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Press Statement

IEA Position on Key Constitutional Review Proposals from the Prempeh Committee and Government

1. The 1992 Constitution remains Ghana's longest-serving Constitution and has provided an important framework for democratic governance, overseeing nine Parliaments, five Presidents and four peaceful transfers of power from one governing party to an opposition party. These achievements should be acknowledged and protected. At the same time, persistent gaps, ambiguities, institutional weaknesses and the concentration of excessive powers in the Executive have generated legitimate calls for constitutional reform. The Institute of Economic Affairs (IEA) believes that a review of the Constitution must be guided by a clear national vision and by the institutional architecture required to secure such a vision through accountable, effective and democratic governance.
2. It is important to note that the IEA is not new to the subject of constitutional review. The Institute has been a major advocate for constitutional reform and played a crucial role in the work of the 2011 Fiadjoe Constitutional Review Commission. Our advocacy for constitutional review continued even when this first major attempt at constitutional review stalled. As a further step towards reviewing the 1992 Constitution, the Oquaye Centre for Constitutional Studies was established at the IEA in 2022, through which several public seminars were organized with various stakeholders to generate public debate and collate views towards a comprehensive review of the Constitution. The Institute subsequently engaged with the Prempeh Committee following its establishment and presented a detailed report to the Committee.

3. The IEA has therefore carefully studied the Prempeh Committee report and the Government position paper on the recommendations of the Prempeh Committee and wishes to state its position on a number of key proposals from the Committee and the Government.
4. On **the appointing powers of the President**, the Prempeh Committee proposed a differentiated system under which public offices would be classified as executive, independent, hybrid-independent or hybrid-executive, with the degree of presidential discretion varying according to the nature of each office. It also proposed competitive appointments for independent offices, greater institutional participation in nominations, and terms of office that are not tied to the President's tenure. Government accepts the principle of greater checks on presidential appointments but rejects the Committee's four-tier classification and intends to work with the Constitutional Review Implementation Committee (CRIC) on an alternative framework. The IEA supports the fundamental objective of the Committee and believes that the reviewed Constitution must contain detailed provisions to substantially reduce the current overwhelming appointing powers of the President. Such revisions must be targeted at assuring merit-based and inclusive appointments to all public offices.
5. On **the terms of the President and Members of Parliament**, the Prempeh Committee recommended extending both terms from four to five years, a proposal accepted by Government on the grounds that it would provide more time for policy formulation, implementation and assessment. The IEA disagrees. Four years is sufficient for an elected government to implement its programme, and extending the tenure of elected officials should not be undertaken without much more cogent and compelling evidence that the existing four-year mandate is inadequate.
6. On **judicial appointments** the Prempeh Committee proposed a structured multi-stage process for appointing the Chief Justice and other Justices of the Superior Courts, including public advertisements, shortlisting, interviews, nomination of multiple candidates, and parliamentary approval. The Government rejected these proposals, arguing that the existing constitutional framework adequately balances merit, executive responsibility, judicial independence, and

parliamentary oversight. The IEA believes it is time to review the Constitution to introduce judicial appointment modalities that are based on clearly defined principles and international standards. Accordingly, the Judicial Council should be reformed to function as an independent body responsible for, among other things, judicial appointments to ensure process integrity, transparency, structural independence of the Judiciary and guarantee independent input into the choice of all judicial officers including the Chief Justice.

7. Regarding **the composition of the Supreme Court**, the Committee proposed a constitutional cap of 15 Justices, subject to some appeals terminating in the Court of Appeal, while Government supports a cap of 19. The IEA supports the principle of capping the Court's membership because an unlimited or excessively large Court can create institutional uncertainty. However, a cap of 19, or of any number, can only be justified if the scope of the jurisdiction of the Supreme Court, particularly its appellate jurisdiction, is appropriately reduced. The size of the Court should be considered together with the volume and nature of the cases it is constitutionally required to determine. When certain appeals terminate at the Court of Appeal such that the Supreme Court can focus on constitutional cases and cases of exceptional legal importance, then a cap would be reasonable.
8. On **the removal of Justices of the Superior Courts**, the Committee proposed a more structured procedure governing petitions, preliminary determination of prima facie case, suspension, tribunals and timelines. Government agrees that greater clarity and timeliness are necessary but prefers to address the matter through subsidiary legislation or procedural rules within the existing constitutional framework. The IEA considers the current provisions, particularly those governing the removal of the Chief Justice, too sketchy and susceptible to political manipulation. Article 146 should therefore be revised to spell out the formal removal procedures in greater detail, drawing on international best practice. Article 168 of the Kenyan Constitution, for example, places an independent Judicial Service Commission in charge of the removal of Justices from office and spells out a detailed removal procedure. A reviewed Constitution should also provide for a system of intermediate discipline to address misconduct that may not warrant removal from office but nevertheless requires formal sanction.

9. On **the election of Metropolitan, Municipal and District Chief Executives (MMDCEs)**, the Prempeh Committee proposed a phased approach, linking the election of DCEs to the financial and administrative capacity of individual districts. Government proposes that all MMDCEs be elected, but that candidates be drawn from five persons nominated by the President and subsequently shortlisted by a vetting committee. The IEA supports the election of all MMDCEs but rejects presidential nomination of candidates. In the view of the IEA, all qualified citizens should be free to contest MMDCE elections in a non-partisan process. Local-level democracy will be strengthened when citizens, rather than the President, determine who may stand for election to lead in the district.
10. On **the appointment of Ministers from Parliament**, the Prempeh Committee proposed barring Members of Parliament from serving simultaneously as Ministers, Deputy Ministers or Regional Ministers. Government rejects this, arguing that the President should retain the discretion to appoint members of Government from within or outside Parliament. The IEA fully supports the Committee's position. A meaningful separation of powers is essential to strengthening Parliament's independence and its capacity to exercise effective oversight over the Executive. Parliament cannot be expected to provide robust scrutiny of Government while a significant proportion of its members simultaneously depend on presidential appointment for executive office.
11. The IEA also supports the Committee's recommendation to **depoliticise the governance of State-Owned Enterprises** by constitutionally barring Ministers, Deputy Ministers and Members of Parliament from serving on SOE boards. Government argues that this should be addressed through ordinary legislation rather than constitutional amendment. The IEA considers constitutional protection necessary. The governance of SOEs should be based primarily on competence, professionalism, independence and accountability rather than political affiliation. Entrenching this principle in the Constitution would provide stronger protection against recurrent political interference.
12. On the proposed **Democracy Fund**, the Prempeh Committee recommended a fund, administered by an Independent Registrar and Regulator of Political Parties and Campaigns

(IRRPC), to support the non-electioneering activities of political parties. Government accepted the proposal in principle but prefers to establish it through legislation rather than constitutional entrenchment. The IEA does not support the state funding of the non-electioneering activities of political parties. However, there can be some well-defined support for political parties (e.g. paying the EC for internal party elections following the abolition of the delegate system).

13. On **the Council of State**, the Committee proposed a 33-member body whose composition would provide institutional representation for Parliament, traditional authorities, agriculture, industry and commerce, organised labour, faith-based organisations, professional associations, academia and civil society, alongside regional representation. Government rejected this proposal on the grounds that the existing composition already provides an appropriate balance and limits executive control. The IEA disagrees with a system that effectively allows the President to choose his own principal advisors. The Council should instead reflect institutional representation (modelled after the traditional councils of chiefs), alongside elected regional representatives.
14. On **national development planning**, the Prempeh Committee proposed strengthening the National Development Planning Commission (NDPC) as an independent body responsible for coordinating, monitoring and evaluating a binding National Development Plan, while implementation would remain with the relevant Ministries, Departments, Agencies and Metropolitan, Municipal and District Assemblies. Government rejected this on the grounds that it could transfer executive functions to unelected technocrats and constrain the policy choices of successive governments. The IEA supports the creation of an independent NDPC whose membership is constituted through institutional representation and with the authority to formulate binding national development plans. Further, the tenure of members of the Commission should not be coterminous with the tenure of the President and all political party manifestoes should be mandated to speak to (reflect) the approved National Development Plan developed by the NDPC. Instead of repeatedly resetting Ghana's development agenda with every change of government, a credible long-term national development framework can provide continuity while allowing successive governments sufficient room to pursue their electoral mandates within an agreed national direction.

15. On **unexplained wealth and asset declaration**, the Committee proposed strengthening Article 286(4) by establishing mechanisms to address unexplained increases in the wealth of public officials, including lifestyle and wealth audits - a reverse burden of proof subject to appropriate safeguards, and stricter deadlines for asset declarations. Government prefers to address these matters through legislation. The IEA supports constitutionalising the Committee's recommendations. The fight against corruption requires more than general principles; it requires clear, enforceable and credible constitutional obligations that cannot be easily amended. A strengthened asset declaration regime would improve accountability and provide a stronger and more timely basis for detecting and addressing illicit enrichment by public officeholders.
16. On enhancing **women's representation** and the participation of other marginalised groups, Government agrees with the Committee on capping Parliament but proposes a 300-member Parliament comprising 276 elected constituency representatives and 24 additional members elected through proportional representation for women, persons with disabilities and the youth, subject to a feasibility study. Government, however, does not support the Committee's broader proposal to adopt proportional representation as a general mechanism for increasing the representation of women and other marginalised groups, limiting it instead to the additional 24 seats. Similarly, while the Committee proposed restructuring the 30 percent appointed membership of District Assemblies through quotas for traditional authorities, women, businesses, persons with disabilities, youth and NGOs, Government prefers to retain the existing one-third appointed membership, with detailed modalities to be determined under the Local Government Act. The IEA considers the proposals from both the Prempeh Committee and the Government grossly insufficient. There is the need for a system of proportional representation that allows political parties to nominate women and persons from other marginalized groups based on the proportion of votes won in an election. Further, addressing the persistent under-representation of women in Ghana's political institutions would require the use of mandatory quota and non-quota measures to ensure all public institutions are composed of at least 30% of each gender and other identified groups.

17. The IEA also has **serious reservations about the proposed methodology and timeline for the current constitutional amendment process.** Government envisages separate amendment Bills for non-entrenched and entrenched provisions, with a target of February 2027 for the former and a referendum on entrenched provisions alongside the 2027 District Assembly elections. The IEA considers this methodology problematic. Constitution making must necessarily be consultative, and a constitutional reform of this magnitude must allow adequate time for comprehensive public education, informed national debate, public consultation and consensus building and a careful consideration of the implications of each proposed amendment. Further, given that the 1992 Constitution is the product of a consultative process, a similar approach should be adopted for the current review process.
18. In a nutshell, the IEA's call is for a principled, comprehensive and nationally owned constitutional reform process with the objective of creating a constitutional architecture that limits excessive executive power, strengthens Parliament and the Judiciary, deepens local level democracy, professionalises public institutions through transparent merit-based processes, promotes continuity in national development planning and strengthens mechanisms for accountability. The task before the nation is to preserve what works, correct what does not, and build institutions capable of serving Ghana beyond individual Presidents, governments and political parties. The IEA believes that constitutional reform should ultimately produce a stronger democracy, more accountable government and a state better equipped to advance Ghana's long-term national interests.