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Our Ref. No.

SCR/FA-47/240/01



REPUBLIC OF GHANA

Your Ref. No.

MINISTRY OF LANDS AND NATURAL RESOURCES
P. O. BOX M. 212
Accra

19TH July 2011

**MR. KINGSLEY BEKOE ANSAH
CORDINATOR
FOREST WATCH GHANA
86 LINDA STREET
ADJIRINGANO, EAST LEGON**

Dear Sir,

**RE: FOREST WATCH GHANA'S POSITION ON ISSUANCE OF ADMINISTRATIVE
PERMITS FOR TIMBER HARVESTING**

I acknowledge receipt of your letter on the above subject matter and wish to state that my Ministry appreciates very much your continued watch over the Ministry's performance and actions on the natural resources under its jurisdiction.

The Ministry wishes to state categorically that in the grant of timber rights it has followed due process and also have acted in conformity with the laws on timber resource allocation.

Your concerns have been predicated on the assumption that because the permits were issued without parliamentary ratification they are void. Your justification for this argument is that; Article 268 (1) requires any transaction, contract or undertaking involving the exploitation of natural resources including timber shall be subject to ratification by Parliament.

You further argued that any Act of Parliament or Legislative Instrument that purports to authorize the issuance of any permit without Parliamentary ratification is also void. By extension what you are saying is that, any permit issued by the Forestry Commission under LI 1649 as Salvage Permits and Special Permits on the recommendation of the Forestry Commission by the Minister as in section 6 of Act 617 are all void.

Legal Position

The 1992 Constitution article 269 (2) provides; "notwithstanding article 268 of this constitution, Parliament may upon the recommendations of any of the Commissions established by virtue of clause (1) of this article, and upon such conditions as Parliament may prescribe authorize any other agency or government to approve the grant of rights, concessions or contract in respect of the exploitation of any mineral, water or other natural resources of Ghana."

This applies to timber and it is our understanding that LI 1649 and Act 617 are creatures of Parliament and if these laws delegate the grant of the timber right to any Government body or person then such permits are valid and legal.

Recent Permits

On the recent permits issued by the Deputy Minister of Lands and Natural Resources for logging in Tonton Forest Reserve and Sui River Forest Reserves, referred to in your petition, there was no arbitrariness and was done out of a necessity and according to law.

In respect of the allocations in the Tonton Forest Reserve, a portion of the Forest Reserve belong to Messrs Ehwiia Wood Product Limited by way of a Timber Utilization Contract (TUC).

Tonton Forest Reserve: The Company in 2010 became bankrupt and a number of its creditors brought action against it for recovery of various sums of monies in various courts. The courts attached some properties of Ehwia Sawmill and all of its Timber Utilization Contract area so auctioneers placed notices of auction in respect of same (copies of the judgments, entry of Judgment as well as auctioneers notices on the sale of some compartments are attached). The company also owed its workers in respect of wages, salaries and redundancy packages and who had been agitating since the closure of the company against the Government since it is a Government owned company.

The Forestry Commission Board negotiated with the judgment creditors in an out of court settlement to avoid them put into effect the court orders. The agreement reached with them was to give them some compartments of Ehwiia whilst the rest were to be allocated to genuinely distressed companies who had run short of raw materials and were laying off their workers. The beneficiaries are to pay all statutory forestry fees including Timber Right Fees (TRF) and also comply with all Forestry Rules and Regulations.

Sui River Forest Reserve: In the case of Sui River Forest Reserve, approval was given by the Hon. Minister of Land and Natural Resources to Messrs George Grant and Sons Limited in final settlement of the matter between the company and the Forestry Commission which was before the court. Messrs George Grant Company Limited owned a timber concession in the Ankasa River Forest Reserve which by the Wildlife Reserves (amendment) (Declaration of Game Reserve) Regulation 1976 L.I 1085 was converted to a Wildlife Reserve. The company thus lost their concession.

The Company's appeal for redress by way of replacement and substitution of their timber concession wrangled on for a long time and which the company secured a court injunction against the Forestry Commission on any intended allocation of timber in the Sui Forest Reserve. The Forestry Commission again negotiated an out of court settlement on the same basis as for the Tonton Forest Reserve and instead of the company's demand for all the compartments available in Sui Forest reserve, they agreed to cede some compartments to some distressed companies. The decision was recommended for the Minister's approval as final settlement of the issue.

Conclusion

In conclusion, the allocations were principally necessitated by the court orders/settlements and neither the Forestry Commission nor the Hon. Minister has reneged on the tenets of neither VPA nor the governance reform. Section 6 of the Timber Resources (Amendment) Act 2002 Act 617 which states as follow: "The expression "Timber Utilization Contract" shall apply with such modification as may be necessary, to a certificate of purchase, a permit or any other authorization for timber rights approved by the Minister on the recommendation of the Commission".

On your request for the suspension or cancellation of all permits including salvaging permits issued by Forestry Commission in 2010 they were issued in accordance with the law. The

Ministry however, will investigate the alleged use and/or abuse of permits to ensure that measures are put in place to improve on forest governance. Particularly in the ongoing policy and legislative reforms, the Ministry will ensure that some of the laws on permits are reviewed to address any possibility of arbitrariness and abuse of the system.

On the policy reforms the long discussion of tree tenure and the related sharing of benefits accruing from the use of such resources will have to be brought to a logical conclusion so as to facilitate better management of the resources off-reserve and also reduce biodiversity loss on which our rural economy depends.

The Ministry welcomes any meeting to discuss further the issues raised.

Thank You.

Yours faithfully,



HON. MIKE HAMMAH
MINISTER

CC: The chairman, The Forestry Commission,
Accra.

The Chairman,
Parliamentary Select Committee on Lands and Forestry
Accra

The Head, European Union Delegate
Accra