

ACT 582
EXPORT DEVELOPMENT AND INVESTMENT FUND ACT, 2000

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ACT 582
EXPORT DEVELOPMENT AND INVESTMENT FUND ACT, 20001(1)

AN ACT to establish a Fund to be known as the Export Development and Investment Fund to provide financial resources for the development and promotion of export trade; to provide for the management of the Fund and to provide for related matters.

Establishment of the Export Development and Investment Fund

1. Establishment of the Fund

There is established by this Act an Export Development and Investment Fund.

2. Object of the Fund

(1) The object of the Fund is to provide financial resources for the development and promotion of the export trade of the country.

(2) For the purposes of achieving the object of the Fund, moneys from the Fund shall be applied for the relevant activities determined by the Board of the Fund, including in particular,

- (a) the development and promotion of products for export,
- (b) capacity building, market research and development of infrastructure,
- (c) the development and promotion of any other entrepreneurial activities,
- (d) export trade oriented activities of institutions and bodies both in the public and private sectors of the economy, and
- (e) the provision of credit, export insurance, re-financing and credit guarantee through designated financial institutions to persons in the export trade sector of the economy.

3. Sources of money for the Fund

The moneys for the Fund consist of

- (a) ten percent of the net proceeds obtained from divestiture carried out by the Divestiture Implementation Committee established under the Divestiture of State Interests (Implementation) Act, 1993,2(2)
- (b) the levy on the dutiable value of imports imposed under section 20, and
- (c) any other moneys that the Minister responsible for Finance in consultation with the Minister and with the approval of Parliament may determine to be paid into the Fund.

4. Bank account for the Fund

Moneys for the Fund shall be paid into a bank account opened for the purpose by the Board established under section 6 for the Fund with the approval of the Accountant-General.

5. Categories of accounts of the Fund

(1) The moneys in the Fund shall be divided into two categories of accounts by the Board, namely the Export Development and Promotion Account and the Credit Facility Account.

(2) There shall be assigned to each category of Account a proportion of the Fund determined by the Board in consultation with the Minister.

The Board and Management of the Fund

6. Governing body of the Fund

(1) The governing body of the fund is a Board consisting of

- (a) the chairman,
- (b) one representative of
 - (i) the Ghana Export Promotion Council nominated by the Council,
 - (ii) the Private Enterprise Foundation,
 - (iii) the Ministry of Finance of a rank not below a Director,
 - (iv) the Ministry of Trade and Industry of a rank not below a Director,
 - (v) the Ministry of Food and Agriculture of a rank not below a Director,
- (c) the Governor of the Bank of Ghana or the representative of the Governor,
- (d) the Controller and Accountant-General or the representative of the Accountant-General,
- (e) the Chief Executive of the Fund, and
- (f) four other persons representing the private sector.

(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 appointing the chairman and the other members of the Board consider the integrity, knowledge, expertise and experience of the persons and in particular their knowledge in matters relevant to the functions of the Board.

7. Management of the Fund

(1) Subject to the provisions of this Act the Board shall manage the Fund.

(2) For the purposes of subsection (1), the Board shall

- (a) pursue and ensure the achievement of the object of the Fund;
- (b) arrange for the collection of moneys assigned to the Fund through procedures determined by the Minister and the Minister responsible for Finance;
- (c) ensure accountability for the Fund by defining appropriate procedures for its management;

- (d) receive and examine reports from the designated financial and any other institutions in respect of facilities granted to them;
 - (e) 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, and
 - (ii) the maximum credit facility that may be granted to an applicant; and
 - (f) perform any other functions that are incidental to the achievement of the object of the Fund.
- (3) The Minister may give the Board policy directives as determined by the Minister.

8. Tenure of office of members

(1) The chairman and a member of the Board, other than an ex officio member, shall hold office for a period not exceeding four years and are eligible for re-appointment.

(2) A member of the Board, other than an ex officio member, may at any time by letter addressed to the President through the Minister resign from office.

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

(4) The chairman or any other member of the Board may be removed from office by the President for inability to perform the functions of office, for stated misbehaviour or for any other just cause.

(5) The chairman of the Board shall notify the Minister of vacancies that occur in the membership of the Board within one month of the occurrence of the vacancy.

(6) Where a person is appointed to fill a vacancy that person shall hold office for the remainder of the term of the previous member and is eligible subject to this Act, for re-appointment.

9. Meetings of the Board

(1) The Board shall meet at least once every two months for the despatch of business at the times and in the places determined by the Board.

(2) The chairman shall, on the request of not less than one third of the membership of the Board, convene a special meeting of the Board.

(3) The quorum at a meeting of the Board is seven members.

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

(5) Questions before the Board shall be decided by a majority of the members present and voting.

(6) The person presiding at a meeting of the Board shall in the event of equality of votes have a casting vote.

(7) The Board may co-opt a person to act as an adviser at any of its meetings but a co-opted person is not entitled to vote at the meeting.

(8) The validity of the proceedings of the Board shall not be affected by a vacancy among its members or by a defect in the appointment or qualification of a member.

(9) Except as otherwise provided under this section, the Board shall determine and regulate the procedure for its meetings.

10. Committees of the Board

The Board may for purposes of achieving the object of the Fund, appoint committees of the Board comprising members of the Board or non-members or both and may assign to them the functions of the Board as determined by the Board.

11. Disclosure of interest

(1) A member of the Board who has an interest in a matter being considered or dealt with by the Board shall disclose the nature of the interest at a meeting of the Board and shall not take part in the deliberation or decision of the Board with respect to that matter.

(2) A member who fails to disclose interest under subsection (1) ceases to be a member of the Board.

12. Allowances for members of the Board

The chairman and the other members of the Board shall be paid the allowances determined by the Minister in consultation with the Minister responsible for Finance.

13. Disbursement of moneys for export development and promotion

The moneys assigned to the Export Development and Promotion Account shall be disbursed by the Board for the development and promotion of exports.

14. Credit Facility Account

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

(2) The Board shall in writing designate the financial institutions which shall grant credit facilities from the proportion of moneys assigned to it from the Credit Facility Account.

(3) The designated financial institutions granted credit facilities under subsection (2) shall bear the full credit risk.

15. Management of Credit Facility Account

Subject to section 14, a designated financial institution with which moneys have been lodged by the Board from the Credit Facility Account shall apply the moneys to grant credit, export insurance, re-financing and credit guarantee to applicants under this Act in accordance with policy guidelines provided by the Board.

16. Eligibility for credit facilities

A person or an enterprise may apply for credit facilities to a designated financial institution if that person or enterprise

- (a) is registered in Ghana 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) is wholly owned by a Ghanaian or partly owned by a Ghanaian with majority Ghanaian shareholding.

17. Application for credit facilities

(1) An application for a credit facility shall be made to a designated financial institution by the applicant in the form and accompanied with the information and fee determined by the Board.

(2) On receipt of an application, the financial institution shall

- (a) respond to the application within seven days from the date of receipt, and
- (b) appraise and evaluate the application and inform the applicant within a period not exceeding thirty days of its approval or otherwise of the application.

18. Period of credit facilities

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

- (a) long-term development financing facilities for a period exceeding five years, or
- (b) medium term financing facilities for a period not exceeding five years, or
- (c) short-term financing facilities for a period not exceeding twelve months.

19. Administrative expenses of the Fund

The administrative and any other expenses related to the management of the Fund shall be charged on the Fund.

Imposition of Import Levy

20. Imposition of import levy

(1) There is imposed by this Act a levy on the dutiable value of all non-petroleum products imported for commercial purposes.

(2) The levy shall be 0.5 percent of the cost, insurance and freight value of the import.

(3) The levy is payable by importers of the non-petroleum products specified in subsection (1).

(4) The levy shall be collected by the Customs, Excise and Preventive Service at the port of import in Ghana.

(5) The levy shall constitute a part of the moneys for the Fund and accordingly the Commissioner of Customs, Excise and Preventive Service shall pay the levy collected under this section into an account specified by the Board.

(6) The Minister may, by legislative instrument exempt the categories of non-petroleum products specified in the instrument from the import levy imposed under this Act.

21. Application of Customs, Excise and Preventive Service Act, 1993

The Customs, Excise and Preventive Service Act, 1993(3) shall apply for the purposes of the collection of the levy imposed by this Act.

Administrative and Financial Provisions

22. Chief executive and functions of office

(1) A chief executive shall be appointed by the President in accordance with article 195 of the Constitution.

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

(3) The chief executive shall be the secretary to the Board.

(4) The chief executive is responsible for the day-to-day administration of the affairs of the Board and shall ensure the implementation of the decisions of the Board.

23. Appointment of other staff

(1) The President shall, in accordance with article 195 of the Constitution appoint other officers or employees necessary for the effective performance of the functions of the Board.

(2) The President may delegate the power of appointment of public officers in accordance with article 195 (2) of the Constitution.

(3) The Board may on the recommendations of the chief executive engage the services of experts and consultants as determined by the Board.

24. Borrowing powers

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

25. Accounts and audit

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

(2) The books of account kept for the Fund by the Board shall be audited by the Auditor-General within six months after the end of each financial year.

(3) In addition to the annual audit, technical audits shall be conducted on a selective basis by the Auditor-General on the recommendation of the Board.

26. Annual report

(1) The Board shall submit to the Minister as soon as practicable and not more than seven months after the end of each financial year a report dealing generally with the activities and operation of the Fund during the year to which the report relates and shall include

(a) the audited accounts of the Fund and the Auditor-General's report on the accounts of the Fund, and

(b) any other information the Board considers necessary.

(2) The Minister shall within two months after the receipt of the annual report submit the report to Parliament with a statement that the Minister considers necessary.

27. Financial year

The financial year of the Fund shall be the same as the financial year of the Government.

28. Regulations

The Minister on the advice of the Board may, by legislative instrument, make Regulations for the effective implementation of the provisions and object of this Act.

29. Interpretation

In this Act, unless the context otherwise requires,

“**applicant**” means a person who applies to a financial institution for a credit facility;

“**Auditor-General**” includes an auditor appointed by the Auditor-General;

“**Board**” means the Board established for the Fund under section 6;

“**commercial purposes**” means the importation of non-petroleum products in commercial quantities;

“**credit facility**” includes credit guarantee, insurance, re-financing and any other facility so designated by the Board;

“**enterprise**” means an industry, a project, an undertaking or economic activity to which this Act applies or an expansion of that industry, undertaking, project or economic activity or a part of that industry, undertaking, project or economic activity;

“**financial institution**” means an institution incorporated under the laws of Ghana and recognised by the Bank of Ghana as carrying on the business of banking or providing credit to exporters and approved and designated by the Board to transact business for the purposes of this Act;

“**Fund**” means the Export Development and Investment Fund established under section 1;

“**levy**” means the import levy imposed under section 20;

“**Minister**” means the Minister responsible for Trade and Industry;

“**Ministry**” means the Ministry of Trade and Industry;

“**re-financing**” means a loan given by a financial institution for on-lending to a specified customer of the financial institution.

Endnotes

1 (Popup - Footnote)

1. The Act was assented to on 4th October, 2000 and notified in the *Gazette* on 6th October, 2000.

2 (Popup - Footnote)

2. [P.N.D.C.L. 326.](#)

3 (Popup - Footnote)

3. [P.N.D.C.L. 330.](#)