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**IN THE THIRD SESSION OF THE SIXTH
PARLIAMENT OF THE FOURTH
REPUBLIC OF GHANA**

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

ON THE

**REVISED INVESTMENT AGREEMENT
BETWEEN THE REPUBLIC OF GHANA
AND NEWMONT GOLDEN RIDGE
LIMITED**

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REPORT OF THE COMMITTEE ON MINES AND ENERGY ON THE REVISED INVESTMENT AGREEMENT BETWEEN THE REPUBLIC OF GHANA AND THE NEWMONT GOLDEN RIDGE LIMITED

1.0 INTRODUCTION

The Revised Investment Agreement between the Republic of Ghana and Newmont Golden Ridge Limited was laid in Parliament by the Minister for Lands and Natural Resources, Hon. Nii Osah Mills on 14th July, 2015 in accordance with Article 268(1) of the 1992 Constitution.

Pursuant to Orders 188 of the Standing Orders of the House, the Rt. Hon. Speaker referred the Agreement to the Committee on Mines and Energy for consideration and report.

2.0 DELIBERATIONS

The Committee met with the Minister for Lands and Natural Resources, Hon. Nii Osah Mills and Officials of the Minerals Commission to consider the Agreement. In attendance were the Chief Executive Officer of the Ghana Chamber of Mines and Representatives of the Newmont Ghana Gold Limited to assist the Committee in the deliberations.

The Committee is grateful to the Hon. Minister and the Officials for their attendance.

3.0 REFERENCE DOCUMENTS

The Committee referred to the under-listed documents during its deliberations:

- i. The 1992 Constitution of the Republic of Ghana;
- ii. The Standing Orders of Parliament;
- iii. The Minerals and Mining Act, 2006 (Act 703);
- iv. The Environmental Protection Agency Act, 1994 (Act 490);
- v. The Environmental Impact Assessment Regulations, 1999 (L.I. 1652);
- vi. The Minerals and Mining (Health, Safety and Technical) Regulations, 2012 (LI 2182); and

- vii. The 2003 Investment Agreement between the Republic of Ghana and Newmont Ghana Gold Limited and Rank Mining Company and Golden Ridge Resources Limited.

4.0 BACKGROUND INFORMATION

In the quest to fully develop the country's substantial mineral resources, successive Governments have adopted policies and strategies aimed at attracting both local and foreign investments into the mining sector.

Pursuant to this objective, the Government of Ghana executed an Investment Agreement in the year 2003 with the Newmont Ghana Gold and Newmont Golden Ridge and Rank Mining Company Limited to facilitate the latter's investments in mining projects in the Brong Ahafo and the Eastern Regions of the country.

However, in view of the significant changes in the mining sector since the coming into effect of the Investment Agreement and the viability of the two mining projects, the Government of Ghana commenced processes for the renegotiation of the terms of the Agreement. The parties concluded a Revised Investment Agreement in November, 2014 and subsequently, the Ministry of Lands and Natural Resources secured Cabinet approval to lay the Revised Agreement in Parliament on 4th May, 2015 for ratification in accordance with Article 268(1) of the Constitution.

5.0 PURPOSE AND EFFECTIVE DATE OF THE AGREEMENT

- 5.1 The purpose of the Agreement is to replace the 2003 Investment Agreement executed between the Government of Ghana and the Newmont Ghana Limited.
- 5.2 Per Section 2.1 of the Revised Investment Agreement, the Agreement will become effective on the occurrence of any of the following circumstances:
 - i. the date on which the Revised Investment Agreement is ratified by Parliament;
 - ii. the date on which the Akyem Mining Lease is ratified by Parliament;
 - iii. the date on which the terms of Section 5 of the Agreement are approved by a resolution of Parliament pursuant to Article 174(2) of the 1992 Constitution; or
 - iv. the date on which the Ahafo Revised Investment Agreement becomes effective.

6.0 OBSERVATIONS

The following observations were made by the Committee during its discussions on the Agreement:

6.1 Entitlement to Up-front Cash Payment

The Committee noted that upon the coming into force of the Revised Investment Agreement, the State will be entitled to receive the total of Twenty-Seven Million United States Dollars (US\$27,000,000.00) by virtue of the revision. The amount comprises Fifteen Million United States Dollars (US\$15,000,000.00) in respect of the new guaranteed annual payment on the Government's 10% free carried interest and an additional signing-on premium for the new fiscal provisions of the amount Twelve Million United States Dollars (US\$12,000,000.00). The Committee welcomed this positive introduction into our mining licensing regime to secure early access to dividends relating to the Government's carried interest in mining operations and accordingly recommended that all future Mining Leases should incorporate such provisions.

6.2 Provision regarding Foreign Exchange Retention

The Committee also noted that the eventual performance of the Revised Investment Agreement would augment efforts towards strengthening the country's currency. This is because the new Agreement requires the retention of at least 30% of the foreign exchange earnings on gold sales except during the final two (2) years of the life of the mine. This is a marked departure from what pertains under the exiting Investment Agreement where the Company is permitted to retain all the foreign exchange earnings from the sale of gold in foreign bank accounts.

6.3 Measures to deal with significant changes in mining sector

The Committee again noted that the Revised Agreement makes provision for the parties to renegotiate the fiscal terms where there is significant change in mining sector. The parties have committed themselves under the Revised Investment Agreement to consult each other at the request of either party for the review of any term of the Agreement which has been adversely impacted by significant changes in the socio-economic conditions in the mining industry. The Parties may also renegotiate other terms affecting their rights and obligations under the Agreement.

6.4 Employment and Training of Ghanaians

The Committee further noted that the ratification of the Revised Investment Agreement would promote the local content aspirations of

Government for the mining sector. The Company has undertaken to give preference to qualified Ghanaians in any recruitment process. To this end, the Company is required to submit to the Minister for Lands and Natural Resources for approval a programme for training of Ghanaians. This would go a long way ensure skills transfer necessary to enhance the capacity of Ghanaians to participate in the mining sector.

6.5 Modified Stabilization Regime

Furthermore, it was noted that the Revised Agreement has modified the existing stabilization clause in the 2003 Investment Agreement. Under Section 4 of the Revised Investment Agreement, the Parties have agreed to a basic stability period of fifteen (15) years from the effective date of the mining lease. Upon the expiration of the basic stability period, the general laws of the country will apply to the parties. However, the new stabilization regime would be extended for an additional term of five (5) years if the company makes an additional investment of at least Three Hundred Million United States Dollars (US\$300,000,000.00).

6.6 Enhanced Fiscal Package

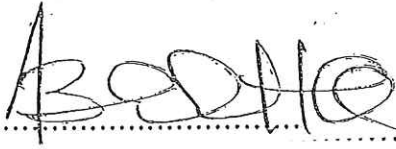
It was finally noted that the fiscal elements under the Revised Agreement has been enhanced. For instance, the rate of corporate income tax to be paid by the company on income from its operations has been agreed at 32.5% to be paid in accordance with agreed sliding scale. Additionally, a variable royalty ranging from the rate of 3% to 5% shall be paid to the State during the stability period plus the additional fee of 0.6% royalty in view of its operations in a forest reserve. Further to this, the Company will be liable to pay all local taxes to the District Assemblies within its operational areas.

7.0 CONCLUSION

Having duly scrutinized the Referral, the Committee was convinced that the Revised Agreement is a marked improvement over the 2013 Investment Agreement. Apart from the substantial terms which would accrue to the State upon the coming into force of the Agreement, the Newmont Ghana Gold Limited will also be liable to pay property rates and other imposts levied by the District Assemblies within the project areas.

The Committee therefore recommends to the House to adopt its Report and to ratify the Revised Newmont Investment Agreement between the Republic of Ghana and Newmont Ghana Gold Limited for its present and future mining operations in Ghana in accordance with the Article 268(1) of the 1992 Constitution.

Respectfully submitted.



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HON. ALHAJI AMADU B. SOROGHO
CHAIRMAN, COMMITTEE ON
MINES AND ENERGY



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PEACE FIAWOYIFE (MS.)
CLERK TO THE COMMITTEE