

1st July, 2021

For Immediate Release

All Media Houses

NOTICE OF CIVIL ACTION AGAINST THE GOVERNMENT OF GHANA ON THE CONTINUOUS ISSUANCE OF "SPECIAL PERMITS" AS TIMBER RIGHTS CONTRARY TO THE CONSTITUTION

Today, 1st July, 2021, I Obed Owusu-Addai exercising my right as a citizen and also as an active member of Civil Society Coalition working in the natural resources sector involved in the protection of forests and the environment, have instructed my lawyers to initiate a court action against the Government of Ghana aimed at restoring clarity in the regime for the grant of commercial timber rights. As required by law, we have served the Attorney General the mandatory 30 days' NOTICE of our intentions to bring a civil action on this matter.

I want to put on record that I support Government's quest to develop Ghana through the utilization of natural resources to raise capital for development. However, it is my contention that this utilization must be done in accordance with established laws and procedures as provided for in Articles 268 (1) of the 1992 Constitution, the Timber Resources Management Act, 1998 (ACT 547) as amended by Timber Resources Management Act, 2002 (ACT 617) and the Timber Resources Management and Legality Licensing Regulation, 2017 (L.I 2254). The combined effect of the provisions in these laws demands that the allocation of rights to engage in commercial timber logging be granted through the issuance of Timber Utilization Contracts (TUCs) either Large Scale or Small Scale signed on behalf of the President by the Minister responsible for Lands and Natural Resources. These TUCs when duly signed are further subject to parliamentary ratification.

These prescriptions of law on the grant of commercial timber rights are meant to ensure a sustainable utilization of the forest resources of the country and to prevent the fragmentation of our forest reserves. Ultimately, these provisions ensure that while the State derives the necessary revenues from the exploitation of timber resources, the environment is also protected. It is my contention that the Ministry of Lands and Natural Resources and the Forestry Commission over the years have and continue to allocate rights for the commercial logging of timber in a form and manner alien, unknown and in breach of the laws on the grant of commercial timber rights. These rights granted in flagrant breach of the laws are known variously as "special permits", "ministerial letters or permits" or "administrative permits".

This action I have instituted today has become necessary because of the practice of various Ministers of Lands and Natural Resources and Chief Executives of the Forestry Commission, who issued commercial timber rights in the form of "Special Permits", "Ministerial Letters or Permits", "Administrative Permits" among others without adherence to the dictates of the law. I must however at this point commend the

decisions of Hon. Inusah Fuseini (Former MP and Minister) who during his era acknowledged the “illegalities” and decided not to issue such permits. Again, it must be put on record that, the current Minister of Lands and Natural Resources, Hon. Samuel Abu Jinapor (MP) within the first 100 days of his tenure issued a written directive to the Forestry Commission to cease the issuance of these permits. I am of the firm believe that a court declaration will strengthen the Minister’s resolve in ensuring sustainable management of our timber and other natural resources.

The genesis of the problem stems from the Timber Resources Management (Amendment) Act, 2002 (ACT 617) that inserted a new subsection (2) of Section 20 in the interpretation section of the Act 547 which read as: *“The expression “timber utilization contract” shall apply with the modifications that are 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”*. Ministers for Land and Natural Resources, over the years, have deemed and interpreted this insertion in the interpretation section of ACT 547 as a power to issue other types of commercial timber rights without following all the laid-out processes for the grant of Timber Utilization Contracts such as the need for competitive bidding and parliamentary ratification as prescribed by the Constitution in Article 268 (1) and Sections 3, 6A, 7, 8 and 9 of ACT 547.

The reliefs I am seeking for include:

- i. A declaration that the issuance of commercial timber rights known as “special permits” or “administrative permits” or “ministerial permits” constitute a transaction, involving the grant of a right for the exploitation of a natural resource of Ghana and is subject to ratification by Parliament in accordance with the constitution;
- ii. A declaration that the interpretation given to section 20(2) of ACT 547 by the Ministers of Lands and Natural Resources and the Forestry Commission that purports to allow the issuance of commercial timber rights known as “special permits” or “administrative permits” or “ministerial permits” without recourse to Parliamentary ratification is erroneous and unconstitutional;
- iii. A declaration that all such “special permits” or “administrative permits” or “ministerial permits” involving the grant of a right to exploit the timber resources of Ghana granted by the Minister of Lands and Natural Resources or the Forestry Commission without Parliamentary ratification are null and void, illegal and ineffective.
- iv. An order restraining the Minister of Lands and Natural Resources and the Forestry Commission from entering into any transaction, contract or undertaking involving the grant of a right or concession for the exploitation of commercial timber rights without Parliamentary ratification.
- v. Any other orders consequential to the enforcement of the provisions in article 268(1) of the Constitution 1992 of the Republic of Ghana.

Signed:

Obed Owusu-Addai

0240355320 / 0203800800

greatobadiah@yahoo.com