

**REPORT OF THE
COMMITTEE ON MINES AND ENERGY**

**ON THE
RATIFICATION OF THE ADDENDUM TO THE**

STABILITY AGREEMENT DATED 18TH FEBRUARY 2004

**BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF GHANA**

**AND
ANGLOGOLD ASHANTI LTD.**

1.0 INTRODUCTION

The Agreement was laid before the House by the Majority Leader and Minister for Parliamentary Affairs, Hon. Felix K. Owusu-Adjapong on Wednesday 21st March 2007 and was subsequently referred to the Committee on Mines and Energy for consideration and Report in Accordance with 103 (2) of the 1992 of Ghana and Standing Orders No. 188 of the House.

2.0 REFERENCE

- i. The 1992 Constitution of the Republic of Ghana
- ii. The Standing Orders of Parliament
- iii. The Minerals and Mining Law 2006, Act 703
- iv. The Stability Agreement between the Republic of Ghana and AngloGold Ashanti Ltd dated 8th February 2004

3.0 BACKGROUND INFORMATION

The House may recall that Ashanti Goldfields CO. Ltd. and AngloGold Ltd entered into a transaction Agreement which eventually

led to the merger of the two companies under the name AngloGold Ashanti Ltd.

Following the merger, AngloGold Ashanti entered into a stability Agreement with the Government of Ghana to support the development of the Obuasi deeps in particular.

Government under the Stability Agreement granted the following concessions:

- (a) The mining lease for Obuasi dated 5th March 1994 was extended for sixty years and shall expire on 4th March 2054.
- (b) The royalty rate payable by AngloGold Ashanti Ltd. and its subsidiaries in Ghana shall not exceed 3% of the total revenues obtained from mining operations for 15 years with effect from the date of ratification by Parliament of the Stability Agreement.
- (c) Corporate tax to be fixed at 30% for AngloGold Ashanti Ltd and each of its subsidiaries in Ghana for a period of 15 years from the date the Stability Agreement was ratified by Parliament.
- (d) AngloGold Ashanti Ltd. and its subsidiaries in Ghana shall retain up to 80% of their exportation proceeds in foreign currencies in an external account.
- (e) For a period of 15 years from the date of ratification by Parliament, any change in any law, orders, instruments or action taken under them shall not adversely;
 - i. Affect the provision of the Stability agreement
 - ii. Change the levels of payment for customs and duties; and
 - iii. Affect exchange control; transfer of capital and dividend remittance.

4.0 PROPOSALS BY ANGLOGOLD ASHANTI LTD. FOR A REVIEW OF THE STABILITY AGREEMENT.

AngloGold Ashanti Ltd. made a proposal to Government on 2nd November 2006 requesting for review of the Stability Agreement ratified by Parliament on 18th February 2004 as follows:

i. Corporate Tax:

The Corporate tax rate stipulated in Section 2.03 of the Stability Agreement was fixed at 30% when the prevailing rate was 32.5%. AngloGold Claims that in the spirit of the agreement this was to be the maximum rate, with the rate applicable from time to time being 2.5% less than the prevailing rate.

Justification:

The Corporate Tax rate under the 2006 budget was 25%. Thus, AngloGold Ashanti should therefore pay 22.5% in the “ spirit of the agreement”. Also the company claims its operations in Ghana are therefore disadvantaged when compared to other mining companies.

ii. Most Favoured Treatment:

Government shall grant AngloGold Ashanti Ltd. and its subsidiaries, mining sector terms and conditions of whatever nature that it has granted or grants to other persons or companies that are more favourable than those accorded to AngloGold Ashanti and its subsidiaries.

Justification:

Newmont Ghana Gold Ltd. was granted such a treatment in its investment Agreement signed with Government and ratified by Parliament.

iii. Duration Of Stability Agreement

The duration (60 years) of the Stability Agreement which was for 15 years should be extended to cover the duration of the mining lease granted by Government to AngloGold in the Stability Agreement.

5.0 OBSERVATION AND RECOMMENDATION

Mr. Speaker, your Committee noted that the Hon. Minister of Lands, Forestry and Mines set up a Committee made up of representatives of the Ministry, representatives of the Office of the President, as well as representatives of the Ministry of Justice and Attorney General to review the proposals being presented by AngloGold Ashanti Ltd.

The Committee further noted that, the Committee set up by the Ministry reached the following conclusions:

- The applicable rate of corporate tax would be the prevailing rate at anytime but would not exceed 30%.
- Instead of the most favourable treatment clause, a review clause similar to that in former Deeds of Warranty should be introduced. That is, if new laws are passed which adversely affect the company, then it would be entitled to request for a review. Such reviews, however, can only be done every fifth anniversary.
- Request for extension of the term of the Stability Agreement beyond 15 years is not feasible, since Act 703 (Minerals and Mining Act, 2006) limits Stability Agreements to 15 years.

The Committee further observed that under Section 2.07 of the original Stability Agreement, the Ministry of Land, Forestry and Mines is obligated to present the extended mining lease from for ratification by Parliament. The Ministry is not yet able to meet this obligation.

The Committee has therefore requested the Ministry to submit the extended mining lease to Parliament before the end of May 2007.

The Committee also observed with commendation, the decision of Cabinet and the negotiation Committee not to grant the request of AngloGold Ashanti for the extension of the Stability Agreement to 60 years, as this would have undermined the minerals and mining Act, 2006, which has placed a limitation on the duration of a Stability Agreement.

6.0 CONCLUSION

In conclusion, the Committee wishes to recommend to the House to adopt its report on the addendum to the Stability Agreement between the Government of Ghana and AngloGold Ashanti Limited in accordance with Article 268 of the 1992 Constitution of the Republic of Ghana.



HON. (MRS) GIFTY E. KUSI
CHAIRPERSON,
COMMITTEE ON MINES AND ENERGY



MR. INUSAH MOHAMMED
CLERK,
COMMITTEE ON MINES AND ENERGY

(Wednesday, 21st March 2007)