosecutor had laid out the connections between the transaction advisor appointed on the project, Imara Corporate Finance of South Africa, and Databank Financial Services, a Ghanaian company co-founded by the Finance Minister.

Millions of dollars have already been paid to both with little input from the Ministry of Finance. The way Imara were contracted – and the involvement of Databank in the deal – led Amidu to suspect “bid rigging, and corruption activity including the potential for illicit financial flows and money laundering”.

A hasty directive from the President to the Minister of Finance followed, instructing him to re-submit the project to Parliament in light of the report.

Publicly, the President welcomed the investigation. Behind the scenes, there are alarming reports that threats made against his life led the Special Prosecutor into resigning, which followed just two weeks later.

Ghana Parliament Should Overturn Agyapa Gold Royalties Deal:

Ghana's lawmakers should reject a controversial deal that would sell most of Ghana's future gold royalties to a Jersey-based company, local civil society groups said on 11 November. An alliance of 25 organisations – including Ghana Integrity Initiative, Transparency International's national chapter – called on Parliament to roll back the transactions.

DEADLINE LOOMING:

The proponents of the deal are under time pressure: if Agyapa Royalties has not been admitted to the London Stock Exchange by 31 December 2020, the agreements will lapse, and the project will cease.

Four weeks before the deadline, the fate of the controversial project is unclear, as it has been returned to the Parliament. Presidential elections on 7 December add to this uncertainty. But even if the parliamentary approval is obtained in time, the Agyapa Royalties deal is not going to be out of the woods just yet, as the UK Financial Conduct Authority will need to approve the London Stock Exchange listing of Agyapa Royalties shares.

In the absence of a thorough investigation into the allegations of corruption, the UK authorities should reject the project, upholding their mission to “regulate in a way that adds the most benefit to those who use financial services.”

The compliance departments of the corporate parties to the deal should also take notice. They should suspend their engagement on the project until the allegations are fully investigated. The investment banks JP Morgan and Bank of America – both of whom are involved in the initial public offering – and the law firm White and Case – who have advised the Ministry of Finance – should not partake in a deal fraught with corruption risks.

When an opportunity for a lucrative new project comes up, it is easy to forget about the normal people who rely on their country’s most valuable resource.

Allegations in a far-away continent may make it difficult for authorities, lawyers and bankers in London to visualise the impact on Ghanaian men, women and children. It is their future that is being mortgaged, however. The loss belongs to every Ghanaian who may never see roads, schools and hospitals being built because those outside the country fail to see through an “innovative financing solution” as a potential façade for embezzlement.”

(Source - below)

SOURCE: [HTTPS://WWW.TRANSPARENCY.ORG/EN/BLOG/GHANA-WHAT-IS-GOING-ON-WITH-THE-CONTROVERSIAL-AGYAPA-GOLD-ROYALTIES-DEAL?UTM_SOURCE=NEWSLETTER&UTM_MEDIUM=EMAIL&UTM_CAMPAIGN=WEEKLY-27-11-2020#](https://www.transparency.org/en/blog/ghana-what-is-going-on-with-the-controversial-agyapa-gold-royalties-deal?utm_source=newsletter&utm_medium=email&utm_campaign=weekly-27-11-2020#)

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