

IN THE SECOND SESSION OF THE SEVENTH PARLIAMENT OF THE
FOURTH REPUBLIC OF GHANA

Report of the
FINANCE COMMITTEE

on the

AGREEMENT ESTABLISHING THE
AFRICAN TRADE INSURANCE AGENCY
(ATI TREATY)

PARLIAMENT OF GHANA LIBRARY

NOVEMBER, 2018

1.0 INTRODUCTION

The **Agreement Establishing the African Trade Insurance Agency (ATI Treaty)** was laid in Parliament on Wednesday 31st October, 2018 by the Honourable Deputy Minister for Finance, Mrs. Abena Osei-Asare on behalf of the Minister responsible for Finance.

The Agreement was subsequently *referred* to the Finance Committee for consideration and report in accordance with Article 75(2) of the 1992 Constitution and Order 169 of the Standing Orders of the Parliament of Ghana.

A Deputy Minister for Finance, Hon. Kwaku Kwarteng and other officials from the Ministry of Finance attended upon and assisted the Committee in its deliberations on the Agreement.

The Committee expresses its gratitude to the Honourable Deputy Minister and the officials from the Ministry of Finance for attending upon the Committee.

2.0 REFERENCES

The Committee referred to the following documents *inter alia* during its deliberations on the Agreement:

- a. The 1992 Constitution of Ghana
- b. The Standing Orders of the Parliament of Ghana

3.0 BACKGROUND

In the year 2008, the Government of Ghana applied for membership of the African Trade Insurance Agency (ATI). The country was subsequently admitted during the 9th Annual General Meeting of the Agency on the 19th day of May, 2009 in Nairobi, Kenya.

The World Bank then granted Ghana a loan of SDR12.8 million (US\$20.0 million equivalent) under the Regional Trade Facilitation Project (RTFP) to enable Ghana pay for her shares in ATI. This facility was eventually cancelled in 2013 and after three times extension of the deadline by the World Bank due to Government's inability to sign various related agreements including the non-ratification of the Agreement Establishing ATI.

The Participation Agreement between Government and ATI was signed on 30th November, 2012. Ghana therefore is required to ratify the Agreement Establishing the Agency and subscribe to ATI capital to complete its membership.

4.0 PURPOSE OF THE AGREEMENT

The purpose of the Agreement is to establish the African Trade Insurance Agency as an initiative by the Common Market for Eastern and Southern Africa (COMESA) to provide political and credit risk insurance for the promotion

of trade and investments in member countries. The establishment treaty is registered as a multilateral institution by the United Nations under article 102 of the United Nations Charter.

5.0 CONTENT OF THE AGREEMENT

The Agreement contains 29 articles.

Article 1 provides for the interpretation of the terms used in the Agreement.

Article 2 provides for the establishment of the Agency.

Article 3 vests legal capacity in the Agency.

Article 4 clarifies the object and purpose of the Agency

Article 5 is on Membership. Membership of the Agency is open to any African State, Non-African State, Regional Economic Organization, International Development Financial Organization, Export Credit Agencies and Private Corporations.



Article 6 deals with authorized capital stock of the Agency and the allocation of shares therein.

Article 7 provides for the subscription of shares in the Agency.

Article 8 is on the operation of the Agency.

Articles 9 and 10 make provision for the financial and organizational management of the Agency.

Article 11 provides for general meetings of the Agency.

Composition of the Board of Directors is enshrined in Article 12. The Board comprises of eleven (11) Directors. However, should the Membership of the Agency reach 27, the General Meeting may by a resolution increase the number of Directors up to a maximum of fifteen (15).

Article 13 stipulates the qualifications of the Chief Executive Officer. The CEO shall hold office for a term of 5 years, and is eligible for reappointment to a further term of five years only and not more.

Article 14 provides for the siting of the permanent headquarters and offices of the Agency.

Articles 15 grants immunities, exemptions and privileges to the Agency, its property and assets located within the territory of a Member State.

Per article 16, legal actions may be brought against the Agency only in a court of competent jurisdiction in the territory of a Member State in which the Agency has its headquarters or an office.

Article 17 provides for relations of the Agency with other organizations and institutions.

Article 18 requires that the Agreement shall have an indefinite duration. The Board of Directors may however approve the suspension of any of its operations.

Article 19 requires Members to endeavor to avoid disputes. It further provides for the settlement of disputes by peaceful means.

Articles 20 and 21 provide for supplementary agreement between Members and the Process of Amendment of the Establishment Treaty.

Articles 22, 23, 24, 25 and 26 cover signature, Ratification of the Agreement, Accession, Entry into Force, and Reservations.

Article 27 provides for the suspension and withdrawal from Membership.

6.0 EXPECTED BENEFITS FROM BECOMING MEMBER OF ATI

Key benefits that Ghana as a country and the business community will derive from becoming a member of ATI are as follows:

- Minimize or completely avoid the issuing of Sovereign guarantees for state funded projects by providing cover to banks against the non-honouring of Sovereign and sub-Sovereign obligations
- Ghanaian exporters, investors and financial institutions will be provided with products and services that do not exist in Ghana
- Increase availability of affordable project and trade finance by using a minimum equity investment
- Increase exports (regionally and internationally) by providing export credit insurance to allow exporters to sell safely to the end-user buyers on open account, thereby cutting out the middle men and increasing profitability by moving up the value chain as well as protecting and creating employment
- Generate additional tax revenue from increased economic activity and employment
- Allow exporters access to affordable lines of credit from their commercial banks for pre- and post-export finance secured only against the insured receivables which now carry an "A"/Stable credit rating by virtue of ATI's insurance.

- Access to credit is one of the key challenges facing local companies in the country, thereby making them unable to compete favourably on the global stage. ATI can cover their risks making it easy for financial institutions to extend credit terms to them. In 2016, ATI supported US\$1.9 billion worth of investments into African Member Countries. These investments helped to build roads, improve energy and water infrastructure, construct housing and finance African based small and medium scale enterprises.
- Help source funding from international lenders, institutional investors such as pension funds and life insurers, through risk mitigation provided by ATI.

7.0 OBSERVATIONS

7.1 Legal Personality

The Agency possesses international legal personality as it is deemed to be legally constituted corporate body. Per Article 4(1) of the Agreement Establishing the Agency, the object of the Agency is to facilitate, encourage and develop the provision of, or the support of insurance, coinsurance, reinsurance, guarantees and other financial instruments and services for purposes of trade, investments and other productive activities in African States to supplement what the public or private sector offers.

7.2 Functions of the Agency

The functions of the African Trade Insurance Agency (ATI) include but not limited to:

- i. Facilitating the development of trade, investments and other productive activities in African States through the provision or support of insurance, coinsurance, reinsurance and guarantees against political, non-commercial and commercial risks.
- ii. Mobilization of financial resources necessary to achieve its objects and purpose.

7.3 Membership of the ATI

Membership of the Agency is open to any African State, Non-African State, Regional Economic Organization, International Development Financial Organization, Export Credit Agencies and Private Corporations. ATI's services and products are mainly accessible to entities that are resident in or trade with member countries of the Agency.

7.4 Share subscription

Pursuant to Article 7(2) of the Agreement establishing the ATI, the minimum share subscription for each Member State is seventy-five (75) shares with a par value of *Seven Million, Five Hundred Thousand United States Dollars* (US\$7.5 million). The Board of Directors of ATI is however empowered to increase the

minimum share depending on the Gross National Product (GNP) of applicant country.

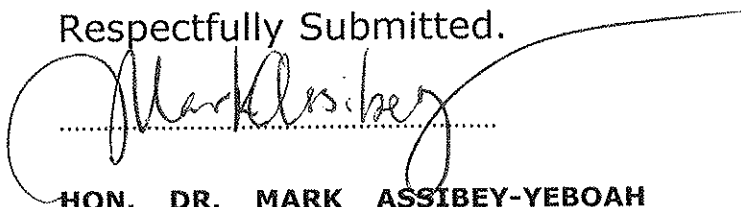
In line with the above, the level of required capital for Ghana has been estimated at Twenty Million United States Dollars (US\$20 million) [200 shares] based on the size of the economy and the anticipated demand for the Agency's products and services in Ghana.

The Committee was informed that the Federal Republic of Germany has committed a grant of Sixteen Million Euros (EUR16 million) [equivalent to US\$18.4 million] to the Government of Ghana to enable the latter pay for the ATI shares. The remaining amount of US\$1.6 million would be budgeted and paid for within the 2020 financial year.

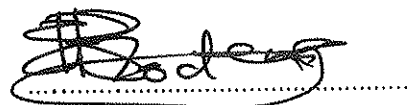
8.0 CONCLUSION

In view of the foregoing observations, the Committee recommends to the House to adopt this report and ratify the **Agreement Establishing the African Trade Insurance Agency (ATI Treaty)** in accordance with Article 75(2)(b) of the 1992 Constitution and the Standing Orders of the House.

Respectfully Submitted.



HON. DR. MARK ASSIBEY-YEBOAH
(CHAIRMAN, FINANCE COMMITTEE)



EVELYN BREFO-BOATENG (MS.)
(CLERK, FINANCE COMMITTEE)

23RD NOVEMBER, 2018

