

**IN THE FIRST SESSION OF THE SEVENTH
PARLIAMENT OF THE FOURTH REPUBLIC OF
GHANA**

REPORT OF THE

FINANCE COMMITTEE

ON THE

**INVESTIGATION TO ASCERTAIN WHETHER
NEWMONT GHANA GOLD LIMITED AND
GHANA BAUXITE COMPANY HAVE HAD
THEIR MINING AGREEMENTS RATIFIED BY
PARLIAMENT OF GHANA, AND WHETHER
THE TWO COMPANIES ARE VAT COMPLIANT**

26TH JULY, 2017

INTRODUCTION

Out of the deliberations of the Report of the Public Accounts Committee on the Foreign Exchange Receipts and Payments for the year ended 2015 on the floor of the House on Thursday, 29th June, 2017, came the revelation that two companies, namely Newmont Ghana Gold Limited and Ghana Bauxite Company Limited, have been exempted from surrendering their foreign exchange earnings or retaining them outside the country as part of their mining Agreement.

Rt. Hon. Speaker referred this matter to the Finance Committee for consideration and report in accordance with the 1992 Constitution and the Standing Orders of the House

The Committee met with officials from the Ministry of Finance, Minerals Commission, Ghana Revenue Authority, Bank of Ghana, Newmont Ghana Gold Limited (NGGL) and Ghana Bauxite Company.

2.0 DOCUMENTS REFERRED TO

The Committee referred to the following documents:

1. 1992 Constitution
2. Standing Orders of Parliament
3. 29th June, 2017 Hansard
4. Fiscal Agreement between the Government of Ghana and TBAC limited and Ghana Bauxite limited
5. Ghana Bauxite Company Limited Mining Lease
6. Correspondences between the Ministry of Finance and NGGL
7. Correspondence between the Ministry of Trade and Industry and NGGL
8. Correspondence between the Ministry of Lands and Natural Resources and NGGL
9. Investment Agreement between GoG and NGGL

3.0 PURPOSE OF THE REFERRAL

The purpose of the referral was for the Committee to investigate the allegation and confirm whether

- there is any agreement between each of the Companies and Government which has been ratified by Parliament.
- The companies have not been registered to pay VAT and the basis for such non-registration.

4.0 OBSERVATIONS

4.1 NEWMONT GHANA GOLD LIMITED (NGGL)

4.1.1 Investment Agreement with Government of Ghana

In a response to whether there is an agreement between Newmont Ghana Gold Limited and Government of Ghana that provided that the company can retain all its foreign receipts outside the country as at 2015, the Company responded in the affirmative. It informed the Committee that it had an earlier agreement with the Government of Ghana which provided that it was not required to surrender any receipts to the Bank of Ghana. The Company stated that despite the non-surrender clause in the old agreement, Newmont has been repatriating over sixty percent (60%) of its receipts back to Ghana through local commercial banks. This repatriation is used to take care of its expenses in the country.

The Company said this position changed after the end of 2015. In November, 2015, the Company had a revised investment agreement with the Government of Ghana which requires that Newmont surrender thirty percent (30%) of its export proceeds to Bank of Ghana. This Agreement was ratified by Parliament and came into effect in December, 2015.

Bank of Ghana confirmed the information given by Newmont that under the old agreement the company was not required to surrender any percentage of export receipts to the Bank of Ghana. With regards to the Revised Agreement, the Bank indicated that it was not aware of the new agreement that reviewed of the existing position. The Bank indicated that it would update its records accordingly and ensure that the Company abides by the new terms in the revised agreement.

Minerals Commission confirmed that they were aware that under the old regime, Newmont was not to surrender any percentage to the Bank of Ghana. It was also aware that Newmont repatriates about sixty percent of its receipts to the country.

4.1.2 Presentation of Documents for Tax Exemption

Responding to whether the Company was exempt from the payment of taxes, Newmont answered in the affirmative and presented correspondence between itself and Ministry of Trade and Industry as well correspondence between the Ministry of Finance and itself.

Per the correspondences, the Company was exempted from the payment of import VAT and NHIL as well as ECOWAS and EDAIF Levies.

The Ministry of Finance confirmed these correspondences and indicated that Parliament has approved exemption for Newmont from the payment of these taxes for fifteen years. Therefore, Newmont is expected to pay taxes after the year 2018.

4.2 GHANA BAUXITE COMPANY

4.2.1 Ratification by Parliament

The Ghana Bauxite Company conceded that their agreement has not been ratified by Parliament. The technical team from the Company explained that the company has gone through a number of transitions. The current management took over in 1997 with Government of Ghana having twenty (20) percent shares and China Bauxite Company owning eighty percent (80%) shares. The Committee implored the Minerals Commission to urge Government to bring the Agreement to Parliament as soon as possible.

4.2.2 Reporting Requirements

The Committee observed that there was no line item for record of foreign exchange earned for bauxite mined in the country in the Report of the Auditor-General.

The Company informed the Committee that they have been receiving officials from Bank of Ghana who go through their records when they do their Balance of Payments survey.

BoG explained that they have identified a few inadequacies in the existing reporting format. In furtherance of this, they are expanding their reporting system which would capture all receipts through the commercial banks.

4.2.3 Payment of VAT

The Company informed the Committee that it is not exempted from the payment of VAT. VAT is paid and the company files its taxes as expected. GRA corroborated this position of Ghana Bauxite Company.

5.0 RECOMMENDATION

5.1 Newmont Ghana Gold Limited

The Committee noted that as at the end of December, 2015, the Company did not surrender part of its export receipts to the Bank of Ghana. The position has since

changed and from 2016, the Company is to surrender thirty percent (30%) of the export receipts to Bank of Ghana. With respect to the payment of VAT, Newmont Ghana Gold is exempted until the end of 2018.

The Committee urges Bank of Ghana to take note of the change in policy and capture the 30% surrender requirement of Newmont. Where Newmont fails to surrender, the necessary sanctions should be applied.

5.2 Ghana Bauxite Company

The Company observed that the mining agreement has not been ratified. Further, Bank of Ghana has not been capturing bauxite proceeds in its report on foreign exchange receipts and payments that it submits to Parliament. However, Ghana Bauxite pays its taxes as expected.

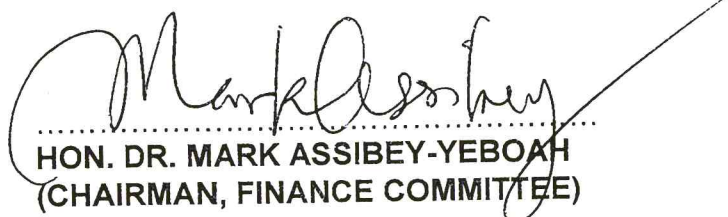
The Committee recommends that as a matter of urgency, the Government should submit the Mining Agreement to Parliament for ratification. Further, Bank of Ghana should capture the foreign exchange receipts earned from the exportation of bauxite in its report as required by the Constitution.

6.0 CONCLUSION

After careful deliberations, the Committee recommends to the House to adopt and approve in accordance with the standing orders of the House, its report on the investigation to ascertain whether the

- Newmont Ghana Gold limited and Ghana Bauxite Company have had their mining agreements ratified by Parliament of Ghana, and
- two Companies are VAT compliant.

Respectfully submitted.


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


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