

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

REPORT OF THE FINANCE COMMITTEE

ON THE

REQUEST FOR WAIVER OF IMPORT DUTIES, IMPORT VAT AND NHIL, ECOWAS LEVY, EDIF, INSPECTION FEES, WITHHOLDING TAXES AND OTHER RELATED TAXES AMOUNTING TO THE CEDI EQUIVALENT OF FORTY-FOUR MILLION, TWENTY-EIGHT THOUSAND, THREE HUNDRED AND THREE UNITED STATES DOLLARS AND TWENTY CENTS (US\$44,028,303,.20) RELATING TO PROJECT MATERIALS AND EQUIPMENT TO BE PROCURED UNDER THE COMMERCIAL CONTRACT AMONG THE GOVERNMENT OF THE REPUBLIC OF GHANA, KUMASI METROPOLITAN ASSEMBLY, AND CONTRACTA ENGENHARIA LTDA. IN RESPECT OF THE KUMASI CENTRAL MARKET REDEVELOPMENT PROJECT.

AUGUST

REPORT OF THE FINANCE COMMITTEE ON THE REQUEST
FOR WAIVER OF IMPORT DUTIES, IMPORT VAT AND NHIL,
ECOWAS LEVY, EDAIF, INSPECTION FEES, WITHHOLDING
TAXES AND OTHER RELATED TAXES AMOUNTING TO THE
CEDI EQUIVALENT OF FORTY-FOUR MILLION, TWENTY-
EIGHT THOUSAND, THREE HUNDRED AND THREE UNITED
STATES DOLLARS AND TWENTY CENTS (US\$44,028,303.20)
RELATING TO PROJECT MATERIALS AND EQUIPMENT TO
BE PROCURED UNDER THE COMMERCIAL CONTRACT
AMONG THE GOVERNMENT OF THE REPUBLIC OF GHANA,
KUMASI METROPOLITAN ASSEMBLY AND CONTRACTA
ENGENHARIA LTDA. IN RESPECT OF THE KUMASI
CENTRAL MARKET REDEVELOPMENT PROJECT

1.0 INTRODUCTION

The Request for the waiver of Import Duties, Import VAT and NHIL, ECOWAS levy, EDAIF, Inspection Fees, Withholding Taxes, and other related taxes amounting to the cedi equivalent of Forty-four Million, Twenty-eight Thousand, Three hundred and Three United States Dollars and twenty cents (US\$44,028,303.20) relating to project materials and equipment to be procured under Commercial Contract between the government of the Republic of Ghana, Kumasi Metropolitan Assembly and Contracta Engenharia LTDA. in respect of the Kumasi Central Market Redevelopment Project was presented to Parliament by the Hon. Deputy Minister of Finance Mr. Cassiel Ato Baah Forson on behalf of the Hon. Minister for Finance on Tuesday, 26th July, 2016 in accordance with Article 174 (2) of the 1992 Constitution.

The Hon. Second Deputy Speaker referred the request to the Finance Committee for consideration and report in accordance with Order 169 of the Standing Orders of the Parliament of Ghana.

2.0 DELIBERATIONS

The Committee met and considered the request with the assistance of the Hon. Deputy Minister for Finance, Mr. Cassiel Ato Baah Forson and officials from the Ministry of Finance.

The Committee expresses its gratitude to the Hon. Deputy Minister and officials for attending upon it.

3.0 REFERENCE

The Committee referred to the following additional documents at its deliberations:

- i. The 1992 Constitution of Ghana;
- ii. The Standing Orders of the Parliament of Ghana;
- iii. Commercial Contract between the government of the Republic of Ghana, Kumasi Metropolitan Assembly and Contracta Engenharia LTDA. in respect of the Kumasi Central Market Redevelopment Project;
- iv. On-Lending Agreement between the Government of the Republic of Ghana (represented by the Ministry of Finance), and Kumasi Metropolitan Assembly (KMA) relating to the US\$172,512,500.00 credit Facility Agreement for the Financing of the Phase 1 of the Kumasi Central Market and its Associated Infrastructure Redevelopment Project

4.0 BACKGROUND

The Kumasi Central Market is one of the largest markets in West Africa and the second largest in the whole Africa, with hundreds of thousands of users on daily basis. The

Market is a major contributor to the total revenue of the Kumasi Metropolitan Assembly with a significant percentage of the cities' population involved in commercial activities in the Market. The market is however characterized by high density, congestion, unplanned development and lack of proper infrastructure. As a result, the market has experienced several fire outbreaks that have invariably destroyed the financial lives of most of the traders with its attendant danger to lives of thousands of the market users. The Kumasi Metropolitan Assembly therefore with the support of a US\$172,512,500.00 credit facility from the Dutch Bank, engaged the services of Contracta Engenharia LTDA. to reconstruct the market to reduce congestion and enhance easy mobility in and around the Market. The project will also redevelop the main roads around the market to ease traffic and thereby create better conditions for all the surrounding areas and also allow commercial activities to thrive thereby leading to maximum revenue generation and job creation.

In compliance with the terms of the contract Agreement and to help KMA complete the project at reasonable cost to make it more affordable to most market women, the Ministry of Local Government and Rural Development wish to request for a waiver of all taxes related to the import of equipment for the implementation of the project to allow for the timely completion of the project.

4.0 APPROVAL OF THE LOAN AGREEMENTS

The Government of the Republic of Ghana represented by the then Ministry of Finance and Economic Planning entered into an Export Credit Agreement between the Government of the Republic of Ghana and Deutsche Bank S.A - Banco Alemão, São Paulo (as Arranger), Deutsche Bank Trust Company Americas (as agent, and security agent) and its affiliates supported by Seguradora Brasileira De Crédito A Exportação (SBCE) and the Brazilian Official Equalization Programme (PROEX) for an amount of One Hundred and Thirty-five Million, Five Hundred and Twelve Thousand, Five Hundred United States Dollars (US\$135,512,500.00) being part support for tranche 1 of a total amount of US\$259,425,000.00 to finance the Kumasi Central Market Redevelopment Project. To facilitate the timely completion of the project, the Government of the Republic of Ghana through the Kumasi Metropolitan Assembly

entered into a Commercial Contract with Contracta Engenharia LTDA. in respect of the Kumasi Market Redevelopment Project

The two Agreements were presented to Parliament and at its Twenty-fourth Sitting of the Second Meeting held on Friday 18th July, 2014, Parliament approved by Resolution the credit facility and the Commercial contract to pave way for the commencement of the project.

5.0 REQUIRED WAIVER

To ensure the timely completion of the project and that the KMA does not incur additional cost on the project as a result of payment of taxes by the Contractor, and in line with the Contract Agreement, the Ministry of Local Government through the Ministry of Finance is seeking a waiver of import and other project related taxes including import VAT, EDAIF, NHIL, ECOWAS Levy, destination inspection fees, withholding tax liabilities equipment and materials procured for the Kumasi Market Redevelopment Project. The Ghana Revenue Authority has assessed the applicable taxes, duties and levies on equipment and materials required for the execution of the project. A tax exemptions of up to Forty-four million, Twenty-eight thousand, Three hundred and Three United States Dollars and twenty cents (US\$44,028,303.20) is therefore being requested for the successful execution of the project.

6.0 OBSERVATIONS

The Committee having carefully scrutinized the request made the following observations:

Assessment of Tax Liabilities and the Waiver Required

The Committee noted that the Customs Division of the GRA upon request from the Ministry and based on the invoices submitted, has assessed the applicable taxes, duties and levies on equipment and materials required for the successful execution of the project and has accordingly recommended a total tax liability of the cedi equivalent of *Fifty-five Million, Thirty-five Thousand, Three Hundred and Seventy-nine United States Dollars (US\$55,035,379)* for which exemption should be granted.

The Committee however, noted that the total tax exemption being requested by the Ministry amounts to the cedi equivalent of *Forty-four Million, Twenty-eight Thousand, Three Hundred and Three United States Dollars and Twenty cents (US\$44,028,303.20)*. The Hon. Deputy Minister explained that the Ministry of Finance as part of its due diligence and upon a thorough assessment of the request, disallowed some of the items for which the exemption has been requested. The Ministry therefore recommended the approval of a waiver of up to the cedi equivalent of *Forty-four Million, Twenty-eight Thousand, Three Hundred and Three United States Dollars and twenty cents (US\$44,028,303.20)* on core project materials and equipment required for the execution of the project.

Justification for the Request

Stressing on the need for the waiver, the Hon. Deputy Minister indicated that to facilities speedy execution of the project by Contracta Engenharia LTDA, essential equipment and materials for which duties are applicable are being imported. The Hon. Deputy Minister added that the imported equipment and materials which form part of the essential items required for the successful implementation of the project are being imported solely for the redevelopment of the Kumasi Central Market. In this regard, customs duties and other related taxes arising out of the importation of these essential equipment and materials are colossal and require the intervention of Government by way of exemption of the applicable taxes. The Hon. Deputy Minister explained that this will limit the transfer of the taxes/charges at the port to the Kumasi Metropolitan Assembly as indicated in the contract Agreement approved by Parliament. In the contract agreement it is indicated that any such taxes shall be on account of KMA.

According to the Deputy Minister, one of the pragmatic ways of supporting KMA/MLGRD to complete the Project at a reasonable cost and time is to grant tax exemptions to clear these vital equipment and essential materials. Additionally, it will avoid a situation where the cost incurred would be passed on to the traders thus making the stores rather expensive.


The Committee reiterates its call to the Ministry of Finance and the Ghana Revenue Authority to intensify its surveillance to ensure that the appropriate taxes are paid when

the equipment are to be disposed-off or used for other purposes for which this waiver does not cover.

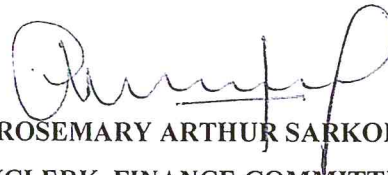
7.0 CONCLUSION AND RECOMMENDATION

The Committee after its deliberations is of the view that the project is a self-financing one capable of generating revenue to repay the credit facility. Again, the requirement to extent tax incentives to the contractor forms part of the Commercial Agreement already approved by the House. The Committee therefore recommends to the House to adopts its report and approve by resolution, the Request for the waiver of Import Duties, Import VAT and NHIL, ECOWAS levy, EDAIF, Inspection Fees, Withholding Taxes, and other related taxes amounting to the cedi equivalent of *Forty-four Million, Twenty-eight Thousand, Three Hundred and Three United States Dollars and Twenty cents (US\$44,028,303.20)* relating to project materials and equipment to be procured under Commercial Contract between the government of the Republic of Ghana, Kumasi Metropolitan Assembly and Contracta Engenharia Ltda. in respect of the Kumasi Central Market Redevelopment Project in accordance with Article 174(2) of the 1992 Constitution and Order 169 of the Standing Orders of the Parliament of Ghana

Respectfully Submitted.



HON. JAMES KLUTSE AVEDZI
(CHAIRMAN, FINANCE COMMITTEE)



ROSEMARY ARTHUR SARKODIE (MRS)
(CLERK, FINANCE COMMITTEE)

August 2016