PEF
# ENTERPRISE FORUM
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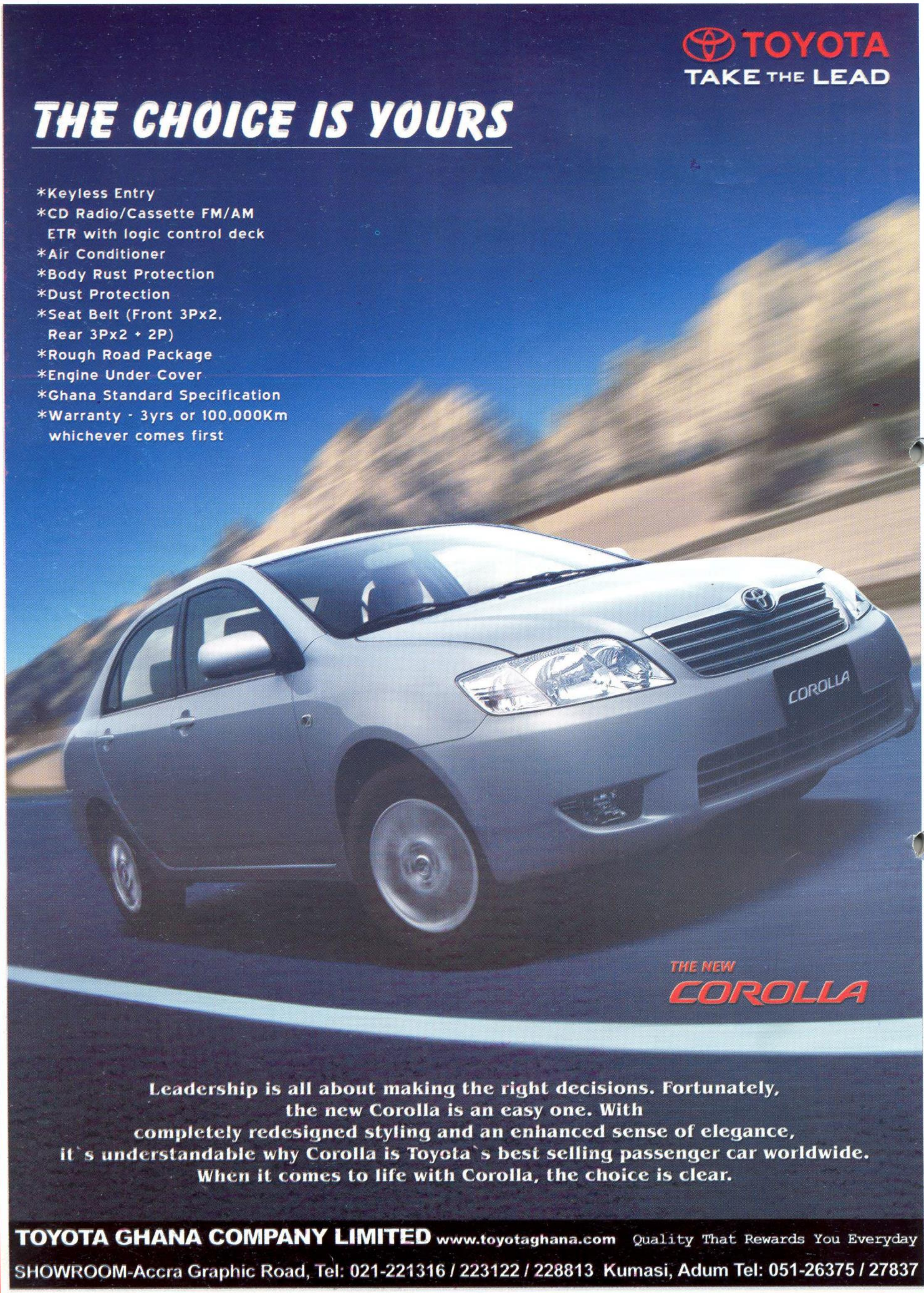
# Ghana's Poultry Industry:
## Competition and Survival

## Strategic investment:
### Foreign Direct Investment and In-Country Business Aliances

**Filing Your Tax Returns**

**Challenges of the ECOWAS Market**

**Deepening the Corporate Governance Culture in Ghana: the Role of Stakeholders**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# Deepening the Corporate Governance Culture in Ghana: The Role of Stakeholders

*By Elsie Addo, Managing Consultant, Law fields Consulting*

## Introduction

Corporate governance is the set of arrangements through which organizations account to their stakeholders. Good corporate governance requires accountability to a broad stakeholder-group including shareholders, creditors, employees, customers, suppliers, and all categories of persons who come into contact with a company's day-to-day activities. This perspective on corporate governance is applicable to all kinds of firms irrespective of ownership structure, and requires organizations to balance interests of all stakeholders.

Good corporate governance supports and sustains economic growth by promoting the efficient use of resources and by creating conditions that attract both domestic and foreign investment. In its Global Investor Pinion Survey (July 2002), McKinney & company found that more than 73% of global institutional investors were willing to pay a premium for the shares of a well-governed company over one considered poorly governed but with a comparable financial record. In emerging markets where corporate governance is perceived to be poor, investors are prepared to pay a premium as high as 30% compared to 12-14% for North America, where corporate governance is perceived not to be so poor. Consequences of poor corporate governance include loss of lifetime savings by individuals, weakening of investor confidence in the capital market, collapse of companies, and lack of long-term productivity and growth of the entire economy.

Good corporate governance brings the values of democracy to the corporate level.

The economic benefits of good political governance and good corporate governance are related. In recognition of this link, The New Partnership for Africa’s Development (NEPAD) focuses on investment-driven economic growth and economic governance as the engine for poverty reduction. NEPAD's Peer Review Mechanism is based on agreed codes and standards of democracy, political, economic and corporate governance.

## Cooperation among Stakeholders

The responsibility for ensuring good corporate governance rests on the shoulders of all stakeholders. In recognition of this, the OECD principles of Corporate Governance require that: "The Corporate Governance framework should recognize the rights of stakeholders as established by law and encourage active co-operation between corporations and stakeholders in creating wealth, jobs and the sustainability of financially sound enterprises".

The so-called “bottom-up approach" requires that the corporate governance agenda is not set by government alone but also by the private sector. Private and public- sector institutions must work together to facilitate and stimulate the performance of companies by creating and maintaining a business environment that motivates entrepreneurs to maximize companies' operational efficiency, returns on investment, and long-term productivity. These institutions must also ensure that the interests of all stakeholders are respected by limiting the abuse of corporate power, the siphoning of corporate assets, and the wastage of corporate resources. Effective mechanisms must be put in place to monitor corporate behaviour to ensure corporate accountability and to provide for the cost-effective protection of all stakeholders. r: ft.

## Role of Government

The link. between corporate governance and sustainable economic growth enjoins governments to provide a framework for ensuring good corporate governance. A weak private sector affects Government's fiscal revenues and as a result, its ability to provide public goods and services.

Government provides such a framework through a number. of measures including:

**(a) Legislative Framework**

Government must provide a clear framework of rules and procedures governing access to public services, and the conduct of businesses in a way that protects the interests of all stakeholders. Among other things, a set of effective corporate, securities, competition, and related laws must be in place.

In Ghana, government's efforts at reforming business laws must aim among other things, at providing a stronger framework for ensuring good corporate governance in accordance with best practices. Government must adequately resource regulatory agencies such as the Registrar of Companies, the Securities and Exchange Commission, the Bank of Ghana, and the National Insurance Commission in order to strengthen their capacity to effectively monitor business behaviour.

*(Standing): Ms. Elsie Addo, a Management Consultant, listening to a contribution by a participant at one of the series of seminars on Good Corporate Governance organised by PEF.*

**(b) Administrative Reforms**

Poor administration of laws relating to the issuance of licenses and permits, unequal access to public services and resources, delays in the delivery of public services, poor auditing and tax administration, all impede efforts at achieving good corporate governance. Research has established that the level of administrative delays in a country is negatively correlated with the strength of governance (Morisset and Lumenga Neso; 2002).

In Ghana, the National Institutional Renewal Programme (NIRP) aims at creating a more enabling, results-oriented, public sector through capacity building and re-sizing of key public sector institutions. After many years the NIRP, key public sector institutions such•"'" the Companies Registry have seen little or no institutional reform to enhance their ability to monitor the corporate governance standards enshrined in the Companies Code. The delays and other costs associated with our traditional courts have provided little respite to aggrieved stakeholders.

## The Role of the Private Sector

Government regulation by ise: does not guarantee effective and sound corporate governance. Research shows that voluntary codes of corporate governance formulated by private sector bodies have greater chances of success than mandatory governance rules are in place by government. The private sec[1]. must appreciate corporate governance as a sound business strategy and an important facilitator to tapping domestic and international capital. Capital is no doubt required for businesses to grow to scales necessary to survive international competition.

Ghana's private sector continues to be dominated by unincorporated sole proprietorships that fall outside company regulation. Businesses regulated as companies are usually small in size, owner-managed, and hardly feel accountable to any stakeholder group beyond their shareholders, if at all. In some cases, ownership is concentrated in the hands of majority shareholders leaving minority shareholders feeling marginalized. Measures leading to dilution of control are usually resisted due to the private benefits associated with corporate control. Most small companies tend to look for loan capital instead of equity as a result. Businesses are unable to grow without sacrificing high levels of corporate control. Creditors perceive high agency costs associated with lending to such businesses.

**(i) Commitment of Corporate Entities**

To achieve good corporate governance, companies must be committed to developing a strong corporate culture dedicated to transparency, and sound business ethics. The Board of Directors must play the strategic role of leading the company to achieve good corporate governance. Directors must understand their role, responsibilities, labilities, and the manner in which boards are required to operate. Directors must be trained in financial management, and strategic planning skills, among other things.

**(ii) Role of Investors**

Shareholders must ensure that their companies are governed properly in the interest of all stakeholders, to ensure sustainable growth. They achieve this by appointing capable directors and auditors, and by holding them accountable for their stewardship.
Lenders must ensure that they follow sound lending policies and hold corporate borrowers accountable for the use of facilities granted.

**iii) Business Associations and , Self-Regulatory Organizations**

Business and trade associations play a key role in influencing members' thinking and behaviour with respect to acceptable standards of corporate governance and business practices. At the international level, the International Chamber of Commerce has developed guidelines for corporate transparency, accountability, and ethics. India's corporate governance movement began in 1997 with a voluntary Code framed by the Confederation of Industry (CII).

Through industry associations, companies can collectively work together to instill good governance practices, and to desist from unethical business practices. Business associations are also well-placed to self--regulate by demanding certain standards of governance from members and imposing appropriate sanctions.

The stock exchange also plays a key role in holding its listed companies to high standards of transparency, accountability, and public disclosure.

**(iv) Professional Bodies**

Professional bodies representing accountants, lawyers, directors, among others, must work together to bring pressure to bear on their clients, and to set professional standards of practice for their members in their dealings with companies. For instance, the Institute of Chartered Accountants, Ghana, must continually strengthen the Ghana National Accounting Standards to provide for more transparency and confidence in audited financial statements of companies.

## Towards More Stakeholder Cooperation for Improve

## d Corporate Governance

More collaboration between stakeholders is required to promote higher standards of corporate governance. All stakeholders must work towards growing businesses, creating wealth and sharing it among stakeholders in transparent and equitable ways. Particularly:

**(i)** More structured forms of dialogue between the public and private sectors are required to provide a more effective framework for corporate governance. Particularly, institutional reforms under NIRP must have more private sector involvement. Business regulation must be within the context of well-developed policies formulated through dialogue between regulators, and the relevant business and professional associations.

**(ii)** More effective mechanisms must be put in place for resolution of disputes between company stakeholders.

**(iii)** Government must ensure that the financial sector provides capital within the framework of prudential lending and accounting norms, backed by sound recovery laws and efficient processes.

**(iv)** Ghana's Institute of Directors should collaborate more with the private sector and should be strengthened to promote director training, development, and certification.

*"To achieve good corporate governance, companies must be committed to developing a strong corporate culture dedicated to transparency and sound business ethics."*

# GHANA'S POULTRY INDUSTRY- COMPETITION AND SURVIVAL

*By Kenneth Quarter, President of Ghana National Poultry Farmers' Association*

The poultry industry in Ghana has been waging a battle for its survival for several years now. This is the case particularly in the broiler sector (poultry meat) where cheap imports take markets away from producers in Ghana. Critics argue, rather simplistically, that the poultry industry cannot stand up to the competition and has failed to make the adjustment necessary to meet the global competitor, hence its predicament.

On the other hand, the poultry industry has been arguing that our trade policies as they stand, put our broiler sector at an unfair disadvantage that is not surmountable without appropriate state intervention and government policies that will ensure fair competition. There are facts to back the assertion that trade in agriculture is not done on fair trade basis.

Like the rice industry, the poultry induct is a good example of an industry that has a- track record of performance and achievement in this country? For most part of the first 30 years of her history, Ghana was basically self-sufficient in poultry meat and eggs. It is on record to have achieved an average growth rate of 10% per annum over a ten-year period in the seventies and the eighties. This high growth created markets for hitherto waste products such as rice bran, wheat bran, etc. Whilst the poultry industry is not without failings, many of its critics fail to recognize some of the mammoth challenges that the existing operations that survived the turbulent economies through the early eighties and nineties, have faced and overcome. In 1984, the average price of an egg needed to keg operations going was the same as that of t price of a tin of milk. Today, an efficient producer in Ghana can do so for approximately one-third the price of a tin of milk.

Perceptions and sentiments expressed from critics are that the local food industry's inability to compete stems from inefficiency, poor management, and lack of investments in the technologies, and modem farm methods. These perceptions are reinforced by our Bretton Woods partners who argue, simplistically that the cheaper imported products are the result of efficient production and that by subsidizing our agriculture or by restricting competition from abroad, we will breed even more inefficient producers.

The idea that subsidies promote inefficient farmers because they stifle competition is not backed by facts. Farmers in both the U.S and Europe have achieved considerable levels of efficiency over the past 70 years. Indeed, whilst they are cited as a beacon for the rest of the world for their use of technology and their efficiency at producing food cheaply, the US recently increased subsidies to the farmers to the extent that almost 50% of the farmer's income will increase through subsidies. The agricultural industry in the US is as driven for efficiency and as competitive today, if not more so, as it was 70 years ago.

The need for a strong agricultural sector and food production system, in Ghana, do is not appear to be questioned. Political leaders, in Ghana, regardless of their party lineage continue to exhort the people to invest in agriculture for the good of the nation. Expert after expert argue for the commercialization and up scaling of farm unit sizes to improve efficiency and, by assumption, the cost of producing. If the experts are right, then no one can argue that investments in agriculture must rise in quantum leaps above what prevails in Ghana today. This is certainly the case for the poultry industry. The question is where should this investment come from?

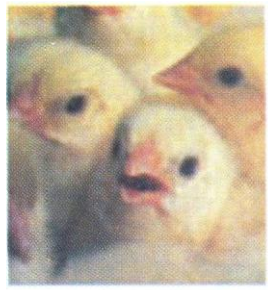
The conventional wisdom of the prevailing politician is that, like the industrialized nations that have made great strides in the commercialization and industrialization of their agricultural and food production systems, the private sector should oxide the investment.

Whi1st this is true to some extent; our political leaders have missed the point. There must be a catalyst. Yes, the farmer or primary producer in the US, or for that matter Europe, owns the land, equipment and makes the decisions on how to and what to grow and thus are important investors. However, the catalyst investor is the state. This is so not only by virtue of the capital channeled to agriculture through subsidies but also is manifest through statutes and legislation of the state. The increase in subsidies to farmers signed into law by President Bush in 2001 was not simply the result of a presidential initiative. It was the result of five years of debate in the legislature, consistent with goals and aims of the landmark Farm bill in 1933; of which one of the principal goals was wealth generation and poverty reduction, particularly in rural America. Whilst this Farm Bill has been amended regularly to meet the prevailing challenges of the time, the main tenets have held the same. It is this statute and subsequent statutes that have served as catalyst for the massive investment needed to generate income and wealth for both the farmer and the colossus of industries that provide goods and services to the primary food producers in the US. The benefits of competition came thereafter.

Ghana has no such statutes for agriculture. Unfortunately, we resort to special initiatives that, in general, have the life span of the politician that initiates them. Indeed, the recent manner in which our own statute (Act 641) was over-ridden at the behest of outside interest such as the International Monetary Fund (IMF) and the European Union (EU), is cause for concern. To any investors in agriculture it indicates that even statutes cannot be depended on as canons for their investments.

"The failure of our nation to develop agriculture is not an indictment of the Ghanaian farmer; it is an indictment of its leaders and politicians, indeed the whole nation."

The greatest challenge that poultry producers, indeed most of our primary food producers, face today is not the ability to produce to meet demand or produce efficiently. It is loss of market share and investment. If the poultry industry is going to survive to compete, it will need to tackle these issues.



Proponents of the prevailing liberal trade policy that permits subsidies to poultry to take markets away from local producers, argue that this will force the local producer to become more competitive and efficient. Indeed, some contend that it will force the industry to invest in the modem technology needed to produce more efficiently. Today there sits in Asutsuare, a modem well equipped state of the art broiler operation. Total investment is believed to have been between three to four million dollars. It was privately owned, and managed by a foreigner. All indications are that it achieved efficiency ratios obtainable anyw here in the r:ir

Q

world. This operation was abandoned after less than five years in operation. If modern commercial operation, using modern technology and improved efficiency is the way to overcome the challenge in our industry, why aren't the foreign investors we spend so much energy and money to attract investing in Agriculture? And why do industries that already have the technology, economies of scale, efficiency etc., still need subsidies to compete on the world market?

Agricultural development requires more than land and labour, both of which we appear to have in abundance. It requires more than trained agriculturalists, which we have in abundance. It requires more than new technology and improved quality inputs, all of which, if we do not have, we can easily acquire. Agricultural development requires more than exhortations to grow more for the good of the nation. It requires more than financial investments. It also requires a focus and persistence of political will. This has been lacking from the political leadership of this nation for too many years. There is a need for serious, focused and persistent political determination that should be manifest by legislation that will provide an enabling environment and encourage investment in agriculture. The high performance achieved by the food production systems of the developed nations are not simply the result of hard working efficient farmers; they are the result of a public-private sector partnership to manifest the development of a sovereign nation. The failure of our nation to develop agriculture is not an indictment of the Ghanaian farmer; it is an indictment of its leaders and politicians, indeed the whole

**apdf** Africa Project Development Facility

The Africa Project Development Facility (APDF) is a multi-donor Project managed by the International Finance Corporation (IFC), private sector arm of the World Bank Group.

The Facility was established in 1986 as a joint initiative of the International Finance Corporation (IFC), the African Development Bank (AfDB) and the United Nations Development Programme (UNDP); to respond to the need for project preparation assistance for African entrepreneurs. Currently the facility is supported by IFC, AfDB and 15 donor countries. It has missions in Accra, Abidjan, Nairobi, Johannesburg rs, Lagos; and offices in Cape Town and Douala.

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Other services provided include: Business Diagnosis, Business Linkages and Capacity Building support to associations.

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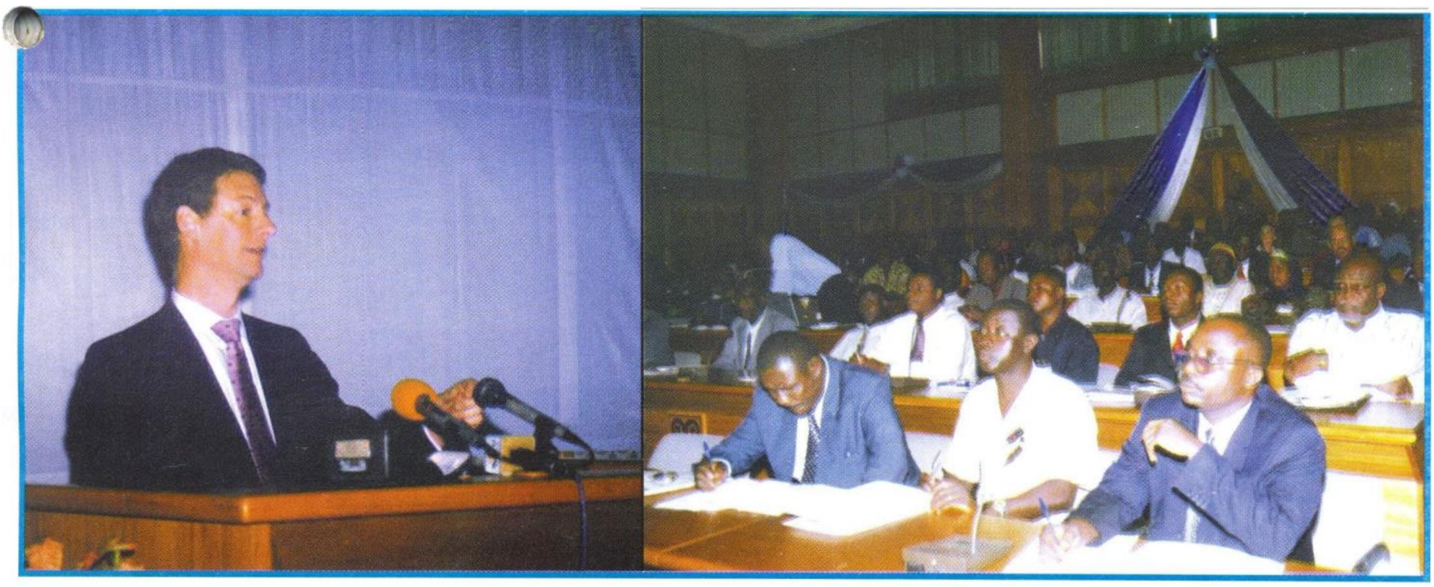
# SUPPORTING AN INCLUSIVE PRIVATE SECTOR ENGAGEMENT IN POLICY FORMULATION AND IMPLEMENTATION

The Private Sector has traditionally engaged Government in policy formulation through sector-based associations and informal channels of engagement. These are based on patronage and special interests that often result in an unstructured approach to policy dialogue. The impact is the emergence of contradictions in policy stance and limitations in the effectiveness of policy advocacy by the private sector. For example, Government has responded to unstructured advocacy by introducing protection measures in one sector (e.g. manufacturing) which hinder development in another (e.g. Trade).

Furthermore, the formal and the informal sub-sectors have different policy expectations that result in conflict in the enforcement of trade laws and regulations.

An important aspect of private sector representations in Ghana is the relative "lack of voice" by the associations in the micro and small enterprise sectors. Advocacy capacity in these associations is limited by a weak governance, technical and resource base. Considering the importance of this sector in sustaining livelihoods to the majority of Ghanaians, the lack of an effective voice is a challenge to pro-poor advocacy.



*David Irwin, an International Consultant, delivering a paper at the National Forum for Trade and Business Associations organised by PEF*

"PEF aims to be a strategic resource to the private sector associations by being the link between these associations and the changing global marketplace"

The private sector has realized the need for an inclusive mechanism for policy dialogue with government. In 1994, the Private Enterprise Foundation (PEF) was established to spearhead this process; and to establish "an inclusive mechanism for continuous engagement with government on cross-cutting issues of concern to the private sector". Unfortunately, the strength and capacity of the Foundation did not grow in tandem with expectations as a result of political and economic difficulties experienced between 1996 and 2000 which eroded the private sector's contributions as a key player in policy dialogue.

In 2001, a new administration came into power and President J. A. Kufuor highlighted the ushering in of the 'Golden Age of Business' as one of the two key tenets of his term in power. He recognised the private sector as the 'engine of growth' and a key partner in the country's development process. This was re-emphasised in the Ghana Growth and Poverty Reduction Strategy (GPRS) which stated that one of Government's key objectives is to strengthen the private sector in a way that it is effectively capable of acting as the engine of growth and help to reduce poverty.

The concept of an inclusive mechanism for integrating the private sector in public policy dialogue has not been fully embraced in the private sector. Although most business associations are members of PEF, dialogue with Government is predominantly driven by the traditional private sector associations (e.g. Association of Ghana Industries and Ghana National Chamber of Commerce and Industry) in promotion of sectoral interests. Furthermore, the need to advocate policy on the basis of researched policy options has also not been fully appreciated. Neither have the dynamics of a new global marketplace, with the attendant need for new skills, been fully appreciated.

There are two challenges that the private sector must therefore address; these are:

(a) The need to sensitize the traditional (and new) private sector associations to the need for an inclusive, issues - based approach to public policy dialogue and policy advocacy;

(b) The need to help the private sector appreciate the changed global paradigm and the central role of knowledge in developing policy options for global competition.

PEF aims to be a strategic resource to the private sector associations by being the link between these associations and the changing global marketplace. The Foundation whiny interact with government on public policy debate on cross-cutting issues of the private sector; an approach that, if effectively implemented, should enhance policy dialogue and implementation in Ghana.

In its envisaged role, PEF seeks to:

(a) Facilitate private sector integration in public policy dialogue from a non--partisan, inclusive perspective;

(b) Access, manage and disseminate information and, in the process, develop strategic networks with regional and global private sector institutions with a view to expand f business opportunities for the sector;

(c) Mobilize knowledge in support of policy dialogue and advocacy. In this process the Foundation will establish links with public and private research institutions to generate policy-specific knowledge materials;

(d) Build capacity of private sector associations, especially those in the micro and small enterprise sectors-recom that strong sectoral associations are essential links in an effective private sector advocacy stance.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## The Insolvency Bill



In furtherance of its mandate to play an advocacy role on behalf of the private sector in Ghana, the Private Enterprise Foundation (PEF) has been engaged in the review of Bills which have the potential for a significant impact on the growth of business. One such bill identified was the Insolvency Bill.

With generous support from the Centre for International Private Enterprise (CIPE) and the United States Agency for International Development (USAID), PEF conducted a series of consultations to capture the input of the private sector. The key points from these consultations which reflect the views of the private sector are captured in this paper.

- The private sector recommends that the Official Trustee should be the trustee in all insolvency and bankruptcy proceedings under the Bill. However, the Official Trustee must make effective use of individuals and organisations with proven expertise in insolvency and bankruptcy matters to ensure an effective and efficient outcome of such proceedings.

- It is also recommended that the office of the Official Trustee should be decentralized to ensure that it has a reach beyond the national capital.

- The private sector notes that the Insolvency Bill regulates personal insolvency and not corporate insolvency which is regulated under the Bodies Corporate (Official Liquidations) Act of 1963. It is further noted that the regime for corporate insolvency also requires reform. Consequently, it is recommended that a review of the corporate insolvency regime should also be conducted side by side with the review of the personal insolvency regime. It is further recommended that the personal and corporate insolvency regimes should be merged into a single law.

- The private sector notes the absence of provisions to provide protection to debtors to enable them reorganize their affairs. It is noted that this gap in the law particularly as it relates to corporate insolvencies has a negative impact on business in the country. Best practice indicates that an effective insolvency regard _ should provide such protection where it is clear that the underlying business of the company is profitable and that it can be turned around. Creditors and the economy as a whole stand to benefit in such situations. A well-known example of such a regime is Chapter 11 insolvency proceedings under the laws of the United States. It is recommended that such a regime should be provided both for personal and corporate insolvency in Ghana.

- It is noted that both the Bill and the corporate insolvency regime as provided under the Bodies Corporate (Official Liquidations) Act do not provide for creditors' committees. Such committees have proved useful in other jurisdictions as the mouth piece of creditors an effective tool for supervising insolvent. proceed; - "; s. Invariably the wider body of creditors would not be in a position to keep a close eye on the insolvency proceedings. Furthermore, time and resource constraints may not permit the liquidator to consult creditors as often as it may be necessary. A creditors committee therefore provides a forum for regular consultations. Consequently, the private sector recommends that provisions for creditors' committees should be introduced in both the personal and corporate insolvency legislations.

- The reliability of financial reporting in the country raises a serious cause for concern. It has been noted that the Business Names Act of 1962 does not impose any financial reporting requirements on sole proprietors. It is recommended that the Business Names Act should be revised to impose financial reporting requirements on sole proprietors.

- The financial thresholds imposed under the Bill need to be revised. For instance, the threshold of ¢50 million which under paragraph 9(1) of the Bill is the minimum level for insolvency proceedings to be initiated has to be revised. This is due to the fact that the High Court which has jurisdiction for proceedings under the Bill has a minimum threshold of ¢100 million. In addition, it is recommended that the provision which fixes employee remuneration treated as priority at ¢150,000 should be revised upwards.

- The private sector is of the view that the resource constraints of the Official Trustee could be addressed through a combination of ncing from the consolidated fund and retention of part of the fees from insolvency proceedings.

- The private sector is of the view that in order not to jeopardize the livelihoods of bankrupts a limit should not be placed on the value of tools of trade which they are permitted to keep.

## The Industrial Designs Bill

Similarly, the Private Enterprise Foundation (PEF) was engaged in the review of Industrial Designs Bill.

With generous support from the Centre r International Private Enterprise, PEF conducted a series of consultations to capture the inputs of the private sector, the key points of which are presented in this paper.

- Note was taken of the fact that the Bill was passed into law by Parliament before the position of the private sector could be submitted for consideration. It is the view of the private sector that wider consultations particularly with private sector associations before business-related Bills are passed into law should be the norm. The private sector recommends that its views should be sought by the relevant committees of Parliament as well as ministries, departments and agencies as part of consultations before Bills are passed.

- The private sector notes that the Industrial Designs Bill was passed into law in fulfilment of Ghana's obligations under the World Trade Organisation (WTO) Agreements. The private sector notes further that during the negotiation of these Agreements the views of the private sector were not effectively solicited. It is therefore recommended that since such international agreements have an impact on business in the country, it is important the views of the private sector are solicited when these Agreements are being negotiated.

- The private sector recognizes the importance of industrial designs and the wider body of intellectual property laws in the promotion of private enterprise in Ghana. The private sector further recognizes the need for PEF and its member associations to play a key role in the promotion of intellectual property services in Ghana.

- It is noted that private sector associations have a role to play in creating awareness about intellectual property and facilitating the creation of appropriate enforcement mechanisms in Ghana.

- There is a need to facilitate the bridging of the gap between research and industry in Ghana. The private sector recognizes that it may have a role in bridging this gap.

- The private sector wishes to emphasize the need for Government to facilitate the bridging of the gap between research institutions and industry. It is recommended that Ghana's overseas trade missions must put in place mechanisms to support local businesses to protect their intellectual property rights abroad.

- The private sector notes that there is oncome discussions within the World r: jj=

*The lead discussant, Mr. Jacob Salah, interacting with some participants at the roundtable discussion on the Industrial Designs Bill.*

Intellectual Property Organisation (WIPO) and other international forums on the protection of traditional knowledge and folklore. It is recommended that Government should actively engage in these discussions to ensure that appropriate frameworks for the protection of Ghana's folklore such as keti and traditional knowledge in plant medicine receive appropriate protection.

- The private sector recognizes that an effective and efficient intellectual property office (IPO) has an important role to play in the promotion and use of intellectual property in a country. In addition to acting as a registration office, it has an important role to play in the dissemination of intellectual property information. The Registrar General's department which houses the IPO is under- resourced for which reason its effectiveness has been significantly affected. The private sector recommends that a look should be taken at the mandate and structure of the Registrar General's department to ensure that it is effective and efficient in promoting intellectual property in Ghana.

- The private sector recognizes the need for both public and private sector institutions to play a role in the promotion of awareness about intellectual property rights in the country. It is therefore recommended that such institutions should develop mechanisms for cooperation in public education to sensitize the business and wider community on issues relating to intellectual property.

- The private sector notes that the greatest benefit may be derived from intellectual property when inventiveness and innovation are rife in the country. It is further noted that the country can only do so when children in their formative years and the youth are encouraged to be innovative and inventive. It is recommended that through public and private partnerships, activities for promoting innovation and inventiveness among the youth should be carried out.

- The private sector notes the existence of the African Regional Industrial Property Organisation (ARIPO) and the African Intellectual Property Organisation (OAPI) at the regional level. The private sector notes further that it is important that African countries take a common position on intellectual property issues at international forums.

o The private sector recommends that capacity should be built within Africa for conducting searches and examination of intellectual property applications.

o It is further recommended that efforts should be made within the African Union (AU) and other regional bodies and through the New Partnership for Africa's Development (NEPAD) to create continent wide institutions capable of bringing a unique African perspective to bear on intellectual property matters.

## The Competition and Fair Trade Practices Bill

Finally, the Private Enterprise Foundation (PEF) was also engaged in the review of the Competition and Fair Trade Practices Bill.

Again, with generous support from the Centre for International Private Enterprise, PEF organised a workshop on 24th April, 2004 to capture the inputs of the private sector; the key points of which are summarized in this paper.

o The private sector is of the view that given the role of the Commission responsible, for monitoring trade practices in Ghana ensuring that economic power is not abused and advising Government on competition issues, it is important that it is insulated from political interference. Two options for ensuring such insulation are being recommended. The first option involves granting the Commission an independent status similar to CHRAJ or SFO. Alternatively, the structure may remain as presently envisaged under the Bill, however, the provision in paragraph 4(1) which requires compliance with the Minister's directions should be re-worded to give the Commission a discretion.

o It is recommended that the membership of the Commission should be reduced to ensure that it does not become unwieldy. It is further recommended that the private sector should be given greater participation in the Commission and the power to nominate the chairman of the

Commission should be vested in a specific private sector association.

- The Bill provides that the Trade Practices Commissioner is to be appointed by the President on the advice of the Commission. However, until the Commissioner is appointed the Commission will not be properly constituted and therefore would not be in a position to make such recommendation. It is therefore recommended that the Commissioner should be appointed by the President on the advice of the Public Services Commission.

- The success of the Commission will largely be dependent on the resources made available to it. It is recommended that the commission should be permitted to retain some of the fines imposed for breaches of the Act when passed. Additionally, a specific percentage of the Value Added Tax or some other tax should be given to the Commission. Private sector sources of funding may also be considered, however, care must be taken to avoid situations of conflict of interest.

- The private sector is of the view that the Bill must regulate the abuse of concentrations of economic power and not the mere existence of such power. Given the size of the Ghanaian economy the existence of concentrations of economic power in some sectors cannot be avoided. To this end, it is recommended that the title of section 26 should read “Abuse of centration of economic power". It is further 1ecommended that concentration of economic power should be clearly defined in the Bill.

- The private sector is of the view that the power to order the disposal of business interest should be vested in the Court and not the Commission. However, the Commission may make preliminary orders which are subject to confirmation by the Court.

- There is a need to ensure that the provisions on mergers and takeovers do not conflict with the requirements of the Securities and Exchange Commission and other regulators. Duplication among regulators should also be avoided.

- The private sector is concerned that the Commission may be inundated with land related matters which it has jurisdiction to deal with under paragraph 37. It is recommended

*Participants in a syndicate group session at a workshop on the Competition and Fair Trade Practices Bill organised and sponsored by PEF and Centre for International Private Enterprise (CIPE), respectively.*

that the determination of land related matters should be removed from the jurisdiction of the Commission.

- There is agreement within the private sector that pyramid schemes should be prohibited, however, it is unclear whether the provisions of paragraph 46 do not extend beyond such schemes. It is recommended that the provisions of paragraph 46 should be redrafted to ensure simplicity and clarity.

- There is some concern that the provisions of paragraph 48 may result in conflict with the functions of the Ghana Standards Board and the Food and Drugs Board. It is recommended that the paragraph should be redrafted to state clearly the role of the Commission vis-a-vis the other institutions with responsibility for ensuring quality standards.

- It is recommended that all financial thresholds in the Bill should be reviewed and all fines converted into penalty points.

- It is recommended that the Commission's power to search premises and seize documents should only be exercised with prior approval of the Court obtained by way of an ex parte application. However, the Commission may seal off such premises whilst it applies for Court approval.

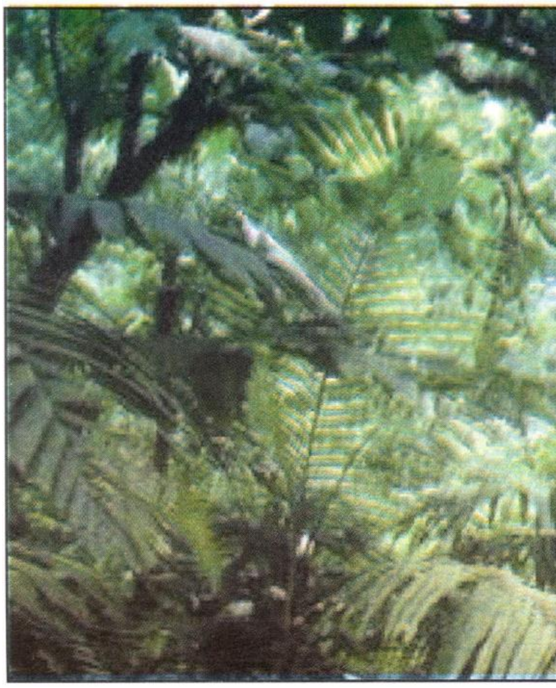
- The appointment of the Complaints Officer should be by the Commission and not the President.

# BOTANICALS MOVE OUT OF AFRICA

***"Chinese, Indian and Native American botanicals have claimed a place in the rapidly expanding global natural products market. Now it's Africa's turn..................", says KODZO GBEWONYO, Bio Resources International (Gha)***

Africa, sitting astride the equator with three times the land mass of the US, encompasses ecosystems that range from dense tropical rainforests to expansive savannah grasslands to arid deserts. This diversity has yielded a rich flora that ancient cultures have nurtured and harnessed for centuries. It's a cultural practice that continues until this day with roughly 80% of Africa's 750 million people using traditional plant medicine, even if this is partly due to the prohibitive cost of many modern medicines.

Traditional medical systems are having a better time of it in the modern world, where there has been a renaissance of interest in natural products such as health foods, herbal supplements, nutraceuticals and cosmeceuticals. Traditional medical practices are gaining renewed currency and



with an array of natural products to prevent diseases as well as promote wellness and longevity in the modern world.

Consequently, Traditional Chinese Medicine (TCM), Ayurvedic medicine of India and the shamanic of Native American cultures have gained prominence, carving niche markets within the new paradigm of healthy living through natural medicines.

However, it appears the rich traditional medical systems of Africa, which date back to the cradle of mankind, have been largely ignored. Only a handful of African botanical products and derived ingredients have successfully penetrated international markets.

Many of these products were introduced to international markets via the European natural products industry; so many users are unaware of their African origin. For this reason, a defined African natural product category has not emerged. It is also interesting to note new indications emerging for some of these products. For instance, a recent Dutch study found shear butter to have cholesterol lowering effects.

## ENVIRONM NTAL HREATS FROM WlbDCRA TING

Most established African products are wild crafted and exported out of Africa as bulk raw materials. There is little value - addition and financial returns for African exporters are typically low compared to the potential profits of finished product exportation. Increased demand has increased pressure on local ecosystems, leading to crises like the destructive harvesting of the barks of Pygeum and Yohimbe trees in Cameroon a few years ago. Sustainable harvest and conservation initiatives are being introduced through the efforts of national governments and environmental organisations to avert these problems.

## PROSPECTING FOR NEW PRODUCTS

Although the African botanical sector appears underdeveloped and underrepresented in the global boom in natural products, its untapped potential and future

, retrospect's remain attractive. Discoveries as the anti-obesity properties of a cactus plant (Hoodia gordonii) that thrives in the Kalahari Desert in south-western Africa confirm this view.

Hoodia has been used by the indigenous San people of the sub-region to ward off hunger pangs during long hunting trips, effect validated in studies at the South African Council for Scientific and Industrial Research (CSIR). The CSIR patent on the active ingredient has been licensed to Phytopharm (UK) for further development into an anti-obesity drug. After some embarrassing foot-dragging, CSIR and its collaborator have finally agreed to allocate part of the royalties on future sales of the drug to the San people in recognition of the

, se of their traditional knowledge.

## GROWING RESEARCH ACTIVITIES

Despite limited financial resources and inadequate equipment and supplies, natural products research activities are on the rise in African Universities and research institutions. The next generation of African natural products to attract international attention may well arise out of this. For instance, in West Africa, the blood pressure- and blood sugar-lowering effects of Lippia multiflora tea and Bridellia ferruginea have been validated for treating hypertension and diabetes. Yet these products rename unknown outside the sub-region. Kombo butter extracted from African nutmeg

(Pycnanthus angolensis) is likely to become the much-needed vegetable substitute for animal-fat based cetyl myristoleate (CMO) used in arthritis management. Fruits from the west African plant Richardella dulcifica moderate sour tastes, and could be used in dietary foods and nutritional supplements. Such products proffer great potential even if bridging studies are required to align them with international regulatory requirements.

## BUSINESS LINKS FOR SUSTAINABLE DEVELOPMENT

The African botanical domestic and export sector is benefiting from increased attention and support from international aid agencies. The World Health Organization (WHO) has pioneered research and product certifications for traditional medicines to ensure quality standards and safety as these products represent first line treatment options for the rural population in Africa.

The Agribusiness in Sustainable Natural Africa Plant Products (ASNAPP), sponsored by the US Agency for International Development (USAID), has already affected the botanical sector in Africa. The initiative fosters sustainable cultivation of high-value natural products by rural communities in Africa for domestic and export markets, which will simultaneously reduce rural poverty and environmental damage due to wild crafting.

To this end, ASNAPP has established fruitful relationships with US and African universities as well as non-governmental organizations. One successful outcome of this initiative is the recent linkage of farmer's co-operatives in Haarlem, South Africa with a US supplement company (Honest Tea) to develop a new line of beverages featuring Rooibos and Honey Bush Teas. More are planned.

All of this activity points to the fact that this is an opportune time for the global natural products industry to uncover the age- old secrets of African traditional medicines.

# FILING YOUR TAX RETURNS

*By I.R.S.*

This article focuses on the furnishing of Return of Income, Capital Gains and Taxable Gifts and the rationale behind them.

## Reasons and Benefits for Filing a Return

(a) It is a statutory obligation

(b) It enables the Commissioner to ascertain the correct tax liability of a person for a particular year of assessment.

(c) It enables the individual taxpayer to make a claim for personal reliefs such as marriage/responsibility, child education, old age, disability reliefs etc.

(d) It enables a person in business to make a claim for capital allowances on business assets other than stock in trade.

(e) It also enables a person who earns a business or investment income to make a claim for allowable expenses.

(f) Finally, the filing of returns may help promote tax consciousness and good citizenship as well as ensure voluntary payment of taxes to avoid penalties.

## Furnishing of Return of Income

Under the Internal Revenue Act, 2000 (Act 592) which became operative on 1st January, 2001, every person is obliged to furnish a return of income to the Commissioner of Internal Revenue for each year of assessment. This is to be done not later than four months after the end of the person's basis period ending within the year. Where two or more basis periods of a person end within a year of assessment, the person is required to furnish more than one return at the appropriate times.

The term person under the Act means an individual, company or body of persons and includes a partnership.

A return of income must normally be furnished by 30th April on a prescribed form issued by the Commissioner which must be duly completed and signed. Examples of such prescribed forms are the Income Tax Form 21 for Individuals, Income Tax Form 22 for Partnerships and Income Tax Form 22A for Companies. In addition to the Return Form, a person in business is required to furnish the Commissioner with a copy of the accounts

, the business.

Where a person has a basis period that is not the same as the year of assessment or the calendar year, a return of income is to be filed by the last day of the fourth month after the end of the basis period. For example, if a person's basis period is the twelve months ending on 31st July, the person's return of income for the year of assessment in which the twelve months ends must be furnished by 30th November. Where a person fails to furnish a return, the Commissioner is empowered to appoint another person to prepare and furnish the return on behalf of the defaulting person and that return shall be treated as a return

, f the defaulting person. Normally, a .: reason will have only one return of Income for a year of assessment because the person will have a basis period of twelve months.

However, the Commissioner is empowered under the act, in certain circumstances, to require a person or his trustee, as the case may be, to furnish a return for a period less than the person's basis period. The commissioner may exercise the power where a person dies, becomes bankrupt, is wound up or goes into liquidation, is about to leave Ghana indefinitely or is otherwise about to cease an income producing activity in Ghana. Additionally, the commissioner may exercise the power in any other circumstances in which the Commissioner considers it appropriate to do.

assessment.

Another circumstance is where the total chargeable income of an individual is subject to zero rate of tax. This would include a case where the individual's only income is exempt income or payments subject to a final withholding tax e.g. divided from a resident company. Such amounts are not included in the assessable income and so are not included in the chargeable income.

In each of the cases specified above, it is provided that the Commissioner may by notice in writing require a person to whom this provision would otherwise apply to furnish a return of income for the year of assessment.

## Extension of Time to Furnish a Return of Income

The Act empowers the Commissioner to grant a person an extension of time to furnish a return of income. A person seeking an extension of time must apply to the Commissioner in writing by the due date for furnishing the return.

The Commissioner may grant the extension sought where satisfied that the person is unable to furnish the return by the due date because of absence from Ghana, sickness or any other reasonable cause. The extension may not exceed two months. The Commissioner is obliged to give notice in writing of the decision of the application. The service of the notice of the decision on the application for an extension of time will be treated as the service of notice of assessment for the purpose of determining the time limit for lodging an objection to the decision.

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## Cases Where Return of Income Not Required

A non-resident person is not required to furnish a return of income if the person has derived no Ghanaian source of income during the relevant basis periods.

Further, a non-resident person is not required to furnish a return of the individual for a year of assessment consists exclusively of income from an employment from which tax has been withheld at source. In this situation, the employer finalizes the employee's return of income and

Where the Commissioner refuses to grant an extension of time, the person may only challenge the Commissioner's decision under the objection and appeal procedure in the Act. While the granting of an extension of time protects a person from an offence and penalty, it does not alter the date for the payment of tax on the due dates. Consequently, a person may still be liable for interest for late payment of tax if any tax is payable on the return.

## Returns of Capital Gains

Under Capital Gains Tax in the Act, a person is required to furnish a return within thirty (30) days of realisation of a chargeable asset. The return which should be in writing must contain the following information.

(a) The description and location of the chargeable asset,

(b) The cost base of the asset immediately prior to the realisation and how that cost base is calculated

(c) The consideration received by that person from the realisation

(d) The amount of any capital gain and tax payable with respect to the capital gain and tax

(e) The full name and address of the new owner of the asset and

(f) Other information prescribed by the Internal Revenue Regulations.

In a case where a resident person realizes a capital gain with regard to a chargeable asset that is a foreign asset, that person is required to furnish a supplementary return where the Capital Gain is brought into or received in Ghana. The person should have already furnished a return at the time the asset was realized. A person needs not furnish a return of capital gains for a particular year until the total of the person's capital gains for the year 1s above the threshold of ¢500,000.

**Returns of Taxable Gifts**

A person is required to furnish a return of taxable gifts to the Commissioner with thirty (30) days of the receipt. The return which should be in writing must contain the following information.

(a) The description and location of the taxable gift

(b) The total value of the gift, how it is calculated and tax payable with respect to the gift.

(c) The full name and address of the donor of the gift and

(d) Any other information required by the Commissioner.

Where a person's taxable gift for a year does not exceed 500,000, no return is required. However, as soon as the total value of taxable gifts for the year exceeds 500,000, that person should burnish a return of the total taxable gifts received.

## Failure to Furnish a Return

A person who fails to furnish a return within the time allowed is guilty of an offence and is liable to a penalty which is equal to Bank of Ghana rediscount rate ph.:
5% applied to the outstanding tax if the return had been furnished in accordance with the Act calculated for the period the return is outstanding.

Failure to comply with a provision of the Act constitutes an offence and the offender is liable on summary conviction to various fines. This equally applies to a person who fails to furnish a return.

## Conclusion

In the light of the above, it is imperative that you file your tax returns regularly and promptly to take advantage of the benefits of the tax laws as well as contribute your fair share to the national tax revenue.

# CHALLENGES f the ECOWAS *MARKET*

**By Cletuis Kosiba- AGI**

Enterprise Forum June 2004

## Introduction

Intra-regional trade in Africa has for many years been dismally low compared to trading blocks in the industrialized countries. Trade in ECOWAS sub-region is no exception. Exports in the sub-region still hover at around % of total exports - the same level as in .980.

In a Regional Integration study carried out jointly by AGI and DI - International Consultancy, the following barriers to trade in the sub-region were identified.

**These are:**

- Poor infrastructure linking countries in the sub-region
- Red tape concerning export/import procedures
- Lack of an intra-regional payment and clearing system
- Road blocks and obstructive attitude of officials
- Mistrust among economic operators in the sub-region
- Lack of ECOWAS market information
- Noncompliance of existing ECOWAS Trade Protocols

## Poor Infrastructure

Road transport, the dominant means for movement of persons and goods within the sub-region, is characterized by numerous check points with cumbersome procedures. These should be removed and rationalized to reduce the inconvenience and huge expenses of road transportation.

Sea transport also entails a number of problems including lack of direct shipping links within the sub-region, poor port facilities and a general lack of commitment of port officials in ensuring fast clearance of goods at the ports. The telecommunication network in the sub-region is also not well developed and it is easier to communicate with Europe and USA than within West African countries.

Even though infrastructure is a major barrier to trade in the sub-region, its development is a long-term project, requiring heavy investments. In the short term, the biggest problem is related to roadblocks and other forms of administrative harassment.

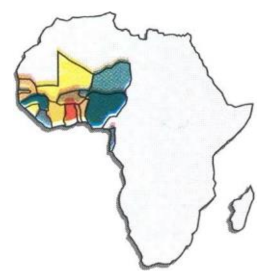
**Red Tape Concerning Export/Import Procedures**

- Certification of products is a pervasive trade barrier in the West African sub-region. Agencies such as the National Food and Drugs administration, Standards Board and Customs often use procedures that effectively exclude imports of certain products.

- One of the main complaints of traders concerns the complicated procedures associated with transport and clearing of goods. The problems exist regardless of whether the goods are transported by sea or by road. Some manufacturers state that the documentation and the appropriate tariffs are not made clear, but are left at the discretion of the custom officials who take the opportunity to cheat traders.

In addition, clearing of goods at the ports is extremely bureaucratic. Even though the normal clearing time in Ghana has been reduced from twenty-five days to about ten to fifteen days, this is still considered well below average efficiency. The picture is no different in other countries of the sub-region.

High and discriminatory tariffs imposed on goods by ECOWAS members are also a major barrier to trade. Companies in Anglophone countries in West Africa always complain that whereas goods within UEMOA member countries are often duty free, goods from Anglophone countries are subject to high tariffs. This discrimination has the effects of



limiting the volumes of exports from Anglophone countries to francophone countries in the sub-region.

The recent review of application procedures should enhance the effectiveness of the ECOWAS Trade Liberalisation Scheme designed to eliminate tariff discrimination. With the introduction of National Approvals Committee to undertake initial screenings within a maximum time frame of three months, it is expected that the time it takes to obtain approvals will be drastically reduced.

## Lack of an Intra-Regional Payment Clearing System

A major obstacle being encountered by companies trading in the sub-region is payment difficulties. Payment for goods in the different currencies of the region with different rates of convertibility and payment restrictions has discouraged several companies from exploring market opportunities in the sub-region.

The regional banks are unwillingly to clear payments and often payments have to be delivered directly at the factory. Furthermore, the companies do not trust each other with payments.

Companies saw the establishment of ECOBANK as a step in the direction of resolving payment difficulties among traders. However, the banks' operations have not made the expected impact and traders still take the risk and inconvenience of carrying large sums of money to other countries to purchase goods.

For instance, in a recent made-in-Ghana solo exhibition held in Ouagadougou, exhibitors who wanted to transfer their money to Accra through ECOBANK had to go through cumbersome procedures at the ECOBANK office in Ouagadougou, which discouraged a lot of them. In the end, only one Company out of fourteen companies managed to do the transfer.

## Road Blocks and Obstructive Attitude of Officials

Traders constantly complain about harassment by officials from the military, police or customs that establish road blocks and demand illegal levies. Furthermore, since transports waiting for clearance are often unprotected, theft is frequent. Difficulties with establishing secure and reliable haulage transport are damaging to regional trade.

There are also substantial problems with roadblocks. From Ouagadougou, Burkina Faso to Accra, Ghana, there are about 20 roadblocks on the average. This means that there is a roadblock at every 40 kilometers and it takes at least 20 minutes at each roadblock. This can cause delays of as much as 30 hours, depending on the mood of the controllers. Apart from the delays, the roadblocks add substantially to the cost of transport.

## Mistrust among Operators in the Sub-Region

Several companies have raised the issue of lack of trust as a barrier to trade in the sub- region. Previous bad experiences leading non-payments for goods delivered have discouraged companies from cross border trading. This situation has negative implication for regional trade.

## Lack of ECOWAS Market Information

Although most manufacturers in Ghana seem to have considerable knowledge of the operation of ECOWAS and some of the basic protocols, there is the general lack of knowledge on the market opportunities in the ECOWAS countries.

A good number of manufacturers are aware that there is a large market potential for Ghanaian products in the ECOWAS sub region, but most of them do not have any idea about the market size, the target groups et Companies normally sell to traders that transport the goods across the borders and sell them to the end-users.

## Non-compliance of ECOWAS Trade Protocols

The non-compliance with the ECOWAS Trade Liberalisation Scheme (ETLS) by some UEMOA countries and the imposition of UEMOA tariffs on non-UEMOA countries are major trade barriers in the ECOWAS sub- region.

Companies exporting to francophone countries in West Africa pay taxes between 40% and 50% which ends up making the prices of their products uncompetitive.

For example, exhibitors paid between 40% and 50% customs duty during a made-in- Ghana solo exhibition held in Ouagadougou in 2002. In a similar exhibition held in Mali in

July, 2003 exhibitors' paid 51% customs duty and Benin in 2003, they paid 30%.

The excuse for non-compliance has always been the fact that Ghana has not been paying these countries the due compensation.

To gain access to the ECOWAS market for intra-regional trade to increase, it will be necessary to remove these barriers.

## Proposals to remove the trade barriers.

### 1. Red Tape concerning export/import procedures

- **Harmonisation of certification and testing procedures**

The ultimate goal should be that a product certified in the country of origin should receive automatic approval in the country of destination. Thus, the relevant quality certifying bodies in all the sub-region would have to meet and discuss the harmonisation of the certification procedures.

- **Simplification of Export/Import procedures**

It is necessary to streamline the complicated exports and import procedures so as to make clearing of goods at the ports less Bersome.

- **Fast Track application procedures for the ECOWAS Trade Liberalization Scheme (ETLS)**

There is the pressing need to harmonise and reduce tariffs in the sub-region. Introduction of a new approval procedure for the ETLS that could shorten the processing time for application to about two months should be looked at urgently.

The ECOWAS market is a huge market, as such for these countries to benefit economically through increased trade among them, all tariff and non-tariff barriers should be eliminated to pave way for greater commerce especially between UEMOA and the rest of West Africa.

### 2. Lack of an Intra-Regional Payments and Clearing System

There is a need to achieve currency convertibility in order to facilitate trade. Exchange rates could be fixed and allowed to fluctuate only within defined margins.

In addition, an introduction of a system for cross border payments and efficient clearing procedures will be a step in the right direction. Although the establishment of Forex bureau in some countries has improved the situation a little, the problem remains unresolved, as most of the sub-regional currencies are not traded at the bureau. It is impossible to use sub-regional currencies (except CFA Franc) as payment for goods and services in other countries in the sub-region.

### 3. Roadblocks and obstructive attitude of officials

There is the need to establish an institution for surveillance of trade irregularities and a sealing system to check on the activities of the police, customs officers etc.

Apart from checking on the activities of the police, customs etc., there must be educational programmes for them as well.

### 4. Mistrust among operators in the sub-region

Business thrives on trust; as such there is the need to establish a neutral body that can settle disputes between companies. This would be an important step in strengthening the relations between traders. It is therefore necessary to establish a regional arbitration centre to eliminate the lack of trust. The centre should have the authority to handle trade disputes and penalize companies that are unwilling to fulfil their obligations.

It is important to revitalize the Federation of West African Manufacturers Associations (FEWAMA) and other business organisations in order to strengthen relations among economic operators in the sub-region. For example, as part of AGI's solo exhibitions in the sub-region, business fora are held with the respective Chambers of Commerce to serve as platform to discuss issues concerning doing business in the West African sub-region. Such fora have been successful and beneficial.

The revival of FEWAMA will also empower industry to advocate for trans-national issues and also lobby governments to take sub-regional trade integration more seriously.

## 5. Lack Ecowas Market Information

In order to increase their knowledge of the regional markets, companies need to participate in sub-regional trade fairs to meet potential customers. It is in view of this that AGI began last year to mount solo made-in-Ghana exhibitions in the francophone countries in the West African sub-region.

In addition, foreign missions in the ECOWAS sub-region should furnish the business community with information on trade and investment opportunities m their respective countries.

## Lessons learnt about the ECOWAS Market

The following lessons have been learnt in our efforts at promoting made-in-Ghana products in the ECOWAS sub-region.

- Good business opportunities exist in the ECOWAS sub-region for Ghanaian Companies. Efforts have to be made either individually or jointly to harness these opportunities.
- Business Opportunities can best be exploited through local Agents and Distributors as well as local partners.
- Until the issue of ETLS is solved, Ghanaian products will not be very competitive on the sub-regional markets.
- Having agents and distributors is not enough. Companies need to assist the agents to market the products. This could be done through adverts both in the electronic and print media, participating in fairs and exhibition etc.

## Conclusion

The West African sub-region is a huge market, which provides a lot of trade opportunities for member countries. For these countries to benefit from the opportunities, efforts should be made to remove all the barriers.

# STRATEGIC INVESTMENT: FOREIGN DIRECT INVESTMENT AND IN-COUNTRY BUSINESS ALLIANCES

Enterprise Forum June 2004

## Introduction

, • foreign Direct Investment (FDI) has become recognized as one of the critical inputs in the development of national economic management pc: cies in many developing countries. This phenomenon is based on the understanding that FDI can generate resource flows, technology transfers, jobs and incomes in a recipient economy. Indeed, FDI has been promoted as an essential component of an export-led development strategy. Accordingly, FDI concerns raise complex trade policy issues, which infringe on in-country business alliances.

In-country business alliances represent a phenomenon that provides one of the bases for economic growth and development. These alliances may exist across sectors, such as transport and agriculture, or may be vertically , rented, so that, for instance, vegetable oil producers feed supplies into a soap making plant. This web of alliances among businesses is indispensable for economic growth and development

Thus, while every attention may be given to the promotion of FDI as a means fo r achieving economic growth and increasing export competitiveness, strategy-makers need to attach some priority and resources to the stimulation and support of business alliances among local firms and organizations. Alliances between SMEs, between large and small firms, and even between multinationals and non--governmental organizations can all help to iimprove competitiveness in developing countries. The benefits from these alliances can be boosted significantly by the right strategy.

It is in light of such understandings that issues associated with FDI and business alliances in Ghana are explored in this study along the following lines:

a) The FDI concept;
b) The Experience in Ghana;
c) The Impact of FDI Linkages with Local Enterprises;
d) Identify obstacles and constraints to effective operation of business linkages;
e) Offer recommendations to support in-country business alliances for better impact on national economic development.

## FDI Concept

The policy framework for economic management in Ghana recognizes FDI as a critical contributor to the foreign exc have been initiated to attract foreign investors. Indeed the economic reforms initiated in 1983 were based on three elements

- to achieve current ac count Liberalisation
- to attract foreign investment; and
- to increase Ghana's international competitiveness for non-traditional exports or as an investment destination.

These three strands of the reforms led to a general liberalization generating competition within the economy, improving the conditions for access, and attracting foreign direct investment.

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To ensure success of the reform program, specific actions and measures were taken. For example, the mining sector was restructured with the introduction of liberalized and transparent regulations and incentives. The gold mining sector in particular was transformed by a massive inflow of FDI which has been mainly responsible for the dynamism of the mining sector in Ghana today. Other sectors, including the trading, industrial, telecommunications and forestry sectors have also undergone the restructuring process with varying degrees of success.

It is instructive to note in this regard that a new Investment Code was introduced to re-establish the national investment promotion agency by radically turning it from a regulatory body into a promotional and facilitating entity. In following this policy direction, an institutional framework now has been created to facilitate FDI inflows into Ghana.

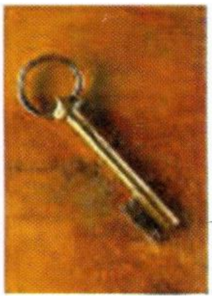
*These institutions are:*

- Ghana Investment Promotion Centre (GIPC);
- Minerals Commission (MC);
- Ghana Free Zones Board (GFZB);
- Ghana Export Promotion Council (GEPC);

Which work together with key private business associations such as:

- Private Enterprise Foundation (PEF);
- Association of Ghanaian Industries (AGI);
- Ghana Association of Bankers (GAB)
- Ghana Employers' Association (GEA)
- Federation of Associations of Ghanaian Exporters (FAGE);
- Ghana Chamber of Mines; and
- Ghana National Chamber of Commerce and Industry (GNCCI).

These institutions have been engaged in active FDI promotion activities. Indeed, FDI promotion has become so embedded in the outlook of the economic management system that even presidential and diplomatic missions have been mounted abroad with the express objective of attracting FDI inflows.



## FDI Experience in Ghana

Ghana has a long experience with FDI inflows going back to colonial times. Indeed, the large concentration of European built castles and forts strung along Ghana's coastline bear testimony to this. Following independence, however, the progressive adoption of socialist, state-led enterprise development activity appeared to have affected FDI inflows negatively. Notwithstanding this, perhaps the largest single FDI made by United States business interests south of the Sahara was established in Tema in the early sixties. Valco (the Volta Aluminium Company) owned by Kaiser Aluminium Corporation and Reynolds Aluminium Corporation, established a 200, ton per year aluminium smelter which w: s predicated on cheap power supplies coming out of the giant Volta hydro-electric dam systems on the Volta River at Akosombo and Kpong. In the period following the economic reforms since 1983, Ghana has seen an influx of FDI into its gold mining, the industrial, processing, and services sectors.

Thus, the Ghana Free Zones Board (GFZB) for instance, reported that in the first quarter of 2003, ten companies registered into the free zone, deploying an estimated investment of $541 million. In another recent report, the Ghana Investment Promotion Centre (GIPC) put out information that in the second Quarter of 2003 it registered 38 new projects with a face value of $2216 million, of which $2025 million constituted FDI influ, the mining sector is replete with FDI inflows, though in recent times, the Chamber of Mines has called for improvement in the regulatory framework. This is to offset the deteriorating terms of the Ghanaian mining sector in the light of new and better regimes emerging in other African countries competing for inflows of FDI in this sector. Thus, one may conclude that the Ghanaian experience so far has been, not just opening up to FDI inflows, but adoption of a pro-active and competitive approach to attract FDI inflows. It would appear that the strategy is working. However, whether such inflows are adequate, and whether they are effective in addressing the objectives for which the strategy was adopted are matters requiring further consideration.

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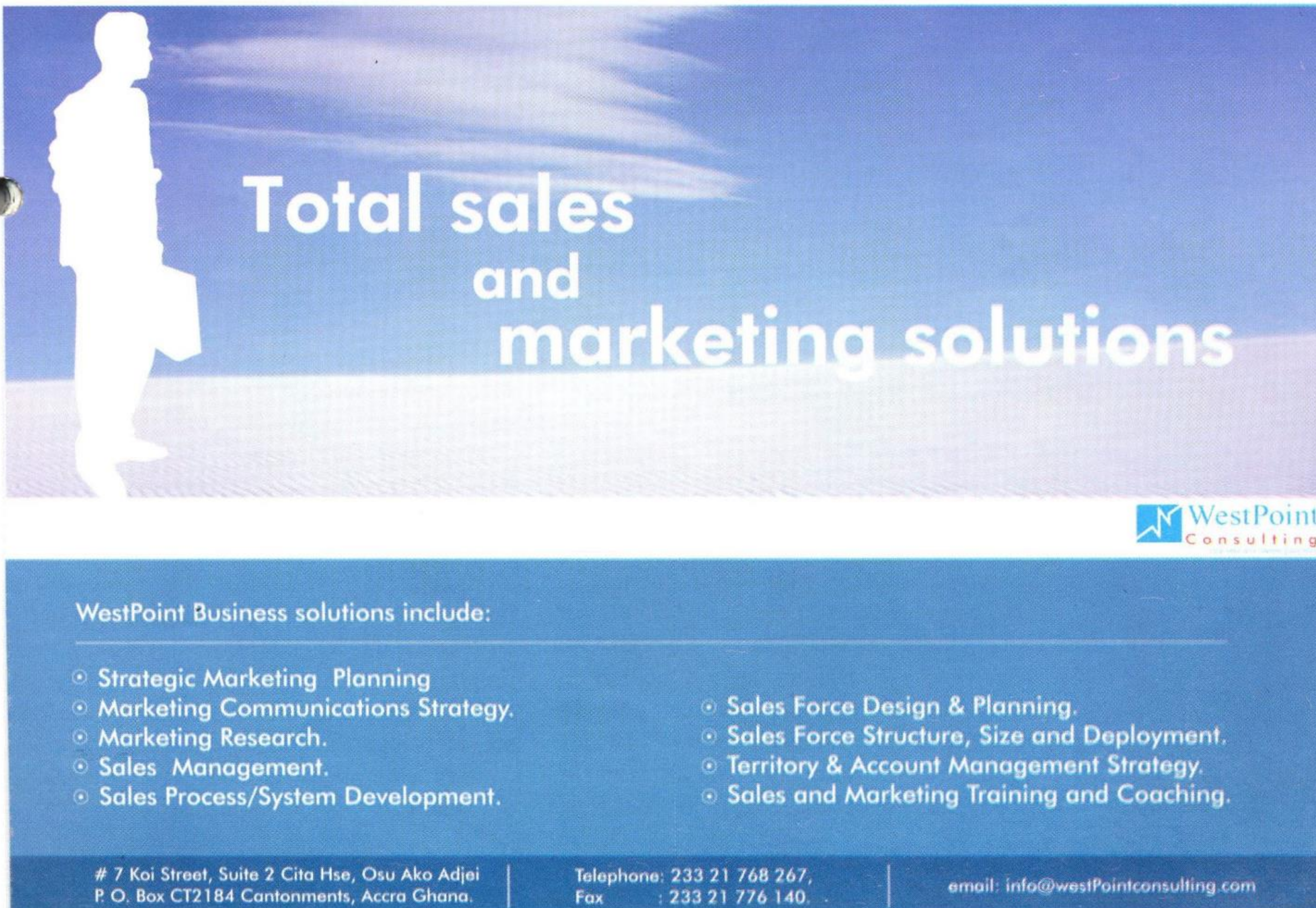
## Impact: FDI Linkages with Local Enterprises

Conceptually, FDI inflows are considered beneficial not only because of the resources they bring into an economy, or the revenues they generate from their activities. The benefits arising from new economic activities generated to service the needs of FDI are desirable benefits that contribute to economic expansion and growth, employment generation, technology transfer and so on. While this phenomenon has hardly been documented in Ghana, it is still possible, by reference to some examples, to show that linkages between FDI establishments and local enterprises, cially, those in the SME sector are occurring d that the effect is beneficial and should be encouraged.

As a first example, the American FDI, Valco may be considered. The Valco operation is essentially established to procure hydro electricity from the Volta River Authority (VRA). This is applied to imported alumina to produce primary aluminium metal in the form of ingots, billets and sows. Initially, all of Valdo's output was exported for further processing in overseas countries. However, by means of a Government sponsored initiative, an aluminium rolling mill was established near the smelter in Tema. This company, Aluworks, procures primary metal from Valco which is processed into secondary products (coils, sheets, circles, etc.). Tertiary level operators, many of whom are small and medium scale enterprises, then procure this to produce pots, pans, roofing sheets, and other aluminium based products for both the domestic and export markets GEPC reports show that aluminium product exports comprising of sheets, coils, household utensils, casks, etc. generated revenues of over $12 million in 2001. This increased exponentially to over $32 million in 2002. Thus a whole new group of fabrication industries have emerged in Ghana based on aluminium, generating jobs and export revenues as distinct benefits among others.

A second example of the beneficial impact of business linkages arising from FDI is the Unilever operations in Ghana. These operations are based in the industrial city of Tema in Ghana. Prior to 1983, Unilever's operations in Ghana were mainly in trading through the United Africa Company (UAC) group. Upon changing strategy to focus on manufacturing, the company ruff"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invested heavily in expanding and upgrading its factories in Tema to produce soaps, vegetable oils, margarine, tooth paste, detergents, and other consumer products. In the process, Unilever has developed an active programme of procurement from local suppliers for many of their inputs. Some of the inputs include crude vegetable oils, packaging materials and salt. In some cases, the company works with the selected supplier by facilitating and providing support for raising working capital credit requirements for the SME supplier. The beneficial effects of this policy by Unilever through such business linkages with SMEs can only be described as positive.

It is therefore clear that FDI inflows can impact favourably on the development goals of developing country hosts. The level and depth of such linkages may not be the same in all industrial sectors. However, as a matter of strategy, it makes sense to have a policy of promoting in-country linkages between FDI providers and in-country enterprises, especially those in the SME sector.

## Obstacles and Constraints:

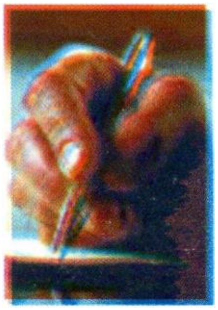
FDI operators, especially, those producing into global/export markets are concerned about the capacity of in-country entrepreneurs to meet their needs. These capacity issues relate to standards, quality, volumes, credit, and technology.

Sometimes, there may be financial constraints. For as in the Valco example, where it is a supplier, the local enterprise may need to make payments for supplies well in excess of its means. On the other hand, the FDI may require inputs, which require such technology as may be beyond the local supplier.

These are real constraints especially m developing countries where capacity is generally low in many respects.

## Recommendations

There can be little debate on the proposition that FDI inflows should be promoted and linkages with in-country enterprises should be encouraged. Such controversy as there may be arises from the strategic choices available for achieving these stated objectives. The question is whether these linkages should be left to evolve voluntarily, or some compulsion would be required to encourage the desired linkages to occur. While voluntary establishment of these linkages might be preferable (indeed they



occur because to a large extent it is in the interest of the companies, both FDI and local operators) persuasive policy initiatives can be deployed to hasten such linkages.

In addition, if promotion of this phenomenon is to be successful, it may be necessary to improve understanding of it by creating systems for collecting, analyzing and publishing information and data on it.

In the light of the foregoing it may be recommended that:

- Host country must openly affirm a policy position which supports both the entry of FDI and encourages linkages with in-country businesses, especially, those in the SME sector

- Host countries could provide incentives FDI operators who establish linkages with in- country enterprises by offering some tax reliefs.

- National awards of commendation and recognition could be conferred on FDI operators who establish substantial linkages with in-country operators.

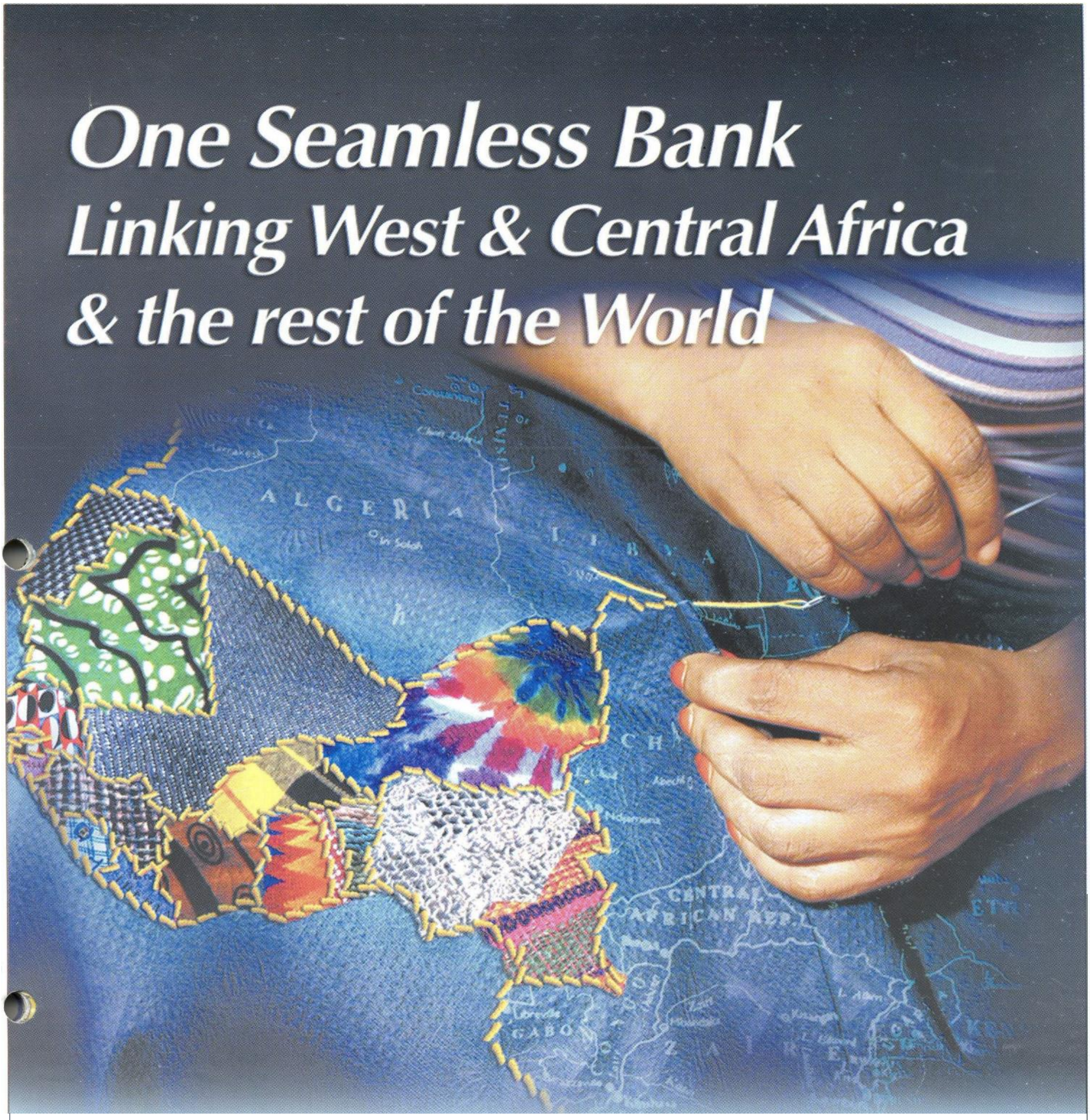
- Host countries could provide support for training and technical assistance programmes to help SMEs meet the needs of FDI operators.

- Host countries could provide investment assistance to SMEs with potential of linking up with FDI operators.

**Conclusion**

Ghana today, like other developing countries, is actively engaged in competing for F inflows. It is recognized that linkages between FDI operators and in-country enterprises, especially the SMEs, can impact most favourably on economic growth, employment generation, technology transfers, and other important socio-economic attributes. Already examples exist in Ghana of this phenomenon.

Despite constraints, arising largely from lack of capacity on the part of in-country enterprises, the linkages have occurred. However, host countries can address this challenge by promoting the building of linkages between FDI operators and in-country entrepreneurs by adopting specific action programmes along the lines recommended in this paper. Furthermore, host countries can provide support and technical assistance to in- country enterprises to help them overcome their capacity constraints.

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