

**IN THE FIRST SESSION OF THE SIXTH
PARLIAMENT**

OF THE

FOURTH REPUBLIC OF GHANA

REPORT OF THE COMMITTEE

ON

TRADE, INDUSTRY AND TOURISM

ON THE

**EXPORT TRADE, AGRICULTURAL AND
INDUSTRIAL DEVELOPMENT FUND BILL**

22ND NOVEMBER, 2013

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

**THE REPORT OF THE COMMITTEE ON TRADE, INDUSTRY AND TOURISM
ON THE EXPORT TRADE, AGRICULTURAL AND INDUSTRIAL DEVELOPMENT
FUND BILL, 2013**

1.0 INTRODUCTION

The Export Trade, Agricultural and Industrial Development Fund Bill, 2013 was presented to Parliament and read the first time in the House on Tuesday, 5th November, 2013. The Bill was referred to the Committee on Trade, Industry and Tourism for consideration and report, in accordance with Article 106 (4) and (5) of the Constitution and Order 159 of the Standing Orders of the Parliament.

The Committee held a number of meetings to consider the Bill. A stakeholder workshop was held in Tamale during the consideration of the Bill.

The Committee is grateful to the Minister for Trade and Industry (MOTI), Hon. Haruna Iddrisu, the Acting. Chief Executive for Export Development and Agricultural Investment Fund (EDAIF), Mr. Sulemani Ibrahim and other Officials from MOTI, EDAIF, the Ghana Export Promotion Authority (GEPA), the Exim Guarantee Company, the Export Finance Company and Venture Capital Trust Fund for their contributions during the consideration of the Bill.

2.0 REFERENCES

In examining the Bill, the Committee referred to and was guided by the following:

- The 1992 Constitution of the Republic of Ghana.
- The Standing Orders of the Parliament of Ghana.
- Export Development and Investment Fund Act, 2000 (Act 582)
- CEPS (Management) Law, 1993 (PNDCL 330)

3.0 BACKGROUND

The Export Development and Investment Fund was established by the Export Development and Investment Fund Act, 2000 (Act 582). The Fund became operational in 2001 as an agency of the Ministry of Trade and Industry. The Fund was initially established to provide financial resources for the development and promotion of the export trade by creating an innovative way to strengthen the financial independence of the country and reduce the dependency on the assistance from development partners.

Act 582 was amended in 2011 by the Export Development and Investment Fund (Amendment) Act, 2011 (Act 823) to expand the scope of application of the Fund to include the development and promotion of agro-processing industry. Accordingly, the name of the Fund was changed to the Export Development and Agricultural Investment Fund (EDAIF).

The development of the Fund was laudable but not without limitations. These limitations necessitated a review of the set-up, structure and operation of the Fund to remove the challenges, constraints and limitations to the availability and deployment of the funds for the purposes for which it was established.

It has also become imperative to provide and expand a resource envelope readily available for the public and private sector to build an internationally competitive export sector for sustainable export-led economic growth. A major economic challenge of the Ghanaian private sector is access to and cost of credit, therefore, a boost for the private sector will be the provision of ready access to credit and the reduction of the cost of credit.

4.0 CONTENT OF THE BILL

The Bill contains a total number of forty-two (42) Clauses.

Clauses 1 to 5 Provides for the establishment of the Export Trade, Agricultural and Industrial Development Fund, financial resources for the development and promotion of export trade, agricultural and industrial development, sources of money for the Fund, bank accounts and specifies different categories of accounts of the Fund

Clauses 6 to 10 provides for the Board and Management of the Fund.

Clause 11 Establishes Committees of the Board. The Fund has Standing Committees and Technical implementation Committees of the Board.

Clauses 12 to 20 Deals with allowances, policy directives and accounts of the Fund. The specifics of each account that relates to its function, management, eligibility criteria and other matters are spelt out.

Clauses 21 to 28 This involves the project account, the management of the Projects account, the eligibility for the Projects Account, the Equity Finance Account and the Operational Account.

Clauses 29 to 30 The imposition of the levy which is the major source of funding for the Fund is provided for. The rate is 0.75 percent of the cost, insurance and freight value of any product imported for a commercial purpose and is to be collected by the Customs Division of the Ghana

Revenue Authority. *Clause 30* applies the Customs, Excise and Preventive Service Act, 1993 (P.N.D.C.L. 330) to the Bill for purposes of the collection of the levy.

Clauses 31 to 33 Deals with administrative, financial and miscellaneous matters. The functions of the Chief Executive and his Deputy and the appointment of other staff are spelt out.

Clauses 35 to 38 Contains Accounts and Audit, Annual Reports and Regulations.

Clauses 39 to 42 Gives clear guidelines on dissolution of the Board, interpretation, transitional matters, repeal and savings.

4.0 PURPOSE OF THE BILL

The purpose of the Bill is to establish a Fund for export trade, agricultural and industrial development. It will also provide financial resources for the development and promotion of export trade, agricultural related to agro-processing and industrial development.

5.0 OBSERVATIONS

5.1 Significance of the Fund

Ghana is already becoming an economic hub on the continent of export trade but the current revised Bill will support exports within the agriculture and industrial sectors with resources that enable project expansion. The Fund will further establish synergies with specialized institutions such as the Exim Guarantee Company, the Export Finance Company and Venture Capital Trust Fund to achieve its purpose and will

have a presence in the regions through the regional offices of the agencies of the Ministry of Trade and Industry.

5.2 Sources of Money for the Fund

The monies of the Fund consist of:

- a. The levy on the dutiable value of import
- b. Ten percent of the net proceeds from divestiture carried out by the Divestiture Implementation Committee, and
- c. Any other monies that the Minister responsible for Finance in consultation with the Minister with the approval of Parliament, determines to be paid into the Fund.

5.3 Uses of the Fund

The monies in the fund will be used for the following purposes:

- Research, Development and Promotion Account,
- Credit Facility Account,
- Projects Account,
- Equity Finance Account, and
- Operational Account.

5.4 Equity Finance Account

The Committee noted with concern that even though monies will be assigned to the Equity Finance Account via equity financing scheme, and private equity fund, an Equity Fund Manager shall apply the monies as contained in the Regulations by the Minister on the advice of the Board.

The Committee learnt that monies are to be provided for the development and promotion of export products, export market development and agro-processing, infrastructural development related to the objects of the Fund and export-trade orientated activities of institutions in both the public and private sectors.

It is the hope of the Committee that the Fund will nurture the development of small and medium enterprises, undertake research, monitoring and evaluation on the impact of interventions on export trade and agriculture related to agro-processing. The Fund is also to provide credit, credit guarantee, export insurance, re-financing and equity funding through approved equity fund managers.

6.0 AMENDMENTS PROPOSED

i. Clause 2 Sub clause (2) Delete and insert the following:

“For the purposes of achieving the object of the Fund, moneys from the Fund shall be applied for the following activities:”

This is to make it clearer and not open up to abuse.

ii. Clause 3 (a) Insert the following new paragraph after paragraph (b) “0.2% of the net proceeds from fees charged by destination inspection companies.”

Currently out of the 1% levy collected by Customs Excise and Preventive Service (CEPS) Destination Inspection Companies (DICs) receive 0.7%. It is proposed that upon the expiration of the existing contract in 2015, DICs will receive 0.5% of the levy and cede 0.2% to the Fund.

iii. Clause 5 Sub clause (1) Line 1 Insert after “shall” “in consultation with the Minister”

The Committee is of the view that the Minister should be consulted in the allocation of monies so that it is not subjected to abuse.

- iv. Clause 6** (a) **Sub clause (1), paragraph (a)** – Lines 1 and 2
Delete after “chairperson” the following words “with recognized business, financial or investment experience.”

There is no need to give the credentials of the Chair person in the bill

- (b) **Sub clause (1)** Delete paragraph (d)
(c) **Sub clause (1) paragraph (f)** – Line 1, delete “five” and insert “four”.

This is to reduce the number of membership of the Board from thirteen to eleven.

- (d) **Sub clause (2)** Line 1 insert “chair person and” after the word “The”.

This is to make emphasis on the chair person

- v. Clause 7** **Sub clause (2) paragraph (h) subparagraph (ii)** Line 1, delete “functions” and insert “facility”.

“function” is wrongly used.

- vi. Clause 9 (1)** Line 2 delete “dispatch” and insert “conduct”

This makes it more appropriate.

- vii. Clause 10** **Sub clause (3) paragraph (b)** Line 1 Delete the words “has refrained” and insert “recused himself or herself”.

This is to have consistency in the bill.

- viii. Clause 11** Insert new sub clauses after sub clause (3) as follows:

“(4) A Committee established under subsection (2) shall perform the functions assigned to it by the Board.

(5) A Committee established under subsection (2) may determine the procedure for its meetings.”
And renumber

There is no provision in the bill for the sort of functions to be carried out.

ix. Clause 12 Line 2 –after the word “paid”, delete the word “the” and insert the word “such”.

x. Clause 14 Renumber as clause 16

xi. Clause 16 Renumber as clause 14

This is to ensure a logical flow

xii. Clause 17 Sub clause (1) paragraph (f) Delete “research” and insert “credit guarantee”.

“Research” was wrongly placed.

xiii. Clause 19 Insert a new sub-clause as follows: “A person or enterprise shall not qualify to apply for a credit facility from a designated financial institution if that person or enterprise (a director or partner of that person or enterprise) has been adjudged or otherwise declared bankrupt under any law enforced in Ghana or a foreign jurisdiction and has not been discharged.”

This is because a bankrupt person or enterprise has the tendency to misuse funds granted to him or her.

xiv. Clause 22 (a) Sub clause (1), Line 3 Delete the word “or” after the word “manufacturing”

(b) **Sub clause (1), line 3** after the word “agro-processing” insert the words: “and re-processing”

This is to make room for a typographical omission.

- xv. Clause 24(1)** In line 2 after “financing” delete “scheme” and insert “schemes”

This is to correct a typographical error.

- xvi. Clause 25 Sub-clause 2**, line 4, delete “agriculture” and “and” “before “agro-processing”.

This is to avoid repetition.

- xvii. Clause 25 Sub clause (2)**, line 4 insert after the word “processing” the following words “and re-processing”

- xviii. Clause 26** Insert a new sub clause as follows:

- “(2) A person or enterprise shall not qualify to apply for a credit facility from a designated financial institution if that person or enterprise has been adjudged or otherwise declared a bankrupt under any enactment in force in Ghana or a foreign jurisdiction and has not been discharged.”

A bankrupt person or enterprise has the tendency to misuse funds granted to him or her.

- xix. Clause 31** Delete and insert the following:

“Appointment of Chief Executive and Deputy Chief Executive

- (1) The President shall in accordance with article 195 of the Constitution, appoint for purposes of the Fund
- (a) a Chief Executive; and
 - (b) a Deputy Chief Executive.

- (2) The Chief Executive and Deputy Chief Executive shall hold office on the terms and conditions specified in their letters of appointment.”

This is to make room for a Deputy Chief Executive position.

Insert a new clause after clause 32 as follows:

xx. New clause

“Functions of Deputy Chief Executive

* A Deputy Chief Executive shall

- (a) assist the Chief Executive in the performance of the functions of the Chief Executive and other functions related to finance, administration and the operations of the Fund;
- (b) act in the absence of the Chief Executive; and
- (c) perform any other function determined by the Board.”

This is to outline the functions of the Deputy Chief Executive and enable him or her take charge of affairs in the absence of the Chief Executive.

xxi. Clause 34 Delete the entire Clause

This is because EDAIF does not need borrowing powers

xxii. Clause 37 delete the entire clause
Public Forum is an administrative activity which should not be in the bill.

xxiii. New clause

Insert after clause 38 a new clause as follows:

* "Offences and penalties

- (1) A person who
 - a. misappropriates any of the moneys assigned to an account of the Fund; or
 - b. misapplies any of the moneys disbursed from an account of the Fundcommits an offence and is liable on summary conviction to a fine of not less than two thousand five hundred penalty units and not more than ten thousand penalty units or to a term of imprisonment of not less than five years and not more than ten years.
- (2) Where the offence is committed by a body corporate that body corporate is liable on summary conviction to a fine of not less than ten thousand penalty units and not more than twenty thousand penalty units."

This is to make room for sanctions to be carried out when the law is breached.

xxiv. Clause 38 Delete and insert the following:

"Regulations

- (1) The Minister may, on the advice of the Board by legislative instrument, make Regulations for the effective implementation of this Act.
- (2) Without limiting the generality of subsection (1) the Regulations may provide for
 - (a) the forms required under this Act;
 - (b) the format for the reports of the accounts;
 - (a) the review of the percentage of money distributed to the accounts of the Fund;

- (b) regulation of accounts established under the Fund;
- (c) forms for application to the Fund;
- (d) conditions for the grant of an application;
- (e) matters to be contained in policy guidelines and manuals issued by the Board;
- (f) designated financial institutions for the development and promotion of exports;
- (g) the terms, conditions, duties and obligations of designated financial institutions, equity financing schemes and fund managers; and
- (h) risk sharing.”

This will enable the Ministry come out with regulations for EDAIF as and when necessary.

xxv. Clause 40 in line 13, delete definition for “co-investment” and insert the following definition:

“co-invest” means an investment entered into by two or more parties to an equity fund arrangement”.

This will make the interpretation on “co-invest” clearer.

xxvi. Clause 40 In line 19 after “institution”, delete “recognized” and insert “licensed”

Bank of Ghana issues licenses to financial institutions and not recognize them.

xxvii. Clause 42 In line 4 after “have” insert “same”

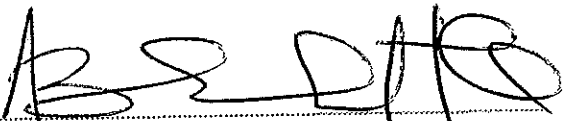
This is to make the sentence clearer

7.0 CONCLUSION

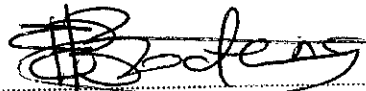
The Committee after thorough consideration of the Bill concluded that the passage of the bill has the potential of providing and expanding the resource envelope. It will give the fund the capacity to meet the funding requirements of the small and medium enterprises sector that has been incorporated into the bill. In addition, it would be a major economic growth of the Ghanaian private sector as access to credit increases and cost of credit decreases.

The Committee therefore recommends to the House for consideration and passage of the Bill, subject to the amendments proposed.

Respectfully submitted.



**HON. AMADU B. SOROGHO (ALHAJI)
(CHAIRMAN, TRADE, INDUSTRY
AND TOURISM)**



**MS. EVELYN BREFO-BOATENG
(CLERK, TRADE, INDUSTRY
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22ND NOVEMBER, 2013