

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

REPORT OF THE COMMITTEE ON MINES AND ENERGY ON THE  
TERMS OF AGREEMENT BETWEEN THE GOVERNMENT OF GHANA  
AND VALCO DURING THE FIVE YEARS REVIEW OF VALCO  
AGREEMENT

**1.0 INTRODUCTION**

The terms for Agreement between the Government of Ghana and VALCO during the 5 years review of VALCO Agreements (1999-2003) were laid before Parliament and referred to the Committee for consideration and report on Tuesday, 14<sup>th</sup> December 2000 pursuant to Article 103 of the Constitution and Standing Orders 187 and 155 of this House.

**2.0 REFERENCE**

In considering the terms of Agreement, the Committee examined the following enactments and materials made available to it:

- (a) The Constitution
- (b) The Standing Orders
- (c) The Agreement between the Government of Ghana, the Volta River Authority and the Volta Aluminium Company Limited (VALCO)

**3.0 BACKGROUND**

The terms of Agreement between the Government of Ghana and VALCO during the five years review of VALCO Agreement have been necessitated by the conclusions reached between the Ghana Government Negotiation Team (GNT) on the VALCO Agreements and officials of VALCO for the purpose of revising the existing agreements

which would govern VALCO's operations for the period January 1<sup>st</sup>. 1999 to December 31<sup>st</sup>. 2003.

#### **4.0 DELIBERATIONS/OBSERVATIONS**

During its deliberations, the Committee had the inputs of senior officials and technocrats from the Ministry of Mines and Energy, the Volta River Authority and VALCO.

The Committee took a serious look at the relatively short period within which the document was supposed to receive parliamentary approval and therefore delved into the urgency the ratification deserved as well as the rationale behind it.

It came to light that, the Master Agreement between the Government of Ghana and VALCO was for a total period of fifty (50) years ending in 2017.

However, by April 24<sup>th</sup> 1997, some provisions of this Agreement had already expired and needed to be revised or retained for the mutual benefit of the parties involved. These provisions relate to:

- (i) Corporate tax and dividend withholding tax.
- (ii) Custom duties, VALCO fund contributions and Guarantees against expropriation, and
- (iii) possibility of further extension.

The Committee observed that although these provisions expired in 1997, VALCO had been committed to its corporate tax obligation at the rate of 35% and a dividend with holding tax at the rate of 10%. It however learnt with gratitude that VALCO was co-operative with the Government Negotiating Team for shelving the idea of applying for a Free Zone Status in which case they would have been entitled to a 0%

corporate and dividend withholding taxes with the former increasing to only 8% after ten (10) years. The Committee was therefore in support of the agreement reached between the parties where VALCO agreed to pay the 35% rate of corporate tax with a 5% rate of dividend withholding tax.

The Committee observed that, since the entire Agreement was extended from 30 years to 50 years, it was only fair that certain vital provisions were retained as they were in the Master Agreement. It was in this view that it was in agreement with the call by the Minister for the retention of exemptions which had been applied to certain dutiable imports of VALCO since 1985 in the Master Agreement.

Again, it was in the same light that the Committee supported the continued contributions of VALCO the VALCO Fund which had assisted the country immensely in its development. It also was in support of the retention in the Master Agreement of the provision guaranteeing VALCO's protection from expropriation of its properties.

Finally, the Committee observed with satisfaction the propriety of the 20 years extension being sought by VALCO when it enters into the power sale agreement with an Independent Power Producer (IPP). It is generally known that the minimum duration for such agreements is 15 years. Granted that the West African Gas Pipeline project takes off in 2005, then the earliest likely expiry date of VALCO's Agreement with the IPP will be 2019. The proposed power sale agreement between VALCO and the IPP, according to the GNT had been necessitated by Valco's intention to operate a 5<sup>th</sup> potline.

With regard to the urgency, the Committee observed with concern that the Master Agreement contained some provisions which had not been favourable to the country as a result of which Ghana is



still paying damages after having cut back on its supply to VALCO during the 1998 energy crisis.

The approval would certainly eliminate such clauses in the Master Agreement as VALCO had already in the course of negotiation ceded its firm power requirement to 2146 GWH from 2760 GWH.

This reduction in firm power requirement meant a saving of 70 MW for VRA and for that matter Ghana.

It is worthy to note that under these new terms, the VRA had earned an accumulated \$12million which it so much needs to augment its precarious financial situation. The Committee learnt that with the depreciation in the cedi, the production cost of a unit of power had more than doubled over the years. The approval by Parliament will therefore enable the VRA to receive this money which will obviate the recourse to tariff increases to the detriment of consumers.

The Committee was further told that negotiations had been on-going for the past 2years and that the proposals were approved by Cabinet awaiting Parliamentary approval during the pre-election recess of Parliament.

The Committee also observed that but for the run-off election, it would have been considered.

## **5. RECOMMENDATION**

In the light of the foregoing, the Committee, by a majority decision recommends that Parliament formally considers these terms of Agreement and save the Country from hardships should VALCO decide,

in the course of a delay, to operationalise the Master Agreement to the letter.

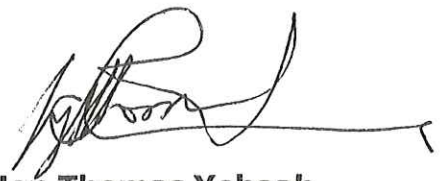
**CONCLUSION**

In conclusion, the Committee urges the House to ratify these terms of Agreement between the Government of Ghana and the Volta Aluminium Company Limited.

Respectfully submitted.



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Assistant Clerk to the Committee**



**Hon Thomas Yeboah  
Chairman**