
THE REPUBLIC OF GHANA
and
ANGLOGOLD ASHANTI (GHANA) LIMITED

TAX CONCESSION AGREEMENT

FOR THE

OBUASI MINE REDEVELOPMENT

Contents

Clause	Page
1 Definitions and interpretation.....	1
2 Conditions and Effective Date	2
3 Fiscal concessions.....	2
4 Periodic review	5
5 Dispute resolution.....	6
APPENDIX A IMPORT DUTY LIST	8

THIS AGREEMENT is dated 27/11 / , 2017 and made between:

- (1) **THE REPUBLIC OF GHANA**, represented by the Minister of Finance and the Minister of Lands and Natural Resources (hereinafter referred to as the **Government**); and
- (2) **ANGLOGOLD ASHANTI (GHANA) LIMITED**, a company with limited liability established under the laws of Ghana (hereinafter referred to as **AGAG**).

BACKGROUND

- (A) On or about the date hereof the Government and AGAG have entered into a development agreement under the Minerals and Mining Act, 2006 (**Development Agreement**) in relation to the redevelopment of the Obuasi Mine (**Redevelopment**).
- (B) The Parties agree that AGAG intends to make significant investments to redevelop the Obuasi Mine and therefore the Government agrees to give AGAG these fiscal concessions to support the redevelopment of the Mine.

THE PARTIES AGREE AS FOLLOWS:

1 Definitions and interpretation

- 1.1 Except as set out below, capitalised terms have the meaning given to them in the Development Agreement. The following terms wherever used in this Agreement shall have the respective meanings set forth below:

Agreement means this tax concession agreement

Concession Period means the period from the Effective Date to 31 December 2027

Effective Date means the date described in Section 2

Import Duty List has the meaning given in Section 3.1(c)(i)

Income Tax Act means the Income Tax Act, 2015 (Act 896), as amended

Initial Period means the period from the Effective Date to 31 December 2023

Minister means the Minister of Finance

Minister for Mines means the Minister responsible for Mines

VAT Act means the Value Added Tax Act, 2013 (Act 870), as amended.

1.2 Headings to the clauses and sections of this Agreement are inserted for convenience only and shall not affect its construction.

1.3 Unless otherwise stated:

- (a) a reference to "hereof", "hereunder", "herein" or words of similar meaning, means this Agreement and its appendices;
- (b) the words "and" "and/or" includes the conjunctive and disjunctive, as the context may require or permit;
- (c) the word "include" (and any variation of that word) means including but not limited to.

2 Conditions and Effective Date

This Agreement shall come into full force and effect on the date on which the resolution approving these concessions is passed by Parliament in accordance with Article 174(2) of the Constitution (**Effective Date**).

3 Fiscal concessions

3.1 Save as provided below, from the Effective Date, the tax laws in Ghana shall apply save as provided by the stability provisions in the Development Agreement. Pursuant to the powers of Parliament to waive or vary a tax imposed the following fiscal concessions shall be granted.

- (a) Corporate Income Tax
 - (i) The rate of corporate income tax applicable to the taxable income of AGAG and derived from its Operations shall be thirty two and a half per cent (32.5%) or such lower rate as is set by Law.
 - (ii) Unutilised capital allowances carried forward by AGAG which relate to the period before the Effective Date which have not already been utilised for the purposes of calculating taxable income shall continue to be carried forward until 31 December 2020 as unutilised capital allowances carried forward and from 1 January 2021 any such unutilised capital allowances shall be treated in accordance with applicable law as at the date of this Agreement.
 - (iii) During the Concession Period, existing tax losses and new tax losses as well as a special concession to carry forward capital allowances to be converted into tax losses as at end 2020, will apply to AGAG, whoever is the owner of AGAG and whether or not AGAG was to enter into a joint venture in respect of the Obuasi Mine.

(b) Withholding Tax (WHT)

During the Concession Period any interest chargeable on intra-group loans will be subject to WHT at the time payment is due at 8% or such lower rate as is set by Law.

(c) Import Duties

- (i) AGAG shall, from and including the Effective Date until the end of the Initial Period be exempt from import duties on the import of those items listed in Appendix A (the **Import Duty List**) and imported for the purposes of, and used exclusively in, Operations of the Obuasi Mine.
- (ii) Where, as a result of changes in Operations, AGAG needs to import an item for use in operations which is not contained in the Import Duty List, AGAG shall make a representation to the Minister for Mines as to why it wishes to import such item for the purposes of its operations and why it should be exempt from customs import duties. In that event the Minister for Mines may forward the request to the Minister, for consideration and, if approved, shall grant such exemption.
- (iii) Where AGAG intends to import any items that are to be re-exported beyond the period prescribed by law, AGAG may apply to the Minister for an extension based on conditions to be agreed to by the Minister.

(d) Treatment of Disposal of Mineral Rights

For purposes of section 83(2) of the Income Tax Act, where there is change in the underlying ownership of AGAG any consideration deemed received will only apply to the portion attributable to AGAG. In addition during the Concession Period section 83(2) of the Income Tax Act will apply to AGAG where there is a change in underlying ownership save for the following transactions:

- (A) an issue of shares by a publicly listed company which holds a direct or indirect interest in AGAG in connection with a raising of finance, an acquisition or a reorganisation or an issue of shares by a company in connection with a new listing;
- (B) transfers of shares in any publicly listed company which holds a direct or indirect interest in AGAG other than a transfer of shares which results in a third party holding more than thirty five per cent (35%) of the shares in the listed company; and

- (C) a reorganisation of a company which holds a direct or indirect interest in AGAG where following the reorganisation the shareholders are substantially similar to those shareholders of the ultimate parent entity immediately prior to the transaction.

(e) Change in ownership

In the event of a transaction to which section 62(1) applies, in ascertaining the chargeable income of AGAG in terms of the Income Tax Act an amount resulting from a deemed realisation under section 62(1) of the Income Tax Act shall not include a deemed realisation of a mineral right where section 83(2) of the Income Tax Act has already been applied to that transaction.

During the Concession Period section 62(1) of the Income Tax Act will apply to AGAG where there is a change in underlying ownership save for the following transactions:

- (A) a joint venture in relation to Obuasi;
- (B) an issue of shares by a publicly listed company which holds a direct or indirect interest in AGAG in connection with a raising of finance, an acquisition or a reorganisation or an issue of shares by a company in connection with a new listing;
- (C) transfers of shares in any publicly listed company which holds a direct or indirect interest in AGAG other than a transfer of shares which results in a third party holding more than fifty per cent (50%) of the shares in the listed company; and
- (D) a reorganisation of a company which holds a direct or indirect interest in AGAG where following the reorganisation the shareholders are substantially similar to those shareholders of the ultimate parent entity immediately prior to the transaction.

(f) Royalty

- (i) For the Concession Period, AGAG shall pay to the Government in Dollars a royalty at the royalty rate determined by applying the percentage rates set out in the right hand column of the table below, being rates set by reference to the level of gold price (as set out in the left hand column of the table below) applicable to the relevant portion of the Minerals sold at the relevant price, for each calendar month:

Gold price per ounce as determined by the London Bullion Market Association	Percentage rate
Up to US\$1,300	3%
US\$1,300 to US\$1,449.99	3.5%
US\$1,450 to US\$1,749.99	4%
US\$1,750 to US\$1,999.99	4.5%
US\$2,000 and above	5%

- (ii) For the purposes of Section 3.1(f)(i), the price for determining the applicable royalty rate on the sliding scale shall be the average of the quoted gold price on the daily London Bullion Market Association (LBMA) Gold price for each calendar month with respect to the sales of gold during such month. Should the LBMA Gold price cease to exist, then the Parties shall choose an alternative market index.

(g) Value-Added Tax

- (i) From and including the Effective Date until and including 31 December 2023, AGAG shall be exempt from the payment of Value-Added Tax (**VAT**) on the import of goods listed in the Import Duty List and purchased for the purposes of operations of the Obuasi Mine.
- (ii) Prior to production during the Initial Period, AGAG shall be entitled to a refund of VAT credit in terms of section 50(1) of the VAT Act notwithstanding that AGAG may not have made any exports and following the commencement of exports AGAG shall continue for the remainder of the Concession Period to be entitled to the refund of VAT credit so long as AGAG is in compliance with the threshold for repatriation of proceeds as set out in the Development Agreement.

4 Periodic review

Each Party may at any time request a consultation with the other Party with respect to any matter affecting the rights and obligations of the Parties relating to these concessions. The Parties shall meet to review the matter raised as soon after such request as shall be reasonably convenient

for them both. Subsequent to the consultation, the Parties shall take the action, if any, that is mutually agreed to address the matter.

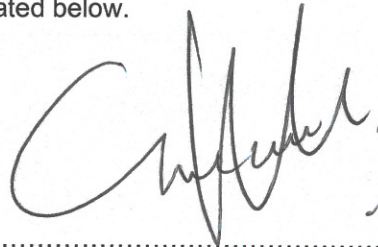
5 Dispute resolution

- 5.1 In the event of any controversy or claim arising out of or related to this agreement, or a breach thereof, the parties here to agree first to try and settle the dispute by mediation under the mediation rules in the Alternate Dispute Resolution Act of Ghana 2010 (Act 798).
- 5.2 If settlement is not reached within sixty (60) days after service of written demand for mediation, any unresolved controversy or claim arising out of or related to this agreement shall be settled by arbitration under the UNCITRAL Rules of Arbitration.
- 5.3 The following shall also apply:
- (a) The number of arbitrators shall be three (3); one (1) arbitrator to be appointed by each party, and a third, presiding, arbitrator appointed by the two party-appointed arbitrators.
 - (b) The seat, or legal place of arbitration shall be Accra, Ghana.
 - (c) The language to be used in the arbitral proceedings shall be English.
 - (d) The governing law shall be the laws of Ghana.
 - (e) The venue of the arbitration shall be Accra.
- 5.4 To the extent permitted by Law, each of the Parties hereby irrevocably and unconditionally consents generally in respect of the enforcement and/or execution of any judgment or arbitral award rendered in accordance with the dispute resolution procedures set out in this Agreement except Protected Assets in the case of the Government. Notwithstanding the foregoing, the parties agree that the Government does not hereby waive immunity from execution or attachment in respect of (i) property used by its diplomatic or consular missions wherever located, (ii) property of a military character and under control of a military authority or defence agency of the Government wherever located, (iii) assets protected under the Petroleum Revenue Management Act, 2011 (Act 815) of the Republic of Ghana, (iv) property located in the Republic of Ghana and dedicated to public or governmental use (as distinct from property dedicated to commercial use) and (v) non-commercial cargo belonging to the Republic of Ghana (the "**Protected Assets**").

IN WITNESS WHEREOF, the Parties have signed this Agreement, through their respective duly authorised representatives, on the day, month and year indicated below.

SIGNED by the GOVERNMENT OF THE
REPUBLIC OF GHANA acting by each of
the Minister of Lands and Natural Resources
and
the Minister of Finance

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KWARTENG

MINISTRY OF FINANCE
DEPUTY MINISTER (R)

27/11/17

in the presence of

ANTHONY SELUM DZADZAD
DIRECTOR, REVENUE POLICY DIVISION
and date 27/11/17

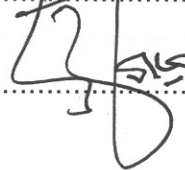
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SIGNED by
ANGLOGOLD ASHANTI (GHANA) LIMITED
acting by its Managing Director
and
a Director

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ANGLOGOLD ASHANTI (GH.) LTD.

 Eric Asibonteng
MANAGING DIRECTOR
GENERAL MANAGER



in the presence of

Jeliat Marfau-Kutia

