

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



**REPORT OF THE  
FINANCE COMMITTEE**

**ON THE  
AGREEMENT**

Between

**THE GOVERNMENT OF THE UNITED  
STATES OF AMERICA**

And

**THE GOVERNMENT OF THE REPUBLIC  
OF GHANA**

Regarding

**MUTUAL ASSISTANCE BETWEEN THEIR  
CUSTOMS ADMINISTRATIONS**

*FEBRUARY, 2018*



## **1.0 INTRODUCTION**

The Agreement between the Government of the United States of America and the Government of the Republic of Ghana regarding Mutual Assistance between their Customs Administrations was laid in Parliament on 11<sup>th</sup> December, 2017 in accordance with article 75 of the 1992 Constitution. The Agreement was subsequently referred to the Finance Committee for consideration and report in accordance with article 103 of the 1992 Constitution and Order 169 of the Standing Orders of the House.

A Deputy Minister for Finance, Hon. Abena Osei-Asare and officials from the Ministry of Finance and the Ghana Revenue Authority (GRA) attended upon and assisted the Committee in its deliberations on the Agreement.

The Committee is grateful to the Hon. Deputy Minister and the officials from the Ministry of Finance and GRA for attending upon the Committee.

## **2.0 REFERENCES**

The Committee referred to the following documents *inter alia* during its deliberations on the Agreement:

- a. The Constitution of the Republic of Ghana, 1992.
- b. The Standing Orders of the Parliament of Ghana.
- c. Ghana Revenue Authority Act, 2009 (Act 791)

### **3.0 BACKGROUND**

Around the world, Customs' responsibility to collect import duty has evolved over time to include the protection of society and the fighting of transnational crime. Customs Administrations now play a vital role in controlling and facilitating the international movement of goods and people.

Developments in ICT and globalization have resulted in goods being moved across borders in greater volume and at greater speed. This has in turn increased the risk of customs offences and put customs administrations under greater pressure in their enforcement role. On the other hand, advances in technology also offer an opportunity to meet these challenges. The type of customs offences and the frequency with which they are committed are affected by national economic conditions, geographical position, rates of duty applied, and the prohibitions, restrictions and other measures of control in force in a particular country.

Customs administrations operate on the basis of their national legislation which normally grants them wide ranging powers but only within their national territories and for their own purposes. This means that Customs Administrations often have to deal with goods arriving in their territory with little or no external support or background information to assist them with their controls, other than Customs declarations and accompanying documents. The legal

systems in many countries and the competencies of Customs differ widely. Some Customs Administrations can prosecute their own cases in court, whereas others need the agreement of the appropriate legal authority even for the decision to launch a criminal investigation.

Customs Administrations often work with each other and with other law enforcement authorities to combat ever-increasing organized crime that is transnational in nature.

To deal with the increase in offences relating to international trade, transport, electronic communication and customs, and to protect the international trade supply chain and to achieve effective enforcement of customs legislation while facilitating legitimate trade, Customs Administrations have implemented modern control techniques that rely increasingly on risk analysis and selective checks. Effective risk assessment and selectivity rely on the availability of information from a variety of sources, including Customs, exporting countries, trade and transport.

This instrument of bilateral exchange of information is aimed at facilitating and providing a legal basis for the exchange of information between the Customs Administrations of Ghana and the United States of America.

The World Customs Organization (WCO) adopted this model bilateral convention on mutual administrative assistance for countries to implement as part of a national customs policy.

Based on the WCO Model Convention, Ghana and USA signed a Customs Mutual Assistance Agreement on 9<sup>th</sup> December, 2003.

#### **4.0 PURPOSE OF THE AGREEMENT**

The object of the Agreement is to provide a legal basis for the exchange of information between the Customs Administrations of the Contracting Parties, i.e. the United States of America and the Republic of Ghana.

#### **5.0 CONTENTS OF THE AGREEMENT**

The Agreement contains 13 articles.

Article 1 provides for the definitions to the Agreement

Article 2 gives the scope of the Agreement as assisting each other's Customs Administration in preventing, investigating and repressing any offence.

Article 3 provides for the scope of General Assistance. This includes the provision of information for the enforcement of customs laws and accurate assessment, methods of processing passengers and cargo, enforcement aids and techniques and new strategies for committing offences.

Article 4 deals with the Scope of Specific Assistance. This includes the provision of information on imported and exported goods,

surveillance and perceived offences upon request. It also provides for assistance in the form of provision of information on use of provisional measures, forfeitures and sharing and disposition of forfeited assets.

Article 5 caters for the provision of information on files and documents relating to transportation and shipment of goods showing value, destination and disposition of those goods upon request by the other party.

Article 6 makes provision for the employees of a party to be authorized to appear as witnesses in case of judicial or administrative proceedings by the other party.

Articles 7 and 8 provide for the form of communication and the methods of execution of requests respectively.

Article 9 places limitations on use of information obtained under the Agreement. The information shall be afforded the same degree of confidentiality by the receiving Party as that applied to similar information in its custody.

Article 10 provides for Exemptions. It permits a Party to refuse requests that would infringe upon its sovereignty, security, public policy or other substantive national interest, or which would be inconsistent with its domestic law and regulations.

Per article 11, the costs relating to the execution of a request shall normally be borne by the Requested Party with the exception of the

expenses for experts and witnesses and the costs of translation, interpretation and transcription.

Articles 12, 13 and 14 deal with the Implementation, Application and Entry into Force and Termination of the Agreement.

## **6.0 OBSERVATIONS**

### **Benefits of Agreement**

The Committee observed that the Agreement is desirable because it will

- a. enable both countries to tackle offences against customs laws which are prejudicial to the economic, fiscal and commercial interests of both countries.
- b. help to assure accurate assessment of customs duties and other taxes
- c. help to promote international cooperation in matters related to the administration and enforcement of the customs laws of both countries
- d. demonstrate both countries' regard to the international conventions containing prohibitions, restrictions and special measures of control in respect of special goods
- e. create an opportunity for information sharing between the contracting States on methods for processing passengers and cargo, enforcement aids and techniques
- f. provide a more effective cooperation between both Customs Administrations on action against customs offences; and



g. reflect the recommendation of the WCO regarding Mutual Administrative Assistance.

### **Ratification**

The Committee noted that the Agreement is based on the World Customs Organization (WCO) Model Convention and was originally signed between Ghana and the United States on 9<sup>th</sup> December, 2003. However, it has become imperative to ratify it now in order to obtain the full benefits thereof.

### **Similar Agreements**

It noted that the USA has similar Agreements with South Africa, Kenya, Morocco, Nigeria, Senegal, Mauritius and a number of Asian and European countries.

### **General Assistance and Specific Assistance**

The Committee further observed that the Agreement provides for the provision of two types of assistance: general assistance and specific assistance.

General Assistance includes the provision of information for the enforcement of customs laws and the accurate assessment of customs duties, methods of processing passengers and cargo, enforcement aids and techniques and new strategies for committing offences.

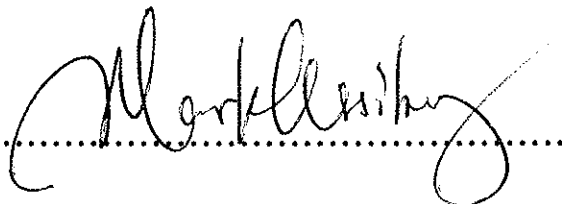
Specific Assistance on the other hand includes the provision of information on imported and exported goods, surveillance and perceived offences *upon request*.

## **7.0 CONCLUSION**

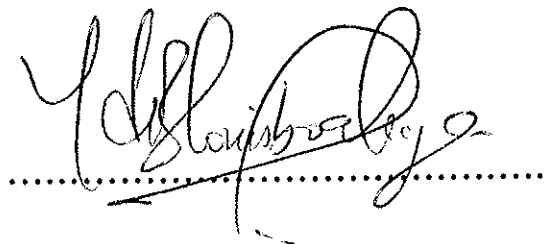
The Committee has thoroughly examined the Agreement and finds that its ratification would help provide a mutually beneficial arrangement for mutual assistance between the Customs Administrations of the Republic Ghana and the United States of America.

The Committee therefore recommends to the House to adopt this report and ratify by Resolution, the Agreement between the Government of the United States of America and the Government of the Republic of Ghana regarding Mutual Assistance between their Customs Administrations in accordance with Article 75(2)(b) of the 1992 Constitution and the Standing Orders of the House.

Respectfully Submitted.



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



**MR. LOUIS YIADOM BOAKYE  
(ASSISTANT CLERK)**

**2<sup>nd</sup> February, 2018**