

Controversies surrounding the Ewoyaa Lithium Mining Lease: comments on the IMANI brief

by

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We have seen the paper by IMANI dated 13 December 2023 whose objective they express as being to “re-center the discussion on the key issues that have been raised by civil society organisations” on the Ewoyaa lithium transaction. There are two observations they make which prompt these further comments from us.

The first is that “inflated costs and complicated financing structures” can reduce the monetary benefits that Ghana could obtain from taxes. The second is the concern that “boards can choose not to declare dividends”.

The context of the first of the two observations makes it unclear whether IMANI is offering a plea in mitigation of the errors in the figures invoked by Professor Gyampo in support of his arguments or those of the IEA. The simple point is that whether you use concession contracts, “joint ventures” or “risk service contracts”, cost inflation and transfer pricing mechanisms can reduce the benefits which should come to the state. The task is to enhance the capability of our institutions to identify the possibilities of diversion and to plug the loopholes in tax administration. Fundamental methodological errors in computing the allocation of benefits cannot be excused by reference to the vulnerabilities of our institutions. In any case, we should point out that cost inflation is irrelevant to those elements of government revenue (such as royalty and the growth & sustainability levy) which are calculated on the basis of an arms-length sales price. (Incidentally, in our sample calculation the reference to “1%” is to the Growth & Sustainability Levy, not to the community development levy referred to in the Ewoyaa mining lease).

We identify with Imani’s observation about the risks of boards not paying dividends and thereby denying the government of revenue. There is a solution to that which can actually be found in existing agreements in Ghana’s mining sector. This is to provide for payment to Government of a certain percentage of the company's profit after tax in any year profit is made but dividends are not declared. The payment is taken as an advance payment to be repaid from dividends payable to government in the future when dividends are declared and paid.

We are really keen to contribute to building a community in which serious conversation replaces partisan shouting matches (with people talking past each other) and sheer opportunistic posturing.

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