

# **Ghana International Trade Commission Bill, 2014**

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**BILL**

ENTITLED

**GHANA INTERNATIONAL TRADE COMMISSION ACT, 2014**

**AN ACT** to establish the Ghana International Trade Commission to provide for the regulation of the international trade of Ghana in conformity with the rules and regulations of the world trade system and to provide for related matters.

DATE OF ASSENT:

Passed by Parliament and assented to by the President:

*Establishment of the Ghana International Trade Commission*

**Establishment of the Commission**

1. (1) There is established by this Act a body corporate with perpetual succession to be known as the Ghana International Trade Commission.

(2) For the performance of its functions, the Commission may acquire and hold movable and immovable property, dispose of property and enter into a contract or any other transaction.

(3) Where there is a hindrance to the acquisition of property, the property may be acquired for the Commission under the State Lands Act, 1962 (Act 125) and the cost shall be borne by the Commission.

**Objects of the Commission**

2. (1) The objects of the Commission are to
- (a) oversee compliance of Ghana's international trade in conformity with rules and regulations regarding international trade;
  - (b) ensure fairness, efficiency, transparency and objectivity in the application of measures affecting international trade and the use of world trade measures;
  - (c) ensure fair competition for persons engaged in domestic production and international trade; and
  - (d) protect the domestic market from the impact of unfair trade practices in the course of international trade.

(2) In furtherance of the objects specified in subsection (1), the Commission shall be guided by the treaty provisions of the World Trade Organisation and the general principles of international trade law.

**Functions of the Commission**

3. (1) To achieve the objects, the Commission shall
- (a) monitor and review the pattern of Ghana's international trade and advise the Minister on matters affecting trade and industry;
  - (b) study, identify and recommend tariff levels for specific sectors of the economy with due regard to the effective rate of protection;
  - (c) conduct studies and publish reports on the competitiveness of Ghana's tariff structure and the impact of the tariff structure on domestic industry, market access opportunities and challenges in relation to exports from Ghana;
  - (d) provide analytical support and advice to the Minister on proposals for trade-related legislation;
  - (e) advise the Minister on the preparation of documentation for and the negotiating position of the Government of Ghana during international trade negotiations;
  - (f) monitor and advise the Minister on Ghana's compliance with its multilateral treaty obligations in the area of international trade;

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- (g) enquire into and determine complaints brought before it in relation to
  - (i) safeguard measures;
  - (ii) the subsidization of imported products by foreign governments;
  - (iii) the dumping of imported products into the domestic market;
  - (iv) tariff adjustments; and
  - (v) any other measure which affects fair trade determined by the Minister;
- (h) settle disputes between importers and the Customs Division of the Ghana Revenue Authority in respect of the classification and valuation of products that are imported; and
- (i) perform any other function that is necessary for the attainment of the objects of the Commission.

(2) In the exercise and performance of its functions, the Commission shall ensure that it is objective and fair.

**Independence of the Commission**

4. (1) Except as otherwise provided in the Constitution or by any other law not inconsistent with the Constitution, the Commission is not subject to the direction or control of a person or an authority in the performance of its functions.

(2) In the performance of its functions, the Commission shall seek to balance the competing interests of

- (a) persons that appear before the Commission, and
- (b) persons indirectly affected by its decisions and actions.

**Ministerial directives**

5. (1) The Minister may give directives in writing to the Commission on matters of policy.

(2) The directives shall be consistent with the objects of this Act.

*Governance of the Commission*

**Governing body of the Commission**

6. (1) The governing body of the Commission is a Board consisting of

- (a) a Chairperson;

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- (b) three other persons, one of whom shall be a Deputy Chairperson;
- (c) the Executive Secretary of the Commission;
- (d) one representative of
  - (i) the Ministry responsible for Trade and Industry not below the rank of a Director;
  - (ii) the Ministry responsible for Finance; and
  - (iii) the Ministry responsible for Agriculture.

(2) The members of the Board shall be appointed by the President in accordance with article 70 of the Constitution.

(3) The President shall in making appointments under this section consider the knowledge and expertise of the persons and in particular the knowledge of a person in the discipline of economics, accounting, international trade law, international marketing and distribution of goods and services or experience in industry.

(4) The Board shall ensure the proper and effective performance of the functions of the Commission.

**Duties and liabilities of a member of the Board**

7. (1) A member of the Board has the same fiduciary relationship with the Commission and the same duty to act with loyalty and in good faith as a director of a company incorporated under the Companies Act, 1963 (Act 179).

- (2) Without limiting subsection (1), a member of the Board shall not
  - (a) engage in a conduct or an activity that may undermine the integrity, independence and impartiality of the Commission;
  - (b) be a party to an investigation, hearing, or proceeding concerning a matter in respect of which the member has a material or relational interest;
  - (c) make private use of, or profit from any confidential business information obtained as a result of the performance of the duties of the member; or
  - (d) make improper use of information acquired by virtue of the position of the member as a member of the Board so as to gain, directly or indirectly, a benefit for the member to the detriment of the Commission.

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(3) A member of the Board shall, prior to the taking of office, declare and file with the Commission a disclosure statement containing information relating to the past employment and business affiliation of the member.

(4) A member of the Board who contravenes this section ceases to be a member of the Board.

**Tenure of office of members of the Board**

**8.** (1) A member of the Board shall hold office for a period not exceeding five years and is eligible for re-appointment for one term only.

(2) A member of the Board may at any time resign from office in writing addressed to the President through the Minister.

(3) A member of the Board who is absent from three consecutive meetings without sufficient cause ceases to be a member of the Board.

(4) The President may, by letter addressed to a member, revoke the appointment of that member.

(5) Where a member of the Board is, for a sufficient reason, unable to act as a member, the Minister shall determine whether the inability would result in the declaration of a vacancy.

(6) Where there is a vacancy

(a) under subsection (2) or (3), section 7 (4) or section 10 (2);

(b) as a result of a declaration under subsection (5); or

(c) by reason of the death of a member,

the Minister shall notify the President of the vacancy and the President shall appoint a person to fill the vacancy.

(7) Subsections (1) and (3) do not apply to the full time Commissioners and Executive Secretary of the Commission.

**Meetings of the Board**

**9.** (1) The Board shall meet at least once every three months for the despatch of business at the time and in the places determined by the chairperson.

(2) The chairperson shall at the request in writing of not less than one-third of the membership of the Board convene an extra-ordinary meeting of the Board at the place and time determined by the chairperson.



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(3) The quorum at a meeting of the Board is five members of the Board or a greater number determined by the Board in respect of an important matter.

(4) The chairperson shall preside at meetings of the Board and in the absence of the chairperson, the deputy chairperson shall preside and in the absence of the deputy chairperson, a member of the Board elected by the members present from among their number shall preside.

(5) Matters before the Board shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(6) The Board may co-opt a person to attend a Board meeting but that person shall not vote on a matter for decision at the meeting.

**Disclosure of interest**

**10.** (1) A member of the Board who has an interest in a matter for consideration

(a) shall disclose the nature of the interest and the disclosure shall form part of the record of the consideration of the matter; and

(b) shall not participate in the deliberations of the Board in respect of the matter.

(2) A member ceases to be a member of the Board, if that member has an interest in a matter before the Board and

(a) fails to disclose that interest, or

(b) participates in the deliberations on the matter.

**Establishment of committees of the Board**

**11.** (1) The Board may, establish committees consisting of members of the Board or non-members or both to perform a function.

(2) A committee may be chaired by a member of the Board.

(3) The Board may assign to a committee a function determined by the Board but a committee composed of non-members is advisory only.

(4) Section 10 applies to members of committees of the Board.

**Allowances**

**12.** Members of the Board and members of a committee of the Board shall be paid allowances approved by the Minister in consultation with the Minister responsible for Finance.

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*Administrative and Financial Matters*

**Secretariat of the Commission**

**13.** (1) The Commission shall have a Secretariat with departments and divisions determined by the Board as necessary for the effective performance of the functions of the Commission.

(2) The Executive Secretary appointed under section 14 is the head of the Secretariat.

**Appointment of Executive Secretary**

**14.** (1) The Commission shall have an Executive Secretary.

(2) The President shall, in accordance with article 195 of the Constitution, appoint the Executive Secretary for the Commission.

(3) The Executive Secretary shall hold office on the terms and conditions specified in the letter of appointment.

**Functions of the Executive Secretary**

**15.** (1) The Executive Secretary

(a) is responsible for the day to day administration of the Commission and is answerable to the Board in the performance of the functions under this Act; and

(b) shall perform any other function determined by the Board.

(2) The Executive Secretary may delegate a function to an officer of the Commission but shall not be relieved of the ultimate responsibility for the performance of the delegated function.

**Appointment of other staff**

**16.** (1) The President shall, in accordance with article 195 of the Constitution, appoint other staff of the Commission that are necessary for the proper and effective performance of the functions of the Commission.

(2) The President may, in writing, delegate the power of appointment in subsection (1) to the Board.

(3) The Commission may engage the services of a consultant or expert on the recommendation of the Board for the effective discharge of its functions.

**Funds of the Commission**

**17.** The funds of the Commission include

(a) moneys approved by Parliament;

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- (b) fees and charges that accrue to the Commission in the performance of its functions;
- (c) return on investment of funds by the Commission;
- (d) donations, gifts and grants; and
- (e) any other moneys that are approved by the Minister responsible for Finance.

**Bank account**

**18.** The moneys for the Commission shall be paid into a bank account opened for that purpose with the approval of the Minister responsible for Finance.

**Expenses of the Commission**

**19.** (1) The expenses of the Commission shall be paid from moneys provided for the Commission under section 17.

(2) Where there are any excess moneys after the Commission has defrayed its costs and expenses in the performance of its functions, the Commission shall transfer that amount to the Consolidated Fund unless the Minister for Finance, in consultation with the Minister, otherwise authorises.

**Accounts and audit**

**20.** (1) The Board shall keep books of account and proper records in relation to them in the form approved by the Auditor-General.

(2) The Board shall submit the accounts of the Commission to the Auditor-General for audit within three months after the end of the financial year.

(3) The Auditor-General shall, not later than three months, after the receipt of the accounts, audit the accounts and forward a copy of the audit report to the Minister.

(4) The financial year of the Commission is the same as the financial year of Government.

**Annual report and other reports**

**21.** (1) The Board shall within one month after the receipt of the audit report, submit an annual report to the Minister covering the activities and operations of the Commission for the year to which the report relates.

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- (2) The annual report shall include the report of the Auditor-General.
- (3) The Minister shall, within one month after the receipt of the annual report, submit the report to Parliament with a statement that the Minister considers necessary.
- (4) The Board shall submit to the Minister any other report which the Minister may require in writing.

*Special Import Measures*

**Imposition of special import measures**

**22.** (1) Special import measures that may be imposed under this Act include

- (a) safeguard measures;
- (b) anti-dumping duties;
- (c) countervailing duties; and
- (d) tariff adjustment measures.

(2) The Commission may impose a special import measure specified in paragraphs (b) and (c) of subsection (1)

- (a) on receipt of a written complaint filed by a domestic producer or a representative of the domestic producer that produces products that are similar or directly competitive with the products that are the subject of the complaint; or
- (b) on its own initiative where the Commission has sufficient evidence to justify the imposition of a special import measure in accordance with this Act.

(3) The Minister may, on the recommendation of the Commission, impose a special import measure specified in paragraphs (a) and (d) of subsection (1) where the Commission

- (a) receives a written complaint filed by a domestic producer or a representative of the domestic producer that produces products that are similar or directly competitive with the products that are the subject of the complaint; or
- (b) on its own initiative has sufficient evidence to justify the imposition of a special import measure in accordance with this Act.

(4) The Commission shall have the power to

- (a) suspend or terminate an investigation initiated for the purpose of imposing a special import measure;

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- (b) impose provisional measures, including antidumping and countervailing duties; and
- (c) review its own findings and determination relating to the special import measure.

(5) In the exercise of its powers under this section, the Commission shall have regard to the agreements of the World Trade Organisation.

**Conduct of investigations for imposition of special import measures**

**23.** (1) For the purposes of imposing a special import measure under section 22 (1), the Commission shall first carry out an investigation.

(2) In the conduct of its investigation for the purpose of imposing special import measure, the Commission shall provide full opportunity to all interested parties to defend their interests.

*Safeguard Measures*

**Imposition of safeguard measures**

**24.** (1) The Minister may, on the recommendation of the Commission, impose and apply a safeguard measure

- (a) where products are imported into the country in increased quantities in absolute or relative terms to domestic production, and
- (b) where conditions exist as to cause serious injury or threaten to cause serious injury to a domestic producer of like or directly competitive products.

(2) The Minister may, on the recommendation of the Commission, impose a safeguard measure on an imported product irrespective of its source and despite the fact that the Republic may have ratified a free trade agreement or economic partnership agreement with a country with a substantial supply interest in the product under investigation.

(3) Where a delay in the imposition of a safeguard measure will result in irreparable damage to a domestic producer or the domestic industry the Minister may, on the recommendation of the Commission, impose a provisional safeguard measure in the form of a tariff increase for a period of not more than two hundred days.

(4) The Minister may impose a safeguard measure in accordance with subsection (3) after a preliminary determination by the Commission that there is evidence that increased imports are causing or threatening to cause serious injury to the domestic producer or domestic industry.

(5) A safeguard measure imposed under this section shall be in the public interest.

**Conduct of investigations for imposition of safeguard measures**

25. (1) The Commission shall not make a recommendation for the imposition of a safeguard measure on an imported product unless the Commission has first conducted an investigation in relation to that product.

(2) For the purposes of carrying out an investigation, the Commission shall notify interested parties by

- (a) publishing a notice of the investigation in the *Gazette*, and
- (b) conducting a public hearing to provide the interested parties the opportunity to register their views and present evidence on the imposition of the safeguard measure.

(3) The Commission shall, in the conduct of an investigation under this section, evaluate any factor that has a bearing on the situation of the domestic industry including

- (a) the rate and amount of the increase in imported products in absolute and relative terms;
- (b) the share of the domestic market ceded to the imported product; and
- (c) changes in the levels of
  - (i) sales,
  - (ii) production,
  - (iii) productivity,
  - (iv) capacity utilisation,
  - (v) profit and loss, and
  - (vi) employment.

(4) The Minister may, on the recommendation of the Commission, impose a safeguard measure only if there exists a causal link between the increase of imported products under investigation and the serious injury or threat of serious injury to the domestic producer or domestic industry.

(5) The Commission shall in making a recommendation for the imposition of a safeguard measure take into consideration objective and verifiable evidence.

(6) Subsection (4) does not apply to injury caused by factors other than increased imports.

(7) The Commission shall, on the conclusion of its investigation, publish a report of its findings and reasoned conclusions reached on all issues of fact and law in the *Gazette*.

**Duration of safeguard measures**

**26.** (1) The Minister may, on the recommendation of the Commission, impose a safeguard measure for the period required to

- (a) prevent or remedy serious injury; and
- (b) facilitate the adjustment of a domestic producer who is or a domestic industry which is affected by the importation of the product.

(2) A safeguard measure imposed under subsection (1) shall not exceed a period of ten years from the date of imposition.

**Notice to World Trade Organisation**

**27.** (1) The Minister shall, on the recommendation of the Commission, give notice to the Committee on Safeguards of the World Trade Organisation when

- (a) the Commission initiates an investigation relating to serious injury or a threat of serious injury and the reasons for the investigation;
- (b) the Commission makes a finding of serious injury or a threat of serious injury caused by increased imports; or
- (c) the Minister takes a decision to impose or extend a safeguard measure.

(2) For purposes of subsection (1), the Minister shall supply the Committee on Safeguards with relevant information including

- (a) evidence of serious injury or a threat of serious injury caused by the increased imports;
- (b) a description of the product involved;
- (c) the proposed safeguard measure and the expected duration of the safeguard measure that will be imposed; and
- (d) a time frame for the progressive liberalisation of the safeguard measure.

*Countervailing Duties*

**Imposition of countervailing duty**

**28.** (1) The Commission may impose a countervailing duty on products which are imported, where the Commission determines that

- (a) a countervailing subsidy has been or is being provided in respect of that product, and

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(b) the product that is imported is, through the effects of the subsidy, causing or threatening to cause material injury or material retardation of the establishment of a domestic industry that produces a product that is like or directly competitive to the product imported.

(2) For the purposes of this Act, the subsidisation of imported goods shall not be found to be threatening to cause or cause a material injury unless the circumstances in which the subsidisation is imposed that are likely to cause injury are foreseeable and imminent.

(3) Where the Commission has made a determination in accordance with subsection (1), the Commission shall impose a countervailing duty in an amount equal to the amount of the subsidy on the imported goods levied, collected or paid for.

(4) The Commission shall not impose a countervailing duty unless the Commission determines that the subsidy is specific in any of the following ways:

(a) the legislative, regulatory or administrative instrument conferring that subsidy, limits the subsidy to a particular enterprise within the jurisdiction of the authority that is granting the subsidy;

(b) the subsidy is a prohibited subsidy;

(c) there is exclusive use of the subsidy by a limited number of enterprises;

(d) there is a predominant use of the subsidy by a particular enterprise;

(e) large amounts of the subsidy are granted to a limited number of enterprises disproportionately; and

(f) the manner in which the granting authority exercises discretion demonstrates that the subsidy is not generally available.

(5) The Commission shall not consider a subsidy as specific, where the conditions for eligibility and the amount of the subsidy are

(a) objective;

(b) set out in a legislative instrument, regulatory or administrative instrument or any other public document; and

(c) applied in a manner that does not favour or is not limited to a particular enterprise.



**Conduct of investigations for imposition of countervailing duty**

**29.** (1) The Commission shall initiate and conduct an investigation in relation to a countervailing duty to determine the existence and effect of a subsidy where

- (a) a written complaint is filed by or on behalf of a domestic producer or the domestic industry that is producing a like or directly competitive product as the imported products; or
- (b) the Commission has evidence of the existence of a subsidy, material injury and a causal link between the imports that are subsidised and the injury that is alleged.

(2) The Commission shall, prior to the initiation and conduct of the investigation referred to in subsection (1), through the Minister, consult the competent authority of the country whose product is the subject matter of the investigation with a view to clarifying the situation in relation to

- (a) the subsidisation alleged;
- (b) the material injury caused; and
- (c) the causal link between the product that is subsidised and material injury.

**Duration of countervailing duty**

**30.** (1) The Commission may impose a countervailing duty for the period required to counteract the subsidisation which is the cause of the material injury.

(2) A countervailing duty imposed under subsection (1) shall not exceed five years from the date of imposition.

*Antidumping Duties*

**Imposition of antidumping duty**

**31.** (1) The Commission shall impose an antidumping duty on a product that is imported where the Commission determines that

- (a) the product has been dumped due to the fact that the export price of the product is less than its normal value in the exporting country, and
- (b) the effect of the dumping of the product is causing or threatening to cause material injury to a domestic producer or the domestic industry producing a like or directly competitive product or is likely to retard the establishment of a domestic industry.

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(2) For the purposes of this Act, the dumping of a product shall not be considered to be threatening to cause or to cause a material injury unless the circumstances in which the dumping would cause injury are reasonably foreseeable and imminent.

(3) Where the Commission makes a determination in accordance with subsection (1), the antidumping duty shall be of an amount equal to the margin of dumping being the difference between the normal value of the dumped imports and their export price.

**Conduct of investigation for imposition of antidumping duty**

**32.** The Commission shall initiate and conduct an investigation in relation to dumping to determine the existence, degree and effect of dumping where

- (a) a written complaint is filed by or on behalf of a domestic producer or domestic industry producing a product that is like or directly competitive to the product that is imported; or
- (b) the Commission has sufficient evidence of dumping, material injury and a causal link between the product that is being dumped and the alleged material injury.

**Duration of antidumping duty**

**33.** (1) The Commission shall impose an antidumping duty for the period required to counteract the effects of dumping which is the cause of the material injury.

(2) An antidumping duty imposed under subsection (1) shall not exceed five years from the date of the imposition.

*Tariff Petitions and Customs Valuation of Imported Goods*

**Petition for review of tariff**

**34.** (1) A domestic producer or a representative of the domestic industry or a labour association may submit a petition in writing to the Commission for

- (a) a review of customs duty that affects the production and competitiveness of goods in relation to the domestic producer or domestic industry; or
- (b) the grant of a customs duty rebate or drawback so as to enhance its competitiveness.

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- (2) The petition shall relate to products
  - (a) that are imported, and
  - (b) that are either like or directly competitive or substitutable to the products produced by the applicant; or
  - (c) that are used by the applicant as inputs for the production of other products.
- (3) The Commission shall within seven working days of the receipt of a petition, acknowledge receipt.
- (4) The Commission shall on receipt of the petition
  - (a) notify the Commissioner-General within seven working days;
  - (b) initiate and conduct an investigation for the purpose of determining the merits of the petition; and
  - (c) accord an interested party the opportunity to make representations before the Commission.

**Review of tariff petition**

**35.** (1) For purposes of the review of a tariff petition, the Commission may require the petitioner or an interested party to provide information that relates to the substance of the petition.

- (2) The Commission shall
  - (a) after evaluation of a petition submitted in accordance with section 34(1), approve or reject the petition; and
  - (b) provide a report which sets out the basis for the decision of the Commission.
- (3) The Commission shall within a reasonable period after the period referred to in section 34(3) and in any event not more than fourteen working days after the Commission has taken a decision on the petition, inform the petitioner in writing of the decision of the Commission.

*Customs Valuation Disputes*

**Power of Commission**

**36.** The Commission shall have the power to settle a dispute arising as a result of a valuation by the Customs Division of the Ghana Revenue Authority.

**Submission of complaint for valuation**

**37.** (1) An importer or representative of an importer of goods which is the subject matter of a valuation may lodge a written complaint with the Commission to settle a dispute.

(2) The complaint lodged under subsection (1), shall be deemed to be an initial appeal against the final determination of the dutiable value of the goods by the Commissioner-General.

(3) The complaint shall be in the form and be accompanied with the documents and fee determined by the Commission.

(4) The Commissioner-General may contest the claim contained in the complaint of the importer and shall file a response to the application within fourteen working days of receipt of the complaint in the prescribed manner by the Commission.

(5) Subject to any other enactment, the settlement of a customs valuation dispute may take the form of mediation, arbitration or a hearing before the Commission.

(6) In the settlement of a customs valuation dispute, the Commission shall take into consideration

- (a) the Customs, Excise and Preventive Service (Management) Act, 1993 (P.N.D.C. L 330);
- (b) any other law for the time being in force, relating to customs valuation; and
- (c) the principles of the Agreement on Customs Valuation of the World Trade Organisation.

**Interim order of Commission**

**38.** (1) The Commission may, before the determination of the value of the products for customs purposes, make an interim order in relation to

- (a) the clearance of the goods pending the determination of the value of the products for customs purposes;
- (b) the posting of a bond by the importer or a person entitled to clear the products;
- (c) the placement of the products in a bonded warehouse pending the determination of the value of the products; and
- (d) the production of documents in relation to the importation of the products.

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(2) Despite subsection (1), the Commission may issue any other interim order that it may consider necessary in the circumstances of the case.

(3) An interim order issued in accordance with this section is enforceable against a person to whom the order is directed in accordance with section 43.

**Decision of the Commission**

**39.** (1) The Commission shall within fourteen working days of receipt of the complaint lodged under section 37 make a decision.

(2) The Executive Secretary shall, within seven working days of the decision, inform the parties concerned in writing of the decision of the Commission.

(3) The Commission may, for the purpose of correcting an obvious error or omission, vary or rescind its decision

(a) on its own initiative; or

(b) on application by

(i) the importer or an authorised representative of the importer; or

(ii) the Commissioner – General.

(4) The Commission shall publish a notice of its decision in the *Gazette*.

**Non-liability for payment of customs duty**

**40.** A person who imports products which are the subject matter of a dispute or any other person liable for the payment of the customs duty in relation to that product is not required to pay a penalty for lodging a complaint in relation to the decision of the Commissioner-General in respect of the value of customs duty of the products imported.

*Conduct of Investigations and Proceedings*

**Investigations**

**41.** (1) Where a matter is required to be investigated under this Act, the Commission shall conduct the investigation

(a) on its own initiative;

(b) on receipt of an application by a party; or

(c) on receipt of a complaint lodged by the affected person.

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(2) Where the investigation is in response to an application or a complaint, the Commission shall limit itself to the subject matter of the application or complaint.

(3) The Commission may refuse or cease to investigate the subject matter of an application or a complaint if the Commission is of the opinion that

- (a) the application or the complaint is trivial, frivolous or vexatious;
- (b) the application or complaint is not made in good faith;
- (c) the evidence is not sufficient to warrant an investigation;
- or
- (d) the applicant or complainant requests that the investigation be discontinued.

(4) For the purposes of conducting an investigation, the Commission may

- (a) question a person under oath or affirmation;
- (b) require a person to furnish information relevant to the investigation in the form prescribed by the Commission;
- (c) compel a person to produce documents or electronically stored information relevant to the investigation;
- (d) accept an oral submission from a person whether or not that oral submission is made on oath;
- (e) enter business premises and conduct a search under warrant on reasonable suspicion that information pertaining to an investigation is on the premises; and
- (f) subpoena a witness to appear before the Commission to give evidence or to be examined.

(5) A person shall grant the Commission access to documents or electronically stored information relevant to an investigation that is in the custody of that person.

(6) The Commission may seek the assistance of the court to enforce the provisions of subsection 4(f).

**Conduct of proceedings**

**42.** (1) Subject to subsection (2), the Commission shall hold proceedings in public at a place and time to be determined by the Commission.

(2) The Commission may, where circumstances so require, hold proceedings in private on request by a party.

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(3) A party to proceedings before the Commission may appear in person or have legal representation.

(4) The Commission may conduct proceedings informally and expeditiously as the circumstances of each case require.

(5) The Commission shall regulate proceedings to obtain full disclosure of relevant facts and to afford an opportunity for the parties concerned to present their cases.

(6) The Commission may issue summons at the initiative of the Commission or on request by a party for

(a) the attendance of a witness; and

(b) the production of documents or electronically stored information.

(7) The Commission shall, at the conclusion of a hearing,

(a) record its decision in writing giving reasons for that decision;

(b) give a written notice to the parties concerned of the decision; and

(c) publish a notice of the decision in the *Gazette*.

(8) A member whose tenure of office ends in the course of a proceeding may, with the permission of the chairperson, conclude the proceeding.

(9) Subsection (8) does not apply where the tenure of office of a member ends by removal from office.

**Review of decision**

**43.** (1) Where a person is dissatisfied with a decision of the Commission under this Act, that person may apply for a judicial review of the final decision, recommendation, order or ruling of the Commission in accordance with the High Court (Civil Procedure) Rules, 2004 (C. I. 47).

(2) An application for judicial review of a final decision, recommendation, order or ruling of the Commission in a proceeding shall be made within six months of the date of the decision, determination, recommendation, order or ruling.

**Enforcement of decision of the Commission**

**44.** For the purposes of enforcing a decision, order or ruling of the Commission under this Act, the Commission may make an application to the High Court for an order to compel a person to comply with the decision, order or ruling of the Commission.

**Cease and desist order**

45. (1) The Commission may issue and serve on an importer of products, an order directing that importer to cease and desist from engaging in an action against which a complaint has been lodged with the Commission.

(2) The Commission may vary or revoke a cease and desist order if in the opinion of the Commission it is in the public interest.

(3) The Commission shall in writing notify the importer of its intention to vary or revoke a cease or desist order.

**Immunity of members of the Commission**

46. A member of the Commission shall enjoy immunity from civil and criminal liability for actions taken or omitted to be taken in the performance of the functions of the Commission under this Act.

**Collaboration with authorities**

47. (1) The Commission shall collaborate with Government departments and agencies and other public authorities in the performance of its functions under this Act.

(2) Despite subsection (1), the Commission shall consult with the Minister responsible for Finance in relation to the imposition of duties under this Act.

(3) For the purposes of subsection (1), a Government department or agency shall on request made by the Commission

(a) furnish the Commission with relevant documents and electronic information relating to an investigation or a hearing; and

(b) assign any of its officers or employees to assist the Commission in the performance of its functions.

(4) The Customs Division of the Ghana Revenue Authority shall collect any duty imposed under this Act.

**Disclosure of confidential information**

48. (1) A party to a proceeding before the Commission may, when submitting information to the Commission, designate that information as confidential or request the Commission to treat the information as confidential.



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(2) The Commission shall not disclose to a third party information submitted to the Commission under subsection (1) unless the Commission has

- (a) obtained the consent of the party that submitted the information; or
- (b) issued a business information protective order to that third party in respect of such information.

(3) Information submitted under subsection (1) may be disclosed to

- (a) an officer or employee of the Commission who is directly involved in carrying out an investigation of the matter or proceeding in relation to which the information has been submitted;
- (b) an officer or employee of the Commission charged with maintaining the administrative record of the investigation or proceeding;
- (c) a party under a business information protective order; or
- (d) a court of competent jurisdiction in the context of a judicial review or application or an appeal.

(4) Where there is a dispute about the confidentiality of information submitted or to be submitted to the Commission, the Commission shall determine whether

- (a) the information is by nature confidential; or
- (b) the information should be treated as confidential.

(5) Where the information has already been submitted to the Commission and designated as confidential, the Commission shall not disclose the information until a decision has been taken on the confidentiality of the information.

(6) For the purposes of this section “business information protective order” means a declaration by the Commission to the recipient of confidential information to restrain the recipient from disclosure of the confidential information.

**Request for information by Commission**

**49.** (1) The Commission may, in writing, direct a person who imports, exports, trades or manufactures products or who has in the custody of that person information relevant to the performance of the functions of the Commission to provide the information within a specified time.

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(2) Where the information will result in a significant cost to the person who is responsible for providing the information, the Commission shall pay for the cost of providing the information.

(3) Despite subsection (2), the Commission shall not pay for the cost of information which is in the custody of or is being provided by a government agency or a private company in which the Government of Ghana is a shareholder.

(4) The Commission may, for the purpose of an investigation involving the special import measures under this Act, require

- (a) an importer;
- (b) a producer;
- (c) a manufacturer; or
- (d) a seller

to file with the Commission an affidavit to certify the selling price in Ghanaian currency of products imported, produced, fabricated, transformed or manufactured.

**Publication of notices**

**50.** Where the Commission is required to publish a notice under this Act or the Regulations, the Commission shall publish the notice in the *Gazette*.

*Miscellaneous Provisions*

**Offences and penalties**

**51.** (1) A person who

- (a) obstructs a member of the Commission, an employee or an authorised agent of the Commission from performing a function under this Act, or
- (b) fails to provide information in relation to a matter relevant to the functions of the Commission,

commits an offence and is liable on summary conviction to a fine of not less than two hundred and fifty penalty units and not more than five hundred penalty units or to a term of imprisonment of not less than one year and not more than two years or to both.

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(2) A person who

- (a) makes a false statement or deliberately misleads the Commission, an employee or authorised agent of the Commission in the performance of its functions,
- (b) induces a member of the Commission, an employee or an authorised agent of the Commission in the course of an investigation or proceeding, or
- (c) discloses confidential information obtained by the Commission,

commits an offence and is liable on summary conviction to a fine of not less than five hundred penalty units and not more than one thousand penalty units or to a term of imprisonment of not less than two years and not more than four years or to both.

(3) A person who

- (a) refuses, neglects or fails to pay the amount the Commission imposes as a countervailing duty for the period that the Commission determines under section 30,
- (b) refuses, neglects or fails to pay the amount the Commission imposes as an anti-dumping duty for the period that the Commission determines under section 33, or
- (c) refuses, neglects or fails to comply with an order or decision made by the Commission other than a decision made under paragraphs (a) and (b),

commits an offence and is liable on summary conviction to a fine of ten per cent of the duty payable and for each day during which the offence continues, a further fine of one per cent interest on the duty payable at the prevailing bank rate.

**Regulations**

52. The Minister may, in consultation with the Board, by legislative instrument, make Regulations to

- (a) prescribe the manner for the imposition of
  - (i) safeguard measures;
  - (ii) countervailing duties; and
  - (iii) antidumping duties;
- (b) prescribe the procedure for the review of tariff petitions;
- (c) regulate the conduct of its investigations;
- (d) regulate the procedures of the Commission;
- (e) prescribe procedures for the submission of complaints; and
- (f) provide for any other matter for the effective implementation of this Act.

**Modification**

**53.** The provisions of an enactment of relevance to this Act in existence before the commencement of this Act shall have effect subject to the modifications that are necessary to give effect to this Act and to the extent that a provision of that enactment is inconsistent with this Act, the provisions of this Act shall prevail.

**Interpretation**

- 54.** In this Act, unless the context otherwise requires,
- “Commission” means the Ghana International Trade Commission established under section 1;
  - “Commissioner-General” means the person appointed under section 13 of the Ghana Revenue Authority Act, 2009 (Act 791);
  - “Committee on Safeguards” means World Trade Organisation Committee on safeguards established under article 13 of the World Trade Organisation Agreement on Safeguards;
  - “countervailing subsidy” means a subsidy against which a countervailing duty may be imposed;
  - “domestic industry” includes
    - (a) domestic producers as a whole of like products;
    - (b) domestic producers whose collective production of like products constitutes a major proportion of the total domestic production of the like products; and
    - (c) the category of domestic producers who are not connected to an exporter or importer of dumped or subsidised products;
  - “dumping” in relation to products means the normal value of the products which exceeds the export price;
  - “duty” includes a customs duty and provisional duty imposed under this Act;
  - “enterprise” means an industry, project, undertaking or economic activity or an expansion of that industry, undertaking, project or economic activity or any part of that industry, undertaking, project or economic activity;

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“export price” means the sale price for goods adjusted by deduction of

- (a) the costs, charges and expenses incurred in preparing the goods for shipment to Ghana that are additional to those costs, charges and expenses generally incurred on the sale of like goods for use in the country of export; or
- (b) a duty or tax paid by an exporter and other costs, charges or expenses for the transportation of the goods, or for shipment from the country of export to Ghana;

“free trade agreement” means any agreement entered into between two or more States for the purposes of liberalising trade;

“importer” means the person who brings products into Ghana;

“injury” includes a material or serious injury to the domestic industry;

“like products” means products identical in all respects or product similar in characteristics;

“material injury” means harm which is consequential, material or important;

“product” includes goods;

“prohibited subsidy” means a subsidy that is granted based on

- (a) export performance; or
- (b) the use of domestic over a product or service that is imported;

“safeguard measures” include

- (a) measures taken to protect a specific industry from an unexpected build up of imports; or
- (b) measures to remedy serious injury to a domestic industry and facilitate adjustment;

“special import measures” includes

- (a) countervailing duties;
- (b) anti-dumping duties;
- (c) safeguard measures; and
- (d) tariff adjustments;

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- “subsidisation” means the process of providing subsidy;
- “subsidy” means the financial contribution by a Government of a country other than Ghana which transfers a benefit to a person engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of products; and
- “unfair trade practice” means a business practice that distorts trade and gives an unfair advantage to an enterprise in the market place.

Date of *Gazette* notification: 9th July, 2014

## **Ghana International Trade Commission Bill, 2014**

### **Memorandum**

The purpose of the Bill is to establish the Ghana International Trade Commission as an agency responsible for ensuring that the international trade of Ghana is in conformity with rules and regulations regarding international trade.

Ghana ratified the Final Act of the Uruguay Round popularly known as the Uruguay Round Final Act and the Marrakech Agreement establishing the World Trade Organization in 1994 and thus became a founding Member of the World Trade Organization. One of the key obligations imposed by the Uruguay Round Final Act on the member countries was to submit the World Trade Organization Agreement for approval or ratification in accordance with domestic procedures of treaty-making. In compliance with this obligation and in accordance with article 75(2)(b) of the 1992 Constitution, Parliament ratified the Marrakech Agreement through the adoption of a majority resolution in December 1994.

Unlike its predecessor, the General Agreement on Tariffs and Trade (GATT), 1947 which permitted contracting parties to pick and choose their multilateral commitments, the Marrakech Agreement requires all member countries to assume obligations under all its different multilateral agreements. This is known as the single-undertaking approach. The Marrakech Agreement contains a number of multilateral agreements including the General Agreement on Tariffs and Trade, 1994 (GATT 1994), the General Agreement on Trade in Services (GATS), and the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement. Others are the Agreement on the Implementation of Article VI of GATT, 1994 referred to as the Antidumping Agreement, the Agreement on Subsidies and Countervailing Measures (SCM Agreement) and the Agreement on Safeguards. In view of the single-undertaking obligation, Ghana has to comply with the legal requirements of these multilateral agreements.

For most member countries of the World Trade Organization, compliance has involved significant modification of their domestic laws, rules and regulations regarding international trade. While some countries simply modified existing legislation to conform to the multilateral legal rules, other countries without prior trade legislation had to enact new

## **Ghana International Trade Commission Bill, 2014**

pieces of legislation to implement their commitments under the multilateral agreements.

In the case of Ghana, a number of laws mainly dealing with intellectual property rights issues have been enacted following the ratification of the Marrakech Agreement. These include the Patents Act, 2003 (Act 657), Geographical Indications Act, 2003 (Act 659), Trademarks Act, 2004 (Act 664), Layout Designs (Topographies of Integrated Circuits) Act, 2004 (Act 667) and the Copyright Act, 2005 (Act 690). The Customs, Excise and Preventive Service (Management) Act, 1993 (P.N.D.C.L. 330) has also been amended to provide for methods of customs valuation mandated under the World Trade Organization Customs Valuation Agreement. While the enactment of these laws has made it easier to enforce World Trade Organization compliant intellectual property rules, the failure to enact legislation on other aspects of the World Trade Organization multilateral commitments such as antidumping, subsidies and countervailing duties and safeguard measures has created difficulties in the application of these multilateral trade rules. Indeed, the dominant view of most lawyers and trade policy makers is that the lack of domestic legislation on these multilateral commitments means that the treaty rules are not directly applicable in our legal system. While this view is certainly contestable, it underscores the importance of putting this issue to rest through the enactment of implementing legislation.

Customs valuation constitutes an important dimension of the conduct of international trade. Customs authorities such as the Customs Division of the Ghana Revenue Authority (GRA) are able to determine the true value of imported goods for purposes of levying customs duties and other related taxes through the use of internationally accepted rules and principles of valuation.

At the level of the World Trade Organisation (WTO), these rules and principles have been codified into the Customs Valuation Agreement. A clear purpose of the Agreement is to minimize arbitrariness and enhance transparency in the process of valuation through the different methods it establishes for determining the value of goods for customs purposes. The Customs, Excise and Preventive Service (Management)



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Act, 1993 (P.N.D.C.L. 330) has enacted the broad valuation rules and principles of the Customs Valuation Agreement into law. This notwithstanding, disputes still abound between the Customs Division of the Ghana Revenue Authority and importers in the application of the rules and principles of valuation of the Agreement.

The Bill provides the basis for the resolution of customs valuation disputes by the Commission in accordance with the rules and principles of the Customs Valuation Agreement and P.N.D.C.L. 330 in order to resolve the problem of mutual suspicion that currently exists between the Customs Division of the Ghana Revenue Authority and importers. This suspicion stems from the fact that the latter perceives the former as merely interested in imposing higher duties for revenue purposes while the former also perceives the latter as seeking to avoid such duties through under-invoicing and other methods.

The Bill seeks to re-enact with modification the treaty rules relating to trade remedies within the context of the existing law, especially the Constitution as has been the approach adopted by most World Trade Organization member countries such as Singapore, India and South Africa.

*Clause 1* of the Bill provides for the establishment of the Commission as a body corporate with all the incidents of incorporation and provides for the acquisition of property by the State on behalf of the Commission under the State Lands Act, 1962 (Act 125).

*Clause 2* provides for the objects of the Commission which among others are to oversee compliance of the international trade of Ghana in conformity with rules and regulations regarding international trade and protect the domestic market from the impact of unfair trade practices from the international market and domestic market. The Commission in furtherance of its objects is to be guided by the treaty provisions of the World Trade Organisation and the general principles of international trade law.

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The functions of the Commission are spelt out in *clause 3* and include the monitoring and review of the pattern of the international trade of Ghana, advising the Minister on matters affecting trade and industry as well as the preparation of documentation for and the negotiating position of the Government of Ghana during international trade negotiations and Ghana's compliance with its multilateral treaty obligations in the area of international trade and investigation, adjudication and enforcement of trade remedy rules in respect of dumping, subsidization and safeguards. The Commission is also required to conduct studies and publish reports on the competitiveness of the tariff structure of Ghana and its impact on domestic industry, market access opportunities and challenges in relation to exports from Ghana. The clause further mandates the Commission to study, identify and recommend tariff levels for specific sectors of the economy with due regard to the effective rate of protection in addition to providing analytical support and advice to the Minister on proposals for trade-related legislation.

*Clause 4* expressly provides for the independence of the Commission by insulating the Commission from the direction or control of a person or an authority in the performance of the functions of the Commission whereas *clause 5* confers on the Minister responsible for Trade and Industry the powers to give ministerial directives to the Commission on matters of policy provided the directives are consistent with the objects of this Bill.

*Clause 6* to *12* deals with the governance of the Commission. The members of the Board are enumerated under *clause 6* and comprise eight members including public sector representatives from key Ministries namely Trade and Industry, Finance, and Food and Agriculture. The duties and liabilities of a member of the Board are provided for under *clause 7*. *Clause 7* expressly states that a member of the Board has a fiduciary relationship with the Commission and places on that member the same duty to act with loyalty and in good faith as a director of a company incorporated under the Companies Act, 1963 (Act 179). The tenure of office of members of the Board, meetings of the Board and disclosure of interest are provided for under clauses 8, 9 and 10 respectively.

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*Clause 11* grants the Board power to establish committees to perform functions determined by the Board and *clause 12* provides for allowances for members of the Board as well as members of a committee of a Board.

Administrative and financial matters are dealt with under *clause 13* to 21. *Clause 13* enjoins the Commission to have a Secretariat with departments and divisions determined by the Board necessary for the effective performance of the functions of the Commission. The appointment and responsibilities of the Executive Secretary and other staff are provided for in *clauses 14, 15* and 16.

*Clause 17* outlines the sources of funds for the Commission. The moneys for the Commission are to be paid into a bank account opened for the funds with the approval of the Minister responsible for Finance and this is provided for in *clause 18*.

The expenses of the Commission are to be paid from the funds of the Commission and where there is any excess money after the Commission has defrayed its costs and expenses, the Commission is required to transfer that amount to the Consolidated Fund unless the Minister responsible for Finance in consultation with the Minister responsible for Trade and Industry otherwise authorizes, *clause 19*. The standard provisions on accounts and audit and annual report and other reports have been provided for in *clauses 20* and 21.

*Clauses 22* and 23 relate to Special Import Measures which are designed to counter the adverse impacts of fairly traded increased imports as well as unfair trade practices engaged in by exporters of foreign products. *Clause 22* provides for the imposition of special import measures. The clause enumerates safeguard measures, anti-dumping duties, countervailing duties and tariff adjustment measures as part of special import measures that may be imposed under this Bill. The clause further outlines the circumstances under which the Minister responsible for Trade and Industry on the recommendation of the Commission may impose safeguard measures and tariff adjustment measures. *Clause 23* empowers the Commission to conduct investigations for the purposes of imposing special import measures and also places an obligation on the Commission to afford all interested parties an opportunity to defend their interests.

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Safeguard measures are dealt with under *clause 24 to 27*. *Clause 24* empowers the Minister on the recommendation of the Commission to impose safeguard measures in situations where imported products have increased as a result of Ghana's free trade commitments leading to serious injury to domestic producers of identical or similar products. This power may be exercised regardless of the source of the imported products or the fact that Ghana may have ratified a free trade agreement or economic partnership agreement with a country with a substantial supply interest in the imported product.

By virtue of *clause 25*, the Commission is compelled to first conduct an investigation in relation to an imported product before making a recommendation for the imposition of a safeguard measure on the imported product under investigation. The clause further mandates the Commission to notify interested parties in order to enable the interested parties register their views and present evidence on the imposition of safeguard measures. The Commission is also required to publish a report of its findings and reasoned conclusions reached on all issues of fact and law in the *Gazette* upon the conclusion of its investigations.

Duration of safeguard measures is provided for in *clause 26* and the clause expressly states that a safeguard measure shall not exceed a period of ten years from the date of imposition. *Clause 27* makes it obligatory for the Minister responsible for Trade and Industry on the recommendation of the Commission to give notice to the Committee on Safeguard of the World Trade Organisation whenever the Commission takes a step in relation to the imposition of safeguard measures including the conduct of investigations and findings of the Commission relating to serious injury or a threat of serious injury caused by increased imports.

*Clause 28 to 30* is on countervailing duties. *Clause 28* grants the Commission power to impose countervailing duties on imported products in situations where the foreign producer is the recipient of a subsidy from its government and the subsidization has the tendency of crippling the establishment of a domestic industry that produces a similar or other product which is directly competitive to the imported product.

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The Commission with a view to offsetting the effects of the subsidization is mandated to impose a countervailing duty on subsidized foreign products in an amount equal to the amount of the subsidy on the imported products levied, collected or paid for.

*Clause 29* is on conduct of investigations for imposition of countervailing duty. The clause compels the Commission to, prior to the initiation and conduct of the investigation, and through the Minister responsible for Trade and Industry consult the competent authority of the country whose product is the subject matter of the investigation with a view to clarifying the situation in relation to the subsidisation alleged, the material injury caused and the causal link between the product that is subsidised and material injury. The duration of a countervailing duty imposed under this Bill shall not exceed five years from the date of imposition, *clause 30*.

Provisions on antidumping duties are covered under *clause 31* to *33*. Where a foreign producer is engaged in selling products in the Ghanaian market below their normal value in the exporting country, *clause 31* empowers the Commission to impose antidumping duties on dumped foreign products with a view to offsetting the effects of the dumping on a domestic producer or the domestic industry producing a similar or directly competitive product. The clause further provides that the antidumping duty shall be of an amount equal to the margin of dumping being the difference between the normal value of the dumped imports and their export price. The conduct of investigation for imposition of antidumping duty is provided for in *clause 32* while *clause 33* provides that an antidumping duty imposed under this Bill shall not exceed five years from the date of the imposition.

*Clauses 34* and *35* relate to tariff petitions and customs valuation of imported goods. *Clause 34* affords a domestic producer or a representative of the domestic industry or a labour association the opportunity to petition the Commission for a review of tariffs on imported products that are directly competitive to the products produced by the petitioner or that are used by the petitioner as inputs for the production of other

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products. *Clause 35* spells out the procedure to be adopted in reviewing a tariff petition where a tariff petition is submitted to the Commission.

*Clause 36* to 40 focuses on customs valuation disputes. *Clause 36* empowers the Commission to settle a dispute arising as a result of a valuation by the Customs Division of the Ghana Revenue Authority. The procedure to be followed in the submission of a complaint for valuation is part of the contents of *clause 37*. Of significant note is subclause (6) which requires the Commission in the settlement of a customs valuation dispute to take into consideration P.N.D.C.L. 330, any other law relating to customs valuation and the principles of the Agreement on Customs Valuation of the World Trade Organization.

*Clause 38* makes provision for the Commission to make an interim order before the determination of the value of the products for customs purposes while *clause 39* mandates the Commission to make a decision in respect of a complaint lodged under *clause 38* within a time period of fourteen working days. The clause further requires the Executive Secretary to inform the parties of the decision arrived at within a time frame of seven working days.

*Clause 40* absolves an importer of a foreign product which is the subject matter of a dispute or any other person liable for the payment of customs duty in relation to that product from the payment of a penalty for lodging a complaint in relation to the decision of the Commissioner-General in respect of the value of customs duty of the imported product.

*Clause 41* to 50 deals with conduct of investigations and proceedings. The Bill provides the framework for the conduct of investigations and hearings by the Commission. Under *clause 41*, the power of the Commission to investigate a matter may be exercised either when a complaint has been filed or on its own initiative. The Commission is granted broad powers in the conduct of investigations including the power to question witnesses under oath or affirmation, order the production of documents and evidence and compel the attendance of witnesses through the issuance of subpoenas.

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*Clause 42* is on conduct of proceedings while *clause 43* relates to review of a decision of the Commission. The clause makes provision for a dissatisfied person to apply for a judicial review of a decision, order or ruling of the Commission in accordance with the High Court (Civil Procedure) Rules, 2004 (C. I. 47).

The Commission may make an application to the High Court for an order to compel a person to comply with the decision, order or ruling of the Commission and this is provided for in *clause 44*. Where a complaint has been lodged with the Commission, the Commission may issue and serve on an importer of products, an order directing that importer to cease and desist from engaging in an action in respect of which the complaint has been lodged with the Commission, *clause 45*.

Under *clause 46*, members of the Commission are exempted from civil and criminal liability in respect of actions taken or omitted in the performance of the functions of the Commission under this Bill. *Clause 47* makes provision for the Commission to collaborate with Government departments and agencies and other public authorities in the performance of its functions.

*Clause 48* relates to disclosure of confidential information. The Commission is stopped from disclosing to a third party confidential information submitted to it unless the Commission has obtained the consent of the party that submitted the information or issued a declaration to the recipient of the confidential information to restrain the recipient from disclosure of the confidential information.

*Clause 49* relates to request for information by the Commission. The Commission is permitted to direct an importer, exporter, seller or manufacturer of products or any other person who has in custody information relevant to the performance of the functions of the Commission to provide the information within a specified time. Where the information will result in a significant cost to the person, the Commission is required to pay for the cost of providing the information unless the information is being provided by a government agency or a

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private company in which the Government of Ghana is a shareholder. Clause 50 deals with publication of notices.

The final provisions are on miscellaneous matters. Offences and penalties are provided for under *clause* 51 and the power to make regulations by legislative instrument is dealt with in *clause* 52. *Clauses* 53 and 54 deal with modification and interpretation respectively.

HARUNA IDDRISU (MP)  
*Minister responsible for Trade and Industry*

Date: 9th July, 2014.