

REPORT OF THE COMMITTEE ON

SUBSIDIARY LEGISLATION ON

**THE ADA SONGOR SALT
DEVELOPMENT COMMITTEE
REGULATIONS 2002, L.I. 1716**

DATE 27TH NOVEMBER 2002

That as a Member of Parliament for Ada he has vested interest in the subject matter and that his chairmanship could occasion the likelihood of bias.

The Committee therefore adjourned proceedings for the day and referred the issues of the preliminary objection to Mr. Speaker for determination.

Pending the determination or otherwise of the matter by Mr. Speaker, the chairman yielded his position to the Vice Chairman to enable the committee resume deliberations on the Instrument at its subsequent meetings since time was of essence.

4.0 DELIBERATIONS

The Committee had a total of three sittings in deliberating on the Regulations.

5.0 ACKNOWLEDGEMENT

Apart from the Hon. Minister and his technical team, the Committee also wishes to acknowledge the contributions of officials of the Minerals Commission during its deliberations.

6.0 BACKGROUND

By virtue of the provisions of Section 18 of the Minerals Commission Act 1993, Act 450:

1.0 INTRODUCTION

The Ada Songor Salt Development Committee Regulations 2002, L.I. 1716 was laid in this House on Tuesday 23rd October 2002 in accordance with Article 11 (7) of the Constitution. The Instrument was subsequently referred to the Committee on Subsidiary Legislation for consideration and report pursuant to Standing Order 166 (2) and (3)

2.0 REFERENCE DOCUMENTS

In consideration the Regulations, the Committee availed itself of the following documents:

- i. The 1992 Constitution
- ii. The Minerals Commission Act 1993, Act 450
- iii. The Ada Songor Lagoon (Site for Salt Industry) (Vesting) Law 1992, PNDC Law 287; and
- iv. The Standing Order of Parliament

3.0 PRELIMINARY ISSUES

At the Committee's first meeting, The Minister for Mines, Hon. Kwadwo Adjei Darko was in attendance at the invitation of the Committee. At the commencement of proceedings, the Minister raised a preliminary objection to Hon. Amos Buerthey's chairmanship over the meeting to deliberate on the Instrument on the following grounds.

That he the Hon. Minister has sighted Hon. Buerthey's signature on a number of documents prepared by Splinter groups on the subject matter.

"The Minister may on the advice of the Minerals Commission by Legislative Instrument make regulations:

- (a) providing for the establishment of Committees for the control of and the administration of any particular mineral; and
- (b) generally for the effective implementation of the provision of the Act."

The Ada Songor Salt Development Committee Regulations 2002 L.I. 1716 was thus made by the Minister on powers conferred upon him by section 18 of the Minerals Commission Act 1993, Act 450.

7.0 **OBSERVATIONS (GENERAL)**

The Committee noted that, the L.I. 1716 seeks to establish the Ada Songor Salt Development Committee to provide for its composition and functions relating to the preparation of:

- plans and programmes for the development of the Songor Lagoon's capacity, as a common brine source to support salt production
- the promotion of salt-based chemical industries and related activities including aquaculture for the area
- the managing and supplying of brine from the Lagoon to salt producers in the area; and

- the promotion and development of infrastructure and support services within the Ada Songor Salt Development area, among others.

8.0 **SPECIFIC OBSERVATIONS**

The Committee made the following specific observations in accordance with Order 66, rule 3 of the Standing Orders

- i. Even though section 18 of the Act 450 enjoins the Minister to make Regulations on the advice of the Minerals Commission, the preamble to the L.I. 1716 states that:

"In exercise of the powers conferred on the Minister responsible for Mines by section 18 of the Minerals Commission Act 1993, Act 450, these Regulations are made this 2nd day of October 2002."

In the Committee's view, the requirements of section 18 of the Act 450 that the Minister should issue Regulations on the advice of the Minerals Commission has prima facie not been complied with.

- ii. The Committee also took note of the fact that section 19(2) of the enabling Act i.e. Act 450, defines Minister as "the Minister responsible for Energy and Mines." However the L.I. 1716 is being issued under the hand of the Minister responsible for mines which in the view of the Committee

constitutes an irregularity which ought to have been rectified prior to submitting the Regulations to Parliament.

- iii. It also came to the notice of the Committee that, section 18(a) of the Act 450, as indicated earlier empowers the Minister to make Regulations

“providing for the establishment of committees for the control of an administration of any particular mineral.”

Meanwhile, the Ada Songor Salt Development Committee Regulations 2002, L.I. 1716 as provided for in Regulation 2, seeks to regulate salt within a specific jurisdictional area i.e. Ada rather than within the whole country. The Committee therefore wonders whether a separate set of Regulations may be issued by the Minister for the production, management and control of salt in other parts of the country, since the nature of the L.I. 1716 imposes a limitation on its applicability to salt mining in other parts of the country.

The Committee also realized that the Songor Lagoon has been the subject of a lot of conflict and tension in the Ada Traditional Area. The Songor Lagoon was acquired by PNDC Law 287 which vested the Songor Lagoon and its adjoining lands in “the council” in trust for its owners; thereby distinguishing the relationship between the Government and owners of the Songor Lagoon and the affected lands under PNDC Law 287 from other properties acquired by the Government in the public interest.

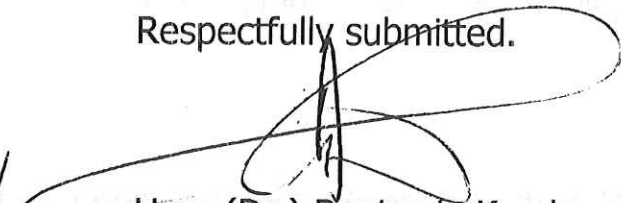
This relationship in the Committee's view, enjoins Government to always consult with the owners and act in their best interest on matters relating to the Songor Lagoon.

The Committee observed that it will be more acceptable if the provisions of the L.I. 1716 are brought in the form of a bill whose formulation is adequately informed by the views and concerns of the owners of the Songor Lagoon than a restrictive procedure of Regulations as we have it now.

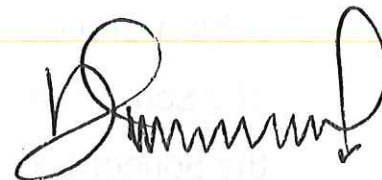
9.0 **RECOMMENDATIONS AND CONCLUSION**

The Committee has examined the Regulations in the light of the relevant provisions of the Constitution, the Minerals Commission Act 1993, Act450 and the Standing Orders, and recommends that in accordance with Article 11(7) (c) of the Constitution and Standing Order 77 (c) Parliament annuls the Ada Songor Salt Development Committee Regulations 2002, L.I. 1716.

Respectfully submitted.



Hon. (Dr.) Benjamin Kumbour
Vice Chairman,
Committee on Subsidiary Legislation



Mr. Ebenezer A. Djietror
Clerk, Committee on
Subsidiary Legislation