

**IN THE SECOND SESSION OF THE SEVENTH PARLIAMENT OF THE
FOURTH REPUBLIC OF GHANA**

**REPORT OF THE FINANCE COMMITTEE ON THE REQUEST FOR
WAIVER OF IMPORT DUTIES, IMPORT VAT, IMPORT NHIL AND
OTHER APPROVED IMPOSTS AMOUNTING TO THE GHANA CEDI
EQUIVALENT OF FIFTY-TWO MILLION, THREE HUNDRED
AND NINETY THREE THOUSAND, EIGHT HUNDRED AND
SEVENTY UNITED STATES DOLLARS (US\$52,393,870.00) ON
DISTILLATE OPERATIONAL FUEL, POWER EQUIPMENT AND
POWER PLANT PARTS FOR TROJAN POWER LIMITED'S POWER
PLANT OPERATIONS UNDER AN EQUIPMENT RENTAL
AGREEMENT WITH THE GOVERNMENT OF THE REPUBLIC OF
GHANA (MINISTRY OF ENERGY)**

1.0 INTRODUCTION

The Request for Waiver of Import Duties, Import VAT, Import NHIL and other Approved Imposts amounting to the Ghana Cedi Equivalent of Fifty-Two Million, Three Hundred and Ninety Three Thousand, Eight Hundred and Seventy United States Dollars (US\$52,393,870.00) on Distillate Operational Fuel, Power Equipment and Power Plant Parts for Trojan Power Limited's power plant operations under an Equipment Rental Agreement with the Government of the Republic of Ghana (Ministry of Energy) was laid in the House on Friday 9th March 2018 by the the Honourable Deputy Minister for Finance, Mr. Kwaku Agyeman Kwarteng on behalf of the Minister for Finance.

Pursuant to Order 169 of the Standing Orders of the House, the Request was *referred* to the Finance Committee for consideration and report.

The Committee met and considered the Request with the Deputy Minister for Finance, Hon. Kwaku Kwarteng, Deputy Minister for Energy, Hon. Joseph Cudjoe and officials from the Ministries of Finance and Energy as well as the Ghana Revenue Authority (GRA) and hereby presents this report to the House pursuant to Order 161(1) of the Standing Orders of the House.

2.0 BACKGROUND

The power challenges experienced by the nation in recent years caused the Government to institute several measures to significantly increase the power generation capacity of the nation. The Government sought to pursue an aggressive power development strategy, an approach that sought to encourage private sector participation to support the accelerated efforts required to add more generation capacity and expand the electricity transmission options of the country.

During the energy generation challenges of 2007, the Government of Ghana procured one hundred and twenty seven (127) diesel generating units currently situated at Tema and Kumasi to help bridge the generation shortfall. The units were handed over to VRA in 2009 for preservation after the operations.

VRA has given some of the units to state institutions while a greater number are inoperable due to inadequate maintenance.

Under the private sector participation in power generation and based on a request from Trojan Power limited (TPL), a company duly incorporated in Ghana, the Ministry of Energy leased out parts of the units to TPL for its operations under a Rental Agreement. TPL is using the units to generate power for off-take by ECG for further distribution to customers.

TPL is required under the Agreement to procure and maintain at its own cost for the Term of the Agreement, an insurance policy to cover any loss or damage to the equipment and any risk of harm to the general public by the equipment.

In accordance with the Equipment Rental Agreement (ERA), the PURC tariff approval and other agreements covering the project, the company is not expected to pass the tax costs of the project to the ECG or the final consumer. The company receives a tariff which is exclusive of taxes, thus allowing the company to carry out the project without the payment of taxes.

3.0 TOTAL WAIVER REQUESTED

The total amount of taxes and duties for which waiver is being sought is the Ghana Cedi equivalent of Fifty-Two Million, Three

Hundred and Ninety Three Thousand, Eight Hundred and Seventy United States Dollars (US\$52,393,870.00).

ATTACHMENT: The breakdown is captioned **APPENDIX I** and attached to this Report.

4.0 OBSERVATIONS AND RECOMMENDATIONS

4.1 Approval of Equipment Rental Agreement

The Committee noted that Government in July 2015 approved and signed an Equipment Rental Agreement (ERA) with Trojan Power Limited (TPL). The Agreement is for the lease, repair and use of 40MW diesel generator units owned by the Government of Ghana for the generation of power in Tema and Kumasi. These add on to an existing 25MW plant in Tema, thus bringing the total plant capacity of TPL to 65MW.

4.3 Objective of the Agreement

The Committee observed that the implementation of the Agreement is aimed at contributing to meet the demand for electricity in Ghana and to allow Ghana to further reduce her dependency on hydropower. Thus the Agreement will contribute to increase Ghana's energy independence whilst meeting load growth as the economy expands.

Responsibility for fuel and supplies

The Committee further observed that TPL is taking direct responsibility for fuel but without taxes on the fuel, thereby ensuring that Government does not have to purchase fuel or make cash flow available for the purchase of fuel.

The tax-exclusive regime provided under the Agreement allows the importation of fuel, equipment, machinery and materials used in connection with the project free from customs duties and VAT, as well as other aspects of the project operations.

4.4 Need for Waiver

The Committee wanted to know what would happen if the request for waiver the taxes was declined by the House. To this the Committee was informed that TPL has indicated that without the contemplated tax waivers, it would have to pay an additional 35% in duties, levies and taxes on fuel alone procured annually for its power plants to generate power.

The Public Utilities Regulatory Commission (PURC) has also indicated that the only tax included in the tariff approved for TPL is corporate tax. Per a letter dated April 10, 2016, the PURC stated that the imposition of similar fuel taxes on power

generators in the country “will result in an overall impact of a further 36.7% on electricity consumers’ end tariffs.”

Obligation to pay rental charge and maintain equipment

Pursuant to Clause 2 of the Agreement, TPL is required to among other things, pay a rental charge in United States Dollars per unit per month and to operate and maintain the equipment in strict compliance with the operating and maintenance manual as may be supplied by the Ministry of Energy. The Company is further required to comply with environmental standards and requirements for the operation of the equipment.

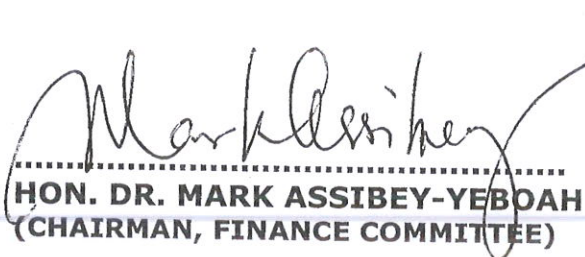
5.0 CONCLUSION

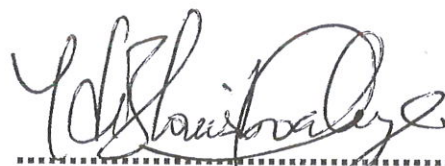
The Committee is satisfied that the request is in consonance with the Equipment Rental Agreement between the Government of the Republic of Ghana (represented by the Ministry of Energy) and Trojan Power Limited.

The Committee therefore recommends to the House to adopt this report and *approve by resolution*, the Request for Waiver of Import Duties, Import VAT, Import NHIL and other Approved Imposts amounting to the Ghana Cedi Equivalent of **Fifty-Two Million, Three Hundred and Ninety Three Thousand, Eight Hundred and Seventy United States Dollars**

(US\$52,393,870.00) on Distillate Operational Fuel, Power Equipment and Power Plant Parts for Trojan Power Limited's power plant operations under an Equipment Rental Agreement with the Government of the Republic of Ghana (Ministry of Energy) in accordance with article 174(2) of the 1992 Constitution of the Republic of Ghana.

Respectfully submitted.


.....
HON. DR. MARK ASSIBEY-YEBOAH
(CHAIRMAN, FINANCE COMMITTEE)


.....
MR. LOUIS YIADOM BOAKYE
(ASST. CLERK, FINANCE COMMITTEE)

20TH MARCH, 2018

APPENDIX I

Item	CIF/FOB (USD)	I/D %	Import Duty	Import VAT/SPT	Import NHIL	TOTAL (USD)
Power Plants	63,830,000	5%	3,191,500	10,053,225	1,675,538	14,920,263
Parts	28,764,093	5%	1,438,205	4,530,345	755,057	6,723,607
Opt. Fuel (750m.l)/ LNG	307,500,000	5%/15%	30,750,000		-	30,750,000
Total	400,094,093		35,379,705	14,583,570	2,430,595	52,393,870

