

**Export Trade, Agricultural and Industrial Development
Fund Bill, 2013**

ARRANGEMENT OF SECTIONS

Section

*Establishment of the Export Trade, Agricultural and Industrial
Development Fund*

1. Establishment of the Fund
2. Object of the Fund
3. Sources of money for the Fund
4. Bank account of the Fund
5. Categories of accounts of the Fund

The Board and Management of the Fund

6. Governing body of the Fund
7. Functions of the Board
8. Tenure of office of members
9. Meetings of the Board
10. Disclosure of interest
11. Establishment of committees
12. Allowances
13. Policy directives

Accounts

14. Research, Development and Promotion Account
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16. Eligibility for the Research, Development and Promotion Account
17. Credit Facility Account
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- 27. Operational Account
- 28. Management of the Operational Account

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- 29. Imposition of import levy
- 30. Application of Customs, Excise and Preventive Service Act

Administrative, financial and miscellaneous matters

- 31. Chief Executive
- 32. Functions of the Chief Executive
- 33. Appointment of other staff
- 34. Borrowing powers
- 35. Accounts and audit
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- 37. Public forum
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- 39. Dissolution of the Board
- 40. Interpretation
- 41. Transitional provisions
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OF THE PARLIAMENT OF THE REPUBLIC
OF GHANA

ENTITLED

**EXPORT TRADE, AGRICULTURAL AND INDUSTRIAL
DEVELOPMENT FUND ACT, 2013**

AN ACT to establish a Fund to provide financial resources for export trade, agricultural and industrial development and to provide for related matters.

PASSED by Parliament and assented to by the President:

Establishment of the Export Trade, Agricultural and Industrial Development Fund

Establishment of the Fund

1. There is established by this Act a fund to be known as the Export Trade, Agricultural and Industrial Development Fund.

Object of the Fund

2. (1) The object of the Fund is to provide financial resources for the development and promotion of export trade, agriculture related to agro-processing and industrial development.

(2) For the purposes of achieving the object of the Fund, moneys

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Export Trade, Agricultural and Industrial Development Fund Bill, 2013

from the Fund shall be applied for the activities determined by the Board that include:

- (a) the development and promotion of
 - (i) export products,
 - (ii) export market development, and
 - (iii) agriculture related to agro-processing;
- (b) infrastructure development;
- (c) export trade oriented activities of institutions and bodies in the public and private sectors of the economy;
- (d) fostering the development of small and medium scale enterprises;
- (e) undertaking research and the appraisals and studies required to determine the areas of export trade, agriculture related to agro-processing and industry that need interventions;
- (f) monitoring and evaluation of the impact of interventions on export trade, agriculture related to agro-processing and industry;
- (g) the provision of credit, credit guarantee, export insurance, re-financing through designated financial institutions to persons in the sectors related to export trade, agriculture related to agro-processing and industry;
- (h) equity funding through other approved equity fund managers; and
- (i) any other activity determined by the Board to achieve the object of the Fund.

Sources of money for the Fund

3. The moneys of the Fund consist of
- (a) the levy on the dutiable value of import, imposed under section 29;
 - (b) ten per-cent of the net proceeds from divestiture carried out by the Divestiture Implementation Committee; and
 - (c) any other moneys that the Minister responsible for Finance in consultation with the Minister with the approval of Parliament, determines to be paid into the Fund.

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4. Moneys for the Fund shall be paid into a bank account opened for the purpose by the Board with the approval of the Minister responsible for Finance.

Categories of accounts of the Fund

5. (1) The Board shall allocate the moneys of the Fund into the following categories of accounts:

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- (f) any other account determined by the Board.

(2) The Board shall submit a half-year performance and position report on each account to the Minister.

The Board and Management of the Fund

Governing body of the Fund

6. (1) The governing body of the Fund is a Board consisting of
- (a) a chairperson with recognised business, financial or investment experience who is not a public officer;
 - (b) the Chief Executive of the Ghana Export Promotion Authority;
 - (c) one representative of
 - (i) the Private Enterprise Foundation;
 - (ii) the Ministry of Finance not below the rank of Director;
 - (iii) the Ministry of Trade and Industry not below the rank of Director;
 - (iv) the Ministry of Food and Agriculture not below the rank of Director
 - (d) the Controller and Accountant-General or the representative of the Controller and Accountant General;
 - (e) the Chief Executive of the Fund, and
 - (f) five other persons from the private sector at least two of whom are women.

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

(3) The President shall consider the integrity, knowledge, expertise and experience of the chairperson and members in matters relevant to the functions of the Board in making the appointments.

Functions of the Board

7. (1) The Board is responsible for the management of the Fund.
- (2) For the purpose of subsection (1), the Board shall
- (a) perform its functions and conduct its affairs in accordance with sound investment and financial standards and practice;
 - (b) support policies and programmes to achieve the object of the Fund;
 - (c) take the necessary measures to ensure that financial assistance rendered by it to a business or an enterprise is utilised for the purpose for which the financial assistance is given;
 - (d) arrange for the collection of moneys assigned to the Fund through procedures to be determined by the Minister and the Minister responsible for Finance;
 - (e) ensure accountability for the Fund by defining appropriate procedures for its management;
 - (f) receive and examine reports from the designated financial and other institutions in respect of facilities granted to them;
 - (g) not seek a controlling interest or any other interest that would give it primary responsibility for the management of any enterprise that is financed by the Fund;
 - (h) in consultation with the Minister, formulate policies to determine among others
 - (i) the level of interest rate chargeable on any credit facility granted under this Act;
 - (ii) the maximum credit functions that may be granted to an applicant; and
 - (i) perform any other function that is incidental to the achievement of the object of the Fund.

Tenure of office of members

8. (1) A member of the Board shall hold office for four years and is eligible for re-appointment but a member shall not be appointed for more than two terms.

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Export Trade, Agricultural and Industrial Development Fund Bill, 2013

(2) Subsection (1) does not apply to the Chief Executive appointed under section 31.

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

(4) A member of the Board, other than the Chief Executive, who is absent from three consecutive meetings of the Board without a reasonable cause, ceases to be a member of the Board.

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

(6) 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 a declaration of a vacancy.

(7) Where there is a vacancy

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

(b) as a result of a declaration under subsection (6); 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.

Meetings of the Board

9. (1) The Board shall meet at least once every two months for the despatch of business at the time and in the place 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 extraordinary meeting of the Board at the place and time determined by the chairperson.

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

(4) The quorum for a meeting of the Board is seven members of the Board including the Chief Executive or a greater number determined by the Board in respect of an important matter.

(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.

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

(b) as a result of a declaration under subsection (6); 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.

Meetings of the Board

9. (1) The Board shall meet at least once every two months for the despatch of business at the time and in the place 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 extraordinary meeting of the Board at the place and time determined by the chairperson.

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

(4) The quorum for a meeting of the Board is seven members of the Board including the Chief Executive or a greater number determined by the Board in respect of an important matter.

(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.

Export Trade, Agricultural and Industrial Development Fund Bill, 2013

(2) Subsection (1) does not apply to the Chief Executive appointed under section 31.

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

(4) A member of the Board, other than the Chief Executive, who is absent from three consecutive meetings of the Board without a reasonable cause, ceases to be a member of the Board.

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

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Export Trade, Agricultural and Industrial Development Fund Bill, 2013

(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.

(7) Except as otherwise provided by this Act, the Board shall determine the procedures for its meetings.

(8) The proceedings of the Board are not invalidated by reason of a vacancy among the members or by a defect in the appointment or qualification of a member.

Disclosure of interest

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

- (a) disclose the nature of the interest and the disclosure shall form part of the record of consideration of the matter; and
- (b) recuse himself or herself and not participate in the deliberations of the Board in respect of that 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) is present at or participates in the deliberations of the matter.

(3) The Board shall not engage in a financial transaction with an enterprise in which a member of the Board is a partner, director or shareholder unless that member

- (a) disclosed that interest before the voting;
- (b) has refrained from participating in the discussion of the matter in issue and withdrawn from the meeting during the discussion on the direction of the chairperson; and
- (c) has had the transaction unanimously approved by the other members of the Board.

Establishment of committees

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

(2) Without limiting subsection (1), the Board shall have

- (a) a Research, Promotion and Development Committee;
- (b) a Credit and Projects Committee;
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Export Trade, Agricultural and Industrial Development Fund Bill, 2013

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

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

Allowances

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

Policy directives

13. The Minister may give written directives to the Board on matters of policy and the Board shall comply.

Accounts

Research, Development and Promotion Account

14. The moneys assigned to the Research, Development and Promotion Account shall be disbursed directly by the Board to beneficiaries.

Management of the Research Development and Promotion Account

15. (1) A beneficiary of moneys disbursed by the Board from the Research, Development and Promotion Account, shall apply the moneys to

- (a) the development and promotion of
 - (i) export products;
 - (ii) export market development; and
 - (iii) agriculture related to agro-processing;
- (b) infrastructure development;
- (c) export trade oriented activities of institutions and bodies in the public and private sectors of the economy;
- (d) foster the development of small and medium scale enterprises;
- (e) undertake research and the appraisals and studies required to determine the areas of export trade, agriculture related to agro-processing and industry that need interventions; and
- (f) monitor and evaluate the impact of interventions on export trade, agriculture related to agro-processing and industry.

(2) Moneys disbursed from the Research, Development and Promotion Account shall not be utilised for production aimed at sales for the sole benefit of the producer.

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(2) Moneys disbursed from the Research, Development and Promotion Account shall not be utilised for production aimed at sales for the sole benefit of the producer.

Eligibility for the Research, Development and Promotion Account

16. The following categories of persons are eligible to apply for moneys under the Research, Development and Promotion Account:

- (a) a co-operative or association of farmers, artisans and exporters engaged in export related activities, agriculture or agro- processing activity endorsed by a research institution, the Ghana Export Promotion Authority or relevant government agency;
- (b) an individual, body corporate or enterprise engaged in verifiable export- oriented activities, agriculture related to agro-processing and industry endorsed by a research institution, the Ghana Export Promotion Authority or relevant government agency;
- (c) a Ministry, Department or Agency engaged in the development and promotion of non-traditional exports and agriculture related to agro- processing and industry;
- (d) a public or private research institution engaged in the development and promotion of non-traditional export and agriculture related to agro processing and industry;
- (e) a regional development body; and
- (f) any other similar beneficiaries identified by the Board.

Credit Facility Account

17. (1) The moneys assigned to the Credit Facility Account may be disbursed for

- (a) export trade;
- (b) agriculture and agro-processing;
- (c) industry;
- (d) insurance;
- (e) re-financing; and
- (f) research.

(2) The money assigned to the Credit Facility shall be disbursed in the proportions and to the designated financial institutions determined by the Board.

(3) The Board shall designate in writing, the financial institution that shall grant a credit facility from the proportion of moneys assigned to it from the Credit Facility Account.

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Export Trade, Agricultural and Industrial Development Fund Bill, 2013

(4) The designated financial institution granted a credit facility shall bear the full credit risk.

Management of the Credit Facility Account

18. A financial institution designated under subsection (3) of section 17, shall apply the moneys to grant credit for export trade, insurance, re-financing or credit guarantee to applicants in accordance with this Act and policy guidelines issued by the Board.

Eligibility for Credit Facility Account

19. A person or enterprise may apply for a credit facility to a designated financial institution if that person or enterprise

- (a) is registered under the Companies Act, 1963 (Act 179), the Incorporated Private Partnerships Act, 1962 (Act 152) or any other enactment for the registration of business; and
- (b) has a majority shareholding held by a citizen.

Period of credit facility

20. A credit facility granted by a designated financial institution shall be in respect of

- (a) a long-term financing facility for a period of not more than ten years;
- (b) a medium-term financing facility for a period of not more than five years; or
- (c) a short-term financing facility for a period of not more than two years.

Projects Account

21. The moneys assigned to the Projects Account shall be disbursed by the Board to cover expenditure in respect of projects endorsed by the Minister.

Management of the Projects Account

22. (1) Moneys disbursed from the Projects Account shall be applied for the development and promotion of export trade, export oriented manufacturing, or agriculture related to agro-processing activities.

(2) A person responsible for the implementation and management of a project to which moneys from the Projects Account have been paid, shall submit a half-year report on the status of the implementation of the project to the Board.

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Eligibility for the Projects Account

23. A public or private sector entity, body or institution may apply for project funds through the Minister.

Equity Finance Account

24. (1) The moneys assigned to the Equity Finance Account shall be disbursed through government aided equity financing scheme and private equity fund managers.

(2) An equity fund manager shall co-invest in any business provided in the Regulations.

Management of the Equity Finance Account

25. (1) A designated equity fund manager or government-aided equity scheme to which moneys have been disbursed from the Equity Finance Account, shall apply the moneys in accordance with policy guidelines issued by the Board.

(2) The moneys disbursed from the Equity Finance Account shall be applied for the placement of equity in a company engaged in export trade, export oriented manufacturing activity, agriculture related to agriculture and agro-processing.

(3) Designated equity fund managers and government-aided equity financing schemes shall submit a half-year report to the Board on equity funds invested in beneficiary entities.

Eligibility for the Equity Finance Account

26. A person or enterprise may apply for equity funding to a designated equity fund manager if that person or enterprise

- (a) is registered under the Companies Act, 1963 (Act 179), the Incorporated Private Partnership Act, 1962 (Act 152) or any other enactment for the registration of business; and
- (b) has a majority shareholding held by a citizen.

Operational Account

27. The moneys assigned to the Operational Account shall be used to provide for the management of the Fund.

Management of the Operational Account

28. (1) The moneys assigned to the Operational Account shall be disbursed for the administrative expenses and other related expenses of the Fund in accordance with the Regulations, policies and procedures adopted by the Board.

Eligibility for the Projects Account

23. A public or private sector entity, body or institution may apply for project funds through the Minister.

Equity Finance Account

24. (1) The moneys assigned to the Equity Finance Account shall be disbursed through government aided equity financing scheme and private equity fund managers.

(2) An equity fund manager shall co-invest in any business provided in the Regulations.

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Export Trade, Agricultural and Industrial Development Fund Bill, 2013

(2) The Operational Account shall not exceed eight percent of the funds for each financial year.

Imposition and collection of import levy

Imposition of import levy

29. (1) There is imposed by this Act a levy to be paid by importers on the dutiable value of any product imported for commercial purposes except petroleum products.

(2) The levy shall be 0.75 percent of the cost, insurance and freight value of the import.

(3) The levy shall be collected by the Customs Division of the Ghana Revenue Authority from the importer at the port of entry.

(4) The Commissioner of Customs Division of the Ghana Revenue Authority shall pay the levy collected into an account specified by the Board.

(5) The Customs Division of the Ghana Revenue Authority shall provide the Board with a reconciliation statement each quarter on the levy collected on imported goods at the ports of entry.

Application of Customs, Excise and Preventive Service Act

30. The Customs, Excise and Preventive Service Act, 1993 (P.N.D.C.L. 330) shall apply for the purposes of the collection of the levy imposed by this Act.

Administrative, financial and miscellaneous matters

Chief Executive

31. (1) The President shall, in accordance with article 195 of the Constitution, appoint a Chief Executive.

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

Functions of the Chief Executive

32. (1) The Chief Executive is responsible for the day to day administration of the affairs of the Fund and is answerable to the Board in the performance of functions under this Act.

(2) The Chief Executive shall ensure the implementation of the decisions of the Board and perform any other function determined by the Board.

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(3) The Chief Executive may delegate a function to an officer of the Fund but shall not be relieved from the ultimate responsibility for the performance of the delegated function.

Appointment of other staff

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

(2) Other public officers may be transferred or seconded for the purposes of the Fund or may otherwise give assistance to Fund.

(3) The Board may, on the recommendation of the Chief Executive, engage the services of experts and consultants as determined by the Board.

Borrowing powers

34. Subject to Article 181 of the Constitution and any other enactment, the Board may obtain loans and other credit facilities on the guarantee of the government from banks and other financial institutions determined by the Minister in consultation with the Minister for Finance.

Accounts and audit

35. (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 Fund 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.

Annual report and other reports

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

(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 also submit an impact assessment of the activities of the Fund and any other reports to the Minister.

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Public forum

37. (1) There shall be a public forum to encourage public private dialogue to facilitate the achievement of the object of this Act.

(2) The Forum shall be convened by the Minister.

(3) The Forum shall be used by the Ministry to interact with the private sector on matters concerned with the object of this Act.

(4) The Forum shall meet at least once a year at a place and time to be determined by the Minister.

Regulations

38. The Minister may, by legislative instrument, on the advice of the Board make Regulations

(a) for the forms required under this Act;

(b) for the format for the reports of the accounts;

(c) to review the percentage of money distributed to the accounts of the Fund;

(d) for the regulation of accounts established under the Fund;

(e) for the form for applications to the Fund;

(f) for the conditions for the grant of an application;

(g) for matters to be contained in policy guidelines and manuals issued by the Board;

(h) for designated financial institutions for the development and promotion of exports;

(i) prescribing the terms, conditions, duties and obligations of designated financial institutions, equity financing schemes and fund managers,

(j) on risk sharing; and

(k) for the effective implementation of the provisions of this Act.

Dissolution of the Board

39. The Board of the Export Development and Agricultural Investment Fund is dissolved by this Act.

Interpretation

40. In this Act, unless the context otherwise requires,

“agro-processing” means adding value to agricultural produce;

“applicant” means a person who applies for a facility from the Fund;

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Export Trade, Agricultural and Industrial Development Fund Bill, 2013

- “beneficiary” means a recipient of moneys from the Fund;
- “Board” means the Board established for the Fund under section 6;
- “commercial purposes” means the importation of non-petroleum products in commercial quantities;
- “controlling interest” means an interest that amounts to more than fifty percent of issued shares;
- “co-investment” means an investment entered into by two or more parties fund arrangement;
- “collaboration” includes capitalisation;
- “credit facility” includes loan guarantee, insurance, re-financing and any other similar facility designated by the Board;
- “designated” means authorised by the Board;
- “designated financial institution” includes a legally incorporated institution, recognised by the Bank of Ghana as carrying on the business of banking or providing credit to exporters, non-bank financial institutions and rural banks designated by the Board to transact business for the purpose of this Act;
- “enterprise” includes 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;
- “entrepreneurial activity” means the undertaking of a commercial enterprise;
- “equity financing scheme” means a funding arrangement by which shares in a company are purchased;
- “equity funding institution” means a financing entity licensed to carry on the business of fund management by the Securities and Exchange Commission;
- “export” means any designated foreign exchange earning economic activity;
- “export promotion” includes an incentive package or any means to enhance exports;
- “export related activity” means any measure taken related to exports;
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Export Trade, Agricultural and Industrial Development Fund Bill, 2013

- “extractive activity” includes prospecting, exploration and any process that involves the removal of non-renewable resources from the earth;
- “Fund” means the Fund established under section 1;
- “government aided equity finance scheme” is a subsidiary of a government agency that co-invests in commercially viable start-ups and small and medium enterprises together with an independent third-party investor;
- “hybrid funding” means combination of grant credit and equity;
- “industrial development” means the process that facilitates industry;
- “industry” includes manufacturing and agro-processing but excludes extractive activities;
- “infrastructure development” means the establishment of structures needed for the provision of goods and services necessary to create, sustain or enhance export trade oriented activities and agriculture related to agro-processing and industry;
- “levy” means the import levy imposed under section 29;
- “Minister” means the Minister responsible for Trade and Industry;
- “Ministry” means the Ministry of Trade and Industry;
- “non-traditional exports” means goods except cocoa beans, lumber, electricity, logs, unprocessed gold and other minerals;
- “private sector” means that part of the economy which is run by a private individual or group as a means of enterprise for profit that is not controlled by the government;
- “project” means a strategic intervention to achieve the object of the Fund approved by the Minister;
- “re-financing” means the replacement of an existing debt obligation to a designated financial institution under different terms;
- “research” means the appraisal of export trade;
- “small and medium enterprise” means an industry, project, undertaking or economic activity that employs not more than one hundred persons with an asset base that is not more than one million Ghana Cedis but excludes land and buildings;

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Export Trade, Agricultural and Industrial Development Fund Bill, 2013

“strategic intervention” means a policy initiative supported by a study that sets out the details of the nature, aims, benefits and costs of the intervention; and
“trade” means economic transfer.

Transitional provisions

41. (1) The rights, assets and liabilities accrued in respect of the Export Development and Agricultural Investment Fund in existence immediately before the commencement of this Act and the persons employed for purposes of that Fund are transferred for purposes of the Fund established under section 1 of this Act.

(2) The total sum of money located in any bank before the commencement of this Act, which constitutes money intended for the Fund is transferred into the Fund established under section 1.

(3) A contract subsisting between the Export Development and Agricultural Investment Fund established under the Export Development and Investment Fund Act, 2000 (Act 582) and another person, and in effect immediately before the commencement of this Act is deemed to subsist between the Fund and that other person.

Repeal and savings

42. (1) The following enactments are repealed:

- (a) the Export Development and Investment Fund Act, 2000 (Act 582); and
- (b) the Export Development and Investment Fund (Amendment) Act, 2011 (Act 823).

(2) Despite the repeal of Act 582 and Act 823, any orders, directions, appointments or any other act lawfully made or done by the Board under the repealed enactment shall be considered to have been made or done under this Act and shall continue to have effect until, reviewed, cancelled or terminated.

Date of *Gazette* notification: 16th October, 2013.

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Export Trade, Agricultural and Industrial Development Fund Bill, 2013

MEMORANDUM

The purpose of the Bill is to establish a Fund for export trade, agricultural and industrial development. The Export Development and Investment Fund was established by the Export Development and Investment Fund Act, 2000 (Act 582). The Fund became operational in 2001 as an agency of the Ministry of Trade and Industry. The Fund was initially established to provide financial resources for the development and promotion of the export trade by creating an innovative way to strengthen the financial independence of the country and reduce the dependency on the assistance from development partners. Act 582 was amended in 2011 by the Export Development and Investment Fund (Amendment) Act, 2011 (Act 823) to expand the scope of application of the resources of the Fund to include the development and promotion of agriculture related to the agro-processing industry. Accordingly, the name of the Fund was changed to the Export Development and Agriculture Investment Fund

Over the last decade, the Fund has achieved significant successes with funding, delivery and recovery. However, there have been major challenges, limitations, and constraints that have militated against the optimal utilisation of the Fund for its stated object. This is against a backdrop of inadequate funding requirements of companies, institutions and groups engaged in the development and promotion of exports in agriculture and the related agro-processing industry and small and medium scale enterprises.

These constraints have necessitated the review of the existing set up, structure and operation of the Fund to remove the challenges, constraints and limitations to the accessibility and utilisation of the funds for the purposes for which it was established. It has also become imperative to provide and expand a resource envelope readily available for the public and private sector to build an internationally competitive export sector for sustainable export-led economic growth. A major economic headwind of the Ghanaian private sector is access to credit and the cost of credit, therefore, a boost for the private sector will be the provision of ready access to credit and the reduction of the cost of credit.

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Export Trade, Agricultural and Industrial Development Fund Bill, 2013

The overall objective of the review is to expand the remit and scope of the Fund beyond solely supporting export trade. The Fund will provide the needed financial support for the private sector and contribute to the development of a vibrant and competitive value-added industrial base. The Fund will also support agriculture, entrepreneurship and the development of the small and medium enterprises sector. The Fund, as is being reviewed, will improve lending to Ghanaian businesses engaged in the export of value-added products in both agriculture, and manufacturing.

The Ministry of Trade and Industry established a technical committee to review the law. The Committee sought to define and crystallise the policy and legislative framework needed to make the Fund more responsive to the needs of the private sector. This was done with the view of creating stimulus package which will provide the necessary support for the development and growth of businesses. Best practices from other jurisdictions were examined particularly within the context of their nature and operations. These included import and export banks, development corporation and similar financing institutions which support export development and promotion. The best practices were successful in providing turn-around of enterprises within their areas of operation in the respective countries. Public-private partnership options were also considered and a public- private forum is introduced in the Bill. This is to enable the Minister and the management of the Fund to engage with beneficiaries and the public on a regular basis. Options were considered for debt and equity financing in one resource envelope.

Clause 1 to 5 provides for the establishment of the Export Trade, Agricultural and Industrial Development Fund. The object of the Fund in *clause 2*, is to provide financial resources for the development and promotion of export trade, agricultural and industrial development. The Bill provides an expanded list on means to achieve the object of the Fund. Moneys are to be provided for the development and promotion of export products, export market development and agriculture related to agro-processing. Others are infrastructural development related to the objects of the Fund and export-trade orientated activities of institutions in the public and private sectors. The Fund is expected to foster the development

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of small and medium enterprises, undertake research and be concerned with monitoring and evaluation of the impact of interventions on export trade and agriculture related to agro-processing. The Fund is also to provide credit, credit guarantee, export insurance, re-financing and equity funding through approved equity fund managers.

The revised Bill will support exports within the agriculture and industrial sectors with resources that enable project expansion. The Fund will establish synergies with specialised institutions such as the Exim Guarantee Company, the Export Finance Company and Venture Capital Trust Fund to achieve its object and will have a presence in the regions through the regional offices of agencies of the Ministry of Trade and Industry.

Clause 3 provides for the sources of money for the Fund. The sources include an increase in the levy from 0.5 per cent to 0.75 per cent on the dutiable value of imports to be paid by importers, ten per cent of the net proceeds obtained from divestiture carried out by the Divestiture Implementation Committee, as well as any other money that the Minister for Finance in consultation with the Minister for Trade and Industry may determine. For instance, it is anticipated that in the future a portion of the Destination Inspection Companies charges will be allocated to the Fund as a new funding source when divestiture proceeds get depleted. These funds are to be paid into bank accounts to be opened in *clause 4*.

There are different categories of accounts of the Fund specified in *clause 5*. These are the Research, Development and Promotion Account, the Credit Facility Account and the Projects Account. The rest are the Equity Finance Account and the Operational Account. Other accounts may be determined by the Board.

The governing body of the Fund is provided for in *clause 6*. It comprises thirteen persons including public sector representatives from key Ministries namely Finance, Trade and Industry and Food and Agriculture. The Ghana Export Promotion Council and the Controller and Accountant-General are represented. The private sector is represented by the Private Enterprise Foundation and five other persons. The

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There are different categories of accounts of the Fund specified in *clause 5*. These are the Research, Development and Promotion Account, the Credit Facility Account and the Projects Account. The rest are the Equity Finance Account and the Operational Account. Other accounts may be determined by the Board.

The governing body of the Fund is provided for in *clause 6*. It comprises thirteen persons including public sector representatives from key Ministries namely Finance, Trade and Industry and Food and Agriculture. The Ghana Export Promotion Council and the Controller and Accountant-General are represented. The private sector is represented by the Private Enterprise Foundation and five other persons. The

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chairperson is to have recognised business, financial or investment experience and is not a public officer. The Chief Executive of the Fund is also a member of the Board.

The functions of the Board are listed in *clause 7*. Essentially the Board is responsible for the management of the Fund, to formulate policies and perform any other functions that are incidental to the achievement of the object of the Fund.

The tenure of office of members, meetings of the Board and conflict of interest provisions are in *clauses 8, 9 and 10* respectively. Under *clause 11* committees of the Board are established. The Fund has standing committees which are the Research, Promotion and Development Committee, the Credit and Projects Committee, the Equity Finance Committee, the Finance, Legal and Administration Committee, and the Audit and Due Diligence Committee to vet applications for financial resources. These are the technical implementation committees of the Board and may be chaired by Board members. *Clauses 12 and 13* deal with allowances and policy directives. The Minister may give directives to the Board on matters of policy and the Board is to comply.

Clause 14 to 28 deals with the accounts of the Fund. The specifics of each account that relates to its function, management, eligibility criteria and other matters are spelt out. The Research, Development and Promotion Account is to disburse funds for the development and promotion of exports. Funds from this account are to also be used to undertake appraisals and studies to determine the areas of the agricultural and agro-processing sectors that need interventions, *clause 15*. As regards the Credit Facility Account, the Board is to designate in writing which financial institutions are to grant credit facilities, *clause 17*. Management and eligibility for the Credit Facility Account are dealt with in *clauses 18 and 19*. The applicant must be registered under the Companies Act, 1963 (Act 179), the Incorporated Private Partnerships Act, 1962 (Act 152), or any other enactment for the registration of a company and have a majority shareholding held by a citizen. A credit facility may be granted for long-term development, medium-term development or short term development from two years to ten years, *clause 20*.

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The Projects Account in *clause 21* is for the development of projects. A project is defined to be a strategic intervention to achieve the object of the Fund that is to be endorsed by the Minister, *clause 40*. The management of the Projects Account and the eligibility for the Projects Account are provided for in *clauses 22 and 23* respectively.

The Equity Finance Account in *clause 24* is to be disbursed by designated fund managers licensed by the Security and Exchange Commission to those who meet the criteria.

The Operational Account is for the management of the Fund and is not to exceed eight percent of the source of the funds in a financial year, *clauses 27 and 28*.

The imposition of the levy which is the major source of funding for the Fund is provided for in *clauses 29 and 30*. The rate is 0.75 per cent of the cost, insurance and freight value of any product imported for a commercial purpose and is to be collected by the Customs Division of the Ghana Revenue Authority. The Customs Division of the Ghana Revenue Authority is to provide the Board with reconciliation statements of the levy on imported goods at the ports each quarter. *Clause 30* applies the Customs, Excise and Preventive Service Act, 1993 (P.N.D.C.L. 330) to the Bill for purposes of the collection of the levy.

The administrative, financial and miscellaneous matters are in *clause 31* to *42*. These include standard provisions on the Chief Executive, the functions of the Chief Executive and the appointment of other staff *clause 31* to *33*. The Fund may borrow money, subject to article 181 of the Constitution and this is provided for in *clause 34*.

The Public Forum established in *clause 37* is to be convened by the Minister for Trade and Industry and used to interact with the private sector on matters concerned with the object of the Bill. Accounts and audit, annual reports and Regulations are the content of *clauses 35, 36* and *38*.

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The final provisions are on dissolution of the Board, interpretation, transitional matters and repeal and savings in *clauses* 39, 40, 41, and 42. *Clause* 39 dissolves the existing Board which is necessary, due to the reconstitution of the Board under the Bill. Persons employed by the Fund are to be transferred for purposes of the Fund established by the Bill. Contracts subsisting under Act 582 are to subsist under the new Act, *clause* 41. Similarly, orders, directions, appointments and other acts lawfully done under the repealed Act 582 are to continue to have effect until reviewed, cancelled or terminated, *clause* 42.

HARUNA IDDRISU (MP)
Minister responsible for Trade and Industry

Date: 7th October, 2013.

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