Press Statement:

Government's Decision Not to Renew the Mining Lease of Abosso Goldfields Limited (AGL)

April 17, 2025

Introduction

The Africa Centre for Energy Policy (ACEP) finds it necessary to engage with the media and the wider public regarding recent developments in Ghana's mining sector, particularly the government's decision, based on advice from the Minerals Commission, not to renew the mining lease of Abosso Goldfields Limited (AGL) in Damang.

In the course of this week, ACEP has closely monitored this development. In the interest of public accountability and the integrity of natural resource governance, ACEP sought to engage key stakeholders to ensure that the government's decision followed due process and adequately mitigates risks to the state. As part of this effort, we held discussions with government officials on Monday, the company on Tuesday, and reviewed relevant legal and regulatory provisions in between.

Though these engagements were informal, driven by our sense of urgency, it was encouraging to witness the openness of public officials to share their perspectives. We had hoped, however, that communication between the government and the company would be maintained for a little longer to explore a possible compromise, whether that meant facilitating the company's exit or supporting its continued operation.

As a responsible policy think tank, ACEP has seen similar cases where public officials were convinced that their decisions were in the interest of the state but were proven wrong. Consequently, these decisions have escalated into costly outcomes for the state. Examples of such cases include:

1. The attempted novation of the Ameri power contract
2. The Agyapa royalty transaction
3. The GPGC power contract
4. GNPC's attempted acquisition of the Aker's Deep Water Tano/Cape Three Points (DWT/CTP) (which was later acquired by AFC for $1) and South Deep Water Tano (SDWT) (which was later) blocks for $1.65 billion.
5. The forced unitisation directive by the then Minister for Energy on Eni and Springfield

The advocacy on these matters gives us and our colleagues in Civil Society a solid track record of dispassionately analysing government's decisions, especially when they are made in haste, and on a collision course. These are not vindications we celebrate, but we continue to mourn for the losses to the state and the continued decline of investor confidence.

We are therefore compelled to speak out to help reopen lines of communication and encourage an amicable resolution, grounded in law and sound industry practice. Ghana has been bruised too often by hasty decisions, and we must remain vigilant when such risks become apparent.

Examining the law and the information before us, we note that the state's decision to take over the mine after April 18, 2025, is premature, particularly given that the basis for the lease

rejection is itself contested. The law is unambiguous on this matter. Section 27 of the Minerals and Mining Act 2006 (Act 703) as amended states:

Subsection 1: *"Where a dispute arises between a holder of a mineral right and the Republic… all efforts shall be made through mutual discussion and, if agreed, through alternative dispute resolution procedures to reach an amicable settlement."*

Subsection 5 further provides that: *"Where a holder has notified the Minister in writing that the holder wishes to refer a dispute for resolution and, but for this subsection, the term of the mineral right would expire… the term… shall continue without diminution for the period ending thirty days after the determination of the dispute."*

We understand that the company has formally notified the government of its intention to seek redress through arbitration as is their right and the responsibility of the state to respect same under the mining lease. That notice satisfies the condition under Section 27(5) and, accordingly, the mine's operations should remain undisturbed until the dispute is resolved.

Reasons cited for the rejection

On the reasons cited for the rejection of the lease application, the public deserves a more rigorous and objective explanation. The suspension of active mining must comply with Regulation 22 of the Minerals and Mining (General) Regulations, 2012 (LI 2173).

(1) Subject to section 51 of the Act, where the holder of a mining lease proposes to suspend or discontinue mining operations, the holder shall cause to be prepared to the satisfaction of the Commission an accurate plan of the mining operations as at the time of discontinuance or suspension and shall submit that plan to the Commission in accordance with these Regulations before the mining operations are discontinued or suspended.

The April 16, 2025, statement from the Minister indicated that the company had stopped active mining and was merely processing stockpiles. However, they do not prove how this breaches the mining lease or the law, particularly when there are remedies in law for the suspension and discontinuation of mining operations. Stockpiles are materials already mined and stored for future processing. Depending on the grade of the stockpile, the economics of the project may define when a particular grade is processed. The production of 135,000 ounces of gold from these stockpiles in 2024 underscores the value and relevance of the stockpile to the mine's output.

The company indicates that they communicated and obtained approval from the Commission to process the stockpiles. The Minister ought to verify this claim with the Commission in alignment with provisions in the law before drawing conclusions. If the company's claim is true, then the regulator cannot turnaround to use same operations as a basis for rejecting the renewal of the lease. If false, then the regulator through its mining inspectorate division has failed to enforce the law and cannot use its failure as a tool for punishment.

Further, three specific reasons cited for the rejection of the lease extension merit closer scrutiny:

1. **Failure to Declare Mineral Reserves**: While there is no basis in law that not exploring for two years out of 30 years of operations is a basis for invalidating all the existing reserve data that shows minable and contingent resources, the company indicates that it has conducted exploration and prefeasibility studies and submitted technical reports indicating minable resources with an eight-year production outlook. These claims deserve independent verification rather than dismissal. ***If the basis of the termination is on account of no reserves and the state assumes this is true, then it is confusing why is the state so eager to assume this risk.***

2. **Absence of a Technical Programme**: AGL maintains it submitted a technical programme consistent with previous renewals. The Ministry should publish the document to clarify the facts and reassure the public.
3. **Lack of Budgetary Allocation for Exploration**: The company has indicated that it continues to carry out exploration-related activities known to the Commission and claims to have receipts and reports before the commission confirming this. This too require verification before any definitive conclusion is drawn.

Importantly, Section 191(2) of the Minerals and Mining (Licensing) Regulations states:

"Where an application does not comply with subregulation (1), the Mineral Titles Department of the Commission shall give notice accordingly to the applicant within five days after the review, as set out in Form Three of the First Schedule and the applicant shall correct the errors or provide the information required within ten days from the date of the notice."

The Minister should verify whether this standard process was followed before allowing a decision of this magnitude to proceed.

Again, assuming government is right on this decision, it is also important to note that any mine closure must follow well-defined protocols. AGL is required to submit detailed exit plans for remediation, environmental governance, and fulfilment of outstanding obligations to the state and contractors. These provisions appear to have been overlooked in the haste to take over the operations of the company.

Although the Commission's lease rejection letter stated that a forensic audit would begin within 14 days of notifying the company, more than a month has passed with no indication that the audit has commenced. If this process is truly in the public interest, why did the commission renege on this important responsibility and proceeding to expropriate the mine. Such inconsistency must be addressed.

Undercurrents for the rejection

Industry enthusiasts may be aware that in recent years, AGL has been exploring options including a divestiture of the Damang mine as it indicated in its 2024 report that the reserve does not meet its consecutive Mineral Reserves Economic criteria (MREC), which does not mean there is no gold reserve in the mine as is being interpreted. The MREC is just a decision tool which turns to be dynamic based on changing economic variables around the operations of the mine. The state and its agencies cannot pretend not to understand this economic decision tool in the industry.

To the extent that the Commission is holding such a dynamic tool constant and impede any change in the company's position even as economic variables change is regrettable.

Conclusion

ACEP agrees that Ghana deserves to benefit fully from its mineral resources. However, any stakeholder truly aligned with this national goal must be transparent and factual in demonstrating how their decisions maximize public benefit.

The government's approach to this matter should reflect diligence, legal compliance, and a genuine commitment to Ghana's long-term mineral wealth. A rushed and disputed decision not only risks international litigation and reputational damage, but also undermines investor confidence and the rule of law. Already, the news portals have captured state officials and also implied in the minister's statement that this is all an effort to nationalize the mine.

If the policy direction is to revisit the 1970s resource nationalisation efforts which collapsed the mining industry, we need clarity from the government on what will be different this time to leave no doubts in the minds of investors, especially when the required actions per the law are clear, but actions of implementers differ.

When remedies are provided in the law, the hearts and minds of the implementers cannot be at variance with the prescribed remedies.

ACEP calls for a halt in the operation to expropriate the mine tomorrow. Government needs to exercise restraint, renew dialogue, and pursue a legally guided resolution that protects the interests of both the state and investors.

Signed.

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