



# CSO Raises Concern Over The Wrongful Termination Of Leone Rock Metal Group –Kingho’s Pepel-Tonkolili Railway, Port Lease Agreement by the Government of Sierra Leone



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**4<sup>th</sup> January 2023**

**PRESS RELEASE**

**FOR IMMEDIATE RELEASE**

**Concerns Over The Termination Of The Railway And Port Lease Agreement And the Signing of Pepel Port and Pepel-Tonkolili Railway Lease Agreement At the Behest of the Government of Sierra Leone**

**Freetown, Saturday, 4<sup>th</sup> February 2023.** In the service of democracy and good governance, the Citizens Forum for Democratic Accountability (hereinafter referred to as C4D) with a niche in accountability, service delivery, environmental and mineral resources governance, human rights, and national cohesion has been following the ongoing drama between the Government of Sierra Leone (GoSL), ARISE IIP and Kingho Mining and Port Company Limited with unwavering attention over the possession of the Management of the Railway in the North and North – West of the Country.

In lieu of the aforesaid C4D is conscientiously investigating the termination of the Lease Agreement, its legal implication, and the benefit-cost of the action of the government. In this respect, C4D notes the following:

1. That there is an existing Railway and Port Lease Agreement between the GoSL (Lessor) and Kingho Railway and Port Company (Lessee) over the use, management, rehabilitation and maintenance of the Railway and Port.(the Agreement).
2. That the Railway and Port Lease Agreement was signed on 8<sup>th</sup> January 2021 between the GoSL and Kingho Railway and Port Company Limited for seven years as ratified by Parliament on Tuesday, 11<sup>th</sup> May 2021.
3. That on 10<sup>th</sup> January, 2023, the GoSL through the Attorney General and Minister of Justice terminated the Railway and Port Lease Agreement with Kingho Railway and Port Company Limited, using Section 2.03 and 11.01 of the Railway and Port Lease Agreement as the basis for termination.
4. That Section 2.03, which gives the GoSL the fiat or reserve right to engage a third party to independently

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operate the railway and port after the first two years of operation, is subject to a Six Months' Notice after the first two years of operation, referred to as "transition". However, the action of the GoSL to sign an agreement with a third party ARISE IIP to take over the operations of the Railway and Port before the expiring date of the First two years without the Six Months' Notice as provided in Section 2.03 is unlawful and amount to 'a grave fundamental breach of Government'. The termination notice was also not given after the two years as provided by in the agreement but before the end of the first two years.

5. That the termination notice issued on 10<sup>th</sup> January 2023 that ordered Kingho Railway and Port Company Limited to vacate the Demise properties and return to GoSL occupation agreements and all information related to the operations of the demised properties is unlawful as it contravenes the Agreement.
6. That on Tuesday 17<sup>th</sup> January 2023, the GoSL signed the Pepel Port and Pepel-Tonkolili Railway Development, Expansion and Management Lease Agreement with ARISE Integrated Industrial Platform Ltd without prior notice to Kingho Railway and Port Company which according to the Agreement must be informed about the Third Party or entity that will take over the operations of the Railway
7. That Kingho has rebutted the six months' Notice of Termination of the entire Lease Agreement, describing it as unlawful and a grave fundamental breach of the GoSL as Section 2.03, which is intended to be used to terminate the Agreement, without considering the fact that the GoSL recently commissioned over a \$200 million investment project for the management and refurbishment of the rail with plans to extend it use to passengers in the operational areas of the railway.

From the foregoing, C4D is unreservedly worried and unequivocally frowned at the termination of the Lease Agreement over the management of Pepel Railway and Port by Kingho Railway and Port Company.

Should Parliament ratify the Pepel Port and Pepel-Tonkolili Railway Development, Expansion and Management Lease Agreement with ARISE IIP at the expense of Kingho Railway and Port Company without a thorough look at Section 2.03 it would have legal implication and grave economic loss to the Government and the people of Sierra Leone, especially when mining plays a dominant role in the country's GDP in the crest of a wave of high cost of living in the country and economic hardship triggered by a comatose economy.

It would be recalled that on 15<sup>th</sup> February, 2021, the GoSL lost two of four claims against SL Mining before the British High Court and the International Chamber of Commerce (ICC) that cost the country a grave economic loss following the cancellation of the operations of SL Mining operations in the Marampa Mines Site in September 2019. The legal tussle that ensued was embarrassing for Government of which the GoSL called for out of Court Settlement at a huge cost,

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C4D is also concern over the strain diplomatic relations the cancellation of the Lease Agreement would cause between the GoSL and the Government of the Peoples Republic of China , a relationship that has survived the test of time for over fifty years in the international system and of which Sierra Leone has benefitted immensely.

Over and above, the termination of the Lease agreement has the tendency to scare away investors who may want to invest resources in Sierra Leone but the continuous termination of contracts, first with London Mining and now Kingho Railway and Port Company by the government speaks volumes and is detrimental to the country.

In conclusion, C4D is calling on the Government of Sierra Leone to take a second look at its action and do the needful as there is an urgent need to avoid the publicized mistakes of the past and put into being what constitutes best practice in natural resources governance and to note that irrespective of the investment ARISE IIP intends to put into Railway, the agreements must be respected, otherwise, ARISE IIP itself will not trust you.

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**Issued by:** Citizens Forum for Democratic Accountability (C4D)

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