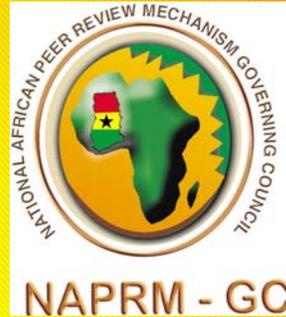


AFRICAN PEER REVIEW MECHANISM



GHANA COUNTRY
**CONSOLIDATED
REPORT**

FEBRUARY 2005

Prepared By:

NAPRM GC

With Technical Assistance from:

Center for Democratic Development (CDD)

Center for Policy Analysis (CEPA)

Private Enterprises Foundation (PEF)

Institute for Statistical, Social and Economic Research (ISSER)

PREFACE

We were inaugurated on March 18, 2004 by H.E. the President to oversee the implementation of the African Peer Review Mechanism (APRM) in Ghana. This report presents the findings of the National Self-Assessment that was conducted in the country in response to the APRM questionnaire that was sent by the African Union.

The implementation of the APRM in Ghana has been a long march in respect of the political commitment of the Government of Ghana to the New Partnership for Africa's Development (NEPAD). The government affirmed its commitment to NEPAD when Ghana became the first African country to volunteer and publicly declare its intention to accede to the APRM. The country was among the first six countries to officially declare its intention to accede to the APRM when the subject was first raised at the 5th HSGIC meeting on November 3, 2002 in Abuja, Nigeria. Again, when it came to signing the Memorandum of Understanding to officially accede to the APRM, Ghana demonstrated faith by being among the first twelve countries to accede in March 2003.

Further to the commitment of the Government, the Ministry of Regional Cooperation and NEPAD, the first of its kind in Africa was created in May 2003 to among others to spearhead the implementation of NEPAD and prepare the country to actualize the APRM.

H.E. the President following a wide range of consultations with relevant stakeholders, including all the chairmen and ranking members of Select Committees in Parliament, the media and a number of civil society organizations came up with a considered criteria as the basis to appoint members of the NAPRM Governing Council. Emphasis was placed on the autonomy and non-interference in the work of this structure to ensure its integrity, impartiality, transparency, objectivity, professionalism and above all a non-partisan and national character.

The Governing Council has the primary function of overseeing and providing leadership for the implementation of the APRM. To ensure that the leadership and ownership of the APRM process is driven by stakeholders with autonomy all the Governing Council members are not state officials and thus by definition are civil society actors.

The Governing Council is assisted by a lean Secretariat that provides administrative, technical and coordinating support to the work of the Council.

To operationalize the APRM questionnaire as a technical, scientific, objective and professional assessment four National Technical Review Teams were appointed by the Governing Council to be the lead institutions in the technical assessment. These are civil society organizations with proven capacity, competencies and know-how and with recognized reputation as independent think-tanks.

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The four independent National Technical Review Teams are:

- i. Center for Democratic Development (CDD) – Democracy and Good Political Governance
- ii. Center for Policy Analysis (CEPA) – Economic Governance and Management
- iii. Private Enterprise Foundation (PEF) - Corporate Governance
- iv. Institute of Statistical Social and Economic Research (ISSER) – Socio-Economic Development

A civil society liaison desk was also established in the APRM Secretariat to anchor the review process on a participatory norm that ensured that stakeholders from all parts of the country and from all walks of life were actively engaged in the process to engender public ownership of the process.

The methodology underpinning the implementation of the APRM in Ghana was designed as a bottom-up process to foster the participation of Ghanaians in an open, all-inclusive and transparent manner.

The first entailed a pre-field methodology made up of five strands: a) the education, sensitization, awareness creation and creation of ownership drive among the mass of Ghanaians; b) realigning, harmonizing and coordinating methodological approaches among the technical review teams; c) identification of stakeholders; d) recasting the questionnaire into a survey instrument and e) gathering information and data on Ghana for the APR Panel.

Second was a field methodology that employed a three-prong approach: a) an elite survey involving interviews with persons who by virtue of their specialized background occupy senior positions in public and private organizations and institutions; b) a mass household survey to capture broad and representative views in all the ten administrative regions of Ghana and c) focus group discussions with identifiable organized groups on specific issues raised in the questionnaire were done.

Third was the use of an in-house methodology that involved first, desk research and second, in-house peer reviews. Four, we utilized a post-field methodology that (a) involved engaging technical experts in the respective thematic areas to review and interrogate the draft reports of the national self-assessment prepared by the technical review teams and (b) a national validation workshop to monitor, evaluate and pronounce on the extent to which the technical reports reflected a reality test of the issues raised on the ground was held by stakeholders.

We would like to extend our appreciation and thanks to H.E. the President for the confidence reposed in us and for the opportunity to serve our country. We want to also thank in particular H.E. the President and Government for the complete independence

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that enabled us to do our work in an autonomous, objective and professional manner. We wish to place on record that there was no interference in preparing this report. To us, this demonstrates the commitment of H.E. the President to the APRM process as an intervention that can promote good governance and progress on the African continent.

Our thanks also go to the technical review teams, to stakeholders from all parts of the country and all those who assisted us in diverse ways to oversee the process of implementation of the APRM in Ghana.

Ghana has always been committed to Pan-Africanism and through the prism of our own history and experience we have no doubt that the APRM can make a major contribution towards Africa's renaissance and turn around the poverty and marginalization of the continent.

Submitted by the National African Peer Review Mechanism Governing Council this 25th day of February 2005, Accra, Ghana.

.....
Rev. Prof. S.K. Adjepong – Chairman

.....
Amb. Alex N. Abankwa – Member

.....
Prof. S.K.B. Asante – Member

.....
The Most Rev. Dr. Bishop Paul Bemile - Member

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Prof. Miranda Greenstreet – Member

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Nutifafa Kuenyehia Esq. - Member

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Ms. Gloria Ofori-Boadu - Member

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Dr. Francis Appiah – Executive Secretary

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ABBREVIATIONS AND ACRONYMS

DEMOCRACY AND GOOD POLITICAL GOVERNANCE

ACRWC	African Charter on Rights and Welfare of Children
ADR	Alternative Dispute Resolution
AFRC	Armed Forces Revolutionary Council
APRM	African Peer Review Mechanism
AU	African Union
BPEMS	Budget and Public Expenditures Management System
CBO	Community Based Organizations
CDD	Centre for Democratic Development, Ghana
CEPS	Customs, Excise and Preventive Service
CESCR	International Covenant on Economic, Social and Cultural Rights
CHRAJ	Commission on Human Rights and Administrative Justice
CLRAL	Child Law Reform Advisory Committee
CPP	Convention People's Party
CRC	Convention on the Rights of the Child (United Nations)
CSPIP	Civil Service Performance Improvement Program
DACF	District Assemblies Common Fund
DCE	District Chief Executives
DDS	Development Dialogue Series
DISSEC	District Security Council
DPP	Democratic People's Party
DSW	Department of Social Welfare
EAGLE	Every Accountable Ghanaian Living Everywhere
EC	Electoral Commission
ECCD	Early Childhood Care and Development
ECOMOG	ECOWAS Military Observation Group
ECOWAS	Economic Community of West African States
GCPP	Greater Consolidated People's Party
GNACSA	Ghana National Commission on Small Arms and Light Weapons
GNCC	Ghana National Commission on Children
GNPC	Ghana National Petroleum Corporation
GPRS	Ghana Poverty Reduction Strategy
IPPD	Integrated Personnel and Payroll Database
IRS	Internal Revenue Service
MMDA	Metropolitan, Municipal and District Assemblies
MOWAC	National Ministry for Women's and Children's Affairs
MP	Member of Parliament
MTEF	Medium-Term Expenditure Framework
NAPRM-GC	National African Peer Review Mechanism Governing Council
NDC	National Democratic Congress
NEPAD	New Partnership for African Development
NGO	Non-Governmental Organization

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NGP	National Governance Program
NHIS	National Health Insurance Scheme
NIRP	National Institutional Renewal Program
NPP	New Patriotic Party
NRC	National Reconciliation Commission
NRP	National Reform Party
NSC	National Security Council
OAU	Organization of African Unity
ODA	Overseas Development Agency
PNC	People's National Convention
PNDC	Provisional National Defence Council
PSC	Public Services Commission
PSFMR	Public Sector Financial Management and Reform Program
PSMRP	Public Sector Management and Reform Program
PUSERMOS	Public Sector Reinvention and Modernization Strategy
REGSEC	Regional Security Council
SFO	Serious Fraud Office
TI	Transparency International
UNAMSIL	United Nations Mission in Sierra Leone
UNDP	United Nations Development Program
WAJU	Women and Juvenile Unit, Ghana Police Service

ECONOMIC GOVERNANCE AND MANAGEMENT

AfDB	African Development Bank
AGOA	African Growth and Opportunities Act
BoG	Bank of Ghana
BPEMS	Budget Planning and Expenditure Management System
CDD	Center for Democracy and Development
CDF	Comprehensive Development Framework
CEPA	Center for Economic Policy Research
CEPS	Customs, Excise and Preventive Services
CIDA	Canadian International Development Agency
CG	Consultative Group of Donors
CSP	Country Strategic Plan
DANIDA	Danish International Development Agency
DfID	Department for International Development (U.K.)
EC	European Commission
ECOWAS	Economic Community of West African States
EMT	Economic Management Team
EPCC	Economic Policy Coordinating Committee
ERSO	Economic Reform Support Operation (of the World Bank)
ESAF	Enhanced Structural Adjustment Policy (of the IMF)
EU	European Union

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GDP	Gross Domestic Product
GLSS	Ghana Living Standards Survey
GoG	Government of Ghana
GPRS	Ghana Poverty Reduction Strategy
GTZ	German Agency for Technical Assistance
HIPC	Heavily Indebted Poor Countries Initiative
IEA	Institute for Economic Affairs
IMF	International Monetary Fund
MDAs	Ministries, Departments and Agencies
MDBS	Multi Donor Budget Support
MoCT	Ministry of Communications and Technology
MoEd	Ministry of Education
MoEn	Ministry of Energy
MoES	Ministry of Environment and Science
MoFA	Ministry of Food and Agriculture
MoFEP	Ministry of Finance and Economic Planning
MoMDE	Ministry of Manpower Development and Employment
MoPSD	Ministry of Private Sector Development
MoTI&PSI	Ministry of Trade, Industry & President's Special Initiatives
MTEF	Medium Term Expenditure Framework
NDPC	National Development Planning Commission
NED	National Economic Dialogue
NGO	Non Governmental Organization
OECD	Organization of Economic Cooperation and Development
PEF	Private Enterprise Foundation
PER	Public Expenditure Review
PRGF	Poverty Reduction and Growth Facility
PRSC	Poverty Reduction Support Credit
PUFMARP	Public Financial Management Reform Programme
RAGB	Revenue Agencies Governing Board
USAID	U.S. Agency for International Development
UNICEF	United Nations
VAT	Value Added Tax
WTO	World Trade Organization

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CORPORATE GOVERNANCE

ACMF	African Capital Markets Forum
AMSCO	African Management Services Company
BoG	Bank of Ghana
CAGG	Commonwealth Association of Corporate Governance
CDD	Centre for Democracy and Development – Ghana
CEO	Chief Executive Officer
CFO	Chief Financial Officer
CHRAJ	Commission of Human Rights and Administrative Justice
GACC	Ghana Anti-Corruption Coalition
EPA	Environmental Protection Agency
GBA	Ghana Bar Association
GJA	Ghana Journalists Association
GNAS	Ghana National Accounting Standards
GSE	Ghana Stock Exchange
IFEJ	Institute of Financial and Economic Journalists
IMF	International Monetary Fund
IoD (Ghana)	Institute of Directors (Ghana)
IRS	Internal Revenue Service
NIC	National Insurance Commission
OECD	Organisation of Economic Cooperation and Development
PEF	Private Enterprise Foundation
RGD	Registrar-General's Department
SEC	Securities and Exchange Commission
SOEs	State-owned enterprises
SSNIT	Social Security and National Insurance Trust
USAID	United States Agency for International Aid
VRA	Volta River Authority

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SOCIO-ECONOMIC DEVELOPMENT

Abbreviation

Names in full

AAGDS	Accelerated Agricultural Growth and Development Strategy
AGI	Association of Ghana Industries
APR	Annual Progress Report
APRM	African Peer Review Mechanism
ARI	Acute Respiratory Infection
ARV	Anti Retro Viral drugs
BRRRI	Building and Road Research Institute
CAGD	Controller and Accountant General's Department
CBO'S	Community Based Organisations
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CHAG	Christian Health Association of Ghana
CHRAJ	Commission for Human Rights and Administration of Justice
CIDA	Canadian International Development Agency
CNTCI	CNT Construction Investment
CRC	Convention on the Rights of the Child
CRT	Criteria Reference Test
CSO	Civil Society Organisation
CWIQ	Core Welfare Indicators Questionnaire
CWSA	Community Water and Sanitation Agency
DACF	District Assemblies Common Fund
DA'S	District Assemblies
DEOC	District Education Oversight Committee
DHMT	District Health Management Team
DMTDP	District Medium Term Development Plan
DPCU	District Planning Coordinating Unit
DP'S	Development Partners
DRHCI	Department of Rural Housing and Cottage Industry
EC	Energy Commission
ECG	Electricity Company of Ghana
ECOWAS	Economic Community of West African States
EI	Executive Instrument
EU	European Union
FAWE	Forum of African Women Educationist
FBO'S	Faith Based Organisations
FCUBE	Free and Compulsory Universal Basic Education
FIDA	Federacion International D'Abogadas: The International Federation of Women Lawyers
FM	Frequency Modulation
GAC	Ghana AIDS Commission
GARFUND	Ghana Aids Responds Fund
GAWE	Ghana Association of Women Entrepreneurs
GDHS	Ghana Demographic and Health Survey
GDP	Gross Domestic Product
GES	Ghana Education Service

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GHS	Ghana Health Service
GIFTEL	Ghana Investment Fund for Telecommunications
GIPC	Ghana Investment Promotion Council
GLSS	Ghana Living Standard Survey
GNCC	Ghana National Commission on Children
GNI	Gross National Index
GNP	Gross National Product
GOG	Government of Ghana
GPER	Gross Primary Enrolment Rate
GPRS	Ghana Poverty Reduction Strategy
GREDA	Ghana Real Estate Developers Association
GSB	Ghana Standards Board
GVSSN	Gender Violence Survivors Support Network
GWCL	Ghana Water Company Limited
HDI	Human Development Index
HDR	Human Development Report
HFC	Home Finance Company
HFH	Habitat for Humanity
HIPC	Heavily Indebted Poor Country Initiative
HIV/AIDS	Human Immune Virus/Acquired Immune Deficiency Syndrome
HPI	Human Poverty Index
ICPD	International Conference on Population and Development
ICT	Information and Communication Technologies
ID	Intercom Data Network
IEA	Institute of Economic Affairs
IFC	International Finance Corporation
IGF	Internally Generated Fund
IGR	Internally Generated Revenue
IMF	International Monetary Fund
IPMG	Inter-Agency Poverty Monitoring Groups
I-PRSP	Interim Poverty Reduction Strategy Paper
ISSER	Institute of Statistical, Social and Economic Research
JICA	Japan International Cooperation Agency
JSS	Junior Secondary School
KMA	Kumasi Metropolitan Assembly
KVIP	Kumasi Ventilation Improved Pit
M&E	Monitoring and Evaluation
MDA'S	Ministries, Departments and Agencies
MDBS	Multi Donor Budget Support
MDG	Millennium Development Goals
MLGRD	Ministry of Local Government and Rural Development
MMDA'S	Metropolitan, Municipal and District Assembly
MOC	Ministry of Communications
MOE	Ministry of Education
MOF	Ministry of Finance
MOFEP	Ministry of Finance and Economic Planning
MOH	Ministry of Health
MOWAC	Ministry of Women's and Children's Affairs

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MOWH	Ministry of Works and Housing
MP'S	Members of Parliament
MTEF	Medium Term Expenditure Framework
MTP'S	Medium Term Priorities
NACP	National Aids Control Program
NBSSI	National Board for Small Scale Industries
NCA	National Communication Authority
NCS	Network Computer Systems
NCTE	National Council for Tertiary Education
NCWD	National Commission on Women and Development
NCWSP	National Community Water and Sanitation Programme
NDPC	National Development Planning Commission
NED	Northern Electrification Department
NEG	National Electricity Grid
NEPAD	New Partnership for African Development
NFED	Non-Formal Education Division
NFLS	Nairobi Forward Looking Strategy
NGO'S	Non-Governmental Organisation
NHIF	National Health Insurance Fund
NHIS	National Health Insurance Scheme
NIPMG	National Inter-Agency Poverty Monitoring Group
NUGS	National Union of Ghana Students
NUPS	National Union of Polytechnic Students
ODA	Overseas Development Assistance
PAMSCAD	Programme of Action to Mitigate the Social Costs of Adjustment
PEF	Private Enterprise Foundation
PFA	Platform for Action
PLWHAS	Persons Living With HIV and AIDS
PPMED	Policy, Planning, Monitoring and Evaluation Division
PRGF	Poverty Reduction and Growth Facility
PRSC	Poverty Reduction Support Credit
PSIA	Poverty and Social Impact Assessment
PSI'S	Presidential Special Initiatives
PSP	Private Sector Participation
PTA	Parent Teacher Association
PTR	Pupil-Teacher Ratio
PURC	Public Utilities Regulatory
RCC'S	Regional Coordinating Councils
RESPRO	Renewable Energy Service Project
RFI	Rural Financial Institutions
S&T	Science and Technology
SEA	Strategic Environment Assessment
SHEP	Self Help Electrification Project
SIF	Social Investment Fund
SMC'S	School Management Committees
SMO	Senior Minister Office
SPAM	School Performance Appraisal Meetings
SSNIT	Social Security and National Insurance Trust

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SSS	Senior Secondary School
STI	Sexually Transmitted Infections
STME	Science and Mathematics at the Basic Level of Education
TCPD	Town and Country Planning Department
TUC	Trades Union Congress
UN	United Nations
UNDP	United Nation Development Programme
UNFPA	United Nations Fund for Population Assistance
UNICEF	United Nations International Children Educational Fund
VAT	Value Added Tax
VRA	Volta River Authority
WAJU	Women's Abuse and Juvenile Unit
WATSAN	Water and Sanitation
WDF	Women Development Fund
WDR	World Development Report
WIAD	Women in Agricultural Development
WID	Women in Development
WISE	Women's Initiative for Self Empowerment
WSRS	Water Sector Restructuring Secretariat
WSSD	World Summit on Sustainable Development

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INTRODUCTION

1. The world has become a fast changing and complex place shaped by the forces of competition, globalization, liberalization, regionalism and technological advancement. Whilst other regions of the world have taken advantage of these forces to foster business and investment opportunities and to spur growth and prosperity for their people, in Africa poverty, squalor, underdevelopment and marginalization continue to deepen.
2. There is no gainsaying that a major factor accounting for the inability of Africa to lift itself out of poverty and marginalization is the inability of African governments to foster democracy and good political governance, promote sound economic management, facilitate corporate governance and pursue socio-economic development.
3. It is to address these shortcomings that the APRM invariably has made these thematic areas the four pillars on which its import rests in the Country Self-assessment process.

The link between NEPAD and APRM

4. This Country Self-Assessment Report of the Republic of Ghana relating to the implementation of the African Peer Review Mechanism (APRM) has been prepared in the context of the country's embrace of the New Partnership for Africa's Development (NEPAD) as an African development initiative approved by the Organization of African Unity (OAU) and endorsed by the African Union (AU). NEPAD is a home-grown, African owned, designed and self-managed comprehensive development programme put together by African leaders in a fresh attempt to move the continent out of its socio-economic predicament and marginalization in the process of globalization. NEPAD seeks to develop a new partnership first and foremost among African governments and their people so that Africans can be the architects and builders of their own socio-economic development.
5. Whilst NEPAD acknowledges that external factors like several years of slavery and colonialism, unequal terms of trade, the debt burden and conditional lending have contributed to Africa's underdevelopment it maintains that charity must begin at home. In its honest and critical diagnosis of the African condition, NEPAD admits that leadership failure lies at the heart of the crisis of development confronting the continent. Leaders who pursued military adventurism, one-party rule and dictatorship, ran centrally planned economies, corruption and mal-administration ruined Africa's development.

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6. Through a sustained struggle for freedom, liberty and fairness, Africa has now been blessed with a new breed of leaders with the political will, determination and commitment to confront the developmental challenges in partnership with their peoples. These leaders do not only believe in democracy and good political governance they also accept that they have the primary responsibility to overcome the poverty and deprivation facing the continent. They are occupying the driving seat of the NEPAD enterprise and aspire to use this as a vision and development framework while outlining sectoral priority programmes of action as a strategy to eradicate the stark poverty facing the continent. At the same time a vibrant and articulate civil society has emerged to demand accountability and transparency from African leaders.
7. As part of measures to demonstrate that African leaders are committed to the implementation of NEPAD, the second meeting of the Heads of State and Government Implementation Committee (HSGIC) of NEPAD in Abuja, Nigeria, on March 26, 2002 endorsed the establishment of an African Peer Review Mechanism (APRM).
8. The APRM is an instrument voluntarily acceded to by Member States of the African Union as an African self-monitoring mechanism that will foster the adoption of policies, standards and practices that lead to political stability, high economic growth, sustainable development and accelerated sub regional and continental economic integration.

Ghana and the APRM Process

9. Ghana is a country that is traditionally committed to the spirit of Pan-Africanism. Besides, Ghana has a political leadership that is steeped in the principle that democracy and development are inextricably linked. In particular under the current Constitution adopted in 1992, the government of Ghana has resolved to entrench democracy and good governance not only in Ghana but in other African countries as well. To this end, Ghana is attempting to play a leadership role in the continent in the implementation of the APRM. The government has the firm belief that the APRM is an instrument that can foster an enabling environment for the development and progress of Africans.
10. Ghana was the first country in Africa to make a public declaration to volunteer to accede to the APRM and was also among the first few countries that officially acceded to the APRM. With the presentation of the Country Self-Assessment Report and Draft Programme of Action to the APR Panel, Ghana becomes one of the premier countries to have submitted itself to peer review.

The National African Peer Review Mechanism Governing Council

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11. The National African Peer Review Mechanism Governing Council (NAPRM-GC) which was set up as an independent and autonomous national structure, prepared this Country Self-Assessment report. It was guided in the preparation of this report by the principles of autonomy, integrity and professionalism so as to make the report technically competent, credible, free from political interference and an all-inclusive national exercise.
12. The Governing Council is made up of seven persons appointed by the President of Ghana. The men and women of the Governing Council were selected on account of their excellent professional track records and the high regard they command in Ghanaian society on account of their sense of judgement. The President charged the Council to be independent, frank and objective in assessing the performance of Ghanaian institutions and processes of governance. They are also noted to be non-partisan.

The National Technical Review Teams

13. To assist in the technical work of the Country Self-Assessment the Governing Council engaged the services of four independent civil society organizations as National Technical Review Teams. They assisted the work of the Governing Council in administering, collating and analyzing the country self-assessment questionnaire in the four thematic areas sent by the APR Panel in South Africa. The National Technical Review Teams are:
 - Centre for Democracy and Development (CDD) – was engaged in assisting the assessment of “Democracy and Good Political Governance” for this Report. CDD is known for very thoughtful and well organized independent analysis of the Ghanaian socio-political situation. It has a crop of excellent researchers with a credible publication record, and who are known for their objectivity.
 - Centre for Policy Analysis – (CEPA), was given the task of assisting in the assessment of “Economic Governance and Management”. It is a well known independent think-tank in Ghana. CEPA boasts of a cadre of very good and highly experienced economists with solid reputation for an objective assessment about the performance of the economy of Ghana.
 - Private Enterprise Foundation - (PEF) focused on Corporate Governance. PEF is the main instrument of the Ghanaian private sector for gathering and managing knowledge for the purpose of advocacy and assisting the sector to take advantage of new ideas. The Foundation acts as the interlocutor for private business as it faces the rest of Ghanaian society.
 - Institute of Statistical Social and Economic Research – (ISSER) at the University of Ghana assisted in assessing the “Socio-Economic Development” component. ISSER is the oldest multi-disciplinary social science research institution in Ghana

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with an enviable reputation for excellent research in support of socio-economic policy. It is well known for its annual assessments of the state of the economy and the state of human development in Ghana. The independence of the Institute is protected by its being a constituent part of a strongly independent University that cherishes academic freedom.

14. To ensure that the Country Self-Assessment Report is transparent, democratic, participatory and a true reflection of the generality of what Ghanaians have assessed as the state of governance in the four areas, stakeholders from all parts of the country and from all walks of life were actively engaged to participate in the process.
15. In preparing the Ghana assessment Report the Governing Council relied on the standards, indicators, criteria and benchmarks that were identified in the questionnaire developed by the APR Secretariat in South Africa. It may be observed that some areas not spelt out in the APR questionnaire have been covered. These are identified as country-specific issues that have been added to complement the questionnaire to foster national dialogue and development.

The Structure of the Report

16. The Report has been structured in the main to address each of the four thematic areas of the APRM assessment questionnaire as provided by the APR Panel in South Africa. Although the analysis covers mainly the period 1994-2004, where necessary it is stretched to cover an earlier period or contemporary times. This is often done to bring forth clarity of comparisons, coherence, understanding and contextual relevance.
17. The Report begins with a preface that puts the national assessment exercise in a country specific context. This is expounded upon to chart the participatory, consultative and methodological choices that informed the preparation of the Report as a broad-based national exercise.
18. The second part is the introduction that outlines the structure of the Report and presents the thematic issues raised for discussion. This is followed by analysis of the four thematic areas highlighted in the report.

Democracy and Good Political Governance

19. Chapter one which is the third part of the Report presents the country self-assessment in the thematic area of Democracy and Good Political Governance. In its assessment of the state of Democracy and Good Political Governance in Ghana the chapter points out that it represents a remarkable achievement but nonetheless

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there is more work to be done. It observes that the country has made strides in securing freedoms and democratic governance in a stable and peaceful political environment. Ghana elects its national leaders and generally protects its people's rights and they enjoy freedom, civil liberties and political rights.

20. The chapter points out that in spite of this impressive trend there is still much to do to deepen democracy and good political governance. In effect in assessing the nation's quest to entrench democracy and good political governance, the substantial progress must be viewed alongside some sticking points whose resolution requires persistent pressure for change from all sectors of Ghanaian society.

Economic Governance and Management

21. Chapter two of the Report is the fourth part. This presents the country self-assessment on Economic Governance and Management. To put the assessment on a sound footing the chapter begins by spelling out the methodology that was used. It then proceeds with an analysis of the political economy of economic management to situate the study in its context. The conclusions of the chapter are derived from assessments of Economic Governance and Management as defined by 5 key objectives:

- Promote macroeconomic policies that support sustainable development
- Implement transparent, predictable and credible government economic policies
- Promote sound public financial management
- Fight corruption and money laundering
- Accelerate regional integration.

22. These five objectives are examined in relation to Ghana's compliance with relevant international codes of best practice and treaties to which Ghana is a signatory. The premise here is that compliance with these best practices, standards and codes will greatly improve the domestic policy framework. The Report puts these standards and codes into five broad headings: fiscal standards and codes, monetary and financial standards and codes, good practices in auditing and accounting, good corporate governance and finally Ghana's cooperation in the international community.

23. The chapter examines the interactions between political forces and economic governance and management and how this informs sound public policy decision making in the formulation and implementation of the choices made. It concludes in this regard that the latent risks to sound economic governance and management

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stem from weak institutional structures, social pressures, fragile commitments, and weak coordination among different decision-making units, and weak policy-making capabilities. These are deemed as the challenges that continue to confront efforts towards meaningful reforms. It chapter concludes with a look at gender and economic governance and management noting that whilst steps have been put in place to promote gender dimensions of economic governance the institutional structures and policy options do not go far enough towards the achievement of gender equity.

Corporate Governance

24. Chapter three of the report constitutes the fifth part of the Report and presents the country self-assessment on Corporate Governance. This part also assesses the methodological pillar on which the chapter rests as its point of departure. The chapter then presents findings on the standards and codes to which Ghana must be a signatory. The main focus of the chapter which are the five broad corporate governance objectives outlined in the APRM self-assessment questionnaire are subjected to review.
25. Under the first objective “Promote an enabling environment and effective regulatory framework for economic activities” the study observes that the Companies Code, 1963 (Act 179) provides for governance of all companies incorporated in Ghana. With support from the International Finance Corporation, a “Manual on Corporate Governance and Codes of Conduct for Boards of Directors and Chief Executives” exists in Ghana. The Institute of Directors, the Securities and Exchange Commission and Professional bodies such as the Institute of Chartered Accountants (Ghana) also promote codes on corporate governance.
26. The Government, through Parliament, has also enacted a number of laws that directly affect the behaviour of enterprises and the structure of industry, by promoting economic efficiency and consumer welfare. The Office of Civil Service has developed and published “Codes of Ethics” that govern the behaviour of civil and public servants. There are however problems that beset the business environment. These include land acquisition, infrastructure, lack of access to

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credit facilities, capital, and high interest rates and weak technical and institutional capacity of small and medium scale enterprises. Cumbersome legal and administrative procedures for establishment of new businesses also prevail.

27. The chapter sums its findings to the effect that corporate governance framework should promote transparent and efficient markets, be consistent with the rule of law and clearly articulate the division of responsibilities among different supervisory, regulatory and enforcement authorities. The framework should, therefore, be developed with a view to its impact on overall economic performance, market integrity and the incentives it creates for market participants and the promotion of transparent and efficient markets. The legal and regulatory requirements that affect corporate governance practices in a jurisdiction should be consistent with the rule of law, transparent and enforceable. The division of responsibilities among different authorities in a jurisdiction should be clearly articulated and ensure that the public interest is served. Supervisory, regulatory and enforcement authorities should have the authority, integrity and resources to fulfil their duties in a professional and objective manner. Moreover, their rulings should be timely, transparent and fully explained.

Socio-Economic Development

28. Chapter four of the Report gives an analysis of the country self-assessment on Socio-Economic Development. This section also presents the methodology that was used in preparing the study. The chapter then presents findings on the standards and codes outlined in the APRM questionnaire. The main focus of the chapter which are the six broad objectives outlined in the APRM self-assessment questionnaire are subjected to review. The analysis reveals that the GPRS provides a framework for development policies, strategies and projects. This provides satisfactory evidence of promotion of self-reliance in development and capacity building for self-sustaining development. The collection and provision of data requires attention and the low levels of savings and investments are also challenges for socio-economic development. The main conclusion is that Ghana has made considerable progress on the socio-economic front in the last two decades. This progress is however judged to be slower than desirable. Added to this, inequalities still persist in socio-economic distribution of the national cake.

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There are however signs that government is committed to accelerating the process of growth, prosperity and equity in socio-economic development.

Change and transformation in Ghana

29. The last part is the concluding chapter which pulls all the strands together. Its main substance is that Ghana is on track in the pursuit of the four thematic areas spelt out in the APRM questionnaire. There are however many legal, structural, institutional and policy choices that need to be made to sustain the change and transform the country to meet the development aspirations of Ghanaians.
30. The study reveals that Ghana is in the throes of change and transformation. The country is indeed undergoing such a rapid rate of change that it should not come as a surprise if some of the data and findings presented in the Report turn out to be outmoded in the not too distant future. It is encouraging however that these changes are for the better and the progress of the country. This development is in the true spirit of the APRM which seeks to promote good governance and place countries on the path of sustainable growth and development. If the Ghana experience as recounted in this report can continue to give impetus and enhance the quality of governance and improve the welfare of all citizens then clearly the implementation of the APRM in Ghana would not have been an exercise in futility but rather worthy of emulation.

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CHAPTER ONE

DEMOCRACY AND GOOD POLITICAL GOVERNANCE

1.1 Introduction

31. Although goals of democracy and good political governance, broadly conceived, were intrinsic to the dream of Ghanaian independence and have been pursued in differing degrees by successive post-colonial administrations, the most sustained effort to achieve them has occurred under the constitutional rule of the Fourth Republic that began in 1993. Since then a more deliberate and systematic approach to democracy and good political governance has been pursued. The provisions of the liberal 1992 Constitution (prescribing limited government, formal separation of powers, formal checks and balances) have been generally complied with.
32. The Constitution has also fostered the sustained enjoyment of basic freedoms and human rights. The key institutions of good political governance created under the Constitution, such as the Parliament and the Judiciary as well as the Electoral Commission, the Commission on Human Rights and Administrative Justice, the National Commission for Civic Education and the National Media Commission have gained increasing independence and credibility. The liberal political environment has also encouraged the emergence of a vibrant media and active civil society performing valuable watchdog functions and keeping the government on its toes.
33. Notwithstanding outstanding shortcomings, the return to democratic constitutional rule in 1993 has paved the way for improvements in good political governance. Specifically, it has fostered perceptible and tangible improvements in key areas of governance, notably the rule of law, governmental transparency, public accountability, and inclusive civic participation. These gains have in turn advanced political stability, reflected in the longevity of the Fourth Republic to date, including four successful multi-party elections, with the third election producing the historic alternation of political power in 2000.
34. Another significant development has been the growing interest in subjecting the institutions and processes of democracy and good governance to systematic review. In addition to informal reviews by the media and governance experts, an Annual Governance Forum where stakeholders discuss selected issues and problems of democracy and good political governance has been held every year since 1998 (initially under the auspices of the National Institutional Renewal Program and Parliament, more recently, the National Governance Program). The Sessional Addresses to Parliament by presidents under the Fourth Republic have also contained broad assessments of the state of democracy and good political governance. The People's Assembly which was instituted in 2001 as an annual

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- interaction between the President and people provides an opportunity for Ghanaians of all walks of life to pose any question to the President. This has facilitated an open door policy and brought government to closer to the people. It is also fostering an accountable, open, transparent and participatory democratic governance.
35. Against this backdrop, Ghana's accession to the African Peer Review Mechanism (APRM) formalizes a process that has been ongoing and can play a catalytic role to deepen democracy and good political governance. It confirms a commitment on the part of the current administration to critically review the institutions and processes of good governance, identify shortcomings and problems, and most importantly, to work towards benchmarks for improvement and consolidation.
 36. The APRM, under the New Partnership for Africa's Development (NEPAD), aims at encouraging and assisting African governments to adopt the policies, practices and standards that have proven most likely to yield political stability, rapid economic growth, sustainable development and accelerated sub-regional and continental integration.
 37. APRM seeks to achieve this aim not simply by highlighting deficiencies in a country's social, economic or political systems, but through a process of sharing and comparing experiences, with a view to identifying and replicating the best practices. It also assesses a country's need, if any, for remedial action, including building capacity.
 38. During Ghana's Country Self-Assessment phase of the APR process, the National African Peer Review Mechanism Governing Council (NAPRM-GC) commissioned the Ghana Centre for Democratic Development (CDD-Ghana) a civil society advocacy organization as the lead Technical Review Team to assess the condition of the country's "Democracy and Good Political Governance".
 39. The assessment measured the extent to which Ghana's political system conformed to a raft of international standards accepted by Ghana, and to outline a Program of Action, including recommendations for the improvement of the country's democratic and political institutions.
 40. The report consists of an Executive Summary, statement of methodology, and a study of Ghana's adherence to the relevant international, regional and sub-regional standards and codes and gaps or shortfalls in implementing them. It provides an assessment of ten objectives set by the African Union and includes a gender analysis and a draft program of action for the way forward.

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41. The nine Objectives, targeted for assessment were:
- a. Mechanisms for the prevention and resolution of inter- and intra-State conflict
 - b. Constitutional democracy and the arrangements for periodic political competition
 - c. Promotion and protection of civil, political, economic and social rights
 - d. Separation of powers between branches of the constitutional government
 - e. Effectiveness and accountability of Public Services
 - f. Corruption in the public sphere
 - g. Promotion and protection of women's rights
 - h. Promotion and protection of children's rights
 - i. Promotion and protection of the rights of vulnerable groups

1.2 Methodology

42. The assessment synthesizes desk research and analysis with field surveys, culminating in a comprehensive evaluation report. A three-pronged approach was employed to achieve the stated objectives of the research. The first prong was desk research, which involved reviewing all the relevant documentary material on each of the nine Objectives. The second, which was part of the field research, was a panel study of a select group of 250 "expert" respondents. These widely respected individuals were chosen for their in-depth or ex officio knowledge of the particular subject matter, and for the fact that their views could influence public opinion. To ensure representation, the expert survey sample group included respondents from a broad range of interests, backgrounds and identity groups and from all the ten administrative regions of Ghana
43. Finally, the expert panel study was complemented by a mass household opinion survey of 1,200 randomly selected respondents representing a cross-section of the Ghanaian population. The multi-stage area probability sampling technique was used to select a representative sample from the voting population, giving each Ghanaian of voting age an equal chance of being included in the sample. The sample provided a representative view of ordinary Ghanaians' opinions on the subject at a 95 percent confidence level, with a margin of error of ± 5 percent. Here too, the sample group was selected purposely to include respondents resident in all the ten regions of Ghana.
44. An important element of the assessment was the wide consultation and engagement with a cross-section of State and non-State actors, civil society groups and the public. Each of these constituencies has participated actively in the Country Self-Assessment process, including the planning of the assessment and the generation and validation of its findings. A series of consultations in multiple

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configurations provided additional critical input to the development of the diagnostic process. These included separate consultations with recognized experts in the subject matter, with the Technical Review Teams preparing the other three components of Ghana's Country Self-Assessment Report and with members of the National APR Governing Council (NAPR-GC).

45. The final level of consultation was with broader groups of stakeholders in civil society. The Technical Review Teams were invited at various stages to participate in engagements organized by the Ministry of Regional Cooperation and NEPAD and also by the NAPRM-GC Secretariat. Notable among these was the National Stakeholders' Workshop at Akosombo and the meeting with representatives of the political parties. The NAPRM-GC Secretariat also toured all the ten administrative regions of the country to consult a wide range of civil society groups, specifically targeted groups such as the security agencies, trade unions, youth and children, the physically challenged among others, engaged all the Chairmen and Ranking Members of Select Committees of Parliament as well as staff in the Ministries, Departments and Agencies of Government in a national consultation process.
46. The purpose of these meetings was to provide civil society stakeholders with information about the stages of the APR review process, to solicit public input to strengthen the process and to outline the responsibilities of the stakeholders over the period of the review. These interactions contributed to the objective of making the review process broad-based and highly consultative. Recurring meetings between the four Technical Review Teams allowed these groups to standardize their approaches where appropriate and to ensure greater similarity in presentation.
47. CDD also established and frequently sought expert advice and guidance from a 15-member Internal Peer Review and Advisory group comprising statesmen and stateswomen and specialists in the subject area of "Democracy and Political Governance". This group played a crucial role in designing the final instruments for the survey.
48. This report was also subjected to a three day national validation workshop organized by the NAPRM-GC. This was attended by all relevant stakeholders to debate and validate the findings. The changes that were suggested have been incorporated into the report.

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Objective 1: Mechanisms for the prevention and resolution of inter- and intra-State conflict

1.4.1 INTRODUCTION

49. Ghana has not been a belligerent party to any significant inter-State conflict at any time since 1957 and the instantaneous risk of inter-State conflict is low. However, intra-State conflict, mostly of relatively low intensity, has been a common phenomenon. The 1980 Konkomba-Nanumba clash remains the most intense internal violent conflict.
50. There have been numerous other inter- and intra-communal conflicts and there are currently several that can be classed as active. Some of Ghana's internal conflicts take their roots from generations-old rivalries, or from disputes that have been left to fester for decades, and are prone, therefore, to be re-ignited by seemingly trivial stimuli.

1.4.2 Causes and public perceptions of internal conflict

51. The subjects of most internal conflicts since 1957 have been land, religious strife, traditional leadership (or "chieftaincy"), and competition for State power, either amongst political groups, between un-elected (usually military) regimes and the civilian population, or within the Ghana Armed Forces. In the meantime, the rapid encroachment of modernity on traditional lifestyles and unforeseen ramifications of the unquestioning assimilation of foreign cultural influences have provided the perfect kindling for new kinds of conflict.
52. Recent studies conducted by CDD have indicated consistently that Ghanaians list the most common causes of conflict accurately as disputes over land, chieftaincy, succession, inheritance, and politics. Well over three-quarters of all respondents in the APRM mass survey confirmed this perception, ranking the triggers for conflict in the same descending order of importance.

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53. Although the native population of Ghana is multi-ethnic, ethnicity itself has been a relatively infrequent direct cause of conflict. Historically, social tensions have been far likelier to erupt into conflict within ethnic groups than between them. Nevertheless, more than half of the respondents in the mass survey expressed the view that conflict between social groups in Ghana was most likely to arise between groups of different ethnicity.

Land

Land is undoubtedly now the commonest object of conflict in Ghana. The reasons for this are:

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1. The natural pressures of demand for land arising from an annual population growth rate of 2.6 percent.
1. The existence of many mutually irreconcilable (and often undocumented) traditional and modern systems of land ownership and inheritance, every one of which enjoys a measure of legal recognition.
2. A history of weak development planning and poor land administration in Ghana. This has produced a skewed geographical distribution of economic opportunity across the country, spawned a permanent unidirectional tidal wave of internal migration and created a practically insatiable demand for land in and around the major cities.
3. Inaccurate and incomplete data in a Land Title Registry that, in any event, covers only the major urban areas of Ghana.
4. Long-outstanding arrears of compensation payments to original landholders for land acquired compulsorily by the Government of Ghana. This public indebtedness has created a pretext for the unilateral repossession of public land by traditional “landowners”, and established in turn a precedent for land seizure and forcible occupation as the most effective means of securing effective title.
5. Act 2 of 1960, which confers additional rights on the owner of any property development that has progressed as far as the roofing stage. This so-called “intel level law” has become an incentive to land piracy.
6. Significant deficiencies in the transparency of procedures for land title registration and for the disposal of publicly owned land.
7. A growing backlog of unresolved land litigation and a widespread perception of corruption in the justice system. This has substantially eroded public confidence in litigation as a means of resolving land disputes impartially.
54. Most land in Ghana is “owned” by the State (“public land”), by traditional authorities (“stool land”) or by extended families. A hierarchy of national and regional Lands Commissions are constitutionally responsible for assisting with the execution of “a programme for the registration of land title throughout Ghana”. Evidently, this task is far from being fully accomplished.
55. Inter-communal conflicts over land stem typically from disagreements as to the precise boundaries between stool land holdings, which are frequently defined in oral tradition only. The Constitution prohibits absolutely the alienation of stool land, but grants an Administrator of Stool Lands, the Lands Commission and the traditional authorities themselves the shared power to decide on the productive use of stool land. Land litigation involving individuals or companies tends to arise from disputed claims over family land in urban areas that has been disposed of irregularly, or over the tenure of previously public land that has been released by the government for private development.

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Chieftaincy

56. There has been, since Ghana's independence, a very broad national consensus on the value of preserving the centuries-old institution and traditions of chieftaincy, in parallel with a modern system of democratically elected national government. Under the 1992 Constitution, all matters that relate to chieftaincy are the exclusive preserve of a pyramid of chiefly institutions consisting of a National House of Chiefs, Regional Houses of Chiefs and the Traditional Councils that govern each paramountcy. The Constitution gives the National House of Chiefs both original and appellate jurisdiction in all chieftaincy cases. However, final appeals against rulings of the National House of Chiefs can be referred directly to the Supreme Court of Ghana.
57. The National House of Chiefs is mandated constitutionally to "study, interpret and codify" all customary laws "with a view to evolving a unified set of rules" for custom and succession. Progress in this direction has been slow.
58. Chieftaincy, as practised in most parts of Ghana, differs from monarchy in that the principle of heredity is applied flexibly. Although the "stool" or "skin" (the chief's symbol of office) is the fulcrum of a system of essentially un-elected government, the position of chief is, nevertheless, ordinarily contested.
59. The complexity and variety of customary laws across Ghana, compounded by the continuing paucity of documentation, has left the door wide open to disputes over all aspects of chieftaincy, including rules of succession, customary protocol and lines of allegiance between stools. Many of these disputes have led and continue to lead to conflict
60. One of the most intractable chieftaincy disputes is the fifty-year-old quarrel between the two royal clans (or "gates") of the Dagbon kingdom in the Northern Region, the Abudus and Andanis. The dispute centres on the gates' rights of alternating succession to the Dagomba skin.
61. In March 2002, during a three-day exchange of gunfire, the Ya Na (the Dagomba King), Yakubu Andani II, was assassinated, together with about thirty members of his court, and the royal palace in Yendi, the traditional Dagomba capital, was razed to the ground. The outbreak of armed hostilities represented a spectacular failure of early warning systems, especially as the media had aired reports of increasing tension in the area. The government declared a State of Emergency in the entire Dagbon traditional area, and deployed a military-police contingent in Yendi to maintain order and to enforce a local dusk-to-dawn curfew.
62. A "Committee of Eminent Chiefs", made up of the traditional leaders of the Ashanti, Gonja and Mamprusi peoples, was set up to mediate a settlement between the gates. Later, a Presidential Commission of Inquiry was established to investigate the causes of the conflict, assign responsibility for the incident and recommend remedial action. The Commission's findings, however, contributed little to resolving the dispute. Although its report identified a suspect in the

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regicide, the criminal charges the Commission recommended were eventually dismissed for lack of evidence. The State of Emergency remained in effect for two years. Even while peace negotiations continue, recent reports speak of clandestine rearmament on both sides.

1.2.3. Political Competition

63. Since the reintroduction of multi-party political competition in 1993, rivalry between supporters of the two leading political parties, the governing New Patriotic Party (NPP) and the National Democratic Congress (NDC), which was in the majority between 1993 and 2000, has resulted in many, albeit isolated, instances of violence. Inter-party violence, often involving the use of firearms, has tended to peak during the periods leading up to general elections, as was observed in 1996, 2000 and 2004. The worst single episode occurred in Bawku, in the Upper East Region, in December 2000, when about 30 people were reported killed in an outbreak of arson attacks following the declaration of a local parliamentary election result.

1.2.4 Other Communal Conflicts

64. There are a number of other ongoing land or chieftaincy-related conflicts. The major ones include the Nkonya-Alavanyo, Peki-Tsito and Konkomba-Bator land disputes. While the majority of inter-communal disputes concern land and chieftaincy, decentralization has emerged as another hair trigger for this type of conflict.

65. In accordance with the law, the number of districts in Ghana was expanded from 110 to 138 during 2004. The redrawing of the local government map sparked off heated disagreements across the country over matters as apparently inconsequential as the names and administrative capitals of newly created districts. Frequently, these disagreements have boiled over into violent confrontations between communities, or between the inhabitants of a local community and the State itself.

1.2.5. Potential or future causes of conflict

66. Three issues, one external and two domestic, pose future threats to peace in Ghana. The most immediate external threat to peace between Ghana and any other State is the possibility of contagion from instability or conflict in a neighbouring country. The conflict that has resulted in the de facto North-South partition of Côte d'Ivoire since September 2002 carries the ongoing risk of spilling over into Ghana. This could materialize if Ghana's weak enforcement of border controls were exploited by one of the parties to the Ivorian conflict, or simply as a secondary effect of refugee flows, small arms proliferation or the trans-shipment of supplies through Ghana by Ivorian belligerents. The danger is

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- well appreciated, though, and in addition to taking preventive security measures the Ghana government has played an active role in international efforts to broker peace agreements to end all of the sub-region's conflicts.
67. The issues of inheritance and succession pose an ongoing potential source of domestic conflict in Ghana. Women and children face double victimization in disputes over inheritance, often being effectively disinherited when they are widowed or orphaned, and suffering disproportionately in any resulting conflict. The enactment in 1985 of the Intestate Succession Law (PNDC Law 111) and the corresponding constitutional guarantee of a spouse's rights of inheritance (Article 22(1)) have contributed, at least formally, to reducing the potential for this kind of conflict.
 68. The picture would be incomplete without mentioning religion as a potential theatre (if not a source) of conflict. Relations among the orthodox Christian churches are very cordial; those among the Muslims have been rocked in the past by the rivalry between the Sunnis and Tijaniyyas. For several years now, the rivalry has been tamed by the formation of the Muslims Council that seeks to promote understanding and cordiality among the various factions within the faith. Another threat to inter-faith relations emerged about a decade ago when Pentecostal extremists began strident anti-Islam public preaching and the Muslims retaliated in kind. This development was contained and diffused quickly by meetings between the Muslims, Pentecostal Council and the Christian Council.
 69. The most current intra-religious conflicts relate to Evangelical Christianity that has been described as "Ghana's fastest-growing industry". Literally thousands of independent "churches", unaffiliated to any of the major world faiths, have pockmarked the landscape of Ghana during the course of the last two decades. One measure of the rate at which this has spread is the finding by CDD's Afrobarometer II survey in 2002 that fully 10 percent of all Ghanaians describe themselves as "founders or leaders" of a church.
 70. In recent years, there have been increasingly frequent reports of disputes within churches between factions led by rival "pastors". Many have degenerated into violence, typically involving the destruction of property and, in one recent case, a shooting. The issues at the heart of these "religious" conflicts are, in fact, rarely doctrinal. They are far more likely to arise from power struggles touched off by arguments over the ownership of economic assets, or by competition for commercial opportunities. The emergence of the Global Evangelical Church out of the Evangelical Presbyterian Church and the "near-violent" conflict within the Winners Chapel in 2004 exemplify this phenomenon and reflects the view that religion in Ghana has become at least as much a major marketplace within the informal economy as a belief system.
 71. This analysis is consistent with the overall view that the broadest, greatest and most persistent threat to internal cohesion in Ghana stems from the social pressures generated by the slow pace of the nation's economic development.

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CONFLICT PREVENTION AND RESOLUTION

72. As described above, specific institutions are tasked with administering the areas of national life that are most frequently at the centre of internal conflict. These institutions, such as the Lands Commission, the Administrator of Stool Lands, the National House of Chiefs, the Judiciary and the Electoral Commission, are, therefore, primarily responsible for preventing conflict.
73. However, the effectiveness of each of the named institutions, and others that should play a part in conflict prevention is substantially impaired by major capacity limitations, typically in the form of skill deficits and budgetary constraints. The burden, therefore, rests heavily on the institutions that deal with conflict once it has begun. In practice, this means the security services and, in particular, the Armed Forces and the Police.
74. The APRM survey revealed that amongst the agencies responsible for resolving (or containing) conflicts, Ghanaians had the greatest confidence in the effectiveness of the security services, and the least confidence in the justice system, the National House of Chiefs and non-governmental organizations.

Reduction of the scope for major national conflict

75. within Ghana's region of the world, the most commonly observed root cause of internal conflict on a national scale is the usurpation of State power by force of arms or the breakdown of an ordered system of political competition.
76. Despite evidence of the increasing consolidation of constitutional rule in Ghana, the threat of military intervention, or of armed insurgency by either political opponents of a sitting government or groups disaffected with the system itself, cannot easily be discounted. It is vital, therefore, to the preservation of internal peace and security that the Armed Forces of Ghana remain subject to civilian control, and that the proliferation of weapons is controlled.
77. These conditions are satisfied in Ghana, at least formally. The 1992 Constitution places the security services of Ghana fully under the control of the Executive through the institutional mechanism of Service Councils for the Ghana Armed Forces and the Ghana Police Service.
78. This architecture appears to be effective, judging by the longevity of the 4th Republic, which has now endured for a longer period than all three previous attempts at constitutional rule in Ghana combined.

Early-warning conflict prevention systems

79. The Constitution of Ghana provides for the creation of a National Security Council (NSC), whose functions, defined in Article 84, include monitoring and

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countering threats to internal security. The NSC's role is elaborated in the Security and Intelligence Agencies Act of 1996 (Act 526).

80. The legislation creates beneath the NSC a network of Regional and District Security Councils (REGSECs and DISSECs) that serves as the primary mechanism for alerting the government and the national security agencies to the danger of conflict. The statutory membership of REGSECs includes representatives of the central and local government, the security and domestic intelligence services, and the Customs, Prisons, Immigration and Fire Services.
81. The REGSECs, and their lower-level district counterparts, have an explicitly preventive focus to their mission, which is "to provide early warning to Government of the existence or likelihood of any security threat to the district, region, and to the country or to the Government".
82. The institutional framework of this decentralized early warning system is impressive and no problems have been observed with vertical co-ordination. In practice, though, the system has proven to feature other flaws that have limited its effectiveness in preventing the escalation of crises. The most notable demonstration of its shortcomings was in the sequence of events leading up to the 2002 Dagbon conflict. The deficiencies made evident on that and other occasions included a weak intelligence analysis capability and poor inter-agency collaboration, both of which so far have rendered Ghana's early warning system more reactive than proactive.

Small arms counter-proliferation initiatives

83. The amended Gun Control Law of 1962 (Act 480) regulates the acquisition and use of firearms. The trading and licensing of small arms is regulated by a National Firearms Licensing Authority, which maintains a register of weapons ownership. The Ghana National Commission on Small Arms and Light Weapons [SALW], has been created to oversee the implementation of all measures to control the proliferation of firearms. The anecdotal evidence, including reports of the extent of gun-related violence in Ghana, does not suggest, however, that the rate of proliferation of either mass-produced or improvised firearms has declined significantly in recent years.

Alternative Dispute Resolution (ADR)

84. The government of Ghana is promoting the use of Alternative Dispute Resolution (ADR) mechanisms, such as arbitration, mediation and conciliation, as a substitute for litigation. Proponents of ADR see it as a cost-effective means of expediting the settlement of disputes that would otherwise add to the problem of congestion in Ghana's legal system.
85. A pilot project was launched in March 2003, under which the ADR option, relying on volunteer mediators, is available through selected courts in two of the

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ten administrative regions of Ghana. Public awareness of the ADR option remains very low, and no public funds have been budgeted even for the operation of the pilot project, which is exclusively reliant on foreign donor assistance. It is highly unlikely therefore, that ADR will make an immediate impact on the overall pattern or rate of dispute resolution.

Relations with neighbours and within the sub-region and Africa

86. Ghana's relations with its neighbouring States in the post-Independence era have been generally brotherly. Relations with the Republic of Togo, however, were severely strained during the early 1960s and from 1982 until 2000.
87. The German-ruled homeland of Togo's largest ethnic group, the Ewes, was partitioned between France and Britain in 1918. The division of the Ewe people was consolidated later by the establishment of the independent States of Ghana and Togo. The perception that Ewes as a group have been socially marginalized in Ghana and their sense of political disenfranchisement within Togo have fuelled the ambition of some Ewe nationalists on both sides of the border to see their ethnic group reunited in a separate independent State.
88. This legacy of pre-Independence history has been the backdrop to the recurring tensions between Ghana and Togo. Each country has accused the other at various stages of meddling in its internal affairs and of harbouring or sponsoring "dissidents" seeking to overthrow its government.
89. However, since the arrival in office of the current Ghanaian government in 2001, relations with Togo have improved markedly. "Good neighbourliness" towards Burkina Faso, Côte d'Ivoire and Togo is now Ghana's official sub-regional foreign policy. The new policy was signalled clearly by President Kufuor's invitation to Togo as the conspicuous guest of honour at the thirty-fourth anniversary of President Eyadema's ascent to power. The 13th January 2001 visit came just six days after President Kufuor's own inauguration, and was his first foreign trip as President. Subsequent celebrations of Togo's "National Day" have been marked in Lomé by highly symbolic joint parades of the Togolese and Ghanaian Armed Forces.
90. A number of cross-border issues continue to pose a challenge to the good neighbourliness policy, however. Ghana is not involved in any significant territorial disputes with its neighbours. Nevertheless, the incomplete or imprecise demarcation of the land borders on all three sides, coupled with a weak Immigration Service and lax border controls, is at the heart of many defects in the workings of Ghana's public administration.
91. Until now, the impact of the border demarcation issue has been limited mostly to the creation or exacerbation of economic problems, such as the smuggling of cocoa or petroleum products. However, Ghana's famously porous borders,

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especially the eastern border with Togo, represent a continuing risk factor for the country's relations with its neighbours.

INVOLVEMENT IN REGIONAL CONFLICT RESOLUTION

92. Ghana was a leading proponent of the formation of the Organization of African Unity (OAU), its successor, the African Union (AU), and the Economic Community of West African States (ECOWAS). Ghana has played an active part in the development of conflict prevention and resolution mechanisms for the sub-region and for the continent, and currently occupies the chair of the AU Peace and Security Council.
93. Ghana's own history of relative internal stability has left regional organizations limited call for involvement in conflict resolution within its borders. However, in the wake of the 2002 Dagbon incident, a UN mission visited Ghana to assess the need for external assistance. The mission recommended the recruitment within the UN Development Programme (UNDP) Accra office of an Advisor on Conflicts.
94. Ghana's commitment to a regional approach to conflict management, and to collective security in general, has been demonstrated repeatedly over the years by the country's readiness to commit forces to peacekeeping operations within the West African sub-region, in the wider African theatre and beyond. In this regard, Ghana has contributed to the ECOWAS Military Observation Group (ECOMOG) mission to Liberia, the UN Mission in Sierra Leone (UNAMSIL) and the current buffer force in Côte d'Ivoire. Ghana has also established since 2002 the Kofi Annan International Peacekeeping Training Centre that caters for conflict resolution issues in the region.
95. As mentioned above, governments of Ghana have historically been active in efforts to resolve international conflicts, especially in Africa. These efforts go as far back as to the late 1960's, when terms for the settlement of the Nigerian civil war were reached at meetings hosted by Ghana. This commitment to regional conflict resolution continues in the present, with Accra having been the venue in 2004 for talks aimed at ending the partition of Côte d'Ivoire.

Objective 2: The Constitution, the rule of law, democratic rights and political competition

INTRODUCTION

96. The coming into force of the 1992 Constitution followed an eleven-year hiatus from constitutional government that began on 31st December 1981 with the abrogation of the 1979 3rd Republican Constitution. In the interval, the Provisional National Defence Council (PNDC), formed by the leaders of the coup

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d'état that overthrew the elected government of President Hilla Limann, ruled Ghana by decree.

97. Public and international demands during the late 1980s for a return to constitutional rule and multi-party politics in Ghana provoked the formation in 1991 of a Constituent Assembly, which drafted a new Constitution that was approved by over 90 percent of the voters in an April 1992 referendum.

Political competition under the 1992 Constitution

98. The 1992 Constitution, which ushered Ghana into its Fourth Republic since the country became fully sovereign on 1st July 1960, was promulgated on 7th January 1993 with uncertainties. The three previous Republics of Ghana (1960-1966, 1969-1972 and 1979-1981) had each been terminated unceremoniously by military interventions.
99. The first presidential and parliamentary elections of the Republic were held on separate dates in December 1992 over the objections of a majority of the political parties. Jerry John Rawlings, the PNDC's Chairman and de facto Head of State for the previous eleven years, and the presidential candidate of a new National Democratic Congress (NDC) party was declared the winner. The other candidates, led by the dominant New Patriotic Party's Prof. Albert Adu-Boahen, disputed both the accuracy of the result and the fairness of the process leading up to the presidential election. The New Patriotic Party (NPP), therefore, led an opposition boycott of the subsequent parliamentary elections in which the NDC won 96 percent of the 200 seats; Independents claimed the remaining seats. Thus, one party dominated the First Parliament of the Fourth Republic.
100. The second elections of the Republic (December 1996) were, however, contested by the NPP in alliance with a number of other opposition parties. The party won approximately one-third of the parliamentary seats, but its new candidate, John Kufuor, lost the presidential election by a landslide to the incumbent President Rawlings. The opposition parties accepted the result this time, but not without expressing strong reservations.
101. In December 2000, when Rawlings was constitutionally barred from seeking another term beyond the two he had served, the third election under the 1992 Constitution resulted not just in an inevitable change of President, but also in an alternation of governing parties.
102. The NPP's retained candidate Kufuor took over the presidency, defeating the incumbent Vice-President, John Atta-Mills, in a run-off election, after receiving the endorsement of all four of the other presidential candidates. President Kufuor's party also secured a plurality (49 percent) of the seats in

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Parliament, which it subsequently converted into a slim working majority through alliances with Independents and members of other parties, and an unbroken series of bye-election victories. The unprecedented alternation of power in 2001 had the effect of inspiring a surge of confidence in the political institutions of the 4th Republic, and greatly improved its prospects of survival.

103. At the time of this assessment, the fourth quadrennial round of presidential and parliamentary elections under the 1992 Constitution had just ended with broad acceptance of the outcome. President Kufuor had won a second term in office with a majority (52 percent) of the popular vote, but the New Patriotic Party, in continued alliance with smaller parties and one Independent member, had increased to 59 percent its share of the 230 seats in an expanded Parliament. Thus, for the first time in two-and-a-half decades, Ghana could look forward with a measure of confidence to an extended period of political stability under a government whose mandate was uncontested, and with the benefit of an uninhibited opposition.
104. Although major systemic deficiencies can still be detected in Ghana's political processes, the elections of 2000 and 2004 have undoubtedly contributed to the consolidation of the culture of democratic constitutional government. The main deficiency seems to be the lack of a "level playing field" for elections and the abuse of incumbency by ruling parties even though this is improving for the better. Opposition parties and civil society organizations have decried the abuse of incumbency in all four elections of the Fourth Republic; public or state funding of political parties has subsequently been suggested to address the problem of disadvantaged minority parties and the unequal political competition. Another deficiency relates to the capacity of the Electoral Commission to conduct flawless elections. Apparently, the lack of resources (human, technological, financial) impedes the effectiveness and efficiency of the Commission to carry out its responsibilities, particularly the registration of voters that are often fraught with disorganization and controversies.
105. In law and in fact, genuine freedom of choice is seen to exist now at both the national and local levels of the political system. The 1992 Constitution contains provisions that guarantee citizens a broad range of political rights, and has established the institutions necessary to uphold these rights and to ensure that the rule of law and fair competition reign in the political arena. However, critical capacity constraints on all these institutions, including the Electoral Commission, the courts, regulators and watchdog agencies, as well as the political contestants and office-holders themselves, continue to severely limit their effectiveness.

Constitutional and statutory political rights

106. Article 3 of the Constitution bars Parliament from enacting any law to establish a one-party State, and prohibits any act whose effect would be to restrict

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the freedom of citizens to exercise their political rights. Thus, in theory, competitors for political office are guaranteed the right to compete on an equal footing.

107. Article 55 sets out the principles that govern the electoral process and the rights of individuals and groups to participate in that process as voters or office-seekers. Some of these statements of rights are a reiteration of constitutional guarantees previously given in Article 21(3) as fundamental human rights. They include the right to form or join political parties and to participate in political activity. This article also guarantees all political candidates equal access to the State-owned media.

108. In practice, incumbency has proved too often to confer a decisive advantage in political competition. In particular, the performance of State-owned media organs in offering political contestants a level playing field has frequently been faulted.

Political association

109. Article 42 of the 1992 Constitution grants to every Ghanaian citizen aged 18 years or over the right to vote in elections and referendums, subject only to the requirement that he or she must be “of sound mind”. The right to vote may equally be exercised by proxy. The Constitution provides and reinforces its guarantee of free political association in a number of clauses. Article 55 lays down broad guidelines for the conduct of organized activity “to shape the political will of the people”.

110. Article 55(1) of the Constitution guarantees the right of citizens to form political parties. It grants political parties the right to sponsor candidates for election to public office at all levels of the political system except local government, which, as described elsewhere in this report, is founded on the principle of non-partisanship.

111. Conversely, Article 55(16) prohibits the compulsion of any citizen to join a particular political party by virtue of his or her membership of another organization or interest group. The Constitution expressly prohibits any attempt by Parliament to establish a one-party State (Article 3(1)) or “to impose on the people of Ghana a common set of [political] objectives” (Article 56).

The main laws that regulate the affairs of political parties are the:

1992 Constitution of the Republic of Ghana the Political Parties Act of 2000 (Act 574).

112. Article 55 of the Constitution spells out the principles which all parties must adhere to. These include requirements to: register officially with the Electoral Commission; maintain a national character; ensure internal democracy, declare the sources of funding; and to publish annual audited accounts. While the

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parties have respected the first two principles, they have had difficulties respecting the others. For instance, the selection of candidates for party primaries and decision-making generally expose some deficits in internal democratic structures. Few of the parties also submit audited accounts to the EC and are not published.

113. In theory, Ghanaians enjoy unlimited political choice, since there is no constitutional or statutory limit to the number of political parties that may be registered. There are currently eight registered political parties in Ghana, namely, Convention People's Party (CPP), Democratic People's Party (DPP), Every Accountable Ghanaian Living Everywhere (EAGLE), Great Consolidated People's Party (GCPP), National Democratic Congress (NDC), People's National Convention (PNC), National Reform Party (NRP), and New Patriotic Party (NPP). People's National Convention. As at January 2005, only four of the parties had seats in the 230-seat Parliament – CPP (3), NDC (94), NPP (128) and PNC (4) – alongside one Independent. The two leading political parties, therefore, account for 96.5 percent of the total parliamentary representation.

Eligibility for electoral politics

114. Any citizen of Ghana over the age of 21 years, who is of sound mind, is a registered voter, is not bankrupt or in default of taxes, and has not been convicted of a serious criminal offence, is eligible to seek membership of Parliament. A parliamentary candidate must also be a native or long-term resident of the constituency he or she seeks to represent.
115. Chiefs (as defined in Article 277 of the Constitution), and members of the Ghana Armed Forces and any of the Public Services (as defined in Article 190) except the Ghana Education Service and the Ghana Health Service, are ineligible for membership of Parliament.
116. Anyone who “owes allegiance to a country other than Ghana” is similarly excluded from membership of Parliament. This restriction does not reflect the 1996 constitutional amendment (Act 527) that legalized dual citizenship, but its constitutionality is yet to be challenged.
117. The requirements for presidential candidates are a superset of those for parliamentary candidates. The President must be a citizen of Ghana by birth, at least 40 years old, and must never have been convicted of a capital offence, espionage against Ghana, an offence of “moral turpitude”, an electoral offence, or any crime for which the punishment is imprisonment for ten years or longer. The exclusion in respect of criminal convictions applies to a presidential candidate even if the candidate has subsequently received a presidential pardon. This is not the case for parliamentary candidates, who additionally benefit from a ten-year statute of limitations.

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118. It is argued sometimes that the regulations set out in the Constitution and in current legislation for the formation and operation of political parties and, especially the cost of seeking public office, tend to put the option of active participation in the political process beyond the reach of most Ghanaians.
119. For example, under Article 63(1)(b) of the Constitution, each presidential candidate must obtain the endorsement of at least two individuals who are registered to vote in each of the 138 districts. Presidential candidates in the December 2004 election had also to pay a non-refundable fee of 20 million cedis (equivalent at the time to about 2,250 US dollars or six times the average annual income).

THE ELECTORAL SYSTEM

120. Ghana operates an open, competitive presidential and parliamentary electoral system, with candidates optionally representing political parties, married with a non-partisan local government electoral system. The President and Members of Parliament (MPs) serve concurrent four-year terms of office. The President is limited constitutionally to two terms, but MPs are subject to no term limits. MPs who are elected as representatives of political parties are constitutionally obliged to vacate their seats if they wish to change or recant their party allegiance (or “cross the carpet”).
121. In any election or referendum, the ballots must, according to Article 49(1) of the Constitution, be cast in secret. No minimum turnout is required to validate a presidential, parliamentary or local government election. In order to be declared the winner of a parliamentary or local election, a candidate has only to obtain a simple majority of the votes cast. A proposition other than a constitutional amendment that is the subject of a referendum is not considered approved unless it receives the support of at least 70 percent of all the electors, subject to a minimum turnout of 35 percent of all registered voters (See Amendment of the Constitution below).
122. A presidential candidate, however, must receive an absolute majority (i.e. more than half) of all the votes cast. If no candidate fails to secure the winning margin, a run-off election must be held within 21 days between the candidates obtaining the two highest numbers of votes in the first round.
123. Elections to the organs of local government – Metropolitan, Municipal and District Assemblies (MMDAs) – whose members equally serve four-year terms, are scheduled at a distance in time of at least six months from the nearest parliamentary election. (See Objective 2.3 below.) Separate elections are conducted for regional representatives on the Council of State, which is a constitutional advisory body whose other members are appointed by the President. A representative member of the Council of State is chosen by a regional Electoral College made up of two nominees of each MMDA in the region.

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The Electoral Commission

124. The Electoral Commission (EC) is defined in Articles 45 and 46 of the Constitution as an independent body “not subject to the direction or control of any person or authority” that is exclusively responsible for conducting all national and local elections, as well as referendums on proposed constitutional amendments. Its other functions include compiling the voters’ register, demarcating electoral boundaries and educating voters on the electoral process.

125. The EC’s mandate is interpreted by convention to extend to the supervision of ballots for executive positions within registered political parties and constituency primaries, for those parties whose rules require them.

126. The EC has seven members – a Chairman, two Deputies and four ordinary members – all of whom are appointed by the President in consultation with the Council of State. The sole criterion for the selection of the Commissioners, who enjoy full security of tenure until they reach the mandatory retirement age, is that they must be eligible for election as Members of Parliament.

127. The EC’s effectiveness is limited by three familiar constraints:

Deficit of skills in a wide range of technical and non-technical areas, particularly organization and data management;

Inadequate public funding and a consequent over-dependence on unreliable flows of foreign assistance; the public perception that government appointees always favour the incumbent.

128. Since the advent of the 4th Republic, these factors have played a pivotal role in the evolution not only of the electoral process, but also of the entire political system. The EC’s capacity limitations have tended to undermine the confidence of politicians and the public in its competence, its impartiality, or both.

129. For instance, owing primarily to its lack of expertise in the areas of data gathering and data processing, the EC has been obliged to scrap and replace the entire national voters’ register on three occasions since 1988.

130. Admittedly, in successive iterations of the electoral process, the EC’s influence on the political system has become gradually more constructive. However, its unenviable track record of unreliability and disorganization makes

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the EC still one of the weakest links in the chain of institutional support for Ghana's constitutional democracy.

Election-related legal judgements

Philip Kwaku Apaloo v Electoral Commission of Ghana (EC) (Writ No. 5/2000)

131. Apaloo believed that the EC's decision regarding the accreditation of voters in the December 2000 elections contravened Articles 42, 51 and 296 of the Constitution. He petitioned the Supreme Court for an order of perpetual injunction restraining the EC from enforcing its "No Photo ID Card, No Vote" directive.
132. The basis of Apaloo's petition was that the EC had declared its intention to restrict voting to holders of new ID cards bearing the voters' photographs. The directive ignored the fact that the EC had not yet issued thousands of otherwise eligible voters with photo ID replacements for their old "thumbprint" ID cards.
133. The EC conceded that it was unlikely that the card replacement exercise would be completed before Election Day. It contended, however, that the rules for voter accreditation included provision for the acceptance of "such other evidence as may be determined [acceptable] by the Presiding Officer". This amounted in practice to the unanimous confirmation of a voter's identity by the agents of all the competing candidates or parties. The Court ruled unanimously in favour of Apaloo on both substantive and technical grounds.

Constitutional supremacy and the rule of law

134. The preamble to the 1992 Constitution proclaims, "We the people of Ghana ... [solemnly declare and affirm] our commitment to ... the principle that all powers of government spring from the sovereign will of the people; [to] the principle of universal adult suffrage; [to] the rule of law; [and to] the protection ... of fundamental human rights and freedoms". The very first article (Article 1(1)) of the Constitution reiterates, "The sovereignty of Ghana resides in the people of Ghana, in whose name and for whose welfare the powers of government are to be exercised".
135. Article 35(1), in Chapter Six of the Constitution, entitled "The Directive Principles of State Policy", dictates that Ghana shall be "a democratic State dedicated to the realization of Freedom and Justice". It goes on to restate for good measure the core democratic principle that "sovereignty resides in the people of Ghana, from whom the government derives its powers and authority". Evidently, therefore, the Constitution professes loudly the democratic aspirations of the Ghanaian people.

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Enforcement of constitutional supremacy in practice

136. Article 1(2) of the 1992 Constitution affirms the supremacy of the Constitution, stating, “The Constitution shall be the supreme law of Ghana and any other law found to be inconsistent with any provision of this Constitution shall, to the extent of the inconsistency, be void”.
137. The Constitution grants the Supreme Court exclusive original jurisdiction in all matters involving the interpretation or enforcement of the Constitution, which must commence in the Supreme Court and also in matters in which it is claimed that Parliament or some other duly constituted body has acted beyond the permitted scope of its powers.
138. Seventy-eight percent of respondents in a survey of Ghanaians were of the view that the President ignored the Constitution “rarely or never,” but the supremacy of the Constitution has been tested on a number occasions since 1993. Two landmark judgements demonstrate the Supreme Court’s willingness to pronounce Executive acts unconstitutional.

NPP v Attorney General (“The 31st December Case”)

139. The petitioner, the New Patriotic Party (NPP), which was then the largest minority party in Parliament, challenged the constitutionality of the National Democratic Congress (NDC) government’s decision to celebrate the twelfth anniversary of the 31st December 1981 coup d’état as a publicly funded National Holiday. That coup was led by then Flight-Lieutenant Jerry John Rawlings, who, as the unelected Chairman of the Provisional National Defence Council (PNDC) from January 1982 to January 1993, had decreed the observance of a publicly funded National Holiday each year to celebrate his “31st December Revolution”.
140. Rawlings had subsequently undergone a self-succession and become the first elected President under the 1992 Constitution. At the time the Supreme Court heard this case, President Rawlings was in office and experiencing for the first time life as Head of State under a Constitution with a vibrant lawful opposition. The Public Holiday and celebration planned for 31st December that year would have been the first such National Holiday to be celebrated.
141. The principal constitutional issue at stake was whether under the 1992 Constitution, the Executive and the Legislature, acting together, had the power to declare and celebrate at public expense a public holiday in respect of any event whatsoever. For example, could the government lawfully declare and celebrate as a publicly funded National Holiday the birthday of the incumbent President?
142. The 1992 Constitution features no provision that defines the government’s powers in this regard. However, given the Constitution’s express commitment to

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Republicanism and its explicit “anti-coup” tenor, it was argued persuasively that a taxpayer-funded public holiday to commemorate a coup d’état (itself a quintessentially anti-constitutional act) would be unconstitutional, at least in spirit.

143. The Attorney General’s defence rested on his contention that the matter was a “political question” and, therefore, beyond the Court’s jurisdiction. A majority of the Justices ruled in favour of the NPP.

J.H. Mensah v Attorney General (“The Retained Ministers Case”)

144. At the start of his second four-year term of office in 1997, President Jerry Rawlings chose not to seek parliamentary approval for the Ministers of State that he intended to reappoint to his government. The President insisted on this stance in spite of the fact that his party, the National Democratic Congress, enjoyed a near two-thirds majority in Parliament, making the confirmation of all his appointments a practical certainty.

145. The then Minority Leader in Parliament, J.H. Mensah, sought from the Supreme Court a declaration that Article 78(1) of the Constitution required the President to resubmit to Parliament for approval the names of all Ministers-designate. The petition argued that the Constitution made no exception for ministerial appointees held over from a President’s first term.

146. The Supreme Court ruled that every Minister of State nominated to serve in the new government did require the prior approval of the current Parliament, regardless of whether that Minister had been vetted by a previous Parliament. The court ruled, however, that “prior approval” did not necessarily mean fresh vetting by the Appointments Committee of Parliament.

147. These demonstrations of the apparent supremacy of the Constitution must, however, be balanced against the example cited later in this report under Objective 4, below the heading *Tsatsu Tsikata v Attorney General*. In that instance, although the Supreme Court proved initially equal to the task of upholding the letter of the Constitution, its power to interpret the spirit of the Constitution ultimately came a clear second to the determined exercise of Executive might.

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Security services

148. Ghana's security services, including the police and military forces, are institutionally accountable to elected civilian leadership. Recent studies of civil-military relations in Ghana show marked improvement in the relations. New measures instituted by the authorities (training, education, enforcement of the Code of Service Discipline) have helped to enhance professionalism within the forces and reduce considerably the incidents of clashes between soldiers and civilians. Effective and efficient policing is hampered by the lack of logistics, poor working conditions and low morale of service personnel. Hence, public confidence in the police is low and police-community relations have been poor for sometime. Recent government provision of vehicles, communication gadgets and some housing appear to have revived morale, improved performance and enhanced police-community relations. Nonetheless, petty brutality still occurs at the hands of security officers, and many Ghanaians view the services as placing themselves above punishment in cases where their members violate the law. Reforms that would impose stricter procedural requirements on police arrests and detentions would help improve police conduct.

Amending the Constitution

149. The procedure required to amend the Constitution varies depending on the status of each constitutional provision, all of which are classified as an ordinary, entrenched or transitional provision. Amendment of an ordinary provision requires a public notice period of at least three months and ten days and the implied consent of the Council of State, followed by two separate two-thirds majority votes of all the Members of Parliament.
150. Before an entrenched provision can be amended, at least six months' public notice is required, after which advice must be sought from the Council of State. Thereafter, the amendment must be approved by at least 75 percent of all the voters taking part in a nation-wide referendum in which a 40 percent or higher turnout of all registered voters is recorded. Parliament is then directed to act in accordance with the result of the referendum, and the President is obliged to give his assent to the amendment if that is the expressed will of the electorate.
151. By contrast, the Transitional Provisions are, according to both Article 299 of the Constitution and Section 37 of the Transitional Provisions themselves, permanent and inviolable. Sections 34 and 35 of the Transitional Provisions indemnify individually and collectively all the members and appointees of the PNDC regime against legal liability for any act or omission arising from their period in office. A further indemnity covers anyone who was involved in treasonous acts that resulted in the successful overthrow of any past government of Ghana.

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152. Previous constitutions of Ghana included indemnity clauses to protect the architects of military coups d'état, for a period following their handover of power, against legal action in respect of the specific charge of treason. This was considered a fair price to pay for the restoration of civilian rule and constitutional government.
153. However, the unparalleled record of summary justice, injustices and gross human rights violations with which the PNDC and the earlier Armed Forces Revolutionary Council (AFRC) regimes, both led by Flt-Lt Jerry Rawlings, became synonymous, left within the populace a large reservoir of unventilated grievance and unspent vengeance.
154. It has been argued that the Transitional Provisions are quintessentially unconstitutional, since they clearly violate the fundamental democratic principle of equality for all citizens under the law. It is argued further that no constitutional provision and, by definition, no "transitional" provision can be permitted to remain in force in perpetuity. Consequently, there have been incessant demands to set aside the Transitional Provisions in their entirety. However, the hands of lawmakers are effectively tied by the Constitution itself.
155. The Supreme Court has, in fact, upheld the constitutional validity of the Transitional Provisions. In the case of *Ekwam v Pianim*, Mr. Kwame Pianim was a presidential aspirant in 1996 whose previous conviction on a charge of subversion against the PNDC regime had the effect of disqualifying him under the 1992 Constitution. In its ruling on the case of *Ekwam v Pianim*, the Supreme Court refused either to examine or to question the legality of the sentence passed on Mr. Pianim by the PNDC's Public Tribunal more than ten years earlier.

DECENTRALIZATION

156. The 1992 Constitution explicitly instructs the State to enact a policy of governmental decentralization. Clause 6(d) of Article 35, under the Directive Principles, proclaims that the State shall "make democracy a reality by decentralizing the administrative and financial machinery of government to the regions and districts". The same clause requires the State to take measures that will afford the people every possible opportunity to participate in decision-making. Article 240 makes the point again in different words, declaring: "Ghana shall have a system of local government and administration, which shall, as far as practicable, be decentralized".
157. For the practical purpose of decentralizing local government, the country is sub-divided into 138 Districts, with a District Assembly as highest political authority in each district, exercising both legislative and executive powers within the local area.
158. The President appoints a District Chief Executive (DCE) subject to the approval of a quorum-free two-thirds of Assembly members. The DCE is the

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- chief local representative of the central government, and is responsible for the day-to-day performance of the Assembly's executive and administrative functions. Like the President himself, DCEs are subject to a limit of two consecutive four-year terms of office.
159. An Assembly consists of the District Chief Executive, an elected member from each electoral area within the district, Members of Parliament from constituencies that fall within the District, and other members appointed by the President in consultation with the traditional authorities and other interest groups in the district. These other presidential nominees must constitute not more than 30 percent of the entire membership of the Assembly.
160. As can be gauged by their composition, the District Assemblies operate at somewhat less than Executive arm's length from the central government. In order to be genuinely autonomous, local government institutions require both a degree of financial independence, and the expertise to manage their own affairs.
161. The Assemblies are empowered to raise their own revenues, which are supplemented by allocations from a District Assemblies' Common Fund (DACF), into which a constitutional minimum of 5 percent (and currently 6.5 percent) of all public revenues are channelled automatically by law. A Fund Administrator manages the DACF that is apportioned amongst the 138 districts in accordance with a formula devised by Parliament. District Assemblies have reported shortages in personnel and other capacities, while the public has sometimes questioned their accountability. To enhance the managerial, administrative and technical capacity of the District Assemblies, a Local Government Service has been constituted to appoint and manage the human resources in the districts.

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Objective 3: Promotion and protection of civil, economic, social and cultural rights

Introduction¹

162. Comparatively, impressive strides have been made to redress Ghana's legacy of human rights abuses under the 1992 Constitution and the Fourth Republic. The 1992 Constitution goes much further than previous Constitutions in laying a firm constitutional basis for promoting and protecting the civil, economic, social and cultural rights of citizens, building a culture of respect for human rights and preventing abuses by the State. Chapter 5 of the Constitution provides for a wide range of fundamental political freedoms (speech, expression, religion, assembly, association, information, movement and administrative justice), as well as economic and social rights. It also contains provisions for the protection of personal liberty, property, and the dignity of the individual.

163. The Constitution also provides for the establishment of an independent Commission on Human Rights and Administrative Justice (CHRAJ), whose mandate covers the functions of the Ombudsman in the 1969 and 1979 Constitutions, as well as protecting human rights and investigating alleged corruption. The CHRAJ is empowered to review certain cases of human rights abuses by past military regimes, notwithstanding the provisions indemnifying all previous military governments and ousting the jurisdictions of the courts. Significantly, the Commission is also empowered by the Constitution not only to address abuse of human rights by the State and its officials, but also abuses inherent in Ghanaian culture and tradition. These include "trokosi" (the perpetual enslavement of vestal virgins) in parts of southeast Ghana, female circumcision and penal colonies for alleged witches. Human rights protection in the Fourth Republic has also benefited from the emergence of a vibrant civil society.

¹ Paraphrased from E. Gyimah-Boadi, "Confronting the Legacy of Human Rights Abuse in Africa: Lessons from Ghana", CDD-Ghana, March 2004.

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Identify legal provisions that recognise and guarantee human rights

Right to life and liberty

164. The 1992 Constitution provides that “no person shall be deprived of his life intentionally except in the exercise of the execution of a sentence of a court ...” (Article 13 (1)); and that “Every person shall be entitled to his personal liberty” (Article 14 (1)). It therefore presupposes that the right to life is not absolute and may be limited in certain terms.

Ghana also retains a provision for capital punishment. Death sentences have continued to be handed down, although no execution has taken place in recent years.

165. The Ghanaian Constitution conforms to the international and regional norms on protection of personal liberty and security of person. It also provides exceptions when a person may be deprived of his or her right to personal liberty. These exceptions must meet a substantive test requiring the state to have good reasons for depriving someone of their personal liberty, and a procedural test requiring that the deprivation takes place in accordance with fair procedures.

Protection from slavery and forced labor

166. Article 16 of the Constitution is similar to the international and regional standards regarding slavery and forced labour, providing that no one shall be held in slavery or servitude. Efforts have been made to abolish persistent abuses that derive from traditional culture, including the persistence of female circumcision and “trokosi”. Alongside the 1992 Constitution’s guarantee of religious freedom, Article 26(2) bans all customary practices that “de-humanize or are injurious to the physical and mental well-being of a person”. Article 39 states in part that “...traditional practices that are injurious to the health and well-being of the person are abolished”. Several pieces of legislation have been passed specifically to address these issues, and civil society groups have continued their lobbying efforts, but few convictions have been recorded to date. There is an absence in Ghana of legal provisions specifically addressing the trafficking in persons. Government has acknowledged the problem but is yet to introduce a bill to that effect.

Freedom from discrimination

167. Article 17 of the Constitution provides that all persons shall be equal before the law and a person shall not be discriminated against on grounds of gender, race, colour, ethnic origin, religion, creed or social or economic status.

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The Ghanaian Court of Appeal has upheld this principle in the context of the discriminatory termination of employment.

Rights of accused, arrested and detained persons

168. The Constitution further provides that anyone charged with a penal offence shall be considered innocent until proven guilty and that none shall be subjected to arbitrary arrest, detention or exile.

169. Concerns remain about continued instances of police manhandling of suspects, and abuses of human rights in police techniques of crowd control in Ghana (note more details on violations in section below). A final, but significant, point of concern relates to the treatment of inmates of Ghana's prisons. The 1992 Constitution makes lengthy provision against the ill treatment of prisoners, but numerous violations continue to be detailed, most notably by the CHRAJ in a 2001 report.

Rights of free speech and expression

170. Article 21(1) (a) of the 1992 Constitution of Ghana, guarantees "freedom of speech and expression, which includes freedom of the press and other media". It also guarantees the right to information, subject to "such qualification and laws as are necessary in a democratic society." Freedom of the media is enshrined in Chapter 12 of the Constitution (Articles 162-173), which provides a guarantee against censorship and governmental interference. A notable advance in the legal framework to enable free speech was achieved on July 27 2001, when Parliament repealed the criminal libel law. Other antiquated "insult" and criminal defamation statutes remain on the books, however, and are still occasionally invoked.

Rights of political participation

171. The right to vote is enshrined in Article 42 of the 1992 Constitution. Ghana's 2000 and 2004 elections, and a number of subsequent by-elections, which were judged free and fair by both domestic and international observers, have been good indicators of the observance of this right. The right to vote is currently limited to Ghanaians resident in Ghana and those working in official missions abroad. However, voting by proxy is also allowed under the law.

Rights of free association and assembly

172. The 1992 Constitution makes provision in several places for the protection of rights to free assembly and of rights to association. Article 21 protects the freedom of assembly (including freedom to take part in processions and demonstrations), association (forming trade unions, political parties, or other

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associations for the protection of their interest), and movement (within and without Ghana). Concerning freedom of assembly, the use of force to disperse demonstrators is not permitted by law, though it has occurred in previous years. A ban on campus demonstrations has remained in effect but has never been enforced or challenged. Freedom of association is constrained in practice only by the relatively routine requirements for NGOs to register with the Registrar General's Office and the Department of Social Welfare; and for political parties to seek accreditation with the Electoral Commission. But there is no evidence of any of these agencies deliberately tampering with these routine requirements. Limitations on association have often been more attributable to capacity limits than legal or official constraints.

Rights of access to information

173. The 1992 Constitution guarantees the right to access information, "subject to qualifications and laws as are necessary in a democratic society", in Article 21 (1)(f). Article 18 gives recognition to privacy rights, thereby creating a right to access information held by the government about oneself. However, these provisions have so far not been adequately put into effect in the light of a historic culture of "official opacity" and the genuine capacity limits of the government in providing access to information.

174. The Official Secrets Act, 1962 (Act 101) remains the standard for regulating access to state or government information, and includes the provision that a person convicted of an offence under the Act may be sentenced to a maximum of fourteen years imprisonment. The development of a Freedom of Information Bill and a "Whistle-blower Bill" has moved from a civil society advocacy project to a government-endorsed process. However, the bills remain in the draft stage. Drafts of the Bills were presented to Cabinet in April 2004, but have yet to be considered. The lack of legal and constitutional instruments to demand information, particularly official information, remains an inadequacy in the legal framework for human rights.

Religious and cultural freedom

175. Article 21(1)(b) of the 1992 Constitution guarantees freedom of thought, conscience and belief. Article 26(1) specifically guarantees the freedom to practice and promote "any culture, language, tradition or religion" subject to the Constitution's other provisions. Religious institutions seeking formal government recognition are required to register with the Registrar General's Department, as is the case for any non-governmental organization.

Economic, social and cultural rights

176. Economic, social and cultural rights are recognised in international law as "second-generation rights." At the core of social rights is the right to an adequate

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standard of living. The enjoyment of these rights requires at minimum that everyone shall enjoy the necessary subsistence rights, adequate food and nutrition rights, health, education, clothing, housing and necessary conditions of care. Economic rights include the right to property, work and to social security.

Security and privacy of personal property

177. The 1992 Constitution is clear in its provision for the rights of private ownership of property and of land. Article 18 states that “every person has the right to own property either alone or in association with others”, and protects against illegal interference with the privacy of property, home, correspondence or communication except in accordance with the law. Article 20 provides a guarantee against compulsory acquisition of private property by the state, with certain exceptions and arrangements for compensation.

178. Land acquisition is not clearly defined and represents a major difficulty in Ghana. The 1992 Constitution recognises both public and customary systems of tenure, leading to contradictions in practice. The present system of land registration is insufficient. A law to enforce the provisions of Article 20(2) of the Constitution, regulating compulsory acquisition by the State, is required. However, cases of extra-legal confiscation of private property have been very uncommon under constitutional rule.

Right to education

179. Article 25 of the 1992 Constitution guarantees that “all persons shall have the right to equal educational opportunities and facilities”. The elements of the right to education are very similar to provisions of international codes on the right to education. They include the rights that:

Basic education shall be free and compulsory

180. Secondary education shall be generally available and accessible to all by appropriate means

Higher education shall be equally accessible to all on the basis of capacity

Functional literacy shall be encouraged

Development of system of schools with facilities actively pursued

Right to establish schools shall be respected

Right to health

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181. Ghana's Constitutional provision for the right to health care is couched in far weaker terms than in most international standards, stating (in Article 30) that "a person who by reason of sickness or any other cause is unable to give his consent shall not be deprived by any other person of medical treatment, education or any other social or economic benefit by reason only of religious or other beliefs". There is no positive guarantee of healthcare for citizens. Healthcare under the Fourth Republic has up until August 2004 been provided on the basis of immediate payment, which is inadequate, given the inability of much of the population to afford medical treatment. A new 2.5 percent consumption tax has been levied to fund part of the cost of the NHIS. The introduction of health insurance will enable citizens to obtain at least basic health care services that will be free at the point of delivery.

Rights to employment

182. Article 24 of the 1992 Constitution guarantees the "right to work under satisfactory, safe and healthy conditions", and to "receive equal pay for equal work". It also guarantees the reasonable limitation of working hours and paid holidays. A comprehensive new Labour Law adopted by Parliament in October 2003, The Labour Act, 2003 (Act 651) is compliant with International Labour Organization standards. The new Act replaces previous legislation and covers: Protection of employment (rights and duties of employers and workers, etc) Establishment of Public Employment Centres and the registration of private employment agencies. General conditions of employment, payment, termination Employment of persons with disabilities, women and young persons. Trade unions and employers' organization. A National Tripartite Commission composed of representatives of the Government, labour, and employers raised the daily minimum wage to 11,200 cedis (\$1.20) in 2002, the first time it has reached beyond the one dollar mark. This is widely considered insufficient to provide a decent standard of living, and violations are widespread

Rights to basic utilities

183. The internationally recognized right to basic utilities is not explicitly reproduced in the 1992 Constitution's list of human rights. Some civil society groups in Ghana have protested the government's proposal to "privatise" water provision as a blow against this human right.

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Implementation and enforcement

184. States are obliged under the ICESCR to undertake steps with a view to achieve progressively the full realisation of the rights recognised in the Covenant. Full realisation of the rights may be achieved progressively and after the state ratifies the covenant. States are obliged to ensure, at the very least, minimum levels of each of the rights of the Covenant, as much as realistically can be achieved at a given time within the resources of the state in question.

Recent violations of human rights and liberties

185. Research indicates little evidence of direct human rights violations over the past five years, though legal sources may not provide an exhaustive listing given that people in Ghana may not use litigation before the courts to enforce protection of their human rights. Reports by government, independent watchdogs, and civil society organizations have revealed a handful of human rights violations in the last five years. These have included cases of property destruction and eviction without due process, the use of excessive force by police, and some incidents of extralegal violence linked to then-President Rawlings and his army regiment.

Institutions for ensuring protection of human rights

186. Cases brought before the courts and the CHRAJ have tended to secure and expand the protections of rights. The CHRAJ has insisted on the rights of prisoners and the illegality of sexual harassment, while the courts have also insisted on the independence of judicial officers and state-owned media directors. In a notable exception, the courts have affirmed the inviolability of the Constitution's transitional provisions, which block the pursuit of many legal human rights claims against officials of previous military regimes.

Commission on Human Rights and Administrative Justice

187. The Commission on Human Rights and Administrative Justice (CHRAJ) was established in 1993 by an Act of Parliament in fulfillment of Article 216 of the Constitution. A Commissioner, who is appointed by the President and is assisted by two deputies, heads CHRAJ. The lone credential required of the

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Commissioner is that he or she must be qualified to sit on the Court of Appeal. A Deputy Commissioner must be qualified to sit on the High Court.

188. The Commission's express mandate is to investigate and to take or recommend appropriate remedial action in respect of complaints about alleged corruption, abuse of public office or violations of human rights. It is tasked also with promoting citizens' awareness of their rights. CHRAJ is specifically responsible also for the enforcement of Chapter 24 of the Constitution, which contains the outlines of a Code of Conduct for public officials. The responsibilities assigned to CHRAJ by law give it an important role in efforts to institutionalise good governance and accountability in Ghana. However, the Commission has not always found its decisions acceptable government.

National Reconciliation Commission (NRC)

189. As described above under the section headed Transitional Provisions, criminal prosecutions in respect of an entire class of serious human rights violations, ranging from arbitrary dismissals and property seizures to torture and extra-judicial killings are considered ultra vires even to the Supreme Court of Ghana. In an effort to assuage the feelings of the victims of abuses perpetrated by not only the PNDC and AFRC regimes, but by all of Ghana's unconstitutional governments since 1957, the government in 2002 established by an Act of Parliament (Act 611) a National Reconciliation Commission (NRC). The NRC's brief was to document allegations of human rights violations, to facilitate national reconciliation, and to recommend, wherever possible, appropriate restitution or compensation for the victims.

190. The nine-member NRC held eighteen months of public hearings under quasi-judicial rules, during which alleged victims of human rights abuses gave evidence, and, in some instances, were permitted to cross-examine the alleged perpetrators of their abuse. After reviewing 4,311 individual petitions, and taking evidence in person from 2,129 witnesses, the NRC presented its findings to the President in October 2004. They are yet to be made public.

Public opinion on human rights protections

191. The majority of elite respondents seem satisfied with the existing regime of legal measures in regard to the promotion and protection of civil and political rights. They rate the measures as effective, with only a few disagreeing. They note that the constitution, the High Courts, Supreme Court and institutions like CHRAJ are available to protect human rights. However, some respondents also point out

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that although a myriad of legal provisions exist, they are sometimes not effective because people simply do not know that they exist.

192. In sharp contrast to the assessment on civil and political rights, the vast majority of the elite contends that economic rights are almost non-existent. They measure this lack of economic rights in terms of the non-availability of resources, of jobs and of opportunities for the average citizen to improve upon his lot. They feel that this constitutes a lack of economic empowerment and if people are limited in what they can do as a result of an economic system that is skewed heavily against them, then, their rights are being infringed upon. Household respondents shared this impression.

193. In the household survey, a majority of Ghanaians are of the opinion that the enjoyment of all rights by citizens as enshrined in the Constitution has improved over the past five years. Quite significant cumulative proportions of respondents (74 percent; comprising 43 percent “better” and 31 percent “much better” responses) were of the opinion that compared to five years ago, the enjoyment of freedom of expression has improved. In contrast, 16 percent of respondents perceive no change in the enjoyment of freedom of expression over the past five years, while 8 percent believed this has rather diminished.

Objective 4: Separation of powers between branches of the constitutional government

INTRODUCTION

194. A variety of Constitutional provisions exist to ensure that the Executive, Legislative, and Judicial powers of Ghana’s government are kept separate from and are able to check each other. However, key features of the 1992 Constitution also moderate the independence of Parliament and the Judiciary from the Executive.

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JUDICIAL INDEPENDENCE

195. The 1992 Constitution includes a variety of provisions that seek to protect the independence of the Judiciary, although the Executive enjoys the constitutional prerogative of choosing all the senior ranks of judicial officers.
196. Once appointed, however, judges in Ghana do not hold office on the sufferance of the appointing authority. Their appointments may be revoked prematurely only on the grounds of “stated misbehaviour or incompetence” or “infirmity of body or mind” that renders a judge incapable of performing the functions of the office. The process for removing judges involves a panel comprising other judges and lay citizens chosen independently of Parliament and the President, which further insulates judges from political control. A mandatory retirement age is fixed at 70 years for Justices of the Supreme Court and the Court of Appeals, and at 65 years for Judges of the High Court and Chairmen of Regional Tribunals.
197. The Constitution guarantees the supremacy of the Judiciary in matters of law. Article 125 of the Constitution vests judicial power in the Judiciary and provides: “neither the President nor Parliament, nor any organ or agency of the President or Parliament shall have or be given final judicial power.” The Constitution creates a three-tier structure of “Superior Courts”, with Parliament retaining the power to establish “lower courts and tribunals”. At the apex of the judicial structure is the Supreme Court, followed in descending order by the Court of Appeal, the High Court and Regional Tribunals, and the lower courts and tribunals. Being the final repository of the judicial power of the State, the Supreme Court’s decisions on “questions of law” are mandatory authority and, therefore, binding on all the courts below it.
198. Article 153 of the 1992 Constitution provides for the establishment of a Judicial Council. Its primary purpose is to be a permanent advisory body on reform of the Judiciary, but it is expected also to “assist the Chief Justice in the performance of his duties”. The Judicial Council is also assigned elsewhere in the Constitution the crucial role of rendering to the President binding advice on the appointment of ordinary Justices of the Supreme Court.
199. Generally speaking, the courts’ jurisdiction over sensitive issues has been upheld and respected. However, certain provisions in the Constitution allow practices that could and have undermined judicial independence. The most troubling of these provisions is Article 128(1), which stipulates the minimum but not the maximum size of the Supreme Court’s membership. This allows the President (subject, of course, to the approval of Parliament) to nominate additional Justices to the Supreme Court literally ad infinitum.

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Legislative independence

200.

The Constitution seeks to insulate Parliament against undue Executive influence by stipulating in Article 71 that the internal expenses of Parliament, and in particular the salaries of the Members, officers and Speaker of Parliament, should be charged against the Consolidated Fund. Parliament's enforcement of the principle of executive accountability has been formalized through the establishment of a standing parliamentary sub-committee on "Government Assurances", whose brief is to track the performance of the Executive in fulfilling its promises. Two constitutional provisions (Arts. 78 and 108) hamper measures such as these and the legislature's independence in general.

201. Article 78. The Constitutional requirement that the majority of Ministers be selected from among MPs is being debated as affecting the independence of Parliament. It makes it difficult for MPs who serve concurrently as Ministers of State to criticize or question a policy or programme of the Executive on the floor of the House. Second, the demands of ministerial responsibility, coupled with the generally more substantial power, prestige, perks and opportunities for patronage attached to a Ministerial appointment, mean that MPs appointed to serve as Ministers may allow their parliamentary duties to be relegated to second place.

202. Article 108. The general understanding of Article 108 is that it bars Parliament, on its own initiative, from proposing any Bill that imposes a financial encumbrance on the State. In other words, only the Executive can introduce any bill that would imply a charge on the national treasury. This bar to Parliament initiating legislation that carries financial implications significantly diminishes Parliament's ability to seek legislative solutions to Ghana's numerous public policy problems. This interpretation of the Constitution limits the range of legislative responses to problems that Parliament may lawfully consider to those proposed by the President.

203. Public opinion, while split, remains partly sceptical. A 1999 survey conducted by CDD-Ghana to gauge public opinion and assess the performance of Parliament in Ghana's Fourth Republic reported that the Legislature has failed to overcome Executive dominance and its related political culture and to undertake its functions effectively within the framework of the 1992 Constitution. Although a solid majority (63 percent) of the Ghanaian households polled in the 2004 APRM survey expressed a belief that the Ghanaian Legislature was free from political interference, most elite respondents argued that the separation between Parliament and the Executive needed to be subjected to public debate.

Objective 5: Effectiveness and accountability of the Public Services

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204. The British administration of the Gold Coast established only the minimum bureaucracy necessary for maintaining imperial rule and facilitating the exploitation of the country's natural wealth. Under self-rule, the Public Services were expanded rapidly to meet the essential requirements of statehood and the high expectations of Ghanaians for rapid social and economic progress. This was in consonance with the African political orthodoxy of the time, which recognized the State as the only viable locomotive of rapid economic, social and political transformation.
205. Between 1951 and 1979, therefore, ten different programmes were initiated with the aim of reorienting the administrative machinery of government to suit the cardinal role of the State. The most ambitious of these was the "Africanization" of the senior ranks of the Public Services. The objectives of other programmes included the realignment of salaries and the revision of Civil Service regulations. Additionally, six separate reviews were undertaken during the same period of the entire organization and methods of operation of central government.
206. However, the nation's meagre administrative resources and embryonic public institutions were consistently overburdened by the demands made of them by the newly defined role of the State. The rapid proliferation of non-commercial public service organizations with roles that frequently overlapped or conflicted, compounded by general economic misfortune, the consequent brain-drain and increasingly rampant corruption, contributed to a situation in which by the early 1980s, the Public Services of Ghana had become largely ineffective.

Public service institutions

207. The Public Services of Ghana are listed in Chapter Fourteen of the 1992 Constitution. They are the: Civil Service; Statistical Service; Internal Revenue Service; Audit Service; Customs, Excise & Preventive Service; Immigration Service; Police Service; Prisons Service; Fire Service; Judicial Service; Legal Service; Parliamentary Service; Health Service; Education Service; All public corporations operating as non-profit-making entities. Since the coming into force of the 1992 Constitution, there have been a few changes to this list, the most significant being the establishment of a new VAT Service, whose function is to administer the indirect tax on value addition (VAT) that was introduced by Parliament in 1997.
208. The articles of incorporation of a number of former statutory corporations and agencies have also been amended such that they can no longer be classed as

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Public Services. There are constitutional provisions covering some of the individual Public Services – specifically, the Statistical, Audit, Police, Prisons, Judicial and Parliamentary Services. These mainly prescribe the composition of a Governing Council for each Service and eligibility criteria for the governors. In some instances, these additional service-specific provisions guarantee the theoretical financial independence of the Council, or the security of tenure and minimum terms of engagement of the governors.

Public Services Commission

209. Article 194 calls for the establishment of a permanent Public Services Commission (PSC), comprising at least five full-time members. According to Article 198, the PSC is entitled to the broadest possible measure of independence, analogous to that of the Judiciary and the Electoral Commission. Article 70 of the Constitution confers on the President the power to appoint, in consultation with the Council of State, “the Chairman and other members” of the PSC. Article 194 grants Parliament the implicit right to require the appointment of additional members.
210. The role of the PSC is defined in Article 196 as the performance of such “supervisory, regulatory and consultative functions” as Parliament may prescribe. However, the functions suggested by the Constitution for the PSC are the Recommendation of recruitment to, promotions between (and, by implication, dismissals from) positions in any of the Public Services, with the explicitly stated exclusion of institutions of “higher education, research or professional training”;
211. Regulation of Public Service entrance and promotion examinations;

These constitutional provisions are given effect by subsidiary legislation, including the Public Services Commission Act of 1994 (Act 482).

Act 482 defines more clearly the mandate and powers of the PSC, which include:

- a. Assessing and planning for the satisfaction of current and future Public Service manpower requirements, with reference to the national education and manpower development policies; developing a common framework for grading and valuing positions of employment across the Public Services;
- b. Improving the quality of recruitment by adopting modern techniques of evaluation and selection; mapping out career development paths for Public Service employees; advising the government on broad wages and salaries policy.

The Civil Service

212. At the core of the Public Services is the Civil Service, which represents the permanent administrative machinery of government for the execution of public policy at both the national and local levels. The Civil Service also plays

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significant monitoring, research and advisory roles concerning the formulation of government policy. The Civil Service Law of 1993 (PNDC Law 327) is the principal piece of current legislation governing the operations of the Civil Service. In accordance with this law and with Article 193 of the Constitution, the President is mandated to appoint a Head of the Civil Service. The day-to-day operations of every Ministry, department and agency of the central government are overseen by a Chief Director (formerly titled “Principal Secretary”).

Public service reforms efforts

213. Under the internationally approved “structural adjustment” process that was launched in Ghana in the mid-1980s, a new round of public sector reforms was undertaken. For example, the World Bank and the British government’s Overseas Development Agency (ODA) sponsored a Civil Service Reform Programme that ran from 1987 until 1993. The disproportionate and somewhat misplaced emphasis in this and subsequent reforms was on reining in government spending, which was a non-negotiable precondition for continued external economic assistance.
214. This led to the severing of the umbilical cord between the government and numerous State and quasi-State institutions that depended on subventions from the public purse, and on “downsizing” the workforce generally. In line with this policy, many statutory public corporations were commercialized or made self-financing, and hundreds of thousands of public sector jobs were cut. The evidence in some instances is that even in cases where there was a sound argument in favour of the policy, public sector organizations were weaned prematurely and reverted subsequently to de facto dependence on State support.
215. In 1995, a “Ghana Vision 2020” policy document was published. This defined the focus of all government action henceforth as poverty reduction through accelerated economic growth. The vision statement acknowledged that although the stimulation of private enterprise was to be its guiding principle, its objective could not be achieved without an effective Civil Service to create the necessary “enabling environment”.
216. The previous year, the Ghana government had established a National Institutional Renewal Programme (NIRP), ostensibly to co-ordinate and give strategic direction to the disparate public sector reforms that were ongoing or planned. The NIRP was eventually placed under the control of a National Oversight Committee chaired by the Vice-President of the Republic, but never quite succeeded in achieving its aim.
217. It was evident by the end of 1997 that little progress had been made in reforming the public sector. The government, therefore, published a “Public Sector Reinvention and Modernization Strategy” (PUSERMOS), which mapped out the future of the public sector reform agenda. One of the key elements of this strategy was the deliberate rollback of the State and the transfer of many of its

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functions to the private sector and to non-governmental organizations (NGOs). The NIRP Secretariat drew up plans based on PUSERMOS for the comprehensive structural reform of the Public Services. These plans formed the basis of a World Bank-funded Public Sector Management Reform Programme (PSMRP). PSMRP became the umbrella programme for an array of public sector reform initiatives, some of which were already in progress. Some of its main components were the:

- b. Public Sector Financial Management Reform Programme (PUFMARP);
- c. Integrated Personnel and Payroll Database (IPPD); Public Sector Incomes Policy and Administration Reform Programme; Civil Service Performance Improvement Programme (CSPIP).

218. The purpose of PUFMARP was to integrate all aspects of public finance management, and through its main module, the Budget and Public Expenditure Management System (BPEMS), to synchronize the annual budget preparation process with the government's newly adopted Medium-Term Expenditure Framework (MTEF) model.

219. IPPD was intended to streamline the processing of the public sector payroll and, in particular, to eliminate the diversion of public funds through the form of payroll fraud known as "ghost names".

220. After the best part of a decade of these key public sector reform programmes, that attracted expenditure from bilateral and multilateral funding sources, neither PUFMARP nor IPPD can be said to have yielded the desired results. Judging by most assessments of the current effectiveness of the Public Services, it is evident that neither mass retrenchment, nor PUSERMOS nor PSMRP has been the promised panacea.

221. In the meantime, the reform effort itself continues to be bedevilled by problems of co-ordination and under-funding. Public sector reform programmes, such as the UNDP-initiated National Governance Programme (NGP), have continued to maintain an essentially independent existence, driven as they are by different foreign donors with their own agendas and priorities.

222. The pressing need in Ghana now is to strengthen the capacity of the Public Services to provide the foundations on which rapid and sustained economic development is predicated.

223. Against the backdrop of the current state of the Public Services in Ghana, this will inevitably require vastly raising the current aggregate skill levels and boosting the productivity of the public sector workforce, whatever its size. The Services also suffer from recruiting and retaining staff. It implies, therefore, a potentially significant rise in the wage component of public expenditure.

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224. In 2003, the NPP government gave a single Cabinet Minister for the first time sole responsibility for Public Sector Reform. The result has been a sharpening of the focus of the reform effort and a concentration on rebuilding the Civil Service.

PERCEPTIONS OF THE EFFICIENCY OF THE PUBLIC SERVICES

225. Measured by their propensity to register dissatisfaction with poor service, Ghanaians appeared to have very low expectations of the effectiveness of their public services. No more than 15 percent of all those surveyed reported ever having filed an official complaint about the standard of a public service. This was corroborated by the fact that most respondents in the elite panel study were of the view that the institutional mechanism for responding to public assessments of the effectiveness of the Civil Service was itself largely ineffective.

226. Contrary to the assumption underlying the classic rationale for the decentralization of public services, the APRM survey group generally rated services as less responsive at the local level than at the district or national levels. In any event, only a minority of respondents rated the effectiveness of the public services as acceptable at either the national or local level.

227. However, almost two-thirds of all mass survey respondents reported a perceived improvement over the last five years in the efficiency of the Police, and the public education and health services, in particular.

228. The mass media and Parliament were judged by a substantial majority of respondents to be the institutions most capable of making public servants accountable to the public for their performance. Notwithstanding this finding, a striking observation was the degree of uncertainty expressed by respondents as to where they were best advised to direct complaints, with about ten times as many people saying they did not know who to complain to as they would complain to their elected representative.

Provisions for transparency, independence, and effectiveness of public services

229. The Civil Service Law of 1993 (PNDC Law 327) requires absolute transparency and fairness in the recruitment, evaluation, promotion and discipline of civil servants.

Recruitment to fill vacancies or new positions must by law be preceded by public advertisement of the position. Career development opportunities are available to all civil servants. In particular, the law stipulates that promotions are to be based strictly on merit, subject to a one-year probation period. Similarly, all civil servants are subject to uniform discipline according to a Civil Service Code of Conduct.

230. However, the culture in practice is often quite different. Vacancies are not always advertised internally or externally. The practice of filling vacancies by other less transparent methods is facilitated by an exception clause in the law in respect of “posts for which no public advertisement is required”. Length of

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service, rather than merit, has become the primary criterion for promotion in the Civil Service, and the system of regular performance evaluations has fallen into abeyance.

Political neutrality

231. Article 191 of the Constitution prohibits the dismissal, demotion, victimization or discrimination of or against any public servant merely for discharging his or her duties, or otherwise without just cause. This provision is the cornerstone of the insulation afforded public servants against political manipulation.

232. As the corollary to this protection, Article 94(3)(b) of the Constitution bars Public Service employees from membership of Parliament, and by extension, therefore, from other elective positions of public office. This necessary restriction on the political expression of Public Service employees extends equally to all founding, leading and executive roles within a registered political party, as stipulated in Article 55(8).

Performance incentives

233. In 2003, the government gave each of the main revenue collection agencies – the Internal Revenue Service (IRS), the Customs, Excise and Preventive Service (CEPS), and the VAT Service – the right to retain 6 percent of its total revenues for “administrative expenses” (including salary top-ups) if it met its annual revenue target. Generally, the three agencies have either substantially achieved or exceeded their revenue targets since the introduction of this.

Disciplinary action

234. The actions and omissions of Ghanaian public officials result in waste of public resources. Yet, there is a general presumption, on the part of both the consumers of public services and public servants themselves, that a public servant is very unlikely to be held accountable for his or her official actions, regardless of their consequences. This leaves public servants, especially those that are not political appointees, effectively without a deterrent to the unsatisfactory performance of their official functions.

235. The so-called Quality Grains case is a rare instance of disciplinary action taken against public servants specifically for incompetence or negligence, as opposed to corruption. A senior civil servant and three political appointees of the recently defeated (NDC) government were prosecuted in the High Court in 2002 for “wilfully causing financial loss to the State”. The political appointees were the former Minister and Deputy Minister of Finance and the Minister of Agriculture. The civil servant, Dr. George Yankey, had been the Director of the Legal Department in the Ministry of Finance.

236. The case centred on the role of the four individuals in the extension to Quality Grains Company, a Ghanaian-registered company owned by an American

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woman, Ms. Juliet Renee Cotton, of a Ghana government guarantee for a commercial loan of US\$23 million. The purpose for which the loan was granted was to finance a rice project in the Volta Region of Ghana. Ms. Cotton was found to have diverted a substantial portion of the company's funds for her personal use. Quality Grains Company defaulted on its loan repayments and the lender invoked the loan guarantee agreement against the government of Ghana.

237. Although none of the Ghanaian officials was accused of gaining materially from Ms. Cotton's criminal conduct, they were considered guilty of wilful negligence for participating in the approval of the loan guarantee without exercising due diligence in verifying Ms. Cotton's business credentials. Dr. Yankey, in particular, claimed in his defence that he had acted on instructions from his political superiors. The four were all found guilty and sentenced to prison terms of up to four years each.

Objective 5b: Media and civil society participation in governance

5.6 Introduction

238. There is considerable space for civil society and media involvement in governance in Ghana. A wide array of organizations, interests and actors lying between the household and the State have, historically, evinced interest in facilitating governance in the broad sense of the word. Many have organized to resist oppressive rule, to enhance lawfulness, the rule of law and citizen participation in grass-roots democratic practice, or to build structures for fostering accountability. Others have been beholden to the state and have participated in propping up various brutal and kleptocratic regimes.

239. Especially in recent times, however, many civil society groups have partnered with the media, challenging the legitimacy of governmental policies and actions against the yardstick of good governance. The frontiers of civil society's participation in governance are constantly being expanded. Civil society can be seen to include non-governmental organizations, community based organizations, think-tanks, the media, and traditional leaders. Even so, civil society in Ghana is yet to mature as an effective check on the exercise of governmental power and as a partner and critical player in analyzing and solving public problems. Outline of the constitutional and legal provisions guaranteeing the associational freedoms of the media and civil society

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232. Chapter 12 of the 1992 Constitution spells out the freedom and independence of the Media, guaranteeing the freedom and independence of the media and explicitly prohibiting censorship. The Constitution provides that there shall be “no impediments to the establishment of private press or media; and in particular, there shall be no law requiring any person to obtain a licence as a prerequisite to the establishment or operation of a newspaper, journal or other media for mass communication or information”². Subsequent sections assure the independence of newspaper editors from government harassment and the freedom to uphold the principles of the Constitution.

233. State-owned media are instructed to afford fair opportunities and facilities for the presentation of divergent views and dissenting opinions. The Constitution also created a National Media Commission to undertake the following vital functions to:

234. Promote and ensure the freedom and independence of the media for mass communication or information. Take appropriate measures to ensure establishment and maintenance of the highest journalistic standards in the mass media, including the investigation, mediation and settlement of complaints made against or by other mass media. Insulate the state-owned media from political control.

235. Make constitutional instrument for the registration of newspapers except the regulations provide for the exercise of any direction or control over professional functions of a person engaged in the production of newspapers or other means of mass communication

Article 172 insulates the National Media Commission from the direction or control of any person or authority in the performance of its functions. The National Media Commission is prohibited from exercising “any control or direction over the professional functions of a person engaged in the production of newspapers or other means of communication”.

236. A major limitation on the Ghanaian media and democracy has been the severe restrictions on the free flow of information to citizens on various aspects of the functioning of government. This lack of transparency empowered the bureaucracy in significant ways and paved the way for abuse of power. After a prolonged struggle, Parliament, on July 27th 2001, unanimously and retroactively repealed the criminal libel laws that had been used to incarcerate journalists. The media are generally now perceived to have become the backbone of Ghanaian democracy and freedom, acting as watchdogs and reporting incidents of corruption and misuse of power. The effectiveness of the media is severely

² Appropriately, however, for the purpose of protecting the reputations, rights and freedoms of other persons, provisions of Articles 162 and 163 of the Constitution are subject to laws.

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hampered, however, by huge gaps in levels of professionalism and integrity among media practitioners and disturbing but credible reports of an emerging practice of media shakedowns and blackmail by newspapers.

Provide evidence of civil society consultation and involvement in national decision-making

Several forums have been created in recent years to provide opportunities for

The People's Assembly

237. The People's Assembly is a novelty initiated by the Kufuor administration to offer the people an opportunity to interact directly with the Executive. The President and his entire Cabinet have, on an annual basis, submitted themselves to a two-hour public question-and-answer session. The President delivered an address on the progress of his administration, after which his Ministers and he faced a series of questions from members of the public. The People's Assembly provides a platform for Ghanaians to engage in a relatively unstructured dialogue with their elected representatives.

National Economic Dialogue

238. The National Economic Dialogue is a forum for stakeholders to shape policy outcomes by making recommendations for consideration of Government. The maiden edition was held in May 2001. The 2004 Dialogue held in May was on the theme: "An Integrated Strategy for Accelerated Growth, Wealth Creation and Sustained Poverty Reduction". The focus was on how to link the Ghana Poverty Reduction Strategy (GPRS) to the UN Millennium Development Goals and the goals of the New Partnership for Africa's Development (NEPAD) initiative.

Development Dialogue Series³

239. The World Bank Ghana Office, in collaboration with the leading Ghanaian think tanks, sponsors the Development Dialogue Series (DDS) to promote a vibrant debate on development policy choices. One of the objectives of DDS is to create a forum in which the planners, implementers and beneficiaries of development policy can engage in regular dialogue about the critical issues and challenges facing development in Ghana (and Africa). So far, five dialogues in the series have been held in Ghana.

Public opinion on civil society participation

240. A slim majority of respondents in the elite survey believed that, in various ways, civil society was generally involved in government decision-making processes. The elite felt that in many cases CSOs had contributed indirectly to the shaping

³ www.worldbank.org Development Dialogue Series

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of government policy through their publications, communiqués, comments and advocacy. Above all, the opportunity offered by the freer political environment, particularly since the change of government in 2001, had given an impetus to civil society participation in governance. Some respondents noted the active involvement of many community-based organizations (CBOs) in decision-making at the grassroots level, i.e. in the district assemblies.

241. Most respondents thought that the current political environment was more conducive to a vibrant media and civil society. They observed the favourable legislative and regulatory changes that had facilitated media pluralism and expanded the autonomy of CSOs. In the household survey, the cumulative total numbers of respondents that rated the media and CSOs “effective” and “very effective” in ensuring that public officials were held accountable were 80 percent and 67 percent, respectively.
242. Respondents expressed reservations, however, about whether the regulatory mechanisms for holding civil society itself accountable and transparent were effective. More than half of all elite respondents thought that civil society was not sufficiently accountable.
243. By contrast, the overwhelming majority of elite respondents praised the contribution of the media. They thought the media were more accountable than before, especially since the repeal of the Criminal Libel law. In their view, the media were subject to constant public scrutiny through phone-in programs and court actions.

Give details of the geographical spread in Ghana of civil society organizations, community-based organizations, and non-governmental organizations

232. There are innumerable civil society organizations spread throughout the length and breadth of Ghana. However, there is a greater concentration of NGOs involved in poverty alleviation and the provision of basic infrastructure in Northern Ghana than in other parts of the country.
233. The work of civil society organizations reflects the variety and complexity of needs in Ghanaian society, the limited capacity of Government to meet those needs, and the desire and capacity of the citizenry to take on the challenge of meeting some of those needs. The prevalence of these organizations in Ghana also results from the ability and success of some “pioneer” NGOs in contemporary Ghana to attract funding from both local and foreign donors, as well as the penchant of Ghanaians to form voluntary associations.
234. NGOs and CBOs are involved in virtually every realm of social, economic, and political life, ranging from democracy advocacy to locally-based service provision to poor communities. Civil society faces a variety of charges

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questioning its efficacy. Some survey respondents pointed to NGOs rendered ineffectual by too-close ties of patronage with the state. Other weaknesses include the weakness of coordinating umbrella organizations in rural areas and the duplication of some NGO activities.

235. Generally, civil society has played a very critical role in the promotion of the welfare of women within the development and governance processes in the country through their recognition of the necessity to integrate women in all spheres of human development processes both as participants in planning and policy-making and as beneficiaries. Many also provide services to ameliorate the burden on women's household chores, providing financial support for income-generation, and undertake capacity-building programmes in political and leadership training for women aspiring to decision-making positions.

236. Despite gains made in government -civil society collaboration, a number of incidents within the last few years demonstrate MOWAC's sometimes, wavering commitment to greater gender equality – civil society's success has seen limits. The Domestic Violence Bill continues to languish in MOWAC, whose minister-designee has made pronouncements suggesting that it will not go as far as outsiders had hoped in reducing gender inequality before the law.

237. Though the media has done creditably to raise key issues of concern to women such as the debate on the Domestic Violence Bill and abuse of rights of women, portrayal of women in the media is still stereotypical.

Objective 6: Corruption in the public sphere

INTRODUCTION

232. Official corruption in Ghana usually takes one of several familiar forms. In its pettiest form, it involves individual public servants, often at a junior level, demanding and or receiving inducements in exchange for rendering public services or providing public goods for which they are not authorized to accept direct personal payment. Another form of public corruption revolves around favouritism, nepotism or conflict of interest, which is a concept that is not very well understood in Ghana, even in the ranks of the most senior public office-holders.

233. The costliest form of public corruption in Ghana, as in many other countries, occurs in the procurement or sale of goods and services for or by public institutions. Here, corrupt officials conspire with private interests to fraudulently

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over-value goods and services purchased on behalf of public institutions, or to under-value public assets and services offered for sale.

234. A particularly virulent phenomenon that represents a direct threat to the health and survival of Ghana's democracy is political corruption or, more precisely, the illegal or improper funding of political activity. Ghana's emerging democracy is yet to develop any effective defences.
235. Regardless of how public corruption in Ghana manifests itself, though, the ultimate loser is almost invariably the State. In other words, every instance of official corruption impoverishes all Ghanaians. Given the extreme pressures on the national budget, the country's level of indebtedness and the background of widespread personal poverty in Ghana, corruption is, therefore, a wasteful and worrisome phenomenon.

CAUSES OF CORRUPTION

236. The sociological origin of corrupt behaviour begins, of course, with the essence of human nature. It has been suggested that aspects of Ghanaian culture promote corruption and nepotism. However, there is no scientific evidence that specific cultural tendencies lend Ghanaians a greater or lesser proclivity to be corrupt than do analogous factors in any other society. Official corruption is observed in all countries and under all social and political systems, even democracies; it is a contentious argument to make that people living under one system of government are more or less likely than those living under any other system to be subject to the temptation of corruption.
237. Circumstance rather than predisposition, therefore, would appear to be the principal variable that determines the extent and depth of public corruption in Ghana. The challenge facing the builders of Ghana's political institutions is how to deter corruption, and when deterrence fails, how to detect it and how severely to deal with its perpetrators.
238. Among the corruption-inducing circumstances that are typical of or peculiar to Ghana's Public Services are Scarcity – the insufficiency of Ghana's physical means to deliver public goods and services of a minimum quality standard in quantities sufficient to meet rising demand;

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Opportunity – flaws in the design of the service delivery architecture, which fail inexcusably to anticipate and so to pre-empt corruption; Learned impunity – the observed statistical probability that public corruption will carry few deterrent consequences, if any, for either the corrupt public servant or the public service client who benefits equally from acts of official corruption;

Opacity – the frequent lack of clarity in and public knowledge of the proper procedures for obtaining public services, and the inadequacy of audit trails and other mechanisms to trace corruption to its source;

Inequity – gaping disparities between the pay structures of equally qualified and comparably skilled workers in the public and private sectors.

239. It should be recalled that official corruption was regarded at one time in Ghana's history during the so called "revolutionary days" as the root cause of all the country's social, economic and political woes. The radical actions that were taken then in the hope of "stamping out corruption once and for all" produced tragic immediate consequences and have proven ultimately futile. Those same actions have had unfortunate longer-term ramifications that extend well beyond the scope of the issue of corruption itself.

It bears stating too, albeit with great caution, that even if all official corruption were to be wished away in an instant, Ghana would still be left facing economic and social crises of monumental proportions. It is vital, therefore, that the real magnitude of the problem of corruption be neither underestimated nor recklessly overstated.

Perceptions of the extent of corruption

240. By its very nature, corruption is a difficult phenomenon to measure. Often the only available gauge of the true scale of corruption in a society is popular perception. However, this can be unreliable, as it will invariably be influenced by conscious or sub-conscious social or political prejudices. Besides, surveys of popular perceptions about corruption rely on the unsafe assumption that individuals are willing to inculcate themselves, which is difficult to reconcile with the probable psychology of a perpetrator of corruption. Another problem with this index of corruption is that it is naturally most sensitive to petty corruption of the sort that the average citizen may encounter on a daily basis. This has the unintended effect of downplaying less familiar but higher-value forms of official corruption, for instance the fraud that characterizes public procurement, although the latter category has a greater aggregate impact on the economy and society.

Allowances having been made for the inherently imprecise nature of this yardstick, three assessments of official corruption in Ghana are worth citing. These are the:

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a. CDD-Ghana Governance and Corruption Survey (2000);

Parliamentary Judiciary Committee hearings on corruption in the justice system (2002); Transparency International (TI) “Global Corruption Barometer” (2004).

The report on CDD’s nation-wide survey of 1,500 households, 1,000 public officials and 500 businesses, which was published in August 2000, is the most comprehensive recent assessment of perceptions of corruption in Ghana.

241. This survey revealed that more than three-quarters of all Ghanaians perceived corruption to be a serious problem. One startling revelation was that more than four-fifths of the public officials interviewed believed that the level of official corruption had increased during the preceding few years. More than two-thirds of all the householders surveyed admitted to having recently made an “unofficial payment” to a public official. The extent to which official corruption has become entrenched in Ghana was attested to by the fact that fully half of all the business managers surveyed said they knew in advance how large a bribe they were expected to pay for any given public service.

242. In June 2002, an Opposition backbencher made a personal statement in Parliament under the cloak of parliamentary privilege, in which he recounted anecdotal evidence of corruption in the justice system. This prompted the Speaker of Parliament to refer the matter to the Judiciary Committee. The Committee decided to hold a nation-wide series of public hearings on the subject, which attracted a great deal of interest and comment. The Committee’s report on the hearings substantially corroborated the original allegation. Indeed, after initially questioning the constitutional authority of Parliament to investigate the Judiciary, the Judicial Service itself reportedly commissioned an internal investigation. Although the results of this probe are unknown, the Acting Chief Justice promised publicly in December 2002 that the Judicial Service would implement a number of recommendations that had emerged from the internal inquiry.

243. According to the 2004 edition of TI’s Global Corruption Barometer, Ghanaians rated the Police Service as the most corrupt of all their public institutions, followed closely by the Customs, Excise & Preventive Service. The public utility companies, the Judiciary, political parties and the other revenue collection agencies were ranked a short distance behind. Interestingly, the Ghana Armed Forces were ranked least corrupt of all the institutions listed, including the media, religious bodies and NGOs.

244. In other reports, corruption has been identified as a major problem afflicting the full spectrum of public services, including those performed by the Lands Commission, the Passport Office, the Driver, Vehicle & Licensing Agency, the Registrar-General’s Department and the Births and Deaths Registry.

245. An even more illuminating and objective perspective on the extent of public corruption in Ghana in recent years is provided by the results of a series of

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forensic audits commissioned by the Auditor General at the instance of the Minister of Finance following the change of government in 2001. The forensic audits, covering periods of up to eight years, delved into the accounts of a dozen or so selected major public corporations and institutions. They included Tema Oil Refinery, Ghana National Petroleum Corporation, Bulk Oil Storage and Transport, Electricity Company of Ghana, Ghana Water Company, Ghana Airways, the Divestiture Implementation Committee and the Social Security & National Insurance Trust.

246. The Minister of Finance reported to Parliament in December 2004 that the forensic audits had uncovered a total of 10.247 trillion cedis (equivalent to 1.25 billion US dollars) worth of fraud. Of this amount, he said, 219.47 billion cedis, representing just 2.14 percent of the loss, had been recovered into the State's coffers at a cost in auditors' fees of 11.7 billion cedis (or 5.33 percent of the recovered amount).

EFFORTS TO COMBAT CORRUPTION

247. The first line of defence against corruption in Ghana is the law, as upheld and enforced by the Judiciary. The Criminal Code of 1960 (Act 29) includes in Sections 240 to 261 specific provisions outlawing corruption. However, considering the extreme public sensitivity to corruption evoked by the mere perception of it, and its recurring emergence throughout Ghana's history as a life-and-death political issue, it is surprising to discover that corruption is treated as a misdemeanour rather than a felony, attracting a maximum penalty of just three years' imprisonment. Given its limited resources and the fact that the Judiciary is itself the object of considerable public suspicion, the law alone cannot be said to represent a sufficient bulwark against corruption.

Serious Fraud Office

248. In response to the rising public perception of corruption, a Serious Fraud Office (SFO) was established in 1993 under an Act of Parliament (Act 466). The SFO's remit is to monitor and to investigate any public or private economic transaction or enterprise that its Executive Director has reasonable grounds to believe is likely to have adverse financial consequences for the State. Act 466 gives the SFO Executive Director extraordinary powers, such as the authority to order the freezing of assets and bank accounts.

249. The SFO may also, at the discretion of the Attorney General, lead the prosecution in cases brought before the law courts. The SFO has been hamstrung in the performance of its corruption-busting functions by inadequate skills, tools and funding. It has, however, been credited with exposing financial fraud in a number of privately owned companies and State institutions.

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CHRAJ

250. The Parliament of Ghana was required by the Constitution to establish a Commission on Human Rights and Administrative Justice (CHRAJ), whose mandate includes the investigation and control of corruption, abuse of power and other unethical conduct, particularly among public office holders. The CHRAJ is authorized “to investigate all instances of alleged or suspected corruption and the misappropriation of public monies by officials and to take appropriate steps, including reports to the Attorney-General and the Auditor-General, resulting from such investigation”. In addition, Section 7(e) of Act 456 requires the CHRAJ to “investigate allegations that a public officer has contravened or has not complied with a provision of Chapter Twenty-four (Code of Conduct for Public Officers) of the Constitution”.

251. In fulfilment of its anti-corruption mandate, the CHRAJ has investigated numerous cases of alleged corruption, misappropriation of public funds, conflict of interest and failure to comply with the assets declaration of the Constitution (1992). Most notably, in 1995, the Commission investigated four ministers of state in the Government of the former National Democratic Council, leading to the resignation of such ministers. The Commission also recommended that the Member of Parliament for Bondong be barred from holding public office because of its adverse findings of corruption and conflict of interest against him, especially in the fraudulent award of contracts to his own business concerns. This followed the Commission’s investigations into a complaint filed by youths in the MP’s constituency. More recently, the Commission has established a special Anti-Corruption Unit to professionally investigate corruption cases.

“Zero tolerance for corruption”

252. In his maiden inaugural address on 7th January 2001, President John Kufuor branded his presidency by declaring a policy of “zero-tolerance for corruption”. Shortly after this a Minister who was found guilty to have misappropriated public funds was jailed for four years. The government has also fought corruption by extending the frontiers of free speech, media pluralism and increased transparency in government. This was done by repealing obnoxious laws that restricted media freedom and public scrutiny. With the media and public emboldened in this way public officials and politicians have found themselves under greater searchlight. In July 2003, President Kufuor established an “Office of Accountability” within the Presidency. It was described as a body whose

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function was “to pre-empt corruption on the part of the most senior government officials

253. The government has taken measures to curb corruption in the areas identified as the most costly to society through legislation. These include the areas of public procurement, auditing and financial administration. This way, the government has adopted an institutional and legal approach towards the fight against corruption but how this will be translated into an effective instrument remains to be seen. There is however no doubt that the fight against corruption remains high on the government agenda and even more important this is of equal concern to the public. The prospects are thus that the government will be subjected to the eagle eyes of public scrutiny and kept on its toes to demonstrate political will and resolve in this area.

Objective 7: Promotion and protection of women’s rights

Introduction

254. Whilst progress has been made, gender equality between men and women in Ghana in respect of legal, social, political, cultural and economic rights remains to be addressed. Gender gaps are widespread in access and control of resources, in political voice, in economic opportunities and in power. The Ghanaian Constitution of 1992 guarantees equality before the law to all, and explicitly bans discrimination on grounds of gender. Over the past two decades Ghana has shown an increasing awareness of gender issues, and gender mainstreaming has been undertaken in some sectors. It has been recognized that women and girls suffer disproportionately from poverty, and policies to promote the rights of women focusing on the economic empowerment of women, education of the girl-child and reduction of maternal mortality have been implemented.

Analysis and perceptions of the status of women

255. In spite of constitutional and legal frameworks assuring women of their equal rights, gender balance is yet to be attained. Like many African countries, Ghana operates under a plural legal system, with the statute law operating side by side with customary law, which by its nature has some elements that are not particularly friendly to women.
256. Female Genital Mutilation and a ritual servitude practice, Trokosi, affecting women and young girls, still prevail in certain areas of Ghana. Although criminalized there has been little legal action taken against such crimes. Various NGOs have been involved in measures to eradicate the practices, and to free and rehabilitate Trokosi victims.
257. Even though boys and girls have equal opportunity to start schooling, as they move up the educational ladder a significant disparity in the dropout rate

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between the boys and girls in basic education begin to take place. The number of boys who participate in schooling is substantially higher than that of girls. A number of measures have been taken to increase education of girls.

258. More men than women use the court system to address violations of their rights. Problems women encounter include the costs of access to justice, the bureaucracy of the court system and language barriers.
259. Most elite survey respondents made a similar assessment about the inhibition imposed by cultural factors on guarantees for women's rights. They observe that many traditional societies still impose cultural practices that inhibit girl-children, widows and mothers from a full realization of their rights. They blame underdevelopment, lack of financial resources, the threat of divorce, and a skewed social structure that consigns women to roles of procreation and domesticity as factors constraining the achievement of women of their full rights.

Policies and institutions designed to protect women's rights

260. A National Ministry for Women and Children's Affairs (MOWAC) was established in 2001, encompassing the National Council on Women and Development and the National Commission on Children. An Affirmative Action Policy was developed in 1998, including the directive requiring that 50% of government appointees to the District Assembly be women and the decision that 20% of the District Assembly Common Fund should be directed towards poverty spending that targets women. The targets are yet to be achieved, and more work remains to be done in this area.
261. A National Gender Policy was launched late in 2004. The overall goal of this policy framework is to bring gender concerns into every aspect of the national development process in order to improve the social, civic/legal, political, economic, and cultural conditions of the people of Ghana, particularly women and children.
262. Independent of the government's Gender Policy, a Women's Manifesto has been developed, initiated by gender advocacy groups. The Women's Manifesto for Ghana is a political, non-partisan document that outlines broad national issues of concern to women that need to be addressed by government and other relevant agencies within set time frames. Gender advocacy groups promoting the rights of women have become increasingly active but they remain under resourced.
263. Domestic violence is one of the major human rights abuses in Ghana, and research conducted by the Gender Centre in 1999 reveals that over 90% of victims of domestic violence are women and children and that one in three women living in Ghana have been physically abused by an intimate partner. The types of violence against women that exists in Ghana include physical violence,

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psychological violence, economic violence, harmful traditional and cultural practices, and sexual harassment. A Domestic Violence Bill has been drafted to address various issues of domestic violence and civil protection. The Bill has been widely discussed and debated and delays have been experienced in the passing of the Bill, which still has not been brought before Cabinet.

264. WAJU is a specialized unit within the Ghana Police Service. It was established in October 1998 in response to the increasing number of cases of abuse and violence against women and children. WAJU requires more resources to enable it to expand and operate effectively throughout the country.

265. There are comprehensive policies and strategic frameworks for ensuring access to healthcare in Ghana. These include the 5 Year programme of work for 1997-2001, and 2002 –2007, The National Reproductive Health Policy of 1997 that was revised in 2003, the Adolescent Reproductive Health Policy and the Population Policy that was revised in 1994.

266. The reproductive health components of the National Reproductive Health Policy are: safe motherhood including infant health, family planning, prevention and management of unsafe abortion, and prevention and treatment of reproductive tract infections including STIs.

267. Discouraging harmful traditional practices, violence against women, information and counselling on responsible sexual behaviour, and sexual health have been added as components of the revised reproductive health policy.

268. Maternal mortality rates in Ghana still remain high with estimates ranging from 214 to every 100,000 live births to 740 to 100,000 live births. Rates are as high as between 700-900 per 100,000 in the three regions of the northern sector of Ghana. 70% of these deaths are due to haemorrhage, eclampsia, and complications arising out of pregnancy. Unsafe abortion is the second leading cause of maternal mortality in Ghana.

269. Some challenges still remain, care for the aged and the disabled, addressing maternal mortality rates in Ghana, the lack of essential obstetric equipment in healthcare facilities, the existence of only one obstetric theatre in the main hospital in Ghana, the huge gap between antenatal coverage and supervised deliveries and health support for victims of violence against women.

Objective 8: Promotion and protection of children's rights

Introduction

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Despite Ghana's apparently enthusiastic acceptance of international treaty commitments to the protection of their rights, in reality children in Ghana face many threats to their basic rights.

CONSTITUTIONALLY GUARANTEED RIGHTS

Citizenship

270. Perhaps the most fundamental right of any child is the right to citizenship of a nation State, as this right confers on the child automatically numerous other inherent rights of a citizen. The 1992 Constitution includes clear provisions regarding the citizenship rights of children:

b. Article 6(2) states that a child shall become a citizen of Ghana at birth if any one of its parents or grandparents is or was a citizen of Ghana.

Article 6(4) states that a child under the age of 16 years who does not inherit citizenship at birth, but is legally adopted by a Ghanaian, becomes a citizen of Ghana by virtue of his or her adoption.

Article 6(3) grants the presumption of citizenship to any abandoned child found in Ghana, whose age is estimated to be not more than 7 years.

Education

271. Both the CRC and ACRWC require States to recognize the right of all children to education by providing compulsory primary education free of charge to children's parents or legal guardians. With respect to the education needs of older children, the CRC urges State signatories to make secondary education free, or otherwise accessible to all comers through the provision of financial assistance. The ACRWC calls for special attention to be paid to the needs of gifted or disadvantaged children and girls, and to the preservation and reinforcement of African values and morals.

272. The 1992 Constitution formalizes the principles enshrined in the CRC regarding education more as a reference to the duties of the State than as an expression of children's rights. Article 25(1)(a) of the Constitution imposes a binding obligation on every government of Ghana to make "basic education ... free, compulsory and available to all". The succeeding sub-clauses state that both secondary and tertiary education shall be made "accessible to all by every appropriate means, and in particular, by the progressive introduction of free education". Thus, the emphasis appears to be more on the supposed right of a parent to have his or her child's education paid for by the State than on the constitutional right of that child to be educated.

273. Similarly, Articles 28(2) and (4) of the Constitution express children's educational rights from the perspective that a child must not be deprived of his or her education as a result of a burden of labour, or by reason of another person's

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religious convictions. Finally, among the Constitution's Directive Principles of State Policy, Article 38(2) placed a binding obligation on the first government of the 4th Republic to draw up a programme that would deliver the long-unfulfilled promise of free, compulsory, universal basic education by January 2005. The government has lived up to this constitutional obligation.

Care and Protection

274. Article 28(1)(c-d) of the Constitution includes a statement of the duty of parents to “undertake their natural ... obligation [for the] care, maintenance and upbringing of their children”. It calls also for children to receive “special protection” against exposure to “physical or moral hazards”. Here again, the language in which the guarantee of children's rights is couched differs subtly in emphasis from what one might expect. The whole of Article 28 of the Constitution, which is actually captioned “Children's Rights”, is expressed not as a series of positive declarations of the rights of children, but as an injunction on Parliament to enact any laws that are necessary to achieve the desired benefits for children.

Inheritance

275. Against the background of a tradition of lawful polygamy and the matrilineal system of inheritance that is the norm amongst Ghana's ethnic majority, Article 28(1)(b) guarantees children a particularly important right. It states: “every child, whether or not born in wedlock, shall be entitled to reasonable provision out of the estate of its parents”. This provides many children in Ghana at least the promise of protection against the destitution that often follows swiftly behind their orphanage.

Enforcement of children's rights

276. In 1995, the Government of Ghana established a Child Law Reform Advisory Committee (CLRAC), whose brief was to review all current legislation from a children's rights protection perspective, and in particular to assess the legal implications of the country's accession to the CRC.

CLRAC made a series of recommendations, from which the following legislative changes resulted:

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The Criminal Code Amendment Act (Act 554) of 1998 was passed. This brought the Criminal Code of 1960 (Act 29) into conformity with the CRC. Amongst its specific amendments, the Act raised to 16 years the minimum age of both criminal responsibility and sexual consent. It also introduced and defined the offence of indecent assault and outlawed the culture of customary child servitude practised in parts of Ghana.

277. The Children's Act of 1998 (Act 554) was introduced. This comprehensive piece of legislation, founded on the guiding principle of "the best interest of the child", defined children's rights to care and protection, the duties of parents and the processes for adjudicating disputes involving children. It provided also for the establishment of family tribunals and laid down rules for child custody. Legislative Instrument (L.I.) 1705 was introduced by Parliament in 2002 to give practical effect to the Children's Act.

278. The Juvenile Justice Act of 2003 (Act 653) was introduced. This Act granted specific additional rights, protections and corrective opportunities to children accused or convicted of crimes. Among its provisions was the stipulation that a juvenile criminal suspect should be detained in a facility run by the Department of Social Welfare (DSW), rather than an adult prison.

279. A number of significant institutional reforms have been undertaken to further the agenda of protecting children's rights. In 2001, the newly elected NPP government established for the first time in Ghana's history a Ministry for Women's and Children's Affairs (MOWAC). MOWAC became the main co-ordinating agency for the implementation of the CRC and the enforcement of children's rights generally. The new Ministry took under its wing the Ghana National Commission on Children (GNCC), which was created in 1979 by an Armed Forces Revolutionary Council Decree (AFRCD 66), and had been situated organizationally within the Office of the President.

280. Prior to this, in 1998, under the NDC administration, a Women and Juveniles Unit (WAJU) had been established within the Ghana Police Service purposely to deter domestic violence against children and their mothers, and to investigate and prosecute crimes against them.

Lastly, the government has drafted a comprehensive Early Childhood Care and Development (ECCD) policy, the main objectives of which are to:

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- a. Reduce the child mortality rate;
- b. Promote child nutrition;
- c. Promote pre-school education;
- d. Discourage cultural practices that are considered detrimental to the wellbeing of children.

Status of children's rights

"Free Compulsory Universal Basic Education?"

281. With respect to the ambition, if nothing else, of making children's right to education a reality, Ghana can be said to have been well ahead of the global curve. The Education Act of 1961, passed during Ghana's 1st Republic, had already made primary education in theory compulsory and free for all children. However, the stark facts of life surrounding Ghana's economic history during the past forty-five years have meant that the policy of making public education at any level literally compulsory and universal, not to mention free, has been much more of a remote aspiration than a reality.
282. The less categorical declarations and promises, made in various Constitutions, Acts of Parliament and government policy statements, of older children's right to "universally accessible" and "progressively free" secondary and higher education, remain further still from being realized.
283. The rate at which Ghanaian children drop out of the formal education system gives cause for concern about the prospects both for the protection of their rights and for the general health of the economy and society. The gravity of this situation can be judged by reference to just one of the findings of a presidential committee that reviewed Ghana's education policy. The committee reported in 2002 that out of every 40 children born in Ghana now, only one stands a chance of graduating from university.

Health

284. The UN CRC states that every child has the right to preventive and rehabilitative health care, and to curative medical treatment of the highest attainable standard. The Ghana government has made strides towards fulfilling its obligations to children in this regard through a range of permanent and periodic public health programmes administered by a Reproductive and Child Health Unit located within the Ministry of Health. Examples of these programmes are the:

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- e. **Exemption Policy for Children.** This permanent programme provides fee-free preventive care at public health facilities to all Ghanaian children under 5 years of age. The care package includes growth promotion and vitamin supplementation services.
285. **Extended Immunization Policy.** This cyclical programme provides all infants in Ghana with free routine immunization and vaccination against a range of potentially life-threatening childhood diseases, including Diphtheria, Whooping Cough (or pertussis) and Tetanus (“DPT”), Polio (“OPV”), Tuberculosis (“BCG”), Yellow Fever, Measles, Hepatitis ‘B’ and Influenza type ‘B’. **National Breastfeeding Policy.** This programme funds a recurring publicity campaign that encourages mothers to nurse their babies exclusively on breast milk for the first 6 months after birth. Nevertheless, Ghanaian children do not exist in isolation from the general circumstances of the country. The infant mortality rate remains unacceptably high, and children of all ages face the risk of contracting and possibly suffering lifelong repercussions of preventable or otherwise treatable diseases such as malaria, cholera, typhoid fever and Guinea worm, or of being irreversibly disfigured by Buruli ulcer.

Objective 9: Promotion and protection of the rights of vulnerable groups

Introduction

For the purpose of this objective, the term “vulnerable groups” applies to refugees, migrant workers, elderly or aged, disabled people, people living with HIV or AIDS (PLWHA) and children orphaned by HIV/AIDS.

Refugees

286. There exist approximately over 41,000 refugees in Ghana located primarily in camps set up in cooperation with UNHCR. These refugees consist of about 35,000 Liberians, 5,000 from Sierra Leone and about 1,000 from Togo. The two refugee camps, located outside of Accra are Buduburam and Krisan. In early 2002 UNHCR was forced to cut funding for income-generation programs for refugees and cut the distribution of food and non-food items. Also in 2002 the Buduburam refugee camp’s water and sanitation system was barely functioning and the garbage created a health hazard. Furthermore, many refugees have been granted asylum seeker status rather than refugee status, which has restricted their rights and access to services. The government and the UNHCR have yet to

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address these issues. Refugees are however legally protected under the Constitution and the 1992 Refugee law.

Migrant workers

287. Ghana ratified the Convention on the Rights of all Migrant Workers and Their Families on September 7th, 2000 and it entered into force on July 1st, 2003. Ghana has also legally protected foreigners, in particular the rights of migrant workers and refugees in Article 12 of the Constitution, which extends the protection of fundamental human rights and freedoms to every person in Ghana.

The Aged

288. An important issue that needs to be addressed concerning the elderly is that there is no national definition for this group. In addition, many elderly persons lack documentation stating their age. Consequently, elderly persons can be denied access to services and policies that are intended to assist them. Although there is no specific legislation pertaining to the elderly, the draft of the National Ageing policy is currently being reviewed to address these and other important issues. At old age, a number of women are branded witches and ostracised in some communities in the northern part of Ghana there is a Gambaga Witches Camp that houses such victims. Many elderly women are widowed without access to property and may face poverty.

Disabled Persons

289. In Ghana disabled persons are defined by a physical, intellectual or sensory impairment caused by a medical condition or mental illness. The condition may be permanent or transitory. Persons with physical disabilities are estimated to comprise 10% of the Ghanaian population. Although disabled persons are broadly protected from discrimination under the Constitution Article 5 and 29, in practice the rights of the disabled are not adequately protected, and measures for mainstreaming are virtually non-existent. The majority of public buildings including schools are not disabled accessible. In addition disabled people are often stigmatized. The passing of the Disability Policy Bill, which would address many of these issues, remains long outstanding, and efforts to pass the Bill need to be stepped up.

290. Women with disabilities are among the poorest in Ghana. Disabled women and girls have less educational opportunities and are less likely to attend school than disabled boys. Women with disabilities experience a high incidence of physical,

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emotional and sexual abuse. Generally the unemployment rate for disabled women is higher than the unemployment rate for disabled men. Disabled women do not have adequate access to health service, particularly to appropriate family planning services and methods. Disabled women are invisible when it comes to holding decision-making positions.

People Living with HIV/AIDS and Children Orphaned by HIV/AIDS

- 291.. A National AIDS Policy was recently launched on World AIDS Day in 2004. The major policy objectives are the prevention of the spread of HIV/AIDS and the improvement of the quality of life of people living with HIV/AIDS and Orphans of AIDS Victims. A Workplace HIV policy is also being developed. The Ministry of Health in collaboration with the Ghana AIDS Commission and other civil society organizations have established programs to increase awareness of the risk of the epidemic in the general population. The Ministry of Health has also implemented a program for the prevention of mother to child transmission in 19 sites and provided anti-retroviral therapy to AIDS patients in four major hospitals throughout the country. In addition, more voluntary counselling and testing centers have been opened in a number of hospitals and clinics to assist people living with HIV/AIDS with advice and drug therapy.
292. Women have been more severely affected by HIV/AIDS in Ghana, and constitute the significant majority of HIV positive cases. In Ghana, more than 90% of all AIDS cases are found in people between the ages of 15-49 and two-thirds of the cases are females. Socio-economic factors including gender inequalities are central to women's generally greater vulnerability to the virus than men. Gender differences in educational levels and women's poorer access to economic opportunities, resources and knowledge and familiarity with sexual and reproductive health information disadvantage them.

Conclusion

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293. There cannot be any doubt that Ghana has made tremendous strides in her quest to attain democracy and good political governance. In many respects the country has exhibited many best practices worthy of emulation. It is however important to bear in mind that Ghana still remains a fledging democracy. There are therefore a number of constitutional and institutional measures for her to pursue and consolidate in order to sustain and deepen her democratic successes. In short whilst the country can be proud of her journey on the path of democratic and political governance she cannot afford to rest on her oars but must step up the pace and scope of this enterprise. This is because, The ultimate test of the viability of Ghana's political institutions is neither the elegance of their architecture, nor even the strictness with which political actors observe the underlying principles, but rather the extent to which the citizens own, embrace, and are content with, their own social and economic wellbeing.

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CHAPTER TWO

ECONOMIC GOVERNANCE AND MANAGEMENT

2.0 INTRODUCTION

294. It has been suggested that “development is possible, but not inevitable”.⁴ As remarkable as development efforts have been in the past, for many developing countries, there is an increasing realization that the internal weaknesses of the institutions and processes of economic management remain one of the persistent deficiencies of development. Arbitrary economic governance is itself a development trap. Countries with weak macro economic framework of policies, weak design of micro policies, weak structures and institutions, weak monitoring and enforcement mechanisms, weak public financial management system and rife with corruption in public administration are likely to be burdened with coordination problems both in the harnessing and allocation of resources, and are also more likely to suffer the most egregious forms of misuse of public resources.

295. According to the United Nations Guidelines for Good Governance (2000), good economic governance is considered synonymous with sound and sustainable economic development. Good economic governance is achieved by building effective decision-making structures and institutions, having in place sound and complementary fiscal, monetary and trade policies, establishing appropriate rules and regulations to ensure that civil servants implement these policies and account for their actions, and having in place the regulatory authorities to promote and coordinate different economic activities.

⁴ Joseph E. Stiglitz, “Towards a New Paradigm for Development”, 9th Raul Prebisch Lecture, UNCTAD Geneva, Oct. 1998. p. 5

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2.1 THE OBJECTIVES, GUIDING PRINCIPLES AND SCOPE OF THE REPORT

296. The objectives of the Economic Governance Management (EGM) Report are to provide an assessment of the current status of the institutions and processes of economic management; determine the extent to which a country adheres to best economic management practices; determine the extent to which a country is adopting policies, standards and codes that have the potential to lead to an enabling environment for growth and sustainable development; identify the deficiencies and capacity gaps; and recommend approaches to addressing them.

297. The core guiding principles in the preparation of the Report are that (a) “the national assessment process should be technically competent, credible and free of political manipulation”⁵ and (b) “the review is transparent, democratic, participatory and that it is a reflection of the generality of what Ghanaians have assessed as the state of governance”⁶. These principles are intended to ensure the independence of the review, which is essential for the credibility of the Report, and just as important to ensure that the information and data collected for the review are accurate and reflect the perspective of a wider group of stakeholders. The extent to which this report conforms to the latter is reviewed in section 2. There we will explain the methodology of the study.

298. The first substantive scope of the review of EGM is defined by 5 key objectives:

- Promote macroeconomic policies that support sustainable development
- Implement transparent, predictable and credible government economic policies
- Promote sound public financial management
- Fight corruption and money laundering
- Accelerate regional integration.

299. The second substantive scope of the assessment and complementary to the above five objectives is to examine Ghana’s compliance with relevant international codes of best practice and treaties to which Ghana is a signatory. The premise here is that compliance with these best practices, standards and codes will greatly improve the domestic policy framework. The EGM Report puts these standards and codes into five broad headings: fiscal standards and codes, monetary and financial standards and codes, good practices in auditing and accounting, good corporate governance and finally Ghana's cooperation in the international community.

⁵ Paragraph 5 of the Terms of Reference

⁶ Paragraph 13 of the Terms of Reference

Section 2: Methodology

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300. Political interpretations of the findings of the report seem almost inevitable. The fact that governments changed hands in the course of the 5-year period covered by the study (1998-2003) almost immediately casts the report in a comparative mode as if one is assessing one government's performance against the other. To look at the report in this light risks undermining the bigger purpose of the self-assessment and may cause others to dismiss its findings prematurely. We need, however, to bear in mind that economic governance and management is always in a socio-political context. There are always interactions between political forces and economic governance and management. And surely, putting economic governance and management on a sound path is a critical public policy challenge for every administration. Even when the current New Patriotic Party government's efforts may be judged by others to offer promise or headed in the right direction, we are reminded of the latent risks of weak institutional structures, social pressures, fragile commitments, and weak coordination among different decision-making units, and weak policy-making capabilities. These have been and will most likely continue to confront any government's efforts towards meaningful reforms.
301. The rest of this chapter is structured as follows. Section 2.2 describes the approach we used to carry out the country assessment. The macroeconomic background of the economy follows in section 2.3. It focuses on broad trends in the economy and highlights some of the challenges in economic management. Section 2.4 gives an account of the inventory of standards and codes that relate directly to EGM. It looks at the benefits of adhering to the standards and codes, the critical issues of adoption, the organizations for implementation, and challenges of adherence. Sections 2.5 to 2.9 present the results of the detailed self-assessment. It is structured along the lines of the five key objectives stated above. Section 2.10 concludes with a look at gender and economic governance and management.

2.2 METHODOLOGY

302. The economic governance and management study has three key components:
- An inventory of prior evaluations and assessments of Ghana based on surveys and reports;
 - The assessment of Ghana's compliance with international standards and codes; and
 - An assessment of the institutions and processes of economic management.
303. We dealt with the first item in two ways: by assembling relevant literature from published works and by sending letters to all development partners requesting for copies of their prior evaluations and reports that may be relevant for the

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assessment.⁷ The level of response varied considerably. The Fund and the Bank were most responsive. Copies of the documentation and, for some, web addresses are included as an annex. The second and third components were dealt with through surveys and to which we now turn.

304. A questionnaire was designed for each of the standards and codes that were being assessed. The objective in the design of the questionnaire on the standards and codes was to gather evidence on the status of implementation, the related institutional developments, the resources that Ghana had had to put in place to adopt, implement and comply with the respective standards, codes and treaties to which Ghana was a signatory.
305. The second fieldwork covered the self-assessment objectives. This phase of the assessment followed the five objectives defined in the NEPAD-APRM guidelines. Its coverage was extensive because it involved a wider group of stakeholders spread across the country. Here the response rate varied between public and private stakeholders surveyed. It was much more difficult to survey public institutions than private stakeholders.
306. There were generally three ways of soliciting responses: objective questions that asked respondents to rate improvements, performance or effectiveness of institutions or their actions; objective questions that asked respondents to rank improvements in certain areas or a set of actions, processes or outcomes; and finally a set of questions that asked respondents to list a set of activities, measures or outcomes. Wherever required, a rating scale of 1 to 5 was employed with 1 being the least and 5 the highest. Ranking was in descending order of relative importance or influence. For all other questions we asked respondents to list responses in the spaces provided.
307. By another classification, there were also two types of questions – the general and country-specific questions. For example, the general questions (Q1-Q14) sought information about macroeconomic policy framework, the making of macroeconomic policy and the challenges. And to a large extent questions 20-25 (Q20-Q25) followed the same general direction in ascertaining progress in public and private resource mobilization. The remaining questions for the most part were country-specific in the sense that they were formulated with specific ongoing programmes or institutional processes in mind. For example, the questions (Q15-Q19) on sectoral policies focused on themes emanating directly from the Ghana Poverty Reduction Strategy (GPRS).

⁷ The list includes the resident World Bank, IMF, and African Development Bank, UNIDO, UNDP, and FAO offices. Others contacted include European Union, CIDA, DfID, USAID, JICA, DANIDA, Netherlands, and Germany,

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2.2.1 Conduct of the Surveys

308. The survey instruments were pre-tested and the experience gained from the pilot survey was used to refine the final survey instruments.
309. All respondents were invited to respond to questions in those sections that correspond directly or most closely to their area of responsibility, line of work, or their general interest. Respondents were also invited to respond to questions about which they had adequate knowledge of the issues involved and could provide reliable information or some supporting documentation. The questionnaire was distributed by direct mail delivery accompanied by a notice that there would be a follow up to make appointments for on-site interviews.

Selection of Stakeholders

310. To ensure a balanced representation, the list of stakeholders was chosen from among government or public institutions, the private sector, and civil society. Government institutions included all line Ministries and selected Departments and Agencies. Members of Parliament were included in this category and drew from both the majority party and minority opposition members, drawn largely from the Public Accounts and Finance Committees. Two districts each were selected from the 10 administrative regions, bearing in mind the need for balance between small and large districts, poor and not-so-poor districts. The private sector group included groups and individuals either in their personal capacity or as representative in their field of work. Civil society groups included non-governmental organizations and think-tank institutes and other private citizens who in the past had played some major role in economic governance and management.

Sources of Quantitative Data

311. In general, there are four primary sources of macroeconomic data about the Ghanaian economy: the Ghana Statistical Service, Ministry of Finance and Economic Planning (MoFEP), Bank of Ghana, and the International Monetary Fund. For the relevant quantitative indicators, we relied on all four sources and wherever there was a discrepancy we chose data reported in Bank of Ghana publications for the simple reason that although both the central bank and the MoFEP are the primary sources of data for the IMF, the Bank of Ghana has recently demonstrated noticeable improvements and reliability in its data compilation and presentation.
312. Weaknesses in fiscal data remain a continuing concern. Weaknesses range from the definition of the public sector, which excludes state-owned-enterprises, the incompleteness of fiscal reporting, and the lack of standards in reporting from the

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different line ministries.⁸ A full consolidation will provide a better picture of the financial position of the public sector as well as a better indicator of the stance of fiscal policy measures. Although the quality of fiscal data is improving, it is far from providing a consistent and comprehensive picture of public finances and, consequently hampers macroeconomic planning. The government's commitment to increase the coverage of fiscal information provided in the budget, disclose fiscal information of all public sector entities, among other measures is a step in the right direction and ought to be encouraged.⁹ The enforcement of standards in expenditure and revenue reporting will improve fiscal transparency as well as the quality of fiscal data.

2.3 THE MACROECONOMIC ENVIRONMENT

2.3.1. *The Political Economy Context*

313. In comparison with many countries in sub-Saharan Africa, Ghana has since the early 1980s been a fast and a deep reformer. The economic crisis of the late 1970s to the early 1980s compelled the government to initiate radical economic reforms and subsequently triggered a process of political transformation that will leave noticeable imprints.¹⁰

314. The reform agenda initiated in 1983 encompassed macroeconomic, structural and public sector reform. The Economic Recovery Program came with its accompanying structural adjustment programs (SAPs) aimed principally at correcting and reforming the problems facing the Ghanaian economy. The SAP followed the standard prescription and included macroeconomic stabilization, privatization and deregulation. It also included market oriented policies in the financial system to support stabilization and help to derive the full benefits of these reforms in terms of efficiency and growth.

315. Privatization of state-owned enterprises, external trade liberalization, and export promotion measures were pursued in earnest. Structural reforms were bundled with stabilization measures. Policy decisions on several fronts, including social sector and public sector reforms, were pursued with an eye to their impact on fiscal needs and stabilization. To reduce its vulnerabilities to price shocks of its major exports –

⁸ Report on the Observance of Standards and Codes, International Monetary Fund, July 2004.

⁹ Memorandum of Financial and Economic Policies of the Government of Ghana for 2004-05, par. 9). International Monetary Fund, January 2004

¹⁰ Political transformation began in 1992 with the change from military to parliamentary government. The National Democratic Congress (NDC) won the elections of 1991 and 1996 and lost to the National Patriotic Party (NPP) in 2000. Of the 200 member parliament, the NPP took 100 seats, the ruling National Democratic Party (NDC) took 92 seats and two small parties and 4 independent MPs shared the remaining 8 seats.

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cocoa, gold and timber-, the preferred strategy was to diversify its export base. This encouraged the promotion of non-traditional exports products and the need to build the capacity to export.

316. By 1990-91, Ghana's bold attempt at economic transformation was considered in several quarters as a successful case in sub-Saharan Africa. Moderate macroeconomic stability and moderate economic growth were the immediate results of reform measures. In 1991, output growth reached 4.3 % in comparison with the total decline of about 6% between 1980 and 1983. Average inflation reached 18 % in 1991 down from the average of 78% in 1980-83. The exchange rate went through regimes of discrete devaluation and then eventually complete liberalization to facilitate trade. The reform effort virtually eliminated the public sector deficit by 1989-91. The fiscal turnaround was resoundingly endorsed.¹¹
317. Despite the initial successes, the transition from a recovering economy (in which growth rate averaged 5%) to an accelerated growth economy (one capable of supporting growth of between 7-8%) faltered.¹² Economic reform was accompanied by marked changes in domestic borrowing and external resource inflow. The debt build-up raised concerns about whether the economy can grow without trapping itself in a debt spiral.
318. After the 1996 parliamentary elections, even though maintaining the reform rhetoric, the re-elected government made measurably little or no substantial additional progress on the reform agenda. The resignation in 1995 of the pro-reform Finance Minister who had guided much of the past reform agenda raised the question of the commitment of the government to continuing reform initiatives. From 1996, the economy drifted into crisis. Too soon, fiscal management reached a breaking point in 1997 when debt service exceeded the wage bill and ranked as the highest expenditure item.
319. Efforts to restore macroeconomic balance were initiated in 1997. The main objective of the 1997-99 and 1999-2001 Enhanced Structural Adjustment Facility with the International Monetary Fund (IMF) was to create an environment that would eliminate fiscal instability, encourage investment and growth, increase the efficiency of the financial sector and address social issues. These notwithstanding the economy drifted into crisis. Ghana suffered a severe terms of trade shock in 1999 when export prices for cocoa fell by more than 30% to a 27-year low and gold price fell by 5% and below the \$300 mark. Donor inflows were less than expected. These together with the loss of fiscal discipline and weak monetary stance, culminated in an inflationary bout and a rapid depreciation of the currency by nearly 34% by the end of 1999 and cumulatively by 100 %t in 2000.¹³

¹¹ Stephen Younger (1991)

¹² "The State of the Ghanaian Economy in 1993" ISSER, University of Ghana, July 1994.

¹³ Selected Economic Issues: the State of the Ghanaian Economy. Centre for Policy Analysis No. 6, 2003.

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320. The deterioration in the anchors of Ghana's external position together with increased spending in election year 2000, much of that pushed by current spending rather than by capital investment, reflected in disappointing fiscal, monetary and balance of payment outcomes. With total revenue falling below target and expenditures above projections, debt build-up and un-programmed increases in money supply seemed inevitable as the primary means of deficit financing. In addition, there was an accumulation of domestic arrears as a quasi-fiscal financing measure as broad expenditure control collapsed. The overwhelming difficulty was that the un-programmed monetary expansion, the sharp increases in domestic credit, and the pass-through effects of exchange rate depreciation fuelled a high and unstable inflationary environment, putting upward pressure on interest rates, shortened further the maturity of the domestic debt, added to the debt service burden in a vicious fiscal cycle.
321. At the dawn of the new millennium Ghana was faced with daunting macroeconomic challenges. The New Patriotic Party government had to deal immediately with a sharply deteriorating fiscal position, rising and volatile inflation, falling international reserves, rapidly falling value of the local currency against those of its major trading partners, rising debt levels, and rising debt burden.
322. The macroeconomic environment has since changed. Since his inauguration in January 2001, the President proposed to lead Ghana into a middle-income country by the year 2013. The benchmark set out in his mid-term programme "The Coordinated Programme for Economic and Social Development of Ghana" was "to attain the important milestone of \$1000 per capita income in the shortest possible time". The government proposed to reinvigorate the momentum for reform. To this end, it was essential promptly to restore macroeconomic stability.
323. It was not sufficient to achieve short-term macroeconomic stability. The government also adopted a medium-term strategy under its Agenda for Growth strategy. It expressed its strategic goals in the twin themes of poverty alleviation and accelerated growth as paramount to achieving a middle-income status. In March 2001, the government announced its decision to join the Enhanced Heavily Indebted Poor Countries (HIPC) Initiative. It reached the Decision Point in February 2002 and the Completion Point in July 2004. Debt relief was essential for three reasons: to address the unsustainable fiscal situation of the economy, to free up scarce resources from debt service to investment, and to reorganize economic management properly to support growth and poverty alleviation.
324. At the core of the HIPC Initiative was the preparation of a poverty reduction strategy. Begun in 2000 and completed in 2002, the Ghana Poverty Reduction Strategy (GPRS) represents a set of comprehensive policies, programmes and projects to support growth and poverty reduction over the medium term: 2003-2005. The main objectives are to accelerate output growth, increase production and promote sustainable livelihoods, reduce poverty, achieve equitable human resource

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development, support the vulnerable and excluded, ensure gender equity, improve governance and the capacity of the public sector and promote the private sector to be the main engine of growth.

325. These objectives will be achieved through five main strategic pillars:

- Ensuring macroeconomic stability
- Increasing production and gainful employment
- Encouraging human resource development and the provision of basic services
- Reaching out through special programmes to the vulnerable and excluded
- Promoting good governance

326. Government policy objectives since 2001 have been to restore fiscal discipline, maintain a monetary policy stance that has the prospect of lower inflation, and to develop a macroeconomic environment that will enable government implement its growth and poverty alleviation strategy.

2.3.2 Macroeconomic Trends in the Ghanaian Economy

The Real Sector

327. Growth has been erratic and averaged 4.3% for the period 1990-2003 and 4.5% during the last 5 years. With population growth averaging about 2.5%, per capita income growth averaged 1.8%, leading observers to suggest that Ghana is locked into a low growth trap.¹⁴

328. Except for moderate shifts in contribution from agriculture to the services, growth in the past decade has not transformed the structure of the economy. The output mix has not changed much. The economy remains predominantly agricultural, contributing nearly 36% of output, much of that from small holder farms employing traditional farming techniques, and much of that contribution depending on a small number of primary products. The share of industry has remained about 25%. The share of manufacturing stagnated around the 9% mark and the growth rate of manufacturing, which averaged 13% in 1984- 88 has fallen sharply to about 3% in the 1990s.

329. The services sector (an agglomeration of private and public sector industries) has expanded somewhat in the last decade, increasing its share of output from 27.5% in 1993 to nearly 30% in 2003. Although the sector continues to expand especially in the financial and hospitality industries, but much of that is in low-tech activities.¹⁵

¹⁴ Aryeetey et al; (2000), Leith and Solderling (2003) suggest that the living standards in the year 2000 only just recovered to the level achieved in 1960, because average growth in real incomes turned negative in the decades of the 1970s and 1980s, recovering only modestly in the late 1980s to mid 1990s. Much of the latter growth did no more than make good the earlier deterioration.

¹⁵ "Ghana-The Danger of Fiscal Exuberance" Chapter 5 in Economic Commission of Africa, Economic Report on Africa (2003)

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330. A notable feature of the economy is that overall employment growth has not kept pace with the labour force growth. The agricultural sector dominates the labour market and employs about 50% of the labour force, the majority of them in the rural sector and on an informal basis. It is estimated that about 80% of total employment creation between 1984 and 2000 was in the informal sector. From a budgetary perspective, this leaves only about 20 percent of the working population as taxable at income source. Of this group, about 51% were employed in the public sector in 2000.¹⁶ With limited tax buoyancy, government is unable to generate revenue from the private sector commensurate with social and infrastructure needs even as demographic expenditures (health, education, social services) expand with population growth.

Fiscal Trends

331. The size of government relative to national output has risen steadily and faster than the capacity to support it through domestic revenues. Ghana's fiscal policy management focuses on the domestic primary balance and the overall budget balance. The overall deficit increased fivefold from about 2.5% of GDP in 1990, to about 11% in 1997. It remained between 7% and 9% between 1998 and 2002 before falling sharply to 4.5% in 2003. Despite maintaining an average domestic primary balance (the operational target under the ESAF and Poverty Reduction and Growth Facility (PRGF)) of about 2.4% over the period 1998 to 2003, the overall deficit averaged 7.8% for the same period. The persistence of arrears and the tendency to cut back on domestic development expenditures to meet operational targets make it very difficult to give much meaning to the history of positive domestic primary balances. For one thing, arrears create the illusion that the reported expenditure numbers reflect the true stance of government spending patterns when in fact they are not.

332. There are distinct features of government expenditure patterns. These are the debt service burden, the un-programmed growth in public sector wage bill, high degree of expenditure rigidity due to earmarking, the problem of matching funds, and expenditure leakages from central to local government units.

333. On the revenue side, notable features include the general rise in the tax indicator, the shift in the relative importance of the main tax categories, the redoubling of efforts to increase non-tax revenue, the weak tax buoyancy and the continuing high dependence on aid to support budget implementation.

334. Ghana's net aid as a ratio of gross national income of 13% is 9 full points above the sub-Saharan average of 4%. The high dependency of public investment and imports on foreign aid reflects in the net aid to gross capital formation ratio of 52% and the net aid to imports ratio of 18% in FY 2000; both ratios are higher (the

¹⁶ Baah Boateng (2004), p.5 Figure 4.1.

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former considerably higher) than the sub-Saharan averages. In the FY 2000-2003, the ratio of foreign financed capital expenditures to GDP averaged 4.4%, nearly twice the domestic-financed expenditure counterpart. Aid pledges have been volatile throughout the 1990s.

335. A recent attempt to increase capacity for aid-coordination and management and also to close the gap between donor commitments and disbursements has been the introduction of the multi donor budget support mechanism that began 2002. Direct budget support increased from about 2% of GDP in 1999 to about 6% in 2002, but fell to 1.8% in 2003 and rose to 3% in 2003. The strength of direct budget support is that it can be readily used in support of budget implementation to contribute to the reduction of financing gaps. While direct budget support may have closed the gap between pledges and disbursements, it has however not eliminated the unpredictability of budget support flows and hence the vulnerability of budget implementation to adverse external support shocks.

Monetary Paths and Inflation

336. Ghana entered a new era of monetary management in the 1990s as judged by the changes in the composition of broad money, the expansion in the degree of monetization, and the measure of the flow of loanable funds in the economy. While price stability has always been the stated goal of the conduct of monetary policy, the Bank of Ghana more often than not has not been successful in staying its course. Injections of base money in the early 1990s, particularly in 1992 to meet a 35% wage hike prior to the election increased the likelihood that, sooner or later, inflationary pressures would manifest. A notable characteristic of monetary management in the 1990s is that government was running large deficits whilst the Bank of Ghana on the other hand financed the deficits by printing money and simultaneously sought to mop up the money it created.
337. It is encouraging that the need for monetary accommodation has diminished somewhat since 2001, leaving the Bank to focus on monitoring the non-monetary sources of inflationary stimulus and on how to use monetary stimulus to respond to those changing macroeconomic conditions. The evidence of this is the growing reliance on indirect monetary control measures.

External Sector

338. Ghana's external payments position deteriorated in the 1990s compared with the six-year period 1984-89. The external payments position in the 1990s was characterized by unprecedented deficits in both the trade and current account balances. Merchandise trade fluctuated around a rising trend — imports more so than exports. The fluctuations were more pronounced in the mid-1990s than in the

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early and late 1990s, much of that reflecting strong response to exchange rate and terms of trade movements.

339. To a large extent, trade deficits were driven by a combination of exogenous shocks (adverse terms of trade and drought-induced slowdown in domestic production as in 1996-97) and in the use of the exchange rate as a nominal anchor in the single-minded unsustainable fight against inflation. The latter resulted in an overvaluation of the Ghanaian currency in 2000.¹⁷ Lags in external aid disbursements and program grants for balance of payments support increased the vulnerability of the overall balance of payments position.
340. The impact of severely deteriorated expenditure management throughout the 1990s left its mark on public debt. Ghana's outstanding external debt stock increased from 55% of GDP in 1990 to 121.7% of GDP in 1994, dropped throughout the second half of the 1990s but rose sharply and exceeded 145.0% of GDP on average for 2000 and 2001. External debt service (including to the IMF) as a percentage of GDP remained high throughout the 1990s, peaking at 11.2% in 2000 before dropping over the next three years to 5.3% of GDP in 2003. As a percentage of the exports of goods and non-factor services, the external debt service peaked at 38.1% in 1995 before falling sharply to the range of 21% and 23% between 1996 and 2000. Since the HIPC Initiative, the external debt service ratio has dropped below 20%.
341. While the terms of trade have improved tremendously in recent years — on a cumulative basis by nearly 38% over 2001-03, challenges still remain in weaning the vulnerability of Ghana's external payments position from uncertainties in primary commodity markets and from the dependence on external financial support.

2.4 ASSESSMENT OF THE IMPLEMENTATION OF STANDARDS AND CODES.

342. In addition to providing assurances of transparency and predictability of government actions, it is expected that compliance with the standards and codes

¹⁷ External donor support for the reform process in Ghana had enabled import dependent activities to rebound. CEPA had argued that while this promoted economic growth, it also created the erroneous impression that the economy could operate smoothly irrespective of the incentives provided for exports. It was this sense of complacency that appeared to be behind the use of the exchange rate as a nominal anchor against inflation. In the latter part of the 1990s, both aid and export earnings dropped sharply, while the gap between the demand and supply for foreign exchange widened. (see *Mid-Year macroeconomic Review*, January-June 2000, CEPA.)

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will help reduce the opportunities for corruption, contribute to the creation of a stable macroeconomic environment and an efficient and effectively functioning government systems. The standards and codes are classified into five broad headings: fiscal standards and codes, monetary and financial standards and codes, governance, corporate governance, and international relations. It is perhaps useful to point out that whilst the primary audience of some of these standards and codes are OECD members, progress towards the application of best practice ought to be what developing countries aspire to. The emphasis here therefore, is not so much on what is missing, but on the stock of progress Ghana is making towards adopting best practices in its economic governance and management. For standards and codes that Ghana has adopted, we are interested in how they are translated into law, the degree of compliance, and the challenges faced in the implementation or ratification of the codes.

2.4.1 Fiscal Standards and Codes

The Code of Good Practices on Fiscal Transparency

343. Fiscal transparency is based on the following:

- i) Clarity of roles and responsibilities of Government and the public sector.
- ii) Public availability of information
- iii) Transparency in budget preparation, execution and reporting
- iv) Quality of fiscal information

344. Ghana has taken significant steps to improve the practice of fiscal transparency. Changes by the Government of Ghana have included the improvement in both legislative and regulatory framework and financial management systems and procedures. The 1992 Constitution and Acts of Parliament define the roles and responsibilities of the various economic management actors. There has been an improvement over the years in the coverage of information in the budget although some important gaps remain. For example, the budget statement does not contain information on the nature and fiscal significance of central government contingent liabilities and the budget statement focuses only on revenues and expenditures of central government and does not incorporate the fiscal activities of local government, i.e. The District Assemblies. The publication of fiscal information is a legal obligation of government. There are improvements in publication of fiscal information. The monthly report of the Controller and Accountant General's Department is increasingly being received on time.

345. Budget documentation specifies fiscal policy objectives, the macroeconomic framework and assumptions, and the policy basis of the budget. However the annual budget statement does not discuss major fiscal risks and sensitivity analysis is either not done or such information is not publicly available. There is limited reporting on extra-budgetary activities. Procedures are in place for the execution

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and monitoring of approved expenditure. The main challenges are adherence to these procedures.

346. The quality of fiscal data is weak but improving. The fiscal data can be subjected to independent scrutiny. In recent years there is increased documentation, more detailed breakdown and reporting of fiscal data. Much of that is encouraged through the multi-donor budgetary support as part of the reporting requirements for performance measurement.

Best Practices for Budget Transparency

347. The OECD Guidelines for Best Practices in Budget Transparency defines transparency as openness about policy intentions, formulation and implementation. The Guidelines require that government prepares five reports during the course of the year. These are pre-budget reports, draft budgets, budget statement, monthly reports, mid-year reports and year-end reports. All of these reports with the exception of the pre-election reports are produced in Ghana although they do not always meet the requirements set out in the OECD Guidelines.
348. The Guidelines set out parameters to ensure quality and integrity of the reports. Quality and integrity can be assured through an effective and efficient audit system. The Internal Audit Agency Act, 2003 provides for the establishment of an internal audit agency. Audit reports are prepared for scrutiny by the Public Accounts Committee of Parliament. Unfortunately the lag in the presentation of these reports to the Public Accounts Committee and the subsequent lag in the presentation of the report to the full house of Parliament undermine the effectiveness of the entire process. A concern expressed by members of the Public Accounts Committee was that their recommendations, even though late in arriving were not enforced. The Finance Administration Act, Act 2003 provides for the establishment of a tribunal that will amongst other things enforce the recommendations on the reports of the Public Accounts Committee on the Auditor-General's reports as approved by Parliament. The control and accountability process is also hampered by the resource constraints that limit the work of the Public Accounts Committee. A concern expressed by Members of Parliament is that there is not enough time to examine the budget document in detail.

Public Debt Management

405. *The operations of the debt management unit are guided by the Principles of Public Debt Management Debt management covers both domestic and external debt. The current focus of the debt management has been debt sustainability. The major challenge for the future is improved management of the government's debt portfolio.*

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2.4.2 Monetary and Financial Standards and Codes

Code of Good Practices on Transparency in Monetary and Financial Affairs

406. The code of good practices on transparency in monetary and financial policies identifies desirable practices for central banks in the conduct of their monetary and financial policies. Transparency for the purpose of the code focuses on:

- Clarity of roles, responsibilities and objectives of central banks and financial agencies;
- The processes for formulating and reporting of monetary policy decisions by the central bank and of financial policies by financial agencies;
- Public availability of information on monetary and financial policies;
- Accountability and assurances of integrity by the central bank and financial agencies.

407. Progress has been made in meeting these standards. The roles, responsibilities and objectives of the central bank are clearly stated in the Bank of Ghana Act, 2002. There is a fairly open process for formulating and reporting monetary policy decisions. Monetary policy targets are stated in the budget statement. Changes in the setting of monetary policy instruments are announced in a timely manner and explained. The Monetary Policy Committee regularly issues statements that review developments in fiscal, monetary and price variables. Prior to the implementation of substantive technical changes to the structure of monetary regulations, consultations are carried out with stakeholders, usually from the banking sector.

408. There is a fair amount of disclosure of information. For example, Article 55 of the Bank of Ghana Act, 2002 requires that the Bank collect and prepares statistics on money and banking, public finance, prices, wages, production, the balance of payments and other statistical data that the Board may direct. With the exception of wages and production, the Bank of Ghana publishes monthly, quarterly and annual reports and provides statistics on the variables listed in Article 55. The central bank has a public information service and hosts a web site through which it disseminates public information notices and regulations.

409. Bank of Ghana officials are available to appear before a designated public authority to report on the conduct of monetary policy, explain the policy objectives of the Bank and describe the Bank's performance in achieving objectives. The Bank of Ghana discloses information on its expenses and revenues. The audited accounts are published by March 31st of each year in its annual reports.

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Basle Core Principles of Effective Banking Supervision

410. An assessment of Ghana 's compliance with the core principles of banking supervision in 2001 found that out of 30 core principles Ghana was compliant with 5, largely compliant with 15, materially non-compliant with 4 and non-compliant with 3.¹⁸ Three of the principles were not applicable to Ghana at the time of the assessment. The Basle Core Principles of Effective Banking Supervision informed the parameters of the Banking Act, 2004. The entry into force of this Act has contributed to improving upon Ghana's compliance – in terms of provision of the legal framework – of the Core Principles of Effective Banking Supervision.

Payments Systems

411. Until the Payments System Act, 2003 Ghana had no comprehensive and integrated statutes governing payments systems, though there are already existing Acts (Bank of Ghana Act, 2002, the Currency Act 242, and the Bill of exchange Act 1961) that make provision for the printing, use and offences relating to cash. Until the entry into force of the Act there was no legal basis for electronic payments, such as the ATMS.

412. Regulations are being drafted to give effect to the Act. The main challenges facing the successful implementation of the provisions of the Payments System Act are financial and human capacity constraints.

2.4.3 Governance

International Auditing Standards

413. The Audit Service Act, 2000 (Act 584) provides the framework to ensure the adoption and implementation of international standards in auditing. As a result of the entry into force of this Act, training manuals have been developed based on international auditing standards. Staff members have been mandated to conduct audits based on these standards. About a third of the staff of the Audit Service has been introduced to the international audit standards and approximately 55% of the audits are conducted on the basis of these standards.

414. The main challenges facing the audit service in the implementation of these standards are financial and human capacity constraints.

African Union Conventions on Preventing and Combating Corruption

415. The conventions were signed in October 2003 and are yet to be ratified.

¹⁸ Lindgren, C-J and O.J. Odonye. 2003. *Towards Common Banking Supervision in the West African Monetary Zone: The Way Forward*, Accra.

2.4.4 Corporate Governance, Security and Insurance Supervision

416. In spite of Ghana being a founding member of the International Association of Insurance Supervisors, it has so far failed to pass an Act to update insurance legislation that will reinforce the powers of the National Insurance Commission. At the time of writing this report a new legislation has been drafted which is to be presented to Parliament for deliberation. The Act incorporates the core principles of the International Association of Insurance Supervisors. The absence of the legal framework notwithstanding, the National Insurance Commission has put into place some measures to strengthen supervisory practices.

417. The National Insurance Commission faces several implementation challenges with respect to the International Association of Insurance Supervisors principles if they are encapsulated in the new law. This is because it is faced with serious financial and the human capacity constraints. Other constraints include the lack of coordination among the MDAs and internal administrative bottlenecks.

2.4.5. International Relations

418. Article 40 sub-section (d) of the 1992 Constitution of Ghana (the Directive Principles of State Policy) states that in its dealings with other nations, the Government should adhere to the principles enshrined in or as the case may be, the aims and ideals of the international treaties it is signatory to.

419. The Ghana Poverty Reduction Strategy Paper recognized the potential for intra-West African trade and enjoined the Ministry for Regional Cooperation and NEPAD and the Ministry of Foreign Affairs to provide leadership towards the complete ratification of outstanding agreements to open up trade within the region

2.4.6 Recommendations

420. A number of actions need to be taken to improve fiscal transparency. These are:

- Data on the fiscal position of district administration should be included in the budget statement. This will require coordination between the Controller and Accountant General's Department, the District Administration and the Ministry of Local Government and Rural Development.
- The budget should include a sectoral break down of actual discretionary and statutory payments.
- Estimates should be included of the cost of tax exemptions and subsidies.
- The mid-year report of the budget should be presented to Parliament on schedule.
- The weaknesses of the Public Accounts and Finance Committees must be addressed. They require adequate space for the conduct of meetings and

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research assistance. An assessment of the needs of these committees must be conducted if one does not already exist. This assessment is necessary in order to provide these Committees with the needed resources given the budgetary limitations that exist.

- The reviews conducted by the Monetary Policy Committee should analyse the extent to which targets are being achieved.
- In the last five years Ghana has passed legislation aimed at closing the gap between domestic practices and international best practices. The various organisations responsible for ensuring that the different standards and codes are complied with must develop capacity building programmes that provide an assessment of the training needs, equipment and changes in rules and norms that are required to effectively implement their mandates in the new Acts.

2.5 OBJECTIVE ONE: PROMOTING MACROECONOMIC POLICIES TO SUPPORT SUSTAINABLE DEVELOPMENT

2.5.1. Soundness of Macroeconomic Policy

421. Sound macroeconomic policies involve a delicate mix of monetary, fiscal and exchange rate policies to achieve macroeconomic stability as a necessary condition for growth and development. To be sustainable, it must also induce a reasonable level of supply response without compromising the environment. On average, the combination of macroeconomic policies in Ghana may be described as technically correct in terms of the assignment of instruments to targets, except for 1999 and 2000 when the adverse terms of trade was perceived as temporary and a wrong combination of policies was used.

422. The fundamental problems affecting macroeconomic management and performance are with planning and implementation. Achieving macroeconomic stability and growth has been the cornerstone of Ghana's macroeconomic and development policies. Since 2001, with the introduction of the HIPC Initiative the overall strategy has changed to incorporate the simultaneous achievement of macroeconomic stability, economic growth and poverty alleviation.

423. Apart from refocusing the macroeconomic framework, several initiatives have been undertaken by the government over the last three years to improve revenue mobilization, increase fiscal resources and improve the efficient utilization of resources. At the same time there have been efforts at promoting independent monetary policy making, reforming and developing a national trade policy framework, as well as an effective flexible exchange rate system. To reduce the burden of domestic debt repayment on fiscal management, the government

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successfully restructured the domestic debt by changing the composition towards longer-term debt instruments and also engineering an interest rate structure in favour of longer-term instruments.

424. Efficient expenditure management and the effective utilization of fiscal resources, however, remain illusive. To address these problems, first the government moved to the cash budget system whereby expenditures are based on cash available through the revenue agencies. This could reduce the accumulation of arrears, which arises from using the commitment basis. Two acts were also passed by Parliament — the Public Procurement Act and the Financial Administration Act — to improve on the transparency and effective utilization of public resources. These acts are yet to take effect.
425. Monitoring and impact assessments of policy are weak. The Economic Policy Coordinating Committee was established to track economic aggregates and offer advice to government. In discussions with the Committee it is clear that its staff capacity is limited. At the microeconomic level, the National Development Planning Commission (NDPC) is expected to monitor and assess the impact of policy at the districts. It is inadequately resourced and does not have staff at the district level to monitor and assess. Since the development of the GPRS more effort has been made by the NDPC to perform its functions but it is still a long way off from achieving its objectives. Assessment is therefore based on macroeconomic data supplied by the Ghana Statistical Service. There is also a reliance on the Fund for monitoring and assessment, which would normally be concerned more about meeting its conditionalities than the impact on Ghanaians.
426. In the survey of MDAs and private sector stakeholders conducted for this peer review to obtain their perception and rankings of the major challenges facing macroeconomic management in Ghana, world oil price changes ranked as the most serious challenge. In a ranking of one to five, where one is the lowest challenge and five the greatest challenge, world oil prices scored 4.9. This is probably to be expected. Ghana produces no oil and imports substantial amounts of crude oil for domestic processing. Next in importance with a score of 4.5, are unpredictable changes in major export prices. This arises to a large extent because Ghana's major exports are concentrated on the structure that emerged as far back as 1911, with gold, cocoa and timber as the major export commodities. Efforts at diversification have resulted in very limited success. A weak private sector ranks third with a score of 4.1 as one of the great challenges.

2.5.2 Basis of Projections and Policy Formulation

427. Projections for economic policy formulation are based on simple linear or multivariate forecasts of trends. The Ghana Statistical Service is the main source of economic data for policy formulation.
428. These linear trend projections are used because they are simple and easy to understand. They are also the most suited to situations where only the most

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rudimentary data are available. They have also proven to be relatively effective compared with the several-equation macro-econometric models that were built and used in the 1960s and 1970s in Ghana.

429. Since 2001 growth targets have been met. The projections have been less successful in tracking inflation due to major price shocks. While budgetary outcomes show some deviations from the targets, they have largely been on track. Balance of payments projections have largely been on track even though these are subject to two possible major shocks: changes in donor inflows and changes in primary product prices on world markets.

430. In interviews of stakeholders, on the reliability of, adequacy and timely availability of data, most respondents thought these were satisfactory. It was thought that the capacity and staffing levels for macroeconomic planning was satisfactory. However, Ministers and Heads of Departments interviewed at the Ministry of Finance and Economic Planning thought there was room for considerable improvement. At the time of these interviews in late August 2004, Ministry officials complained of the lack of data to assess the mid-year, June outcome. In other words the timely availability of data was a problem. The time lag before data was available was considered too long and could be costly.

431. The calibre of the middle-level manpower at the Ministry of Finance and Economic Planning was considered to be weak. The Policy Analysis Department and internal research capacity of the Ministry needs strengthening.

432. In the survey of policymakers for this peer review, it emerged that government relies to a large extent on multilateral policy advice and analysis ahead of any Ghanaian institution for its policy making. Multilateral policy advice and analysis ranked 4.5 on a scale of 1 to 5 in which 1 is reliance to the least extent and 5 is reliance to the greatest extent. This is followed by Ministry of Finance and Economic Planning and Bank of Ghana's internal research analysis, which scored 4.3 each. Independent advice and analysis from local research think tanks scored 3.3. Private sector institutions and public interest groups are the least relied upon for policymaking and assessment of the economic situation.

2.5.3. Sectoral Policies, Economic Growth and Development

433. The survey conducted for this peer review revealed that considerations other than gender equity, environmental sustainability, growth, poverty reduction, regional equity and social equity top the list of factors that influence sectoral policies even though poverty alleviation and growth issues also score quite high. On a scale of one to five, 'other considerations' scored 4.4. This is followed by poverty alleviation and economic growth considerations, which scored 4.2 and 4.0 respectively. These three factors have the greatest influence on sectoral policies. Gender equality and environmental sustainability issues score the least with 3.4 each in our survey's ratings of influences on policy. While being the lowest, the

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levels of scores imply that these issues exert more than a moderate influence on policy. Social equity and protection of the vulnerable, employment creation and regional considerations exert strong influences on policies.

434. In terms of achievement, much more progress has been made with respect to 'other considerations'. Regional considerations and employment creation ranked higher in terms of impact than their influence on policy. Quite strong progress has been made in moving towards regional equity and employment creation objectives in the assessment of our stakeholders. However, only modest achievement has been made with respect to poverty alleviation, economic growth, environmental sustainability, and gender equality. Social equity and protection of the vulnerable, which is strong in its influence on policy, is the area with the least progress.

2.5.4 Domestic Resource Mobilization

435. In the last five years new taxes have been introduced and levels of some existing taxes have been raised.
436. The institutional capacity of tax administration has been strengthened and their manpower resources have been increased. In 2002, the Revenue Agencies Governing Board was established to coordinate the operations of the three revenue-collecting agencies. In March of the same year, a Non-tax Revenue Unit was established in the Ministry of Finance and Economic Planning to monitor the collection and payment of non-tax revenues into the Consolidated Fund. Improved recovery methods, wider coverage of taxes, particularly the VAT, and increased commitment to prosecute defaulters have increased effective tax collection rates.
437. The effectiveness of these measures in mobilizing domestic resources for the public sector operations are reflected in the total domestic revenue-GDP ratio and the tax revenue-GDP ratio. The total domestic revenue to GDP ratio, increased from 15.4% in 1998 to 21.1% in 2003. The tax revenue-GDP ratio increased from 15.0% in 1998 to 18.0% in 2002. In spite of these increases, an increasing resource gap between public investment and savings had to be corrected by the private sector.
438. On the whole, stakeholders rated government efforts at revenue mobilization as satisfactory. Domestic revenue effort scored 3.6 on a scale with a maximum score of 5.0. Domestic non-tax revenue efforts scored 3.2 out of the maximum score of 5.0.
439. Stakeholders attribute the growth in government revenue to strengthened capacity and improvements in the efficiency of revenue agencies. Strengthened institutional capacity and efficiency in revenue administration both scored 6.8 each in a scale up to 8.0. These are followed by legislative improvements in tax administration scoring 5.4 and introduction of new taxes with a score of 5.1.

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440. On private resource mobilization, several legislative changes have occurred in the financial sector intended to create a sound, viable and competitive sector that will mobilize private financial savings, for example, the Bank of Ghana Act of 2002 and the Banking Act of 2004.
441. Non-bank financial institutions are still governed by the Non-Bank Financial Institutions Law, 1993. Since then there has been the establishment of the Securities Exchange Commission (SEC) and the National Insurance Commission (NIC). The SEC is expected to license and regulate securities management firms. Apart from Discount Houses and Trading Agencies, the establishment of Mutual Funds companies to encourage long-term savings has now been legalized.
442. In spite of these measures the level of financial intermediation is still very low. The money stock-GDP (M2/GDP) ratio stood at 30% in 2003. Even this low level represents an increase from the 20% recorded in 1998 and 1999. Private savings have more than doubled over the last five years, increasing from 8.4% of GDP in 1999 to 19.2% in 2003. Gross investment to GDP has stagnated around 23.0% between 1999 and 2003. This was largely the result of a slow-down in public sector investment.
443. Capital flight is not perceived as a major hindrance to resource mobilization in Ghana. In interviews of stakeholders, majority thought that it was either a minor problem or no hindrance at all. Only 15.0% of the respondents thought capital flight was a major hindrance to resource mobilization.
444. In general, the capital account of the balance of payments is not liberalized in Ghana. There are exchange control regulations dating back to the Exchange Control Act of 1961, which subjects capital transfers to an approval process. Moreover, there are Bank of Ghana notices restricting the amount of foreign exchange granted for external travel and also regulating the operations and dealings of the foreign exchange bureaux.

2.5.5 External and Internal Shocks

445. The major shocks confronting the Ghanaian economy are those arising from external market conditions, due in part to the narrow production base and, in part, to the failure of past policies to diversify the export base. In the survey of stakeholders on the external shocks confronting the Ghanaian economy, oil price shocks, price shocks of primary exports and terms of trade scored 4.9, 4.4 and 3.9 respectively on a scale of 1 to 5, where 1 is the least and 5 the greatest source of vulnerability
446. Despite the more than satisfactory effort of the government in external resource mobilization, external donor flows scored 4.3 in our stakeholder survey. Other external shocks not rated highly are conflicts in the West African sub-region and recession in industrialized economies. Changes in interest rates in the global

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financial markets ranked lowest in terms of the external shocks confronting the Ghanaian economy.

447. Internal shocks to the economy all score ‘moderate’ or ‘minor’ in our stakeholder survey of the internal shocks confronting the Ghanaian economy. The highest score of 3.4 was recorded for the shock arising from past election year spending excesses. This is followed by fiscal shocks with a score of 3.3 on a scale of 1 to 5, where 1 is the least score and 5 the greatest score. Other internal shocks that score up to 3.0 are weak and vulnerable financial sector (3.1) and labour market unrest (3.0).
448. A fundamental strategy used by most Ghanaian governments to address the economy’s susceptibility to external primary product price variations has been export diversification. Every post-independence development strategy saw the need for export diversification. Presently, the President’s Special Initiatives on cassava, salt and seed oil production, textiles and garments, are aimed at providing special assistance for the development of these areas into viable export activities.
449. A national trade policy, including trade facilitation, is being drafted to make the trade regime more export oriented. To deal with the issues of variation in world market oil prices, the government’s strategy is to deregulate the oil sector and pass on oil price changes to the consumer.

2.5.6. Recommendations

450. Environmental sustainability and gender equity rank lowest as factors that influence policy and project design. Remedying this situation requires the development of capacities to include an environment and gender perspective in policy formulation and project design.
451. Greater coordination is needed between the Ministry responsible for the environment and the other MDAs particularly Agriculture, Fishery, Forestry, Mining, Energy and Health.
452. Capacities in the Environmental Protection Agency will have to be strengthened to provide the necessary support to MDAs to design policies and projects that will ensure sustainable development.
453. Agencies responsible for the collection of macroeconomic data must coordinate their data collection processes to ensure consistency when producing data on the same variables.
454. A policy must be developed to ensure the regional classification, and where possible a gender classification, of macroeconomic data, in particular government expenditure, employment and output.
455. Measures must be introduced to improve upon the capacity of the Non-Tax Revenue unit to monitor the activities of MDAs with respect to revenue generation.

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456. Training and recruitment plan must be developed to improve upon the research and policy analysis capacities of the Ministry of Finance and Economic Planning. An important component of the strategy should be measures to retain trained staff.

2.6. OBJECTIVE TWO: PROMOTING SOUND, TRANSPARENT AND PREDICTABLE GOVERNMENT ECONOMIC POLICIES.

457. Soundness, transparency and predictability of economic policy are essential elements if targets and goals are to be achieved in the shortest possible time and with least cost. The 1990s saw the start of a number of reform efforts aimed at improving upon efficiency in service delivery in the public sector. An assessment of the public sector conducted in 1997 found that several MDAs were unable to produce the expected deliverables and service delivery was poor¹⁹.

2.6.1 Actions Taken to Improve upon Transparency and Efficiency

458. Transparency refers to an environment in which the objectives of policy, its legal, institutional, and economic framework, policy decisions and their rationale, data and information related to policies, and the terms of accountability, are provided to the public on an understandable, accessible, and timely basis.²⁰ At its most basic level, efficiency means achieving the goals of policies with the least use of public resources. Efficiency in the use of resources and fiscal transparency are therefore key requirements to achieving a sound public expenditure management system and improvements in overall public financial management.

Key Measures Taken to Improve upon Effectiveness and Transparency

459. In the last decade several projects have been implemented with the objective of improving upon effectiveness and transparency. These are The National Institutional Renewal Programme (1994-2003); The Civil Service Performance Improvement Programme (1996-2003); The Public Sector Management Reform Project (1999 – 2003); The Public Financial Management Reform Programme (PUFMARP) (1999-2003) and The National Governance Project. The first phase of the National Governance Project covered the period 1997-2001. The second phase began in 2002.

¹⁹ National Institutional Renewal Programme. 1997. *Public Sector Re-invention and Modernisation Strategy for Ghana. Transforming Vision into Reality*. Accra.

²⁰ *Guidelines for Enhancing Good Economic and Corporate Governance in Africa*, Economic Commission of Africa, May 2002.

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Evaluation of the Reforms

460. The results of the reforms have been assessed in various reviews as disappointing. The GPRS observed that “despite a number of significant improvements empirical observation suggests that the public service overall has no more capacity and is no more effective than five years ago” (Republic of Ghana, 2003, p. 120). Findings of independent reviews reinforce the view that the various reform programmes failed to deliver adequate results on efficiency and transparency, especially in relation to the time that had elapsed and the monies that had been spent.²¹
461. Some positive developments arising from the reform attempts are the creation of a public complaints unit at the Office of the Head of the Civil Service, monthly (rather than quarterly) meetings of Chief Directors, establishment of the Revenue Agencies Governing Board, more regular production of annual reports, improvement in the reporting of internally generated funds of MDAs and improvement in the management of aid and debt servicing.
462. Another measure of progress is the enactment of various pieces of legislation, which if effectively implemented will improve upon effectiveness and transparency in public administration and the fiscal authorities. These include the Audit Service Act, 2000 (Act 584), Internal Audit Service Act, 2003 (Act 658), Public Procurement Act, 2003 (Act 663), and the Financial Administration Act, 2003 (Act 654).
463. The Standing Orders of Parliament have been reviewed. All Parliamentarians interviewed for this peer review were of the opinion that this would assist in making Parliament’s work more effective and transparent. In addition a Special Budget Committee for Parliament was set up two years ago to present Parliament’s budgetary requirements to the Ministry of Finance and Economic Planning.
464. Some district assemblies (DAs) are moving towards greater transparency by publishing revenue collections on notice boards of the Assembly. In some districts the finance and administration committees of the Assembly are provided with copies of the trial balance of the budget for scrutiny. There is increasing participation of the Assembly in financial management and the award of contracts.
465. Interviews with district assemblies revealed that although there have been improvements in accounting procedures and financial controls during the past 3 years internal auditing at the district level was rated as very poor. Infrequent external auditing was cited as a serious problem in financial management at the district level.
466. Respondents were asked to rate improvements in transparency of the workings of various organisations and institutions on a scale of one to five. The workings of Parliament, Bank of Ghana and the MoFEP – according to about 60% of respondents were rated as moderate to more transparent. On the other hand the

²¹ Ibid. p. 19.

workings of public administrative systems, Customs, Excise and Preventive Service (CEPS) and the Judiciary were perceived as showing the least improvements in transparency. None of the respondents rated either the Internal Revenue Agency or the VAT as becoming more or less transparent during the last five years.

467. Respondents outside of the public sector tended to give a more severe rating of public administration and local government than did respondents from the Ministries, Departments and Agencies. The overall ratings for efficiency did not differ very much from the ratings for transparency.

Challenges to Improving upon Efficiency and Transparency

475. Capacity gaps remain despite training that has been provided. Nowhere is the capacity problem more evident and the consequences for national development more telling as in the district administration and assemblies. Low level of skills and capacity remain a recurring concern. Staff training appears minimal. In many instances staff retention is difficult because of the relatively low salaries compared to what is paid by the private sector and non-governmental organisations.

476. A weakness of the various reform programmes was that the change management teams or agents were either non-existent or ineffective. There was not enough commitment to the reforms in the targeted organisations and in some instances there was resistance. Moreover, assessments of the reforms identified the need to adequately address issues of pay if staff retention and commitment to the reforms is to be achieved^{22 23}. The reforms were comprehensive and needed to be because of the systemic problems that existed. However comprehensiveness requires close attention to sequencing and coordination.

477. The Office of the Senior Minister is currently responsible for the development of a new strategy for public sector reforms. A working document has been developed and is currently being discussed with various stakeholders. Meetings have been held with chief directors and directors in the civil service and it is expected that similar meetings will take place with representatives from industry, the media, civil society organisations and academia.

2.6.2 Making Economic Policy Predictable

Key Provisions and Processes to Ensure Consultation with Stakeholders

478. Article 35, paragraph 6(d) of The Directive Principles of State Policy of the 1992 Constitution enjoins the state “to take appropriate measures to afford all possible opportunities to the people to participate in decision-making at every level in national life and government”.

²² Government of the Republic of Ghana. 2002. *Public Sector Reform: Towards a Future Strategic Framework. Final Report*. Accra.

²³ World Bank. 2004 *Implementation Completion Report on a Credit in the Amount of US\$12.20 million to the Republic of Ghana for a Public Sector Management Project*. Washington D.C.

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479. Approximately 75% of those surveyed for this peer review were of the view that there are established provisions and processes in place to ensure that government consulted with stakeholders in economic policy-making. Sixteen percent were unaware of any such provisions and a few judged the current level of consultations as not enough. Respondents located outside Accra felt that consultations are frequently “Accra focused”. And just as important for policy-making was the perception that there appears to be more consultation amongst the public sector organisations than there was with the private sector. Private sector consultation was described as “ad hoc”.
480. The most frequently cited mechanism of public consultation was the National Economic Dialogue (NED). In addition to the National Economic Dialogue there is also the recently constituted Ghana Investor’s Advisory Council. This is a vehicle for consultation between the government and the private sector. Several of the public sector organisations indicated that they have had more frequent interaction with the media.

Economic Policy Formulation

481. Currently the GPRS provides the framework that determines the configuration of economic policy in Ghana. The MDAs have the mandate to develop the policy framework for their respective sectors of responsibility. Local Government strategies are informed by the objectives of the GPRS and currently the metropolitan, municipal and district assemblies have developed medium-term plans to achieve objectives that are in line with the national GPRS. The PRGF agreed upon with the International Monetary Fund defines the macroeconomic policy framework. The PRGF is supposed to be designed within the framework set out by the GPRS to ensure that the objectives of the GPRS are achieved.

2.6.4. Monitoring

482. The MDAs have monitoring and evaluation units. Unfortunately monitoring and evaluation is one of the weakest aspects of the policy nexus. As a top official of the Ministry of Finance and Economic Planning commented “there is room for improvement.”
483. Monitoring of the implementation of macroeconomic policies occurs primarily through the IMF and World Bank programme reviews. The Monetary Policy Committee of the central bank also monitors the implementation of macroeconomic policy.

Measures to Ensure Awareness of National Economic Policies

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484. The 1992 Constitution (Article 34, paragraph 2), under the Directive Principles of State Policy, requires that the President reports to Parliament on progress made in achieving policy objectives. This constitutional requirement is met through the President's annual State of the Nation Address.

485. A major vehicle for providing information on national economic policies is the presentation to Parliament of the annual budget statement and economic policy of the Government. An innovation since 2001 is the post-budget district open forum. The shortcoming of this forum is its narrow objective – only to inform public opinion. The National Economic Dialogue is another forum where the public is made aware of economic policies, their implementation and progress. A communication strategy to disseminate information about the GPRS was developed in 2003 and is being implemented. A simplified version of the GPRS has been prepared and translated into several local languages.

2.6.3 Coordination Challenges

Coordination between Government Departments

486. Coordination in implementing economic policies occurs mainly through the following institutions and mechanisms: sectoral budget hearings, inter-ministerial committees and cabinet meetings. Other channels for coordination include civil service coordination mechanisms and tripartite committee meetings.

Links between Sub-National Authorities and Government Departments in Implementing Economic Policies and Programmes

487. The Local Government Act, 1993 (Act 462) contains provisions for collaboration among District Assemblies and between District Assemblies and sub-structures. It also defines a supervisory relationship between the NDPC and the District Assemblies. Article 38(1) of Act 462 makes provision for the District Assemblies to discharge their functions through departments specified in the Act. Implementation of this section of the Act has been fraught with problems. It is expected that with the enactment of Act (656), the Local Government Services Act, 2003 there will be more rapid movement towards administrative decentralisation.

Assessment of Current Status of Coordination

488. Until recently there have been delays in disbursements from central government to the District Administration Common Fund (DACF). The decentralised departments in the districts also experience delays in their fourth quarter expenditure authorizations because of delays in getting their financial encumbrances approved from Accra.

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489. Another indicator of predictability of economic policy is the extent to which Government is able to implement what it sets out to do in the budget. Most respondents were of the view that Government implemented its programmes and projects as set out in the budget. Government respondents had a fairly optimistic perspective and the majority indicated that the budget was adhered to a large extent. The respondents outside of government had a slightly less favourable view.
490. Assessment of the quality of coordination found that just over 20% of the respondents from central and local government organisations considered dissemination of information between MDAs to be strong. A third considered it to be acceptable whilst about 45% rated it as weak or very weak. About half of the respondents rated coordination of economic policy making as acceptable. However, no one rated it as very strong. Overall coordination of sector projects and programmes to ensure activities complement national priorities obtained the most favourable rating. Over a third of the respondents considered it to be strong or very strong. The reason for this progress in coordination is not hard to find. Current policy initiatives across ministries are emerging out of the GPRS. Moreover, coordination has been a consistent theme of both sector-wide approaches and the multi-donor budget support.
491. Survey respondents were presented with possible reasons for the problems of coordination and were asked to rank them. The traditional view of MDAs as independent and autonomous received the highest ranking of 5.23 out of a possible 8. Competition for resources from the fiscal authorities among MDAs, the resistance of the civil service to change, complex and lack of transparent procedures followed in that order as reasons behind the weak coordination within government machinery. Many respondents did not see the lack of a strong government economic policy framework as a reason for coordination failure.
492. Most respondents in the survey identified the attitudes of civil servants and other public officials as a challenge to improving coordination in the short to medium-term.

Absorptive Capacity

493. The experience with absorptive capacity as measures of the ability to utilise funds and/or implement programmes is mixed. Under the Multi-Donor Budgetary Support Programme, approximately 98% of the committed funds in 2004 were disbursed. Ghana was able to satisfy the performance criteria that justified the release of the monies.
494. The experience with projects however is different. Projects are often not completed on time. This has been attributed to delays in the release of matching funds, weak internal technical capacity in project design, implementation and supervision, failure to take advantage of technical skills in other areas of

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government in project design, weak inter-ministerial coordination, and weak project monitoring and evaluation.²⁴

2.6.4 Recommendations

495. The process of preparing a public sector reform strategy is currently underway. Major causes of the problems with past reform efforts were:

- a. The failure to deal effectively with pay reform.
- b. The failure to develop the requisite capacity to implement the reforms. Thus there was a flaw in the design of the projects. They failed to adequately assess the requirements for reform and the sequencing of the various components of reform.
- c. In some instances the organisations mandated to supervise the reform process did not have the requisite authority and recognition by the agencies and organisations that were to be reformed.
- d. The lack of adequate commitment both at the high political level and at the middle management levels.

496. The above listed problems if not adequately addressed in the new strategy will undermine the effectiveness of the new regulations and laws.

497. Vary rarely will the reform efforts that are required be limited to a single agency. Effective coordination amongst MDAs and between central and local government administration remains a challenge that must be tackled.

498. Mechanisms have been introduced to improve upon information flow between the public and government. Concerted efforts must be made to ensure that these mechanisms are not “Accra-based” as suggested by respondents from the regions.

499. Improvement in transparency through greater flow of information to the public is not an inexpensive exercise. At the district level there is a need for more resources to be allocated so that the District Assembly meets more frequently than the minimum that is stipulated.

500. At the national level, not only should the GPRS be translated into the major local language, the annual State of the Nation Address of the President, a summary of the budget statement and the mid-year report should also be translated into the major languages of Ghana to ensure wider access of these important policy statements to the populace.

²⁴ Amoako-Tuffour, J. and D. Twerefour. 2003. *Matching Fund Conditionality and the Implications for Budgeting and Budgeting Outcomes*. CG/MDBS Secretariat and Ministry of Finance and Economic Planning, Accra.

2.7 OBJECTIVE THREE: PROMOTING SOUND PUBLIC FINANCE MANAGEMENT

501. This section of the Report focuses on two main issues: public finance management for the economy as a whole, and the nature of the fiscal relations between central government and sub-national governments (in this case, the Metropolitan, Municipal and District Assemblies, (MMDAs)). The main constituents of sound public finance management are planning and programming, budgeting and its execution, forecasting resource availability and cash flow, controlling and tracking spending, monitoring and accounting for the use of communal resources of the state, auditing and evaluating what governments at all levels and all public institutions are doing with these resources, and prudently managing the public debt.²⁵

2.7.1 Actions taken to Promote Sound Public Financial Management

502. Launched in July 1995 and officially initiated in May 1996, PUFMARP is an integrated management system using information technology to keep track of various financial transactions of the public sector. It has not been successful in achieving goals and targets. Although the MTEF component became operational in the 1999 budget, three years later, the GPRS judged it as “not wholly effective as a means of resource allocations in practice”.²⁶

503. The project implementation schedule also called for BPEMS pilot implementation by June 1998, its partial operation for the 1999 budget and its full operation for the 2000 budget. By the year 2000, the preparation and presentation of government accounts was judged to be inadequate whether as an input to inform the formulation of national budget or to review performance in relation to goals and objectives. Furthermore, a number of complementary institutional, administrative and legislative measures to carry forward the project could not be put in place.

504. The focus since 2001 has been to undertake the necessary measures to strengthen the government financial system. There has been much greater commitment since then to public finance reform than previously exhibited. Legislative and administrative measures have been put in place to improve the different constituents of public finance management system and to enable the government implement a predictable fiscal framework, improve fiscal transparency, and the efficiency of fiscal policy.

²⁵ Economic Governance: Guidelines for Effective Financial Management, United Nations, 2000.

²⁶ Ghana Poverty Reduction Strategy: Analysis of Policy Statement (February 2003, p. 139).

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2.7.2 Assessment of Public Finance Management

505. Undertaken in mid-2003 at the completion of the first phase of the PUFMARP project and published in May 2004, the World Bank evaluation rated the overall project as marginally unsatisfactory because in their view the major specific results targeted in the subsystems had not been achieved. It added optimistically, however, that with adequate follow-up now in place, Ghana should benefit from an effective public financial management system by 2006/7.
506. Respondents to the survey conducted for this peer review were asked to give a rating of the key elements to assessing the progress, strength and weaknesses of Ghana's public finance management. The rating of progress ranges from 1="poor to no progress", 3="average progress" to 5= "excellent or very satisfactory progress. The rating ranges from a low of 2.7 for the timely release of financial reports to 3.7 for government's efforts in the mobilization of external resources and the handling of the public debt. No more than 5% of the respondents felt that progress has been poor or nil. The majority acknowledged the progress made. At the same time no more than 10% of respondents rated progress in any of the key areas as excellent or very satisfactory, underscoring the need for greater or additional work in public finance management. The assessment of the specific components follows.

Resource Mobilization and Debt Management

507. Ghana's continuing reliance on external financial resources and the need to improve the predictability of resource inflows underlie the recent efforts to improve aid coordination through the multi-donor budget support programme. Under this arrangement, some development partners disburse funds directly into the Consolidated Funds (rather than to individual MDAs or project accounts) to support implementation of the budget. Well into its third year of implementation, the arrangements have helped to reduce the unpredictability of budget support flows. In 2002 less than 50% of planned budget support was disbursed. This rose to 90% in 2003 and by mid-2004, nearly 75% of budget support had been disbursed.²⁷ The efforts in external debt management are marked by Ghana's recourse to the Enhanced HIPC Initiative for debt relief and reaching the Completion Point in July 2004.
508. Progress in domestic resource mobilization has been on two fronts. First, there are improvements in overall tax administration and the provision for the revenue agencies to retain up to a maximum of 4% of the revenue collected to finance their operations. Second, is the establishment of the Non-Tax Revenue (NTR) unit within the MoFEP in 2002.

²⁷ Source: Ministry of Finance and Economic Planning.

Legal and Administrative Framework

509. The improvements in the legislative framework for financial administration and the administrative measures identified earlier were acknowledged with a rating of 3.5 out of the possible 5. Nearly 91% of respondents saw the legislative and administrative measures as good, very good or excellent progress. However, as noted by the World Bank (2004), uncertainties remain regarding the effective application of the new legislation and their actual impact on public finance management practices and performance.

Budget Planning, Formulation and Comprehensiveness

510. Nearly 50% of the respondents rated the efforts at planning and programming, budget comprehensiveness, and the link between planning and budgeting as having made no more than an average progress. The rating ranged between 3.3 and 3.5.

511. About 16% of respondents were of the view that the link between planning and budgeting remains weak, nearly a third of respondents saw average progress and about 46% judged the effort as satisfactory. Efforts in this direction have included the transformation of the Ministry of Finance to the Ministry of Finance and Economic Planning in 2003 and an appointment of a Minister of State for Planning within the Ministry. However, there are concerns that this alone is not enough to make planning and budgeting complementary instruments for realizing national development goals. Possibilities of friction remain because the scope of planning within the MoFEP, as distinct from planning under the umbrella of the National Development Planning Commission (NDPC), remains less clearly defined.

512. Additional information gathered in the survey confirmed that although Ghana has since 1999 taken steps towards medium-term planning and budgeting framework, some MDAs continue to experience difficulties in adopting the multi-year budgeting framework. While nearly 73% reported average to excellent compliance, about one-quarter saw current compliance as weak or fair – for several reasons.

513. Some expressed concern that the process is extremely time consuming, technical and not easily internalized by the individual MDAs.²⁸ Weak technical capacity of the budget divisions of line ministries means incremental budgeting remains the dominant culture.

514. Of no less concern to many stakeholders is that the full benefits of medium-term planning and expenditure framework envisaged under MTEF may not be realized if inter-sectoral policy priorities and their fiscal implications are only superficially coordinated at the policy formulation stage, as noted earlier. Another important shortcoming of the current attempt to implement a medium-term fiscal framework is that the process in large measure excludes the salaries and wages component of

²⁸ Bartholomew Armah, *Medium Term Expenditure Framework: Case Study of Ghana*, Institute of Economic Affairs, Ghana (undated).

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expenditures, which typically represents around 45% of overall government expenditures and for key Ministries such as Education and Health closer to 60-70 percent. This exclusion, even if it is done for good reasons, limits the comprehensiveness and value of the MTEF process.

Expenditure Control, Tracking, Accounting Records & Reporting

515. All key elements of government expenditure and accounting controls and reporting were rated as near or below average. As many as 54% of respondents rated progress on expenditure control and tracking as average or below average. Between 65% and 83% of respondents rated progress in government accounting procedures and financial controls, the quality and usefulness of financial reports, and on the timely release of government financial reports (both for monitoring and evaluative purposes) as no more than just good or below average.
516. Asked if there are formal rules that guard against overspending by MDAs, 81% of respondents believed that they are aware of such rules. However, only 61% believed that overspending has any punitive consequences. Nearly one-fifth of respondents believed that no punitive actions will be taken against overspending MDAs. And as high as 53% of respondents judged the enforcement of rules against overspending as weak or at best fair. Only 19% of respondents saw any degree of consistency in the enforcement of sanctions. All of these raise the possibility that expenditure ceilings issued to MDAs may matter little or not at all. Weak expenditure control and tracking send an important warning signal in the implementation of the new Financial Administration and Internal Audits Acts.

Cash Flow Management

517. Progress in cash flow management is rated as barely satisfactory. Nearly one-fifth of the respondents (22%) judged progress in this area as poor or below average. Nearly half (49%) saw average improvements and about 25% rated current cash management practices as more than good. The findings confirm that better cash flow management is not independent of all parts of government accounting and reporting, revenue forecasts and expenditure management. The slow progress in implementing several aspects of PUFMARP is bound to be of some consequence to the capacity to manage government cash inflows and outflows.

Payroll Management

518. Payroll management remains a vulnerable area of expenditure control and a redoubling of efforts is required. Although nearly 30% of respondents rated current efforts as satisfactory or very satisfactory, an equal proportion saw current efforts as below average and urgently needed better policy tools to overcome the problem.

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In all 70% of respondents saw the status as no more than above average or good performance. The Minister of Finance and Economic Planning acknowledged the continuing pressing challenges of payroll management in the 2004 Budget Statement and committed to the implementation of a new payroll database.²⁹

Procurement

519. Procurement is closely allied to expenditure control and tracking and remains a pressing fiscal challenge at the sub-national level. Less than a third of the respondents rated current efforts in improving public procurement as above average. It is most significant that nearly 74% of respondents believed that transparency and value for money for public expenditure is below or at near average. The GPRS recognized the inadequacy of procurement procedures and recommended that procurement regulatory and oversight bodies be established by 2003.³⁰ The Procurement Act, 2003 (Act 663) meets this performance target.

Auditing

520. Internal audit provides the first lines of defense against misuse or mismanagement of public funds. Respondents saw slightly more progress in external auditing than in internal auditing. Nearly 32% rated progress in external auditing as above average compared with 26% for internal auditing. Noteworthy, 38% rated progress in internal auditing as poor and 74% as at or below average.

521. For external auditing, 68% saw progress as at or below average. Effective auditing is therefore lacking, internal auditing more so than external auditing. The Central Internal Audit Agency Act, 2003 (Act 658) removes a hitherto conflict of interest where internal auditing responsibilities resided in the office of the Controller and Accountant General which was also responsible for disbursing funds to the spending units.

522. The effectiveness of the audit process has been undermined by the inability of the Office of the Auditor-General and the Public Accounts Committee of Parliament to perform their functions on schedule.

523. A cursory glance at the Auditor-General's reports suggests that the emphasis has been more on compliance in reporting and examination of accounts for improprieties and malfeasance and less on "value for money", which ought to be part of the examination as stipulated in the Audit Service Act 584 2000 (paragraph. 13e).

524. The 1993 Public Expenditure Review published by the then Ministry of Finance reported disturbingly that most "government ministries, departments and agencies

²⁹ The Budget Statement and Economic Policy of the Government of Ghana, 2004 (para. 576 pp. 150-151).

³⁰ GPRS (February 2003) Table 9.3 p. 137.

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saw their role as spenders not keepers of accounting data”.³¹ Then as now, MDAs see the work of the AD-G’s office as intrusive and an interruption to their normal work.

525. Several factors have contributed to the weaknesses of the auditing system. These include weaknesses in government accounting systems that provide the basis for auditing, the complexity of the rules, the absence of clearly defined local audit standards, the insufficiency of budgetary resources allocated to auditing, the lack of skilled personnel, under-motivation of personnel, the less than adequate independence enjoyed by the audit authorities, and the reluctance of Parliament to act timely on auditing reports and pronounce remedial actions.

The Oversight Functions of Parliament

526. An important link in the undertaking to hold the government and all public institutions to account is Parliament and its delegated responsibility through the Finance and Public Accounts Committees. While nearly 60% of respondents saw satisfactory improvements in the overall functioning and transparency of Parliament, more than half of the respondents (60%) also rated Parliament’s oversight functions over fiscal operations and public finances as average or below average. About 20% perceived Parliament’s role in this regard as below average and unsatisfactory.

527. While the parliamentary oversight functions are well conceived, most people we spoke with believe that the limited time frame for budget debate, constitutional provisions, political traditions, budget traditions of secrecy, institutional features and the weak capacity of the relevant parliamentary committees place limits on parliament’s ability to significantly modify government’s fiscal operations and for that matter modify “money bills”.

528. Another reason why there could be very limited amendments to the draft budget is the fact that nearly 70% of expenditures are statutory in nature and does not need extensive parliamentary discussion on an annual basis.

529. Indeed, there were concerns about Parliament’s own compliance with Article 187 (paragraph. 15) of the 1992 Constitution, which states: “The accounts of the Auditor-General shall be audited and reported upon by an auditor appointed by Parliament”.

2.7.4 Fiscal Decentralization

530. Four pieces of legislation regulate fiscal decentralization in Ghana.

- The Financial Administration Act 654,
- The Financial Administration Regulations (FAR)

³¹ Public Expenditure Review, 1993, Ministry of Finance, Accra, Ghana, (p. 17).

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- The Financial Memorandum for Municipal and Urban Councils, 1961 and
 - Local Government Act 462, 1993
531. The DACF was introduced to carry forward fiscal decentralization by supporting the revenue base of the various assemblies and ensuring that programmes and activities undertaken by local governments are consistent with the policies and programmes of the central government. By constitutional provision (Article 252), not less than 5% of total government revenue must be paid into the fund quarterly.³² Constitutionally [Article 187(2)], the Auditor-General is responsible for auditing such accounts annually and submitting report to Parliament.
532. The various legislations make clear that the Government recognizes the districts as the basic unit of administration. The institutional mechanisms for implementation, however, seem relatively less clearly defined in the minds of many. The GPRS recognized the ambiguities and recommended that the roles of regional and district departments be rationalized, defined and enforced.³³ Clearly, the existence of exhaustive legal provisions and the complementary policies and activities are one thing. The commitment to implementation is another.
533. On a rating of 1 (weak compliance) to 5 (excellent or very satisfactory compliance), overall compliance with the guiding principles of fiscal decentralization was judged to be average. While weak compliance may not necessarily be evidence of illegitimate behaviour, one would have expected that since all the legislation and guiding principles appear well defined and clearly understood, implementation would proceed to realize the full benefits of decentralization. Noteworthy, about 63% and 65% of respondents believed that compliance with policies and activities and resource allocation measures, respectively, was average or below average. Only about a third of respondents believed that current resource allocation measures are reasonably compliant with the goals and objectives of fiscal decentralization.
534. At this stage of Ghana's political system there appears to be very little jurisdictional conflict about expenditure responsibilities between the central and local government units- for a simple reason. The President appoints District Chief Executives. There is also a great deal of political coordination and control through the Regional Coordinating Councils. And also by requiring that the transfers from DACF be used solely for development projects, it is expected that development programmes initiated by assemblies will be in line with national priorities.
535. However, matching expenditure responsibilities of local governments with the revenue capabilities and ensuring that local governments can plan and implement spending priorities pose great challenges to fiscal decentralization. The recent ceding of additional revenue from the central government to local governments coupled with the proposed increase in DACF share of total revenue from 5% to

³² The 5% is expected to be amended to 7.5% in conformity with the GPRS fiscal guidelines on decentralization.

³³ GPRS (February 2003) Table 9.2, p. 134.

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7.5% suggest that there may have been and may still be more expenditure responsibilities than the revenue capacity of some local government units can support. The reliance on central government transfers range from as high as 95% in poor districts to about 60% in urban districts.

536. A common concern of the assemblies surveyed was the untimely transfers of funds from the center to local governments, although the situation has improved. While the first source of delay is commonly attributed to the timing of revenue flows to the Consolidated Funds, it is reasonable to suppose that the MoFEP will be less committed to transferring funds to DACF if it perceives a high fiduciary risk management. This is not helped by the delays in auditing the DACF as well as the Assemblies accounts, as noted earlier. Auditor-General reports have uncovered instances of wastage, misuse and gross mismanagement of funds. The second source of delays originates from the Administrator and is largely the result of administrative measures that are long on procedures and short on clarity of purpose.
537. Finally, the current system of resource allocation involves transfers to the DAs through the DACF and transfers to decentralized departments at the local level through their respective line ministries. Although there are no intermediate levels of government, there are the Regional Co-ordinating Councils that are intended to provide administrative coordinating functions for DAs on regional basis. The administrative problems of reporting lines, responsibility and accountability all have implications for resource flows. The acknowledged problems include:
- a. Weak coordination between the few decentralized departments and the DAs in planning and budgeting,
 - b. Funding departments which are not entirely decentralized yet are not funded adequately from the central line ministries,
 - c. The sourcing of financial resources of the RCC since the Councils carry out tasks both on behalf of the central government and on behalf of DAs.
 - d. Lack of transparency and accountability in the financing of the Regional Coordinating Councils and this problem appears hidden behind the current lack of clarity of roles.³⁴

2.7.5 Recommendations – Public Finance

538. Parliament must be adequately resourced to contribute to strengthening its commitment to and compliance with the relevant aspects of the Constitution.

539. The roles and responsibilities of both the Public Accounts and Finance Committees drawn from the Standing Orders of Parliament need greater clarity in scope. The human resource capacity and the technical support for these committees

³⁴ Francis Johnston, “The Regional Coordinating Council in Ghana” Discussion Paper, Brong Ahafo District Support Project, March 2004.

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are currently inadequate and need to be strengthened if they are to perform their watchdog roles.

540. The proposed public sector reform strategy must orient the public sector to a new tempo of national development and to a new understanding (a) of the need to protect the communal finances of the whole state, (b) of greater accountability for and transparency in the use of public resources, as an essential catalyst to sound public finance management.
541. A review of current expenditure and accounting controls must be conducted to identify, with the objective of closing, loopholes that allow the misuse of and leakages of funds.
542. Transparency requires accessibility to information and data. Lack of access and full disclosure by MDAs constrain the ability of the Auditor-General's Office to perform its tasks. Disciplinary action must be taken against officials found to be willfully or through dereliction of duty withholding information needed for the effective implementation of duties of other officers.
543. Consultative and coordination links between the MoFEP and National Development Planning Commission must be strengthened. A review of the roles and responsibilities of the two institutions is required to clearly articulate their complementarities.

2.7.6. Recommendations – Fiscal Decentralisation

544. The following initiatives yet to be carried out or not fully carried out fully deserve attention to carry forward effective decentralisation.
 - Pre-budget consultations should include the district administrations.
 - The integration of intra-sectoral composition of expenditures with DA budgets,
 - Development of composite budgeting,
 - Decentralization of recurrent expenditures.
 - Coordination between the few decentralized departments (Health, Education and Agriculture) and the DAs in planning and budgeting.
545. DACF allocations to districts are to be published as an appendix to the national budget. This is in line with the publication of sectoral and functional allocation of funds already made available in the budget statement.
546. Decentralized departments must publish their respective district allocations. These are important first steps in encouraging transparency and efficient use of resources at the sub-national levels of government.
547. Capacity building through human resource development, adequate technical training, and incentive systems towards the development of financial management

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systems is a necessary step in developing a consolidated accounts for all levels of government.

548. Streamline existing procedures for the approval of both DACF allocation formula and district budgets. The existing administrative measures are long on the steps for approval but short on the clarity of purpose.
549. Matching expenditure responsibilities of local governments with the revenue capabilities poses great challenge to fiscal decentralization. The issue is whether expenditure assignments should be phased in or the DACF allocation will be designed to take cognizance of this differential expenditure-revenue mismatch. The latter has implications for both the overall size of the DACF with respect to total expenditures and for the design of the allocation formula.
550. Develop national standards for local ‘tax’ systems. Measures must be taken to develop national standards for local ‘tax systems’ both with respect to tax bases and the rates of taxation.
551. The sources of finance for Regional Coordinating Councils must be clearly defined.

2.8. OBJECTIVE FOUR: FIGHT CORRUPTION AND MONEY LAUNDERING

552. Government’s efforts in the fight against corruption in public administration and money laundering are important steps in improving economic governance and management – for good reasons. Corruption undermines good governance, fundamentally distorts public financial management, hinders efforts by the private sector to be the engine of growth, and cumulatively has adverse effects on the poor. Money laundering has both domestic and international consequences. It sustains the underground economy and as a result contributes to loss of revenue to the state through tax evasion. According to the IMF, money laundering can cause unpredictable changes in money demand, pose a risk to the soundness of financial institutions and financial systems, contaminate legal financial transactions and increase the volatility of international capital flow and exchange rates due to unanticipated cross-border transfers.

2.8.1. Corruption

Corruption in Public Administration: Magnitude and Trends

553. Most of the survey respondents perceived corruption to be a common practice. On a rating scale of 1 to 5 (1= “isolated cases of corruption exist in public administration”, 5 = “corruption is a pervasive phenomenon”), a marginal majority

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of the respondents (52%) gave a rating of 3, indicating that it is a common practice in public administration. Nearly a fifth of the respondents saw the incidence of corruption as more than a common practice. And more telling is the observation by the Attorney General and Minister of Justice that corruption in the country is endemic and systemic and needs multiple hands to curb it.³⁵ Comparison of the responses from officials of government and other institutions reveal some differences in perceptions. Respondents outside of government were more likely to perceive corruption as pervasive.

554. About 42% of respondents believed that corruption is declining or on a gradual decline in contrast with about 22 percent who believed that corruption is either increasing at an alarming rate or on the rise but not alarming. Again, perceptions of government and non-government respondents on trends in corruption reveal a slight disparity. Respondents from outside government were more likely to perceive corruption as increasing at an alarming rate.

Causes of Corruption

555. Many factors contribute to the incidence of corruption in public administration. On a scale of one to five (1=" very weak cause" and 5=" a very strong cause"), low public sector wages and high cost of living were ranked as the lead causes of corruption.

556. Respondents perceived weak and ineffective powers of prosecution of corruption cases as another strong cause of corruption. The weak internal capacity of the institutions of accountability - the Attorney General, Commission for Human Rights and Administrative Justice (CHRAJ), Serious Fraud Office (SFO) - the slow judicial process, the overlapping roles of accountability, and the improperly defined powers of investigation and prosecution of CHRAJ and SFO underline the weaknesses in the legal approach to fighting corruption.

557. Non-transparent/complex procedures, gift giving culture and the lack of knowledge on the economic cost of corruption were rated 3.7, indicating a fairly strong cause of corruption.

558. The relative size of the public sector had the lowest rating of 2.8. Weak code of conduct and the vast/unregulated authority of public officials were rated 3.5 and 3.4 respectively. A further probing revealed that the codes of conduct are not weak. In fact, they provide most of the conditions (rules and regulations) governing the service and, most of the public officials would like to play by the rules of the game as much as possible. The problem with the codes of conduct, however, is in the interpretation of those rules and regulations as well as the procedures for punishing or sanctioning civil servants.

Efforts in Fighting Corruption

³⁵ Ghanaian Chronicle December 1, 2004 (on www.ghanaweb.com December 1, 2004)

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559. Institutions established to combat corruption both directly and indirectly include the Economic Crime Unit of the Ghana Police Service, SFO, Bureau of National Investigations, CHRAJ, Office of Accountability, The Attorney General's Department and the Office of the Auditor-General .
560. In addition, several Acts of Parliament contain provisions that deal with corruption. Examples of these are the Civil Service Law, 1993; Civil Service (Interim) Regulation; Local Government Act, 1993; Public Service Holders Act 1998; Public Services Commission Act Criminal Code (Amendment) Acts 458, 1993.
561. Evidently, there are enough laws and institutions to win curb corruption. But curbing the incidence of corruption is primarily the result not only of the laws and institutions, but also of clarity of roles and responsibilities and of better enforcement. The Attorney General recently remarked that the work of certain institutions overlap each other and make escape hatches possible.
562. Since 2000, various measures have been taken by government to reduce corruption through improvements in accountability and transparency. These include the forensic audit of some key public institutions and audit of arrears, the establishment of a database of taxpayers through the Tax Identification Numbers to reduce tax evasion, simplification of custom procedures through the GCNet and ASYCUDA, adoption of the whistleblower's legislation, accession to the APRM, revamping of the operational and management structures of public corporations.
563. In 2004, in response to complaints by Parliament of non- prosecution of corrupt cases from the Auditor General's report, a special tribunal was set up to prosecute allegations of corruption by the Public Finance Committee of Parliament.
564. Apart from the overall measures taken by government, some MDAs indicated that they have additional in-house measures to reduce corruption.
565. Government performance in strengthening institutions mandated to fight corruption in terms of personnel and resource allocation however appears mixed. Resource allocation to the SFO as a share of total government expenditures has fallen from 0.06% in 2000 to 0.03% in 2003. For the Judiciary Service, the ratio fell from 0.36% in 2000 to 0.31% in 2001 but has since risen to 0.44% in 2003.
566. To improve the discharge of its responsibilities the Ghana Anti-Corruption Coalition in 2003 undertook a major restructuring exercise by acquiring a permanent office, installed ICT equipment and strengthened its staff strength by recruiting an Executive Secretary and attaining full staff complement. The Coalition also undertook a follow-up survey to its initial anti-corruption study and published and disseminated the proceedings of its 5th Governance Workshop.

Rating of Efforts in Fighting Corruption

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567. Government efforts in fighting corruption nevertheless appear to be making some progress. In the past, delays of up to one or two years in the audit of public accounts were not uncommon. In 2002, private audit firms were contracted to clear the backlog in public accounts auditing. Full reports of all un-audited public accounts were submitted in 2004. Regrettably, most of the MDAs could not provide concrete evidence of their progress in fighting corruption. The revenue agencies, however, pointed to the increase in government revenue as a concrete evidence of success in fighting corruption. It is difficult, however, to attribute the increase in revenue solely to a reduction in corruption.
568. On a scale of 1 to 5 (1="very unsatisfactory effort" and 5="very satisfactory effort"), respondents were asked to rate the overall institutional efforts in fighting corruption. The scores appear mixed. A slim majority (54.4%) viewed overall institutional efforts as satisfactory and nearly 21% rated current efforts as less than satisfactory.
569. With respect to the different arms of government the efforts of the executive received a better rating compared to the other institutions. Various measures taken by the government, as discussed earlier may account for the perception of relatively satisfactory performance of the Executive in fighting corruption. The Legislature and the Judiciary also received a relatively high rating.
570. Assets declaration by Ministers, Politicians and Chief Directors were rated the least effective in the fight against corruption. The consensus in the follow-up interviews was that whilst laudable in its intent, assets disclosure by Ministers, Parliamentarians and Chief Directors is not necessarily an effective measure for combating corruption, especially when assets disclosed are not made public but sealed and kept at the Attorney General's office. The higher rating of the legal provision establishing clear enforceable procurement rules is largely on account of the series of legislative instruments passed by Parliament in 2003, as noted earlier.

Challenges Encountered in Fighting Corruption

571. Political interference was perceived perhaps as the more serious and persistent challenge. The perception is that the political will to prosecute corrupt senior officials does not exist and this has implications for the behaviour of civil servants.
572. Lack of resources poses a serious challenge to the fight against corruption. A peculiar problem with the SFO is the difficulty in defining what constitutes "serious fraud". Currently, an act that causes financial or economic loss of (at least) one hundred million cedis to the state is the benchmark for determining a "serious fraud".
573. There is no law that commits public officials to report all serious fraud cases to the office for investigation.

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574. The complex nature of disciplining workers especially in the civil service also poses a serious problem. Some respondents believed that the public sector is overprotected.

575. The lack of water-tight evidence to establish an act of corruption. According to the respondents Ghanaians are in most cases unwilling to provide information for fear of victimization or being the cause of someone's plight.

2.8.2 Money Laundering

576. Prior to 1990, the term "money laundering" did not feature in discussions of the offences attributed to money laundering today. However, there were prosecutions on offences such as drug trafficking, fraud, counterfeiting, bribery and corruption, smuggling and banking system abuse. Ghana exhibited a limited response to the problem of money laundering with the promulgation of the Narcotics Drug Control Enforcement and Sanctions Law, 1990. This law criminalized money laundering in the area of narcotics trading. Since then the country has responded to money laundering through the collaborative efforts of the law enforcement agencies and the financial institutions.

Prevalence of Money Laundering

577. According to the Narcotic Controls Board, narcotic drug trafficking is the main source of funds for money launderers. Other sources of illegal money are from human trafficking and smuggling.

578. On a scale of 1 to 5 (1 indicating that money laundering is not a problem and 5 that it is a serious problem) respondents were asked to rate the prevalence of money laundering in Ghana. About 40% of the respondents believe that money laundering is becoming a problem. 80% of respondents reported that money laundering is relatively not a problem but could become a problem. Only 7% saw it as a serious problem

Measures Taken to Control Money Laundering

579. A number of measures have been taken to deal with money laundering. The first is the promulgation in 1990 of the Narcotic Drug Control Enforcement and Sanction Law (PNDC Law 236). In 1997, a Committee for Co-operation between Law Enforcement Agencies and Banking communities (COCLAB) was formed in response to international concerns expressed by the General Secretariat of Interpol and the various United Nations General Assembly sessions on the incidence of economic and financial crime. In 2004, COCLAB was converted to a financial intelligence unit.

580. In 2002, Parliament unanimously ratified three conventions on terrorism that have indirect links with money laundering. These are the International Convention For

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The Suppression Of Terrorism Bombing, The UN Convention For The Suppression Of Financing Of Terrorism and The OAU Convention On Prevention And Combating Terrorism. In response to the Inter-Governmental Action on Money Laundering under the auspices of ECOWAS which aims at harmonizing all the various money laundering laws operating within ECOWAS, Ghana drew up a four phase action plan in 2003 and has participated in all the activities of the Inter-Governmental Action on Money Laundering.

581. **A Money Laundering Bill has been drafted and is being reviewed by the Attorney-General.**
582. The Bank of Ghana is working closely with the banks to put in place adequate policies, practices, and procedures to prevent banks from being used as an avenue for money laundering. One such innovation is the “Know Your Customer” policy. A new foreign exchange bill has been drafted to replace the Exchange Control Act of 1961.
583. Implementation of the Payment System Act (Act 662) of 2003 that monitors payments and transfers within financial institutions has also been intensified.
584. The law enforcement agencies have not relented in their efforts. The Attorney General’s Department and its numerous institutions as well as the financial regulatory agencies such as the Securities Exchange Commission and the Ghana Insurance Commission are all making efforts to improve on monitoring, investigation and prosecution. The law enforcement agencies collaborate with their counterpart agencies all over the world in the fight against money laundering. The Ghana Immigration Service and CEPS are also vigilant at the points of entry and the Narcotic Control Board is also working hard to fight drug trafficking. Modern and sophisticated gadgets have also been installed at some entry points by the Narcotics Control Board to detect narcotic drugs while the Bureau of National Investigation has intensified their surveillance.
585. Respondents of the survey considered efforts at fighting money laundering to be less than satisfactory.

Challenges in Fighting Money Laundering

586. *Legal /judicial challenge:* There is no money laundering law in Ghana. The Narcotic Trade Law prohibits activities in the sale of narcotics but provides very little on money laundering. The judicial process is cumbersome and slow. Penalties are so low that they do not act as a deterrent. Furthermore, it is alleged that corrupt officials at entry and exit points collaborate with money laundering syndicates. Dealing with the problem of money launderers, at every stage requires a range of legal rules and procedures as well as effective coordination and collaboration between the banks and the law enforcement agencies. Unfortunately, such linkages, legal rules and procedures are almost non-existent.

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587. *Financial Liberalization and Regional integration:* Liberalization of the financial sector brought about the removal and/or relaxation of some financial controls and the introduction of new financing mechanisms and products. Currently, there exists a wide range of banking and non-banking financial institutions. These institutions have new products, technologies and have the potential to be involved in a wide array of financial crimes including money laundering. Regrettably, the law enforcement agencies have not been trained adequately to respond to the changing nature of financial crime.
588. Regional integration and the liberalization of the financial sector have made it easy for some ECOWAS nationals to infiltrate Ghana's vibrant financial sector. It is believed that some ECOWAS nationals frequently bring cash or travellers' cheques to Ghana to purchase dollars and other foreign currencies from the banks and foreign exchange bureaus, the sources of which are unknown. Tracking the sources of funds of refugees pose a great challenge.
589. *Capacity /Education:* There is a general low level of awareness on money laundering in Ghana as indicated in the survey. Even though the framework is supposed to be in place to develop capacities and create awareness on the money laundering activities, very little has been done in that direction.
590. *Transaction structure:* The upsurge of foreign exchange bureaux without requirements of client identification and the need to keep audited accounts creates favourable conditions for money laundering. Another institutional problem is the unregulated sale of property. This makes it easy for money laundering through the transformation of illegally earned money into legal properties. Even when the individual has been identified it is very difficult to track them due to the lack of a comprehensive database on individuals.

2.8.3 Recommendations – Corruption

591. The following are recommended as actions to be implemented to address corruption:
- Declaration and publication of assets of politicians and key state officials as well as a proper mechanism to monitor the process.
 - Effective enforcement of codes of conduct
 - Review public sector salaries
 - Simplify bureaucratic rules and procedure
 - Improve the staff strength of the institutions mandated to provide oversight roles as well as making them independent.
 - Redefine what is meant by "serious fraud".
 - Greater involvement of Civil Society in the fight against corruption

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- Improvements in performance monitoring of public officials
- Increased public education and awareness on rights and responsibilities of citizens
- Improvement in the court systems to process cases efficiently and effectively
- Improvement in coordination between stakeholders in the formation and implementation of regional economic grouping decisions
- Improvement of solidification of political and stakeholders support for accelerating regional integration?

2.8.4 Recommendations – Money Laundering

592. The following are recommended as actions to reduce the incidence of money laundering

- Establish a Credit Reference Agency with a database to assist in the verification of individuals and corporate organizations.
- Review legislation with respect to transactions in land and buildings.
- Develop mechanisms to improve upon the sharing of intelligence information between all the law-enforcement agencies and the banks.
- Promulgate the money laundering bill and the foreign exchange bill.
- Put into place measures needed to ensure the efficient implementation of the Payment System Act (Act 662) of 2003 and all other Acts of Parliament relevant to the fight against money laundering.
- Strengthen the courts to improve the judicial process.
- Improve upon the salaries of the Police Service to attract and retain persons with the requisite skills to investigate financial crimes and resource them adequately to perform their functions better
- Enhance collaboration with international bodies to improve upon information sharing and the transfer of skills and techniques in financial investigations.
- Institute measures to discourage the use of cash in transactions.

2.9 OBJECTIVE FIVE: ACCELERATING REGIONAL INTEGRATION BY PARTICIPATING IN THE HARMONIZATION OF MONETARY, TRADE AND INVESTMENT POLICIES

593. Regional economic integration has been and continues to be one of the key trade and development policy issues in Africa. To this end, Ghana historically has sought

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to expand intra-sub-regional trade and to promote economic cooperation as a stimulus to national development.

594. Ghana is signatory to many regional integration agreements but the Economic Community of West African State (ECOWAS) and the second West Africa Monetary Zone (WAMZ) are the most well known of these agreements. Ghana acceded to the ECOWAS and the second WAMZ in 1975 and 2000 respectively. In addition, the Government has signed separate agreements with other countries in the sub-region such as Togo, Cote D'Ivoire, Burkina Faso and Nigeria aimed at improving trade relations and enhancing regional economic initiatives.

2.9.1 Assessment of the Benefits of Regional Integration

595. Asked to what extent Ghana is realizing any of the potential benefits from ECOWAS, the consensus was that Ghana has been instrumental in contributing to efforts to ensure peace and security in the sub- region.

596. In the area of customs and trade the consensus was that the benefits from the ECOWAS Trade Liberalization Scheme (ETLS) are not encouraging. The factors that impede the realization of the full benefits of regional agreements include small firm size and the general lack of production/ capacity of the right type, non-ratification and non-implementation of protocols by Parliaments of member countries and continuing instability in the ECOWAS sub-region. These problems notwithstanding, 67% of the respondents) believed that some benefits have being realised.

2.9.2 Measures to Ensure Consistency of National Policies with Regional Integration Agreements

597. Article 40, sub-section (d) of the 1992 Constitution of Ghana (the Directive Principles of State Policy) makes provision for the consistency of national policies with regional integration agreements.

598. The Ministry of Regional Cooperation and NEPAD was created in 2003. It has the sole responsibility of facilitating and promoting regional co-operation and integration as well as coordinating all related activities. Specifically, the Ministry is charged with the responsibility of ensuring that national policies are in line with regional economic integration objectives and the realization of the various goals of regional integration.

599. The GPRS recognised the potential for intra-West African trade and enjoined the Ministry of Regional Cooperation and NEPAD, and the Ministry of Foreign Affairs to provide leadership towards the complete ratification of outstanding agreements to open up trade within the region. Furthermore, the framework emphasized

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reducing the number of road checkpoints to minimize delays and to reduce cost to exporters.

600. At the time of writing this report, the Ministry of Trade and Presidential Special Initiative was in the process of preparing a trade policy document with assistance of DANIDA. The process was a consultative one. In defining the policy parameters cognisance was taken of the need to be consistent with commitments towards ECOWAS.
601. Unfortunately until now, none of the institutions with the responsibility of formulating Ghana's trade policy has focused their policies specifically on intra-African trade and investments. This may be explained by the fact that, Ghana's exports to and imports from Africa as a share of total exports and imports averaged about 24 and 25 percent respectively between 2001 and 2003. The production of similar export commodities in the sub-region partly makes it difficult for Ghana to focus its policies on intra-African trade.

2.9.3 Measures Taken to Ensure Effective Implementation of Regional Agreements

602. Two of the key organisations responsible for the implementation of the ETLS are CEPS and the Ghana Immigration Service. To date CEPS has almost completed implementation of the ETLS through the granting of requisite exemptions and tariff concessions on goods imported from member countries and approved by the secretariat, removing non-tariff barriers to facilitate the movement of goods and service, and encouraging member states to improve on sub-regional trade and reduce tariff barriers through the use of the ASYCUDA system.
603. Ghana Immigration Service has fully complied with the requirement of phase one of the Protocol of the Free Movement of Persons by granting ECOWAS members a maximum of 90-days visitor's permit without any prior visa requirement.
604. However, operating within the current regional differences and the national administrative set-ups has brought it's own problems. Some of these are these include lack of understanding of the scheme by some customs and immigration officials, non-accordance of support for the Brown card from francophone countries and provision of false contact addresses on embarkation forms.
605. With respect to NEPAD, an inter -ministerial committee and a national Technical Committee made up of representatives from CEPS, BOG, Ministry for Regional Cooperation and NEPAD have been formed to oversee the implementation of decisions and agreements under NEPAD. A national sensitisation committee has been set up and the committee has instituted programmes to educate the public and relevant implementing agencies. A substantive secretariat has also been set up to oversee the implementation of the APRM.

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2.9.4 Measures Taken To Promote Regional Monetary Harmonization

606. Ghana adopted the fast track approach to the establishment of the second West Africa Monetary Zone in 1999. Most of the persons interviewed agreed that appropriate measures have been taken to ensure that Ghana meets the primary convergence criteria.
607. The 2004 budget and economic statement of the government indicated that Ghana satisfied three of the four primary convergence criteria for the second WAMZ in 2003. It also aims at satisfying the only outstanding criterion - single digit inflation, through the pursuit of sound macroeconomic policies in readiness for the take-off in July 2005 of the monetary union.
608. The major challenge in the government's efforts to satisfy the convergence criteria is how to sustain its prudent fiscal and monetary measures without compromising its growth and poverty alleviation objectives. Sustaining the criteria might be very difficult in view of the oil price rise since mid-2004, which has compelled government to provide huge petroleum subsidies.

2.9.5 Recommendations

609. Recommendations that are Ghana-specific:
- Industrial and trade policy should encourage the production for export to the regional market.
 - The Ghana Export Promotion Council should improve its database on sub-regional markets.
 - Ghana should provide special credit facilities to exporters to the sub-region.
 - Ghana should sustain its efforts in promoting political stability in the ECOWAS sub-region
610. Recommendations that require collaboration with ECOWAS member states:
- The number of road blocks in the sub-region should be kept to the minimum necessary to ensure security.
 - The ECOWAS compensation scheme should be reviewed to encourage its implementation.
 - An airline policy should be developed for the sub-region to provide an alternative route to road transport.

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2.10 GENDER PERSPECTIVES IN ECONOMIC GOVERNANCE AND MANAGEMENT

2.10.1. Gender Dimensions of Economic Governance in Ghana

611. The incorporation of the gender dimension in the formulation of legislation and the design of policies and programmes requires that:

- There is adequate and reliable gender disaggregated data and information to inform policy makers and legislature.
- The consultation process involves both men and women and the heterogeneity within these two groups is recognised.
- Impact analysis is conducted to assess the implications of previously existing laws, policies and programmes on men and women.
- Analysis is conducted on the possible effects of new laws, policies and programmes on men and women.

612. Currently gender disaggregated data for the social sectors are more readily available than is data on employment and unemployment, access to credit and ownership of physical assets. The most comprehensive source of data for employment and unemployment that can be disaggregated by sector and by gender is the 2000 census. The Ghana Statistical Service does not currently produce data on employment. The Core Welfare Indicators Questionnaire Survey conducted is a nationally representative sample survey conducted in 2003 that provides information on employment and unemployment that can be disaggregated on the basis of gender. (See Chapter 4).

613. Part of the preparation phase of the GPRS involved the conduct of participatory poverty assessments in 36 communities from 14 districts and 6 regions. The views of women and men's groups were solicited separately. Despite this exercise, the discussion of the gender dimensions of poverty in the final GPRS document made limited reference to the findings from the participatory poverty assessments. The discussion of the macroeconomic targets and programmes did not have explicit gender considerations, however the sections on education and health provided some targets that were gender disaggregated. The GPRS in its discussion on vulnerability and exclusion identified disadvantaged women, i.e. single mothers, malnourished rural pregnant women and nursing mothers, teen-age mothers, female porters in the informal sector and commercial sex workers. Apart from disadvantaged women, the document did not identify specific groups amongst men that could be considered as vulnerable and therefore qualified for particular attention.

614. In 2001, a new Ministry of Women and Children's Affairs was created. Gender is a cross - cutting issue. Therefore for the Ministry to be successful in achieving its goals and objectives, it needs to coordinate effectively with other sector ministries. An interview with an official of the Ministry of Women and Children's Affairs

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provided an overall satisfactory rating for the current status of coordination amongst the various ministries, departments and agencies.

615. Despite this favourable rating, gender equity and environmental sustainability received the lowest average rating as factors that influenced the design of sector policies and programmes. The average rating on a scale of 1 to 5 - where 1 represents the least influence and 5 the greatest influence - provided by government officials was slightly higher than that provided by other respondents, i.e. 3.5 and 3 respectively.

616. Asked whether there had been progress in gender equity in the last five years, the average rating was lower compared to the rating received for gender as an input in policy and programme design. On a scale of 1 to 5, where 1 represents least satisfactory progress and 5 most satisfactory progress, Government officials provided a mean rating of 3.11 whilst other respondents outside of Government provided a mean rating of 2.6. None of the respondents provided a rating of 5.

2.10.3. Recommendations

617. If there is to be an improvement in the gender sensitivity of laws, policies and programmes and if substantial progress is to be made on the gender equity objective, the following are required:

- Gender perspectives must be incorporated at the design stage. There must be a clear understanding of what the gender objectives are.
- More resources need to be invested in generating gender-disaggregated data. This will require greater collaboration between the ministries, departments and agencies and the Ghana Statistical Services. The former must inform the latter of what its data requirements are. These data requirements will emerge after a careful design of the policies and programmes.
- It must be recognized that men and women are two distinct groups and that each group is not homogenous. During the consultation process the relevant sub-groups of men and women must be identified.
- Impact analysis is increasingly becoming prevalent. Impact analysis should contain a gender analysis component.
- Policy options or choices should consider the impact on men and women.

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CHAPTER THREE

CORPORATE GOVERNANCE

3.0 INTRODUCTION

618. Corporate Governance is a system by which corporations are directed, controlled and held to account. It embraces all forms of enterprise in the private and public sector. Good corporate governance provides a level of disclosure and transparency regarding the conduct of corporations, their boards and directors that enables the supervision of their accountability while ensuring that: they comply with their legal obligations and remissions; are accountable to shareholders and responsible to stakeholders including employees, suppliers, creditors, customers and communities; and act responsibly regarding the environment.

619. The corporate governance framework should promote transparent and efficient markets, be consistent with the rule of law and clearly articulate the division of responsibilities among different supervisory, regulatory and enforcement authorities. The framework should, therefore, be developed with a view to its impact on overall economic performance, market integrity and the incentives it creates for market participants and the promotion of transparent and efficient markets. The legal and regulatory requirements that affect corporate governance practices in a jurisdiction should be consistent with the rule of law, transparent and enforceable. The division of responsibilities among different authorities in a jurisdiction should be clearly articulated and ensure that the public interest is served. Supervisory, regulatory and enforcement authorities should have the authority, integrity and resources to fulfil their duties in a professional and objective manner. Moreover, their rulings should be timely, transparent and fully explained.

3.1 APRM CORPORATE GOVERNANCE OBJECTIVES

620. This chapter is guided by the five broad corporate governance objectives outlined in the APRM self-assessment questionnaire:

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- Promote an enabling environment and effective regulatory framework for economic activities;
- Ensure that corporations act as good corporate citizens with regards to human rights, social responsibility and environmental sustainability;
- Promote adoption of codes of good business ethics in achieving the objectives of the corporation;
- Ensure that corporations treat all their stakeholders (shareholders, employees, communities, suppliers and customers) in a fair and just manner;
- Provide for accountability of corporations, directors and officers.

3.2 METHODOLOGY

621. The Technical Team adopted a participatory and consultative approach in undertaking this assignment. Conscious efforts were made to include all stakeholders in all phases of the exercise – from the design to the evaluation of the study. The study was designed to include several complementary methodologies. An approach entailing interviewing, workshops, briefing and debriefing sessions, group discussions, and key informant/expert interviews were used to ensure greater stakeholder participation, and to ensure in-depth analysis.

622. Recognizing the value of continuous interaction between the Technical Team, the Client (APRM Secretariat) and various stakeholders, PEF involved the stakeholders in all phases of the study:

- (1) at the pre-study/design phase where issues in the survey instruments, population covered, areas to be included, etc. all met with the stakeholders' approval;
- (2) during progress review, midway between the fieldwork to provide feedback on relevance and utility of initial findings - this was to increase ownership of the assessment process;
- (3) at the conclusion of the study. This is to ensure that perspective of the Client and other stakeholders would be incorporated into the final report.

623. The initial documentation/literature review was undertaken to guide the Technical Team in the design of the survey instruments. Indicators identified during the review informed the Team in designing the survey instruments (questionnaires and interview checklist). Separate survey instruments were developed for various stakeholders.

624. A Stakeholder Analysis Stakeholder Analysis was conducted to inform the Team on the target groups to use for the survey. Stakeholders identified included:

- Corporations (Multi-national, national, small, medium and micro-enterprises)
- Ministries, Departments and Agencies

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- Metropolitan, Municipal and District Assemblies
- Civil Society Organisations
- Opinion Leaders/community members
- Audit and Law firms
- National Regulatory Bodies
- Business and Professional Associations

625. The survey was conducted at three levels, public institutions, civil society and company levels. At the public institutions level, the survey was done to ascertain the existence of policies to address key concerns that affect businesses, the degree to which policies, treaties and standards have been implemented, and regulations for permits and licenses. The civil society level survey was undertaken to ascertain the general level of awareness of corporate governance issues, as well as collect perceptions about the state of core infrastructure in the country. Civil society also provided concerns about corporate responsibility towards communities in which they operate. The company level survey was undertaken to collect level of CSR practices, information of compliance with laws and regulations, board matters.

Sampling

Grouping	Target	Achieved	% achieved
Trade and Business Associations	40	25	63
Civil Society Organisations	20	13	65
Trade Unions	5	2	40
Corporations (multi-nationals, nationals and SMEs)	230	206	89
Workers (unionised and ununionised)	100	99	99
Community members	400	238	60
Regulators	15	8	53
Experts	20	18	90
Ministries, Departments and Agencies	10	6	60
Audit and Law Firms	10	7	70
Total	850	622	73

3.3 FINDINGS ON STANDARDS AND CODES

626. This section seeks to assess the degree to which the country has adopted, developed, implemented and enforced internationally recognized standards and cords governing corporate behaviour: The standards and codes under review include:

- Principles of Corporate Governance (OECD and Commonwealth)
- International Accounting Standards

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- International Auditing Standards
- Core Principles of Effective Banking Supervision
- Core Principles for Securities and Insurance Supervision and Regulations
- African Charter on Human and People's Rights
- Labour Codes of the International Labour Organisation (ILO)
- Codes on Industrial and Environmental safety and Hygiene of the World Health Organisation

3.3.1 Principles of Corporate Governance (OECD and Commonwealth)

627. The Companies Code, 1963 (Act 179) provides for governance of all companies incorporated in Ghana. Issues such as appointment and replacement of directors, transparency, appointment of external auditors, disclosure, corruption (bribery), equitable treatment of shareholders, and redress for violations. Thus, before the promulgation of the principles enshrined in the OECD, Commonwealth and Kings Report of South Africa, Ghana had provisions to ensure the promotion of corporate governance.

628. Ghana with support from the International Finance Corporation, has produced a "Manual on Corporate Governance and Codes of Conduct for Boards of Directors and Chief Executives" The manual contains recommended guidelines adapted from the OECD guidelines and the Kings Report of South Africa. The Manual includes guidelines for the formulation of audit, remuneration and governance committees among others, and recommends the training of board members. The Institute of Directors is impacting the principles enshrined in the manual to directors of public companies. To further strengthen the culture of corporate governance, the Securities and Exchange Commission has developed a "Code of Best Practices on Corporate Governance" for the Stock Exchange, licensed securities market operators and issuers of publicly traded securities. Professional bodies such as the Institute of Chartered Accountants (Ghana) also publish codes and principles of professional conduct to govern the practice and presentation of accounting information by members.

629. The Government, through Parliament, has also enacted a number of laws that directly affect the behaviour of enterprises and the structure of industry, by promoting economic efficiency and consumer welfare. Notable among these laws is the Competition and Fair Trade Practices Bill. The competition law seeks to facilitate and support corporate governance by providing the legal and institutional supports that encourage a healthy business environment. The Office of Civil Service has developed and published "Codes of Ethics" that govern the behaviour of civil and public servants.

International Accounting Standards

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630. Ghana has developed National Accounting Standards, which are in conformity with International Accounting Principles, and reporting formats are in line with International Accounting Principles. The Ghana Stock Exchange (GSE) and the Bank of Ghana require that their constituents prepare their accounts in accordance with the Ghana National Accounting Principles.

International Audit Standards

631. The corporate governance framework demands that an audit should be conducted by an independent auditor to provide an external and objective assurance on the way in which financial statements have been prepared and presented. The majority of companies (national and multi national) are audited by the big five auditing firms of KPMG, PriceWaterHouse Coopers, Ernst & Young, Deloitte & Touché, and Pannell Kerr Forster which are guided by International Audit Standards.

632. The enhance efficiency, accountability and transparency in the management of resources in the public sector, an Internal Audit Agency Act, 2003 which sets up the Central Internal Audit Agency was proposed. Whilst it is too early to assess the effectiveness of this Agency, the logistics and personnel constraints plaguing the Auditor-General's department overshadow its performance.

Core Principles of Effective Banking Supervision

633. Ghana is a signatory to and a participant of the Basel I (The 1988 Capital Accord), which spells out the principles of effective banking supervision. Banking supervision is the responsibility of the Central Bank, while supervision of insurance companies is the responsibility of an independent insurance commission, the National Insurance Commission.

634. An assessment by the West African Monetary Zone (WAMZ) showed that Ghana has fully complied with 6, and largely complied with 15 of the core principles³⁶.

3.3.2 Labour Codes of the International Labour Organisation (ILO)

Freedom of Association and the Right to Collective Bargaining

³⁶ Odonye, O. J., 2004. "Assessment of Banking Supervision and Regulation in the West African Monetary Zone" paper presented at the Workshop on the Capital Adequacy standards (Basel II) and Bank Corporate Governance.

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635. Ghana ratified ILO Convention no. 87, the Freedom of Association and Protection of the Right to Organise Convention in 1965, and the ILO Convention no. 98, the Right to Organise and Collective Bargaining Convention, in 1959.
636. The 1992 Constitution of Ghana grants freedom of association, but several pieces of labour legislation effectively limit this freedom. The Industrial Relations Act (IRA) of 1965 and the Trades union Ordinance of 1941 both impose restrictions on the activities of trade unions. The IRA stipulates that the Registrar of Trade Unions shall not recognize a trade union for any class of worker, if any trade union already represents any part of that class. The 1941 Trade Union Ordinance grants the Registrar extensive scope to oppose the registration of a trade union. The Emergency Powers Act of 1994 restricts freedom of association in areas and formerly under a state of emergency. The Act provides for very extensive power, and there have been calls for Government to repeal or limit the scope of this legislation, to ensure that it is only applicable in situations of national emergency, and that it should not be employed to restrict legitimate trade union rights.
637. Acts of anti-union discrimination are in theory prohibited by law, and employers found guilty of such acts can be required to reinstate workers that have been dismissed as a result. However, in practice many companies continue to commit anti-union discrimination, which the authorities fail to stop. Many employers are particularly resistant to the unionisation of senior staff.
638. The right to bargain collectively is covered by the IRA, but civil servants were prohibited by law from joining or organizing a trade union. In 1992, however, the government enacted legislation, which allows each branch of the civil service to establish a negotiating committee to engage in collective bargaining for wages and benefits in the same fashion as trade unions in the private sector.
639. The IRA also provides for compulsory arbitration by the Minister of Manpower Development and Employment to resolve a dispute if one party to the dispute advocates compulsory arbitration. This procedure would allow employers to renege on their commitment to bargain in good faith and instead call for arbitration, violating the right to collective bargaining.

Discrimination and Equal Remuneration

640. Ghana ratified ILO Convention No. 100, Equal Remuneration Convention in 1968 and ILO Convention No. 111, Discrimination (Employment and Occupation) Convention in 1961.
641. The Constitution prohibits discrimination on the grounds of gender, race, ethnic origin, creed, colour, religion, or social or economic status, and also provides that the Government take measures to ensure reasonable regional and gender balance in public employment.

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642. In 1999, Cabinet accepted a proposal to ensure that women hold 40 percent of public office positions, but this has yet to materialize. Women in Ghana suffer broad societal discrimination, and this is evident in the workplace, especially for uneducated and rural women.
643. Labour legislation from 1969 outlines the way in which jobs held by a male and a female are to be compared for the purposes of ensuring equal remuneration. The definition of “substantively identical duties” is inadequate to the principle of equal pay for equal work value, and alternative methods should be applied to aid in determining the comparative value of primarily male and primarily female employment.
644. The Constitution provides for the protection of the physically challenged from discrimination and exploitation, but the Constitutional provisions aimed at integrating the physically challenged into everyday life of society have yet to be implemented.

Child Labour

645. Ghana ratified ILO Convention No. 182, the Worst Forms of Child Labour Convention in 2000, but didn't ratify ILO Convention No. 138, the Minimum Age Convention.
646. The law sets the minimum age for employment at 15, but this is often disregarded. Education is free and compulsory until the age of 14, but children, especially girls, frequently drop out of school due to economic pressures. Child labour is widespread in practice, with the ILO estimating 12 percent of children aged 10 – 14 are economically active. In urban areas this involves working in markets or collecting fares on buses, as well as working as domestic servants. UNICEF reports that 80 percent of girls working as domestic servants are aged between the ages of 10 and 14.

Forced Labour

647. Ghana ratified ILO Convention No. 29, the Forced Labour Convention, in 1957 and ratified ILO Convention No. 105, Abolition of Forced Labour Convention in 1958.
648. The Constitution prohibits both slavery and forced labour, and in the Commission of Human Rights and Administrative Justice (CHRAJ), provides a mechanism whereby occurrences of such practices can be investigated and addressed. Legislation does however permit the use of hard labour as an element in the sentences of prisoners. By permitting forced labour as a punishment, Ghana is potentially violating ILO Convention 105. Various pieces of legislation also provide for forced labour as a punishment. These provisions permit imposition of compulsory labour as punishment for a category of offences that exceed the scope

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of ILO Convention 105. Among the pieces of legislation concerned are the following:

- Political Parties Law, 1992
- Public Order Act, 1994
- Newspaper Licensing Decree, 1973
- Merchant Shipping Act, 1963
- Protection of Property Ordinance, 1965
- Industrial Relations Act, 1965

649. Concerns have also been raised about the Trokosi practice. The Government passed a law banning the practice of Trokosi in 1998, and since the passing of the law, NGOs and CHRAJ have succeeded in freeing about 2000 Trokosi slaves and integrating them into society. Resistance is still strong however, and there remains considerable prejudice that has hindered the Government's efforts to eradicate Trokosi slavery.

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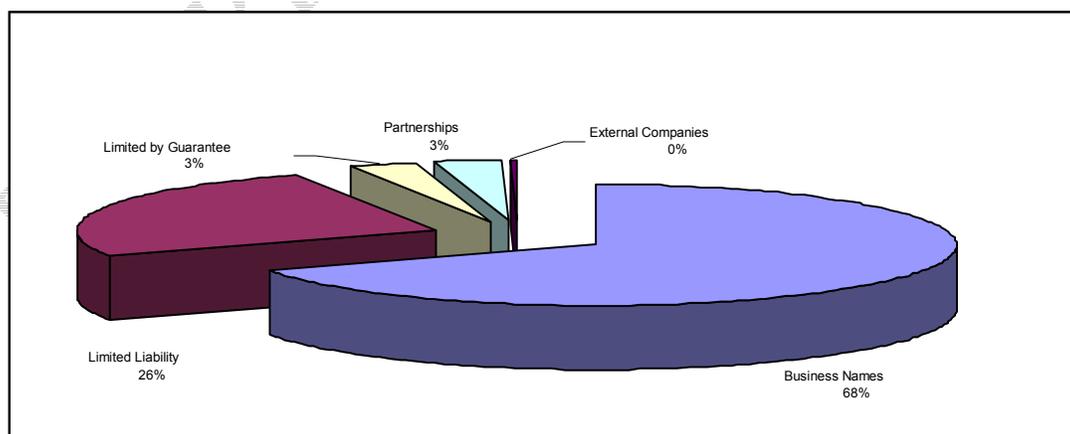
3.4 OBJECTIVE 1: PROMOTE AN ENABLING ENVIRONMENT AND EFFECTIVE REGULATORY FRAMEWORK FOR ECONOMIC ACTIVITIES

3.4.1 Business Entities

650. Corporate bodies in Ghana are either companies registered under the Companies Code 1963 (Act 179) or established by an Act of Parliament. They must be public limited liability entities existing as bodies separate from their owners. Of the registered companies as at June 2004 at the Registrar General’s Department (RGD), 112,422 were limited liability companies (private and public), 13,000 were companies limited by guarantee, 14,000 were partnerships, 300,000 were business names (sole proprietorships), and 928 were external companies, which are offshore companies with offices in Ghana (Figure 1).

651. The data shows that sole proprietorship businesses constitute the largest of organizational form (68 percent), followed by limited liability businesses (26 percent). There is generally a reluctance of Ghanaian entrepreneurs to enter into the partnership form of ownership. This has been attributed to the lack of trust among business entrepreneurs, and also to the long delays and high transaction costs that characterize the registration process. The country has only 30 publicly listed companies on the Ghana Stock Exchange. Ghana’s private sector continues to be dominated by small unincorporated businesses organized primarily as sole proprietorships or as *de facto* partnerships. Under the law, such unincorporated businesses are not treated as independent legal entities with identities and assets that are separate or distinct from those of their owners. In practice too, such businesses are typically owner-managed and without limited liability. For these reasons, unincorporated businesses do not generally raise ‘corporate governance’ problems.

Figure 3.1: Number of Businesses Registered by RGD



Source: Registrar-General’s Department, October 2004

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652. As regards the roles they play, public and semi-public companies employ only about 6.9 percent of the labour force, with the private sector taking up the remaining 93.1 percent. Of the total employment generated by the private sector, the formal private sector accounts for only 4.2 percent, whilst the informal private sector absorbs 89 percent. The informal sector accounts for about 22 percent of real GDP.

3.4.2 The Financial Sector

653. The financial system falls into three main categories: formal, semi-formal and informal. Formal financial institutions are those that are incorporated under the Companies Code 1963 (Act 179), which gives them legal entities as limited liability companies, and subsequently licensed by the Bank of Ghana under either the Banking Law 1989 (PNDCL 225) or the Financial Institutions (Non-Banking) Law 1993 (PNDCL 328) to provide financial services under Bank of Ghana regulation. The Formal sector comprise a Central Bank, 19 Commercial Banks and 115 Rural and Community Banks. Non-Governmental Organisations (NGOs) and Credit Unions (CUs) are considered to be semi-formal in that they are formally registered but are not licensed by the Bank of Ghana. The informal system covers a range of activities known as *susu*, including individual savings collectors, rotating savings and credit associations, and 'credit clubs'. It also includes money lenders, trade creditors, self-help groups and personal loans from friends and relatives.

654. The banking system in Ghana is characterized by a relatively large number of banks, a wide mix of ownership structure and by differences in clientele base. Of the 17 banks operating in Ghana at the end of 2002 (Table 1), the three largest banks comprise 55 percent of total assets. About 25 percent of total assets and 20 percent deposits are, however, held by a single state-owned commercial bank, the Ghana Commercial Bank. The development and merchant banks, which focus on medium- and long-term financing and corporate banking respectively, together share about 30 percent.

The Ghana Stock Exchange

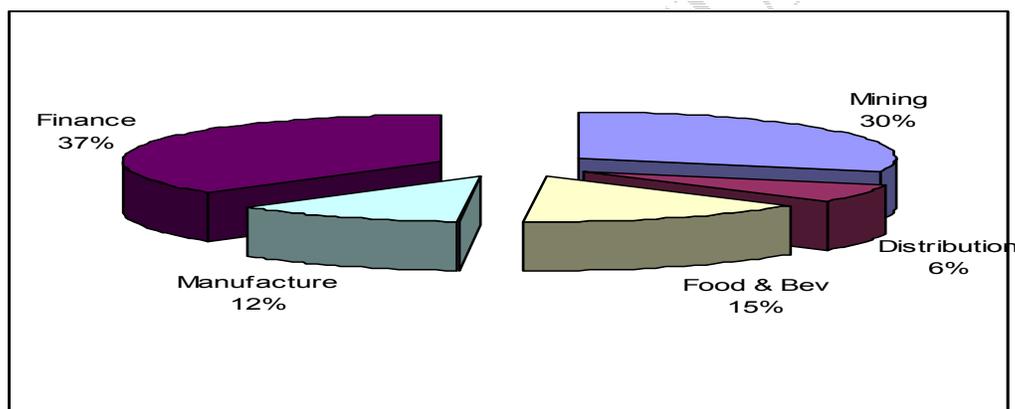
655. The Stock Exchange Act, 1971 (Act 384) was enacted to regulate dealings in stocks, shares and other securities as well as the establishment and operations of exchanges in Ghana. The Ghana Stock Exchange was incorporated in July 1989 as a private company limited by guarantee. The Exchange was authorized to operate as a Stock Exchange in October 1990 and trading on the floor of the Exchange commenced in November 1990. In April 1994, it converted into a public company limited by guarantee.

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656. The Securities Industry Law, 1993 (PNDCL 333) as amended by the Securities Industry (Amendment) Act, 2000 (Act 590) has repealed the Stock Exchange Act. However, section 14(1) of the Securities Industry Law recognized the Ghana Stock Exchange and guaranteed its continuous existence.

657. Total market capitalization as at December 2004 stood at ₵97,437.68 Billion (about US\$10.79 Billion), which is a marked increase from the 12,616.8 Billion (US\$1.436 Billion) as at December 2003. The huge increment is attributed to the listing of AngloGold Ashanti, and four other listings. The Ghana All-Share Index moved up from 3,553.42 points at the beginning of year 2004 to reach 7,045.40 points at December 2004. Currently there are 30 companies listed on the Exchange. Sectoral distribution of market capitalization as at December 2003 is shown in Figure.

Figure 3.2: Sectoral Distribution of Market Capitalisation (December 2003)



Source: Bank of Ghana, 2003: *Quarterly Economic Bulletin, October – December, 2003* pg. 12

658. In Ghana, the legal regime that governs entities using the corporate form is the Companies Code, 1963 (Act 179). The code contains, among other things, provisions that regulate the internal governance of businesses registered in Ghana either as 'public companies' or as 'private companies'.

3.4.3 Registration of Business Entities

659. The process of establishing a business in Ghana is complex and requires compliance with the regulations and procedures of a number of government agencies. These agencies include:

- The Registrar-General's Department (RGD)

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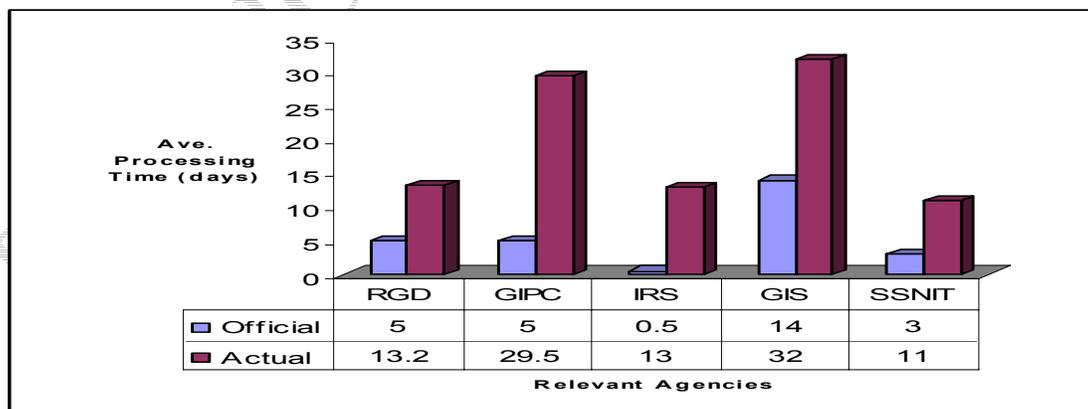
- Internal Revenue Service (IRS)
- Social Security and National Insurance Trust (SSNIT)

660. In addition, depending on the type of enterprise the prospective entrepreneur must contend with a number of licensing agents:

- Ghana Investment Promotion Centre (GIPC)
- Energy Commission
- Minerals Commission
- Environmental Protection Agency (EPA)
- Food and Drugs Board (FDB)
- Ghana Standards Board (GSB)
- Ghana Tourist Board (GTB)
- National Media Commission (GMC)

661. Each agency requires a unique set of documents, that must be submitted to it and that are not shared with other agencies. The data are often duplicative and must be transcribed for further processing. Lots of paper work is involved, multiple copies are required, and the transcription is error prone. All these are costly and time consuming. Results from recent studies show that business registration at RGD takes between 12 days (Regulatory and Administrative Survey) and 14 days (Foreign Investment Advisory survey) instead of the official 5 days (Figure 3.3).

Figure 3.3: Processing Time for Business Registration by Relevant Agencies



Source: Derived from Ghana: Administrative Barriers to Investment (update), May 2003

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662. Thirty two percent of enterprises surveyed indicated that the registration process was somehow effective, with 29 percent reporting it was ineffective. Only 10 percent commented it was highly effective.

Licensing

663. The key licenses and permits that businesses require for operation include:

- Business Registration Certificate (BRC)
- Business Incorporation Certificate (BIC)
- Environmental Protection Agency (EPA) License
- Food and Drugs Board (FDB) Permit
- Ghana Standards Board (GSB) Permit
- Local Government Permits

664. Three percent of enterprises indicated that the licensing processes were effective, as opposed to 25 percent that reported not effective. The major complaints included the time taken for the agencies to complete their investigations and the costs involved. The cost of compliance with the permits and licensing regimes, especially for small and micro enterprises, is very high, a compelling factor that has seen a large number of businesses operating without the necessary permits and licenses.

De-registering an Enterprise

665. Twenty-four percent of enterprises reported they had no idea about the de-registration process, whilst 56 percent indicated it was effective. As many as 14 percent reported it was somehow effective, citing delays in processing of forms and cost implications.

3.4.4 Clarity and Coherence of Laws Governing Corporate Behaviour

Company Laws

666. The Companies Code, 1963 (Act 179) is the main legislation governing corporate behaviour in Ghana, despite being enacted some 41 years ago. The Code, however, has not operated under optimal conditions. This is not because of deficiencies in the statute itself, but, by and large of inadequacies in infrastructural support, e.g. lack of effective administration and other implementation structures, and of the distortions of the objectives of the statute

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caused by the failure to keep monetary requirements, fees and penalties in the Code abreast with inflation and the hugely depreciated currency. Thus, statutory amounts required as a demonstration of the seriousness of intention of proposers to operate through the corporate medium, as penalties for con-compliance with duties imposed on such activity, and the fees for various acts in company development, have been derisory and totally ineffective as a means for achieving the desired objectives of the Code.

667. Six percent of enterprises responded that company laws in Ghana were highly coherent and clear, with 21 percent indicating it was coherent and clear. 18 percent however indicated that it was somehow coherent, and 22 percent said it was not neither coherent nor clear. As many as 32 percent could not respond because they had no idea what the Company Law entailed.

Labour Laws

668. The major law governing labour is the Labour Law, 2003 (act 651). The Labour Act repealed the Conspiracy and Protection of Property (Trade Disputes) Ordinance, 1941 (Cap 90), the Trade Unions Ordinance, 1941 (Cap 91) as amended, the Industrial Relations Act, 1965 (Act 299) as amended and the Labour Decree, 1967 (NLCD 157) as amended. Other laws relevant to labour and employment have been enacted. These include the Factories, Offices and Shops Act, 1970 (Act 328) as amended, the Workmen's Compensation Law, 1987 (PNDCL 187), the Social Security law, 1991 (PNDCL 247), the Children's Act 1998 (Act 560) and the Immigration Act, 2000 (Act 573).

669. The Labour Act was enacted to amend and consolidate the laws relating to labour, employers, trade unions and industrial relations, to establish a National Labour Commission among others.

670. Fourteen percent and 25 percent of enterprises, respectively, indicated that the labour laws are highly coherent and clear, and coherent and clear. Only 16 percent reported that the laws are neither coherent nor clear (Figure 8). Twenty-four percent failed to respond citing lack of knowledge of labour laws and regulations.

Tax Laws

671. The laws governing taxation administration in Ghana include the following:

- Internal Revenue Act, 2000 (Act 592)
- Value Added Tax Act, 1998 (Act 546)
- Customs and Excise and Preventive Act, 1993
- Free Zones Act, 1995
- Reconstruction Levy Act, 2001 (Act 597)

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672. As specified in the Internal Revenue Act (2000), all businesses (resident and non-resident) that are registered and operating in Ghana are subject to taxation. Specific exemptions are granted to companies operating in the free zones (Free Zones Act, 1995) and the recipients of fiscal incentive packages. The rate of income tax payable by companies in Ghana is set out in Part II of the First Schedule to the Internal Revenue Act as amended by the Internal Revenue (Amendment) Act, 2004 (Act 669). Except as stated in the Internal Revenue Act or any other law, the rate of tax for companies in Ghana is 32.5 percent. A lower rate of tax however is provided under the Act for some companies:

- Companies in the hotel industry – 25 percent
- Loans for farming purposes (the income tax rate applicable to income derived from financial institutions from a loan granted to a farming enterprise for farming purposes) – 20 percent
- Loans for funding of acquisition of assets (where a financial institution grants a loan to a leasing company for the use of the leasing company for the funding of the acquisition of assets for leasing) – 20 percent
- Non-traditional exports – 8 percent
- Manufacturing (rate depends on location of the industry) – manufacturing industries in regional capitals with the exception of Accra and Tema pay 75 percent of the applicable tax rate; those in other parts of Ghana pay 50 percent; industries in Accra and Tema do not attract rebates
- Cocoa farming – 0 percent
- Livestock farming (other than cattle) and fish farming – 0 percent for first five years on commencement of farming
- Cash crops (includes cassava, maize, pineapple, rice, yam) – 0 percent for first five years on commencement of business
- Tree crops – 0 percent for first 10 years on commencement of business

673. As many as 24 percent of entrepreneurs had no idea what the tax laws entailed. Only 4 percent reported that the tax laws are very clear and coherent. 29 percent of enterprises indicated that the tax laws are somehow coherent and clear, with as many as 32 percent indicating that they neither coherent nor clear.

Bankruptcy and Insolvency Laws

674. Ghana has no law regulating bankruptcy, even though there are provisions in the Companies Code that deal with bankruptcy. There is also no statute in force in Ghana governing personal insolvency. The Insolvency Act, 1962 (Act 153) on personal insolvency was never brought into force because no subsidiary legislation was passed to do so. Corporate insolvency is dealt with by the Bodies

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Corporate (Official Liquidation) Act, 1963 (Act 180), and in the case of private liquidations by the winding-up provisions in sections 246 to 261 of the Companies Code, 1963 (Act 179). There is also the Incorporated Private Partnership Act, 1962 (Act 152) which has winding-up provisions governing incorporate private partnership.

675. Sixty-one percent of enterprise indicated they were unaware of the laws. 3 percent indicated the laws governing official liquidation as outlined in the Companies Code are clear and coherent, whilst 8 percent indicated the laws are neither coherent nor clear.

3.4.5 Efficiency of Judiciary and other Regulators

676. The contribution of the Judiciary to the development of an environment conducive to enterprise growth and development has not been sterling because of delays in settling disputes through the courts and the consequent escalation of costs for parties to dispute. So strong is the feeling against delays in the courts that a number of business people refuse to enter into any type of business transactions which requires enforcement of rights only through the courts. On the average trials before the high court takes two to four years to be concluded. A recent observation made by a senior judicial service administrator summarizes the fate of the judiciary 'that the public is dissatisfied with the courts and has lost confidence in the administration of justice'.

677. Major oversight bodies such as the Ombudsman (CHRAJ), the Office of the Auditor General, the Internal Revenue Service (IRS), the Customs, Excise and Preventive Service (CEPS), the Bank of Ghana (BoG) and the Securities and Exchange Commission (SEC) all have the necessary legal independence to enable them perform as expected. However, apart from the Central Bank, all the other organizations depend on government subvention to a greater or lesser degree. The fear of retaliatory cuts in financing, however, gives the impression that these bodies are also not operating efficiently.

3.4.6 External and Internal Factors that Impact on Business Activities

Infrastructure

678. Ghana currently suffers from a number of physical infrastructure deficits which is putting a strain on the nation's development efforts.

Transport

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679. The main elements of Ghana's transport system are:

- A network of some 13,367 km of trunk roads, some 32,000 km of feeder roads and some 4,000 km of urban roads;
- 1,300 km of railway system, linking 3 main cities (Accra, Kumasi, Takoradi);
- 2 major ports (Tema, Takoradi); and
- A maritime and airline system

Road network

680. Road transport accounts for 94 percent of total domestic and intra-regional freight in Ghana. The road network in the country is estimated at about 49,000 km, which is made up of 13,367 km highway, 32,000 km feeder roads, and 4,000 km urban roads. There are about 11,128 km paved and gravel roads or earth feeder roads of which 29.1% (3,272 km) are in good condition, and 29% (3,314 km) are in fair conditions. Poor roads constitute 40.8% (4,542 km) of the entire network (Road Condition Report, 2003). Ghana's road transport costs (US\$1.94 per km) are low for West Africa (Nigeria – US\$1.41; Burkina Faso – US\$2.01; Cote d'Ivoire – US\$2.14), but high compared to international standards.

681. The poor nature of the major arterial roads: Accra – Kumasi, Accra – Anomabu and Accra - Aflao highly influenced the 47 percent of respondents that indicated that the road network in the country is poor. The high incidence of accidents resulting from poor nature of the roads and lack of safety markings, they argued placed a huge burden (financially and human resources) on enterprises. 43 percent indicated that the road network was good. These respondents pointed to the current constructional works on the major arterial roads and indicated that the inconvenience is only in the short term. Recent commitments to work on the key trunk roads of Accra-Kumasi and Aflao-Accra-Elubo should greatly improve road transport in terms of delivery times and costs (reduction in cost per mile).

Railways

682. Rail transport is extremely limited. Ghana has rail network of 1,300 km, which links the cities of Accra, Tema, Kumasi and Takoradi and covers five of the ten regions of the country. The network is concentrated in the southern part, with none in the northern part of the country. The entire rail is single track with the exception of the 30 km Takoradi-Manso section which is doubled. All the lines are of a narrow gauge of 1067 mm (36") gauge.

683. As many as 24 percent failed to respond to the state of the rail network claiming it was none existent in their districts. Some, however, did attempt to respond be

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cause they had benefited from the services of the facility. Thirty nine percent indicated that the rail network was poor, with 28 percent stating it was very poor.

Airport facilities

684. Ghana has one international airport in Accra (the Kotoka International Airport) and three domestic aerodromes in Kumasi, Tamale, and Sunyani. There are also seven airstrips in Wa, Bolgatanga, Navrongo, Yendi, Takoradi, Obuasi, and Ho. KIA is currently struggling to cope with expanding volumes of traffic. KIA handles more freight than any other West African airport; in 2001 it handled 22 percent of West African airfreight. High volumes of freight are attracted to low airfreight rates (about US\$0.70 – US\$1.00 per kilo of fresh produce), which are low even relative to South American and other African countries. This price advantage exists despite relatively high ground handling costs.
685. Handling and storage capacity at KIA is limited. Although privatisation improved airport handling services, the sole operator AFGO, which was awarded a 5-year contract in 1998, did not fulfil all of its obligations to improve storage. A key obligation was the provision of a cold storage facility on which horticultural exports in particular are highly dependent. Exports require a continuous cold chain from the point of production to consumption, and the present lack of cold storage at the airport is dissuading private investment in other sections of the chain, particularly cold storage at the farmgate. In addition, there is insufficient covered storage and products are frequently spoiled by rain or wind damage whilst at the airport. Reliable and regular access to cargo space is a continuing problem for exporters. There are few dedicated cargo flights to Europe, the main export market and availability of space is dependent on levels of passenger cargo. DHL introduced six flights to Europe and transports substantial quantities of produce, but space depends on the level of its priority good – small packages.
686. Thirty-nine percent of Respondents indicated that the nation's airport facilities are good, with 4% stressing that it was very good. 13 percent made no comments at all. On the other hand 35 percent indicated that facilities at the port were poor, with 10 percent reporting it was very poor. Issues such as lack of cold chain facilities at the ports, and poor customer services especially by the national airline staff were reported as having influenced the poor to very poor rating.

Seaports

687. The two harbours of Takoradi and Tema are operated by the Ghana Ports and Harbours Authority (GPHA), which is a parastatal. Ghana has the highest harbour rates after Nigeria in West Africa. The dues for discharging a full container are more than twice the rate in Abidjan, which has the lowest. The stevedoring and physical handling of freight at the ports is the responsibility of GPHA, but 15 percent and 10 percent respectively, of the stevedoring is done by 2 private

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- companies, Atlantic Port Services and Speedline, and 75 percent by GPHA. However, the 3 companies do not compete as incoming ships are allocated to the 3 stevedoring companies by GPHA, and the ship owners have no say in the allocation.
688. Ghana has one of the lowest sea freight factors (cif/fob ratio) in Africa, largely due to proximity to major market destinations (the factor is however still higher than key competitors in South America and Asia). However, Ghana's competitive edge compared with the rest of Africa is being eroded because of:
- relatively high port charges;
 - low capacity and inefficient use of existing capacity;
 - low volumes of exports which do not enable chartered services.
689. Port costs are higher in Ghana than in neighbouring countries. The cost of handling 200 20' containers and 100 40' containers in Tema is estimated at US\$43,810, whereas it is US\$39,785 in Lome; US\$18,322 in Abidjan; and US\$8,733 in Cotonou. The high costs are in part due to high handling charges, which are currently US\$180 -250 per 40 foot container compared with an international average of US\$150. The high price is caused by repeated handling of cargo; in Tema for example, each inbound container requires a minimum of four handlings as it moves from dockside to stack, to inspection, back to stack, and finally to chassis for release.
690. Forty-three percent of Respondents indicated that the state of facilities at the ports was good compared to 13 percent and 7 percent that responded they were poor and very poor respectively.

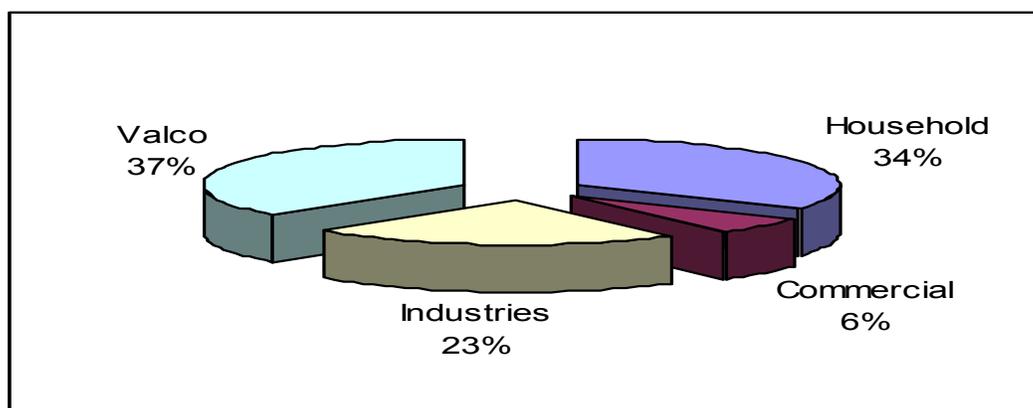
Energy Supply

Electricity

691. The total installed capacity of electric power in Ghana is about 1,877 MW comprising 1,072 MW of hydro generation (Akosombo and Kpong Stations) both on the Volta River, and about 550 MW from Takoradi Thermal Power Station comprising TAPCO and TICO. A 125 MW Power Barge has recently been commissioned but is yet to be put into commercial operation. The VRA has also installed a 100 MW diesel plant at Tema to provide system reserves. Ghana is also able to import power up to 250MW from La Cote d'Ivoire.
692. The Volta Aluminium Company (VALCO) before its close down was the largest consumer of electricity, consuming almost 37 percent of all generated electricity (Figure 3.4), with the rest of industry consuming 23 percent. Household (domestic) consumption accounted for 34 percent, with commerce taking up the remaining 6 percent.

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Figure 3.4: Energy Consumption by Sector



Source: Energy Commission, 2004

693. Sixty-four percent of respondents reported that energy supply was good compared to 25 percent who thought it was poor/very poor. Respondents stated that even though power cuts are not as frequent as in the early 1980s the phenomenon still persists leading to loss of equipment and labour time. Respondents cited the Rural Electrification Project as having delivered electricity to the vast majority of people.

Fuel Supply

694. The Government of Ghana established the Ghana National Petroleum Company (GNPC) with a mandate to undertake the exploration, development and disposal of petroleum (including natural gas). The GNPC has promoted oil exploration in Ghanaian offshore waters, from the Tano Basin in the west, through Cape Three Points Basin, to the Accra-Keta Basin in the east. The GNPC is also undertaking a redevelopment of the Salt pond Offshore Field. Three out of the seven wells are producing Brent Light Crude oil. The gas to be produced should be sufficient to generate about 40 MW of power for 7 years.

695. The National Petroleum Tender Board (NPTB) was established to monitor and publish import parity prices of petroleum products on a monthly basis. The ex-refinery price is, in theory, set by the Tema Oil Refinery using the import parity as a basis and adding a mark-up factor agreed with the government. Current national demand for petroleum products is about 1.6 million tones per annum and is growing at an average of 5 percent per annum. Approximately 60 percent of petroleum products in the country are consumed by the transport sector. The industrial sector consumes 23 percent and the agricultural sector 7 percent. The household and commercial sectors together accounts for 15 percent of petroleum

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products in the country. Generally speaking, even though there are occasional shortages, there is a regular supply of petroleum products.

Water

696. The Ghana Water and Sewerage Corporation a statutory corporation was converted into a Limited Liability Company, Ghana Water Company Limited under Act 461, as amended under Statutory Corporation LI. 1648. The GWCL operates about 86 urban water supply systems country-wide. Estimated current national daily potable water production is about 551,000 m³/day against a demand of about 940,000 m³/day (representing 59% effective urban supply coverage). When gravity of the situation is more pronounced when one considers the fact that 72 percent of all commercial and industrial consumers obtain their water supply from the GWCL. A recent study conducted by the Private Enterprise Foundation revealed that 53 percent of business operators considered water supply as a major constraint to the operations of their businesses. Whilst water can be stored to reduce down time in business operations, it is quite expensive to install water tanks.
697. Fifty-one percent of respondents considered the state of water supply to be good with 6 percent rating it very good. 36 percent and 7 percent, however, rated the supply to be poor and very poor respectively. A number of respondents stated during the discussion sessions, that they were not only concerned about the supply of water, but also the quality of water supplied by GWCL. A number of newspaper reports have raised doubt about the quality of water supplied to urban centres by GWCL.

Telecommunications

698. The enactment of the National Communications Authority Act 1996 (Act 524) provided the legal framework under which the monopoly previously held by the Telecommunications Division of the P&T Corporation was replaced by a more competitive market, in which market entry is regulated by National Communications Authority (NCA) through the licensing of telecommunications service providers (Commonwealth Secretariat Report, 2003. p19) The main telecommunications provider is Ghana Telecommunications Company Limited (Ghana Telecom). It was incorporated in 1995 as a successor to the telecommunications division of the Ghana Posts and Telecommunications Corporation (GPTC), which was established in 1974 to operate and license telecom services. In 1996, Ghana Telecom privatized its mainline operations by awarding a Malaysian-led consortium (Telecom Malaysia) a 30 percent stake in the company, with full management control. In 2002, Telenor of Norway was appointed for three years as the Manager of Ghana Telecom to replace Telekom Malaysia.

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699. Ghana's cities are connected by microwave radio, and there is another telecom operator, Western Telesystems Ghana Ltd (WESTEL). Cellular telephony is growing rapidly to meet the huge demand created as a result of the failure of Ghana Telecom and WESTEL to meet increasing demand for telephone services. Millicom Ghana Ltd (Mobitel), which began in 1991, now has more than 300,000 subscribers, and CellTel Ltd (CellTel) which began in 1993 has 200,000 subscribers (the company has now transformed to Kasapa). Scancom Ltd. Operators of Spacefon can boast of almost 1,000,000 customers.
700. Seventy-two percent of Respondents indicated that telecommunication services are good compared to 21 percent which indicated that services were poor. Those with a positive view of the services stipulated the fact that telephones services are now available in virtually all the 110 districts. They also praised the cellular telephony market that has greatly improved communication services in the country. Opposes cite the difficulty of getting a call through – especially from Ghana Telecom to cellular telephony, and the relative high costs of services. Wrong billing was also cited as some of the drawbacks in the industry.

ICT

701. Currently, there are a growing number of Internet Service Providers (ISPs), most of which pay between US\$2,000 and US\$5,000 per month for their connection. ICT infrastructural development in Ghana is progressing at a rate (0.4% from 1995 to 2.9% in 2000) comparable to other low-income countries globally and above the 1.1% average for Sub-Saharan Africa. A number of initiatives have been made by the government of Ghana and other agencies to develop the ICT-infrastructure. Prominent among these initiatives is the development of a national fibre optic network (VOLTACOM) by Volta River Authority (VRA). There have also been massive investments in ICT infrastructure from existing Internet Service Providers (ISPs) and Telecommunication companies, such the Ghana Telecom, Scancom and Mobitel.
702. The three main Internet Service Providers are Africaonline, Internet Ghana and Network Computer Systems. Comparatively, internet use charges per hour in Ghana are one of the lowest in the world (Ghana - \$0.60; Nigeria - \$5.40; Canada - \$4.30; Sweden - \$7.00; Turkey - \$0.50). However, when one considers the average disposable income of the citizenry then services charges in Ghana are relatively very high.
703. Thirty-nine percent of respondents compared to 45 percent rated the state of ICT services in the country as good and poor, respectively (Figure 19). The poor rating was judged to be basically the slow connection rates at most cafes.

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Access to Land

704. Land acquisition has been a major problem for business operators in the country. This is because of the complexity of ownership and the present land tenure system. There are three types of land ownership provided for in the 1992 Constitution of Ghana, namely: (a) public lands (i.e. State land and land vested in the President in trust for the people of Ghana); (b) stool lands (community lands vested in traditional/other community leaders on behalf of the community); and (c) private and family/clan lands (owned by families, individuals and clans in the community). To have access to land one has to deal with serious legal as well as bureaucratic obstacles.

705. First, one has to deal with the extensive network of government agencies, traditional chiefs and individuals involved in obtaining land. Difficulties include unclear and long negotiation processes, sometimes with several parties at different stages of the process, and thus often ending with unsure tenure arrangements. Secondly, the land available to foreign investors is itself very limited. Industrial land is particularly scarce. The Constitution makes provision for the acquisition of land by the Government through the Compulsory Acquisition Law, and the State Lands Act and Stool Land Act if the acquisition could be argued as being in the public interest. Thirdly, even where the prime land for a specific project is identified, there is the problem of finding the true owners of the land. Often, the land is subject to litigation and the issue of clear title over land remains a big problem in Ghana. There is also the problem of boundaries identification. Fourthly, once title is established, processing documents with the Lands Commission and Land Title Registry is often delayed. A period of 3 months to 2 years is typical for completing the process of obtaining land.

706. Fifty percent of Respondents indicated that accessing land for investment is very poor, with 19 percent reporting it was poor. Only 2 percent reported accessing land for investment was good.

Credit

707. Following the tightening of monetary policy in 2001, domestic credit to the private sector has remained around 10 percent of GDP, which is low even by African standards. This reflects a typical crowding out-effect, as most of the banks resources are absorbed by the public sector, either in the form of loans to state-owned enterprises or holdings of government securities. Apart from the financing constraints imposed by Ghana's large fiscal deficits, the banks' holdings of government securities is also sustained by high secondary reserve requirements that require banks to hold 35 percent of the deposit liabilities in such securities.

708. State-owned enterprises have attracted sizable amounts of lending from commercial banks, thereby exacerbating the crowding out effect. As a result,

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during the past years (1996 – 2003), bank lending to the public sector has typically absorbed more than half of total available resources. The residual resources available for lending to the private sector (about 35 percent of total assets in 2003) have been mainly channeled to the manufacturing sector (25 percent of credit to the private sector), commerce and finance (9 percent) and services (8.5). The agricultural, forestry, and fishing sectors have received less than one-tenth of total bank credit although agriculture accounts for 36 percent of GDP.

3.4.7 Efforts by Government to Encourage Commercial Enterprise

709. The Government of Ghana has used a combination of incentives to improve its investment climate. In the attempt to attract Foreign Direct Investment, the government has made aggressive changes in business law, privatisation of state-owned enterprises and other related initiatives, including the formation of a free-trade zone³⁷

Investor Promotion

710. Recognizing private investment to be the leading stimulus for economic growth, the legal framework regularizing activities in the sector has been revised so that the granting of benefits and incentives is largely automatic. The Ghana Investment Promotion Centre (GIPC) Act, 1994 (Act 478) and the Minerals and Mining (Amendment) Act, 1994 (Act 475) have relieved investors of the unintended obstacles imposed by previous legislation. Under the GIPC Act, a minimum paid-up capital equivalent of US\$50,000 is required for wholly foreign-owned enterprises, but US\$10,000 is required to enter into joint partnership with a Ghanaian. Foreign investment in trading companies, however, require a minimum foreign equity of US\$300,000 and the firm must employ at least 10 Ghanaians³⁸ (UNCTAD, 2003).

Foreign Direct Investment

711. The Companies Code, 1963 was liberalized by the Ghana Investment Promotion Centre (GIPC) Act, 1994, which eased the rules for the establishment of companies. Under the act, foreign investors in Ghana are required to register with the GIPC. The GIPC provides all enterprises guarantees of “free transferability

³⁷ Mainsah and Ikezi, 2004

³⁸ The higher minimum foreign requirement for trading companies is obviously to dissuade foreigners from engaging in trading rather than production activities. The law, however, recognizes that FDI might be necessary in larger businesses – for example in the retail trade and supermarket chains.

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through any authorized dealer bank in free convertible currency of dividends or net profits attributable to a foreign investment”. Additionally, Ghana is a member of the Multilateral Investment Guarantee Agency (MIGA) of the World Bank, which provides some protection against non-commercial risk for investment in developing countries. The government has established a Ghana Free Zone Scheme managed by the Free Zone Board. Companies can be engaged in the production of any type of goods or services for export, including BPO, telemarketing and other call-center operations, and IT services. The scheme has a large number of incentives, including the following:

- exemption from the payment of income tax on profits for the first 10 years and a maximum tax rate of 8 percent thereafter;
- exemption of shareholders from the payment of withholding tax on dividends;
- the right of foreign investors to take and hold 100 percent of the shares in any free-zone enterprise;
- guarantees of unconditional transfers through authorized dealer banks;
- freedom to contract with local labour under terms set by the employer only;
- in cases in which people may be subject to double taxation, the option of paying income tax in the country of origin;
- the right of citizens of Organisation of Economic Cooperation and Development (OECD) member countries and of South Africa to apply for visas at ports

712. Ghana is a signatory of the Universal Copyright Convention and a member of the World Intellectual Property Organisation and the World Trade Organisation.

Tax Incentives

713. A variety of incentives exist to promote investment drives. These include tax holidays, capital allowances, locational incentives, and customs duty exemptions. These are specified in the various statutes:

- Income Tax Decree, 1975 (as amended)
- Free Zones Act, 1995 (Act 504)
- Income Tax (Amendment) Act, 1998 (Act 551)
- Ghana Investment Promotion Centre Act, 1994

Free Zones

714. In 1995, the Government published the Free Zone Act that encourages the development of commercial and services activities at seaports and airports. In

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1996, the Minister of trade and Industry declared the seaports of Tema and Takoradi, and the Kotoka International Airport to be free zones areas (UNCTAD, 2003, p. 46)

Protection against Expropriation

715. Ghana's Constitution prohibits the compulsory taking of private property without compensation. The GIPC Act reflects this, guaranteeing that foreign-owned enterprise shall not be subject to expropriation or nationalization unless appropriation of it is in the national interest and for a public purpose (section 28 of the GIPC Act). In case of expropriation, compensation is overseen under the Act on the basis of a "fair and adequate" valuation of the property.

Dispute Settlement and Arbitration

716. The Arbitration Act of 1961 (Act 38) provides the legal basis for regulating the settlement of differences by arbitration, and the enforcement of arbitration awards in Ghana. The Arbitration Act also makes provision for the enforcement of foreign awards in accordance with the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, adopted in New York in 1958. Ghana is also a member of the International Centre for Settlement of Investment Disputes (ICSID) and of the Multilateral Investment Guarantee Agency (MIGA). The GIPC Act guarantees the right to international arbitration not only for foreign investors, all investors covered by the Act (i.e. including those local investors registered with the GIPC).

3.4.8 Challenges Facing Economic Activities and Efforts to Address Them

717. A number of key constraints have been identified that impacts of economic activity development in Ghana. These include:

- Lack of adequate infrastructure including low quality access roads and unreliable service from public utilities;
- Lack of access to credit facilities and capital, and high interest rates;
- Limited access to markets, both local and international;
- Weak technical and institutional capacity of small and medium scale enterprises;
- Limited participation and low private sector competence in policy formulation;
- Cumbersome export and import procedures which increase turn-around time;

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- Cumbersome legal and administrative procedures for establishment of new businesses;
- Inefficient land administration system, creating problems relating to collateral, title deeds, etc.

718. Government, development partners, NGOs and the private sector organizations are already undertaking a wide variety of activities designed to address constraints on private sector development. There are currently over 150 initiatives, strategies, programmes and projects designed to address constraints on private sector development. The GoG alone has over 100 such initiatives (GoG NMTPSDS, 2003, p.15). These include:

Inadequate infrastructure

- Road Sector Development Programme
- Transport Sub-Sector Development Programme
- Rail Transport Sector Development Programme
- Routine Maintenance Programme
- Periodic Maintenance Programme
- Minor Rehabilitation and Upgrading Programme
- Traffic Management and Safety Programme
- Boankra Inland Port Project
- GPHA Landlord Port Project
- Maritime House Project
- Ghana Shippers Council Development Plan
- Ghana Civil Aviation Authority Strategic Plan
- Strategic National Energy Plan
- West Africa Gas Pipeline Project
- Rural Electrification Project (SHEP 4)
- Energy Conservation and Efficiency Programme
- Strategic Stock Depots Project
- Productive Uses of Electricity Project
- Community Water and Sanitation Project
- Water Sector Restructuring Programme
- Ghana Water Company Corporate Plan

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Access to Credit

- Export Finance Company
- Exim Guaranty Limited
- Royal Netherlands Community Level Small Grants Programme
- Grant for Grassroots Project Assistance
- PROPARCO (Societe de Promotion et de Participation Pour la Cooperation Economique)
- World Bank Non-Bank Financial Institutions Project
- Credit Guarantee Fund for the Promotion of Small and Micro Enterprises
- CARE's Small Economic Activities Development Programme (SEAD)
- CARE's MicroStart Ghana Programme
- CARE's Micro Enterprise Development Assistance

Cumbersome Legal and Administrative procedures

- Legal Sector Reform Programme
- Alternative Dispute Resolution Programme
- Public Utilities Regulatory Commission Act
- National Communication Authority

3.5 OBJECTIVE 2: ENSURE THAT CORPORATIONS ACT AS GOOD CORPORATE CITIZENS WITH REGARDS TO HUMAN RIGHTS, SOCIAL RESPONSIBILITY AND ENVIRONMENTAL SUSTAINABILITY

719. This objective addresses three main issues: human rights including adherence to labour obligations, social responsibility, and matters relating to the environment. Specific issues covered are:

- Employee rights;
- Provision of safe working environment and fair wages;

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- Degree of corporation's responsiveness to community needs including focus on issues such as health (HIV/AIDS, Malaria, Tuberculosis (TB), Yellow Fever), education and skills development; and
- Responsible behaviour with regard to the environment including environmental rehabilitation projects, environmental impact assessments, recycling and use of clean technology

3.5.1 Measures to Ensure that Corporations Recognize and Observe Human and Labour Rights

Ensuring Employee Rights

720. Rights of Ghanaian workers are enshrined in the Labour Regulation, 1969, Labour Decree, 1967 and the new Labour Act, 2003 (Act 651) and include:

- Annual leave not less than 14 working days with full pay in any calendar year of continuous services, that being 200 days in the year in question;
- Hours of work are a maximum of 8 per day or 45 hours week;
- A rest break of 30 minutes must be given during a continuous working day; where the working day is split in two parts, one unpaid hour must be given and the break is not counted toward working hours;
- A daily rest period must be given, that is, at least 12 hours of rest between two consecutive workdays;
- A weekly rest period of 36 consecutive hours to be given in every 7 days of normal working hours;
- Rest periods are not inclusive of public holidays;
- The previous provisions dealing with hours of work and rest, daily, weekly and between days of work, are not applicable to task workers;
- Equal pay for equal work as between men and women³⁹; (currently all workers are covered by the minimum daily wage, pegged at 11,200 Cedis (US\$1.20);
- Protection from victimization where worker has made a complaint, given evidence or assisted relative to a violation of law;
- Workers may either join or form a trade union of their choice for the promotion and protection of workers economic and social interests⁴⁰;
- The employer is liable for personal injuries as a result of an accident occurring in the course of an employee's employment. Certain exceptions are made in coverage. The following persons are exempted from the definition of "workman"

³⁹ Section 10

⁴⁰ Section 79(1)

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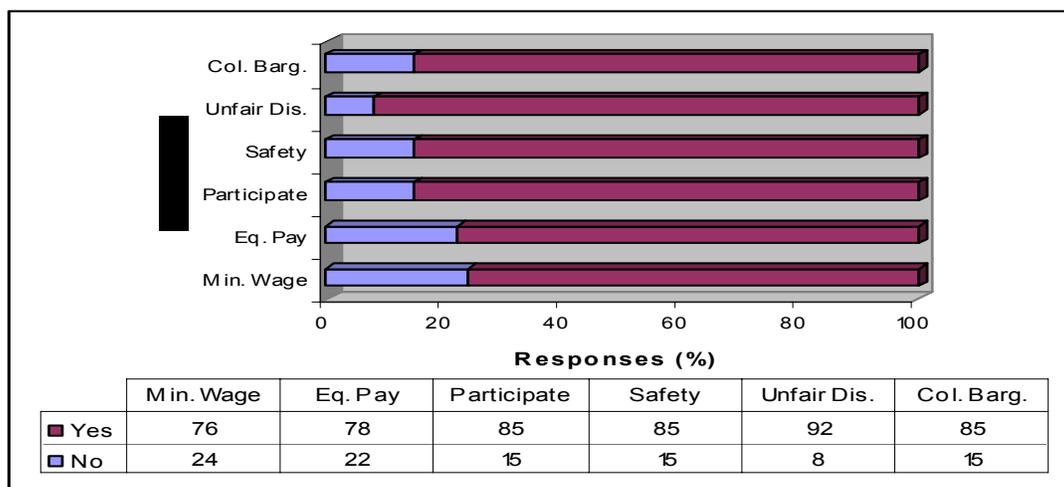
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– (a) a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer’s trade or business, not being a person employed for the purposes of any game or recreation and engaged or paid through a club; (b) an outworker; or (c) a tributer; or (d) a member of the employer’s family dwelling in his house or compound; or (e) a person employed in agriculture or handicraft work by an employer who normally employ less than five workmen; or (f) any class of persons declared by regulations made under this Law not to be workman for the purposes of this Law.

721. There is generally a high level of compliance of the labour laws within the formal sector of Ghana. 76 percent of workers in the formal sector indicated that corporations complied with paying the minimum daily wage of 11, 200 Cedis, while 78 percent said the policy of equal pay for equal work is observed at the work place. (Figure 3.5). Of the 22 percent that said the equal pay for equal work policy was not observed indicated a subtle attempt by employers not to hire certain classes of workers for certain work – for example older workers and women are deliberately discriminated against for certain work especially in the construction industry.

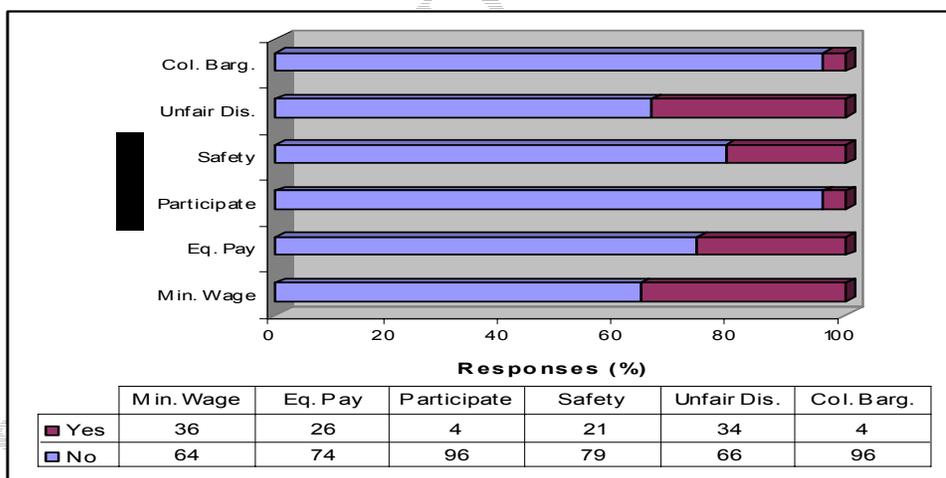
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Figure 3,5: Perception of Compliance with Labour Laws (N = 99)



722. The story in the SMEs and informal sector is very different. As many as 64 percent earn less than the minimum daily wage of 11,200, and 74 percent were of the view that men earn more than women for the same job done. 96 percent reported they do not participate in decisions affecting the enterprise (Figure 3.6).

Figure 3.6: Perception of compliance with labour laws (N = 107)



Job Security

723. Overall, *de facto* job security seems relatively good for employees of the formal sector compared to those in the informal sector and casual workers. All respondents in the micro enterprises (representing 16 percent of total

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interviewees) were worried about their jobs. This perception was buttressed by the fact that:

- There is no written employment contract between employer and employee;
- The enterprises they work in on the average have been in existence for less than 2 years;
- The average period they have been working is less than 1 year;
- They cannot form unions to champion their cause or fight injustice.

Procedures for Handling Disputes⁴¹

Disputes arising during negotiation

724. When a dispute arises over a matter under negotiation, the Standing Joint Negotiation Committee (SJNC) may take every possible step to arrive at an amicable settlement. If this fails to resolve the issue(s), the parties may declare a deadlock and inform the Minister responsible for Labour of the situation, giving him/her full details of the dispute(s). Under Section 17 (1) of Act 299⁴², the Minister, on receipt of this notice shall take steps to appoint a conciliation officer to confer with the parties to dispute. If within two weeks of the appointment of the conciliation officer the matter(s) under dispute has not been resolved, or before the expiration of the two weeks, the conciliation officer sees no prospect of an amicable resolution of the matter(s) in dispute, he shall report to the Minister setting out the facts and stating:

- How far, if at all, agreement has been reached; and
- What are in his opinion the issues which remain in dispute.

725. Upon receipt of this report, if there some matter(s) still under dispute, the Minister may appoint either the Chief Labour Officer or some senior officer of his ministry as an additional conciliation officer to further endeavour to resolve the dispute. The additional conciliation officer is expected to resolve the issue(s) within one week of his appointment and report to the Minister. If the additional conciliation officer is unable to resolve the dispute(s), the Minister is empowered by Section 18 of Act 299 to either refer the matter to compulsory arbitration where one of the parties gives his consent to the matter being thus referred, or to voluntary arbitration when both parties agree to go into arbitration. In setting up the

⁴¹ Employers are of the opinion that the official labour dispute resolution system is extremely cumbersome and lengthy, thereby making it costly for all parties. The system, they argue, does not reduce the cost of resolving disputes nor does it reduce risk to employers. The threat of costly adjudication or limitations on reducing employment favour physical capital over human talent as a means of reducing the risks of disputes or strikes.

⁴² The Industrial Relations Act 1965

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arbitration tribunal, the Minister may either appoint a sole arbitrator or a arbitrator assisted by an equal number of arbitrators nominated by both parties and an independent chairman. Even though the award of the arbitration tribunal established under Section 18 of Act 299 is final, such an award shall not take effect unless it is confirmed by the Minister through publication in the Gazette.

Work Place Disputes

726. The procedures for resolving work place disputes involving a worker are normally well laid out in concluded collective agreements. The following steps are normally provided for in the collective agreement:

Step 1: the worker takes up the grievance with his immediate supervisor;

Step 2: if no settlement is reached, the worker may ask either his local secretary/shop steward to take up his case with the supervisor;

Step 3: if the matter is not resolved with the supervisor, the local secretary/shop steward will take up the case with the Manager;

Step 4: if the case is still not resolved, the local secretary will report to the national union which may ask that the SJNC convenes to resolve the grievance;

Step 5: if the SJNC is unable to resolve the matter, either party may report to the Minister, with a request that a conciliation officer be appointed to resolve it;

Step 6: if after all these efforts, the matter remains unresolved, the Minister may invoke the provisions of Section 18 of Act 299 and refer the matter to arbitration.

727. Strikes and lock-outs are not outlawed in Ghana. However, the procedure laid down by law makes it almost impossible to have a legal strike or lock out. Act 299 provides that if a deadlock is declared, either party may give four weeks notice to the Minister of its intention not to enter into arbitration but embark on a strike or lock out. The Minister can avert this action by referring the matter in dispute to compulsory arbitration before the four weeks deadline. The new Labour Law, Act 651 proposes a stricter regime to regulate industrial actions (strikes and lock outs). Act 651 defines what constitutes legal and illegal strikes. It provides for notice of intention to embark upon industrial action to be served on the National Labour Commission within seven days of failure to agree to resolve a dispute through voluntary arbitration. Legal industrial action can also be embarked upon seven days after the notice has been served on the Commission and the matter still remains unresolved. It is an offence, for which a party may sue for damages, if during this cooling off period, one party embarks upon an industrial action. Act 651 provides that seven days after an industrial action has begun, if the matter in dispute is still unresolved, the Commission shall order that the dispute be settled through compulsory arbitration.

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Trade Unions in Ghana

728. There are currently about 25 labour unions in Ghana with a total membership of around 500,000. Industrial Relations Act of 1965 recognized the Trade Union Congress (TUC) as the sole representative of the trade union movement in Ghana. Section 3 of the Act required that any union wishing to apply for a collective bargaining certificate from the Registrar of Trade Unions has to apply through the TUC. The TUC has a membership of 17⁴³ comprising about 250,000 workers.
729. In addition to the members of the TUC there are a number of workers' associations representing public sector employees, which are not certified to operate under the Industrial Relations Act (Table 5.2). Since 1992, these associations have had a form of negotiating power with their employer (the government) under the Public Services (Negotiating Committee) Law. In 1998, the Ghana Federation of Labour (GFoL) was established as a new national centre. Founding members included the Ghana Association of Teachers, Ghana Registered Nurses' Association, the Textiles, Garment and Leather Employees' Union and the Lotto Receivers' Association. The Ghana National Association of Teachers later withdrew from the new centre.
730. Other associations exist that are not affiliated to any of the above. These include the Ghana National Association of Graduate Teachers, Civil Servants Association of Ghana, Senior Staff Associations in various industries.

Effectiveness of the Trade Union

731. Ghana has a militant trade union movement that has deep roots in the country's historic development from colonialism to independence. The labour struggle for improved working conditions intensified and later developed into a demand for complete political independence in alliance with the CPP. After independence, the CPP-led government in 1958 introduced the Industrial Relations Act of 1958 designed to strengthen trade unions in Ghana. The act gave legal recognition to the Trade Union Congress and made collective bargaining compulsory.
732. The close relationship with government (the CPP) did not only benefit the labour movement, it also had its costs in terms of a loss of independence. The CPP regarded the TUC as a wing of the party and felt free to interfere in union matters in several ways, including making appointments to leadership positions in the TUC. The new government of 1966 repealed section 24 of the Civil Service Act, which had made trade union membership compulsory for civil servants. The PNDC regime sought to exploit the organizational power and militancy of the labour movement. However, unlike the CPP, the PNDC failed to receive the full and sustained support of the leadership of the TUC. Being very much a populist

⁴³ With the secession of the ICU, TUC membership is now 16

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regime, the PNDC issued a decree for the formation of People's/Workers Defence Committees (P/WDCs) in all communities and workplaces throughout the country in 1982. The WDCs ran parallel to the existing trade union and worker participation structures. Being organs of state power, the WDCs became powerful owing to the political support they received from ruling PNDC government. They were used to counter the leadership of the trade union and to curb the trade unions in order to make way for the implementation of the government's new economic recovery programme (ERP). The ERP was characterized by disregard for collective bargaining.

733. During the late 1990s the TUC concentrated its attention on ensuring that the process of policy formulation and implementation is as inclusive as possible in the hope that this will raise the quality of policies and improve the prospects of their being implemented efficiently and with fairness. In this connection, the TUC was one of the institutions that pressed for the National Economic Forum in 1997. The TUC took an active part in planning the forum as well as in its deliberations. The TUC also accepted, and indeed sought, representation on bodies charged with policy implementation because it believes it can better protect the interests of workers in this way. Thus, though critical of the divestiture programme, it nevertheless agreed to serve on the Divestiture Implementation Committee (DIC). This made it possible for the TUC to fight for compensation for workers laid off in the process of divestiture. The TUC is also represented on other implementation bodies such as:

- The Export Processing Zone Board;
- The Public Utilities Regulatory Commission, which is responsible for approving tariffs charged by public utilities;
- The National Tripartite Committee on Salaries and Wages Guidelines;
- The National Advisory Committee on Labour;
- The National Media Commission;
- The Board of the Social Security and National Insurance Trust;
- National Population Council;
- Narcotics Board;
- National Institutional Renewal Programme.
- Frequency of mass industrial and labour disputes

734. Employees hardly go on mass industrial strikes (on the average once or twice a year) compared to labour disputes (10 times a year). The causes of mass industrial and labour disputes though varied, are generally associated with conditions of services and remunerations. According to worker respondents, major strikes and disputes come as a result of the following:

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- Unions insistence of pay increases based on external factors such as living conditions prevailing in the country, and comparisons with other business entities' pays (92 percent);
- Protracted negotiations due to entrenched positions of unions and business entities (91 percent);
- Corporations' insistence on pay increases with reference to profitability and ability to pay (82 percent);
- Non-compliance of business entities with collective bargaining agreement provisions on grievance procedures (80 percent). On a few occasions, however, corporations resort to lockouts for non-compliance by workers;
- Delays in the payment of agreed salaries and allowances (79 percent);
- Entrenched positions by the union to dismiss management personnel perceived to be against employees' interests (74 percent);
- Non-compliance with collective bargaining agreement provisions on dismissals (72 percent).

3.5.2 Extent to which Corporations are Responsive to the Concerns of the Communities in which they Operate

735. There is an extremely limited body of theoretical and empirical literature on corporate social responsibility in Ghana. Whilst most enterprises (notably mining, logging and banking sectors) have attempted to address the issues confronting communities in which they operate, for most of them this is considered as a philanthropic add-on (UNV/AGI, 2003). As a result business social responsibility to host communities has not focused enough on addressing community issues.

HIV/AIDS

736. Seventeen percent of corporations reported they are fully engaged in HIV/AIDS education and prevention promotion, whereas 34 percent admitted they are partially involved. By partial involvement is meant that the corporation does not budget for HIV/AIDS projects but encourages NGOs/CBOs involved in HIV/AIDS issues to educate and sensitise their workers. 24 percent of corporations (mostly micro and small enterprises) reported they do not budget for HIV/AIDS education, neither do they encourage NGOs/CBOs to undertake sensitisation exercises on their premises.

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Gender Issues

737. Only 5 percent of corporations are fully involved in promoting gender issues at the workplace and in the communities in which they operate. Issues such as stereotyping, harassment, discrimination and family responsibilities are seriously addressed by company policies. 51 percent reported they are not engaged in promoting gender issues at both the workplace and the community.

Job Creation

738. Seventy-seven percent of companies reported they provide employment to residents of communities in which they operate. 12 percent reported they did not employ residents claiming they are strictly family business that employ only family members.

Education

739. For most national and multinational companies (especially those sited outside the capital) the provision of educational facilities of comparable standards to those in urban centres are incentives to recruit and retain quality employees. 40 percent reported they are fully involved in the provision of educational facilities. Such companies build the educational facilities and employ the teachers to teach the pupils. 29 percent reported they are partially involved, citing they contributed funds to the building or rehabilitation of educational facilities in communities in which they are located.

Health

740. Fifty-two percent of companies indicated they were fully involved in providing health facilities to the communities in which they operate, whilst 32 percent reported they are only partially involved.

Projects

741. Majority (47%) of community members cited educational facilities and educational related activities as the main project undertaken by companies, whilst 33 percent cited community dams (which include water facilities like bore holes, wells, etc.).

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3.5.3 Measures Put in Place to Ensure Sustainable Environmental Management on the Part of Corporations

742. Ghana has enacted environmental protection laws that proactively prevents all adverse environmental impacts in the process of development. All industrial establishments are required by law to adopt the following measures:

- Submit Environmental Impact Assessments (EIAs) for all new industrial projects to the EPA for approval before commencement of business;
- Submit periodic Environmental Impact Statements (EIS) on their operations, including waste management systems to the EPA for monitoring purposes; and
- Adhere to environmental standards.

743. The Environmental Protection Agency (EPA) is the primary body for the protection of the environment in Ghana. It operates under the terms of the Environmental Protection Agency Act, 1994 (Act 490). For the prevention of environmental abuse and unsound and unsustainable development, the EPA applies the Environmental Assessment Regulations, 1999 (LI 1652), and as amended by LI 1703 (2002) and the Environmental Impact Assessment (EIA) Procedures (1995). The EPA secures compliance not through penalties, but by drawing attention to the breach and ensuring that any breach is corrected (or that it does not occur again).

3.6 OBJECTIVE 3: PROMOTING ADOPTION OF CODES OF GOOD BUSINESS ETHICS IN ACHIEVING THE OBJECTIVES OF THE CORPORATION

3.6.1 What is the Overall Assessment of the Corporate Integrity in the Country?

744. Under this objective, self regulation and the development of voluntary codes on business ethics by the public and private sector, the observance and enforcement of these codes by the concerned bodies, is some of the indicative criteria sought. Other issues that are considered under this objective include:

- Mechanisms for sanctioning ethic violators and their effectiveness;
- Access to information on corporations in the private and public sectors, including the independence and freedom of the media and the quality of financial and investigative journalism.

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745. Results of recent studies have suggested that Ghana's private sector suffers from a widely-held perception of lack of corporate integrity in Ghana. Evidence of lack of transparency and rent-seeking behaviour on the part of the corporate sector appears to be widespread. A few of such studies are discussed below:

- In 2000 the Institute of Directors (IoD-Ghana) conducted a survey of 30 Ghanaian companies (including larger, medium and state-owned enterprises) to investigate the state of Corporate Governance in both private and public sectors of Ghana. The survey reported that Corporate Governance had gained grounds in Ghana with the public sector spearheading it, and that the private sector had a long way to go to fully embrace the concept. It also found that the dominance of owner-managed enterprises in Ghana had relegated sound corporate governance practices to the background.
- The 'Ghana Governance and Corruption Survey' conducted by the Centre for Democracy and Development –Ghana (CDD) in 2000 presented results of a study of transparency in public-private sector dealings in Ghana. Corruption is a major problem in both the public and private sectors. 86% of households see corruption as a major problem in the public sector, whereas 59% of households see corruption as a major problem in the private sector;
- In a 2002 publication, the CDD (Ghana) observed that evidence available suggested that the governance provisions of the Companies Code were honoured largely in the breach. It added that many companies in Ghana continued to operate like sole proprietorships with shareholders' accountability and minority protection systems in most companies appearing only on paper leaving room for much self-dealing by corporate insiders.
- As part of a study on the correlation between corporate governance and corruption, the African Capital Markets Forum (ACMF) in 2002 studied 150 enterprises in the Accra-Tema metropolitan areas (including all the 23 companies listed on the GSE at the time, Ghana Club 100 companies,⁴⁴ and State-Owned Enterprises), 20 external audit firms plus the Auditor General's Department. The study made the following key findings: the size and composition (executive/non-executive) of the Boards of respondent enterprises largely met the requirements of the Companies' Code. Female representation on Boards was found to be low, ranging between 1 (33.8%) and 3. In 65% of the cases, the CEO is not Board Chair, but in 22% of the cases they are. Many categories of stakeholders are involved in recruitment onto the Board in the following proportions; shareholders (48%), board chairman (34%) and the CEO (22%).

⁴⁴ The Ghana Club 100 is a list of the 100 largest firms in Ghana and is published annually by the Ghana Investment Promotion Centre.

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3.6.2 Measures Taken To Promote Good Business Ethics

746. Good business ethics have been promoted by government through its relevant Ministries, Departments, and Agencies, trade and business associations, shareholders, creditors, and other stakeholders, civil society groups, and Ghana's Development Partners.

747. Government's role in the promotion of good business ethics has been largely through policy directives, legislation, and where appropriate, guidelines. These include:

- the Companies Code 1963 (Act 179)
- the Incorporated Private Partnerships Act 1962 (Act 152) as amended;
- the Registration of Business Names Act 1962 (Act 151) as amended,
- the Co-operatives Societies Decree 1968 (NLCD 252) as amended;
- the Criminal Code 1960 (Act 29) as variously amended;
- the Political Parties Law 2000 (Act 574);
- the Financial Administration Act, 2003 (Act 654) as it relates to public enterprises
- Specific industry regulation dealing with timber resources, mining, oil exploration, fishing, banking, securities, and insurance
- Protection Against Unfair Competition Act, 2000 (Act 589)
- Bodies Corporate (Official Liquidations) Act
- Labour Act 2003 (Act 651)
- Environmental Protection Agency Act, 1994 (Act 490)
- Factories, Offices, and Shops Act, 1970 (Act 328)
- Contracts Act, 1960 (Act 25)

748. Different institutions are empowered to enforce standards of corporate behaviour set forth in the above laws. As public institutions, however, their capacity to monitor compliance with the relevant provisions of these laws is constrained by lack of resources, including adequate funding and qualified staff. As a result business ethics and corporate governance structures remain weak in Ghana.

749. To supplement the standards set by law, non-legislative measures have also been put in place to improve business ethic in Ghana. In this regard, the Securities and Exchange Commission has issued guidelines of good corporate governance based on the OECD and Commonwealth Association for Corporate Governance standards. While these Guidelines are non-binding, the SEC encourages all licensed stock exchanges, securities dealers, investment advisers, as well as all

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issuers of publicly traded securities to report annually on the extent of compliance.

750. A number of Trade and Business Associations have also adopted voluntary codes of conduct, which members ascribe to. Various disciplinary sanctions for specified violations are imposed, but enforcement actions are not widespread and the few enforcement measures are not widely publicised.
751. Other stakeholder groups have not been as active in demanding high ethical standards from businesses. Some of these stakeholders include the Consumer Association of Ghana (CAG). Their inactiveness is explained by the fact that they lack adequate capacity and they often have to contend with financial constraints. In the absence of a large number of institutional shareholders, small individual shareholders have lacked the lever to demand high standards from managements and boards of companies. An Association of Shareholders that was formed a few years ago has yet to mobilize a critical mass of membership to play a meaningful role in corporate governance. A Consumers Association that was also recently formed has yet to operationalise its objectives.
752. Local communities are increasingly found engaging companies in effective dialogue in a way that results in higher levels of corporate social responsibility. For instance, the Wassa community in the Western Region of Ghana has raised issues with the impact of the activities of mining companies on the environment.

3.6.3. Measures to Combat White Collar Crime

753. Measures that have been taken to combat white-collar crime have mainly been institutional and legal. General legal provisions exist to proscribe:

- Falsification of Accounts
- Defrauding by False Pretences
- Forgery
- Bribery and Corruption
- Causing financial loss to the state
- Insider trading; and

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- Money laundering⁴⁵.

Corruption

754. The 1992 Constitution prohibits a public officer from putting himself in a position where his personal interest conflicts or is likely to conflict with the performance of the functions of his office.⁴⁶ The Constitution requires a public office holder⁴⁷ to submit a written declaration of assets and liabilities to the Auditor-General within three months before taking office, at the end of every four years, and at the end of his term of office.⁴⁸ Any property or asset acquired by a public officer after the declaration which is not reasonably attributable to income, gift, loan, inheritance or any other reasonable source will be deemed to have been acquired in contravention of the Constitution.

755. More specifically, the Criminal Code 1960 (Act 29) makes corruption and bribery a crime. By Section 239 (1), every public officer who commits corruption in respect of the duties of his office, is guilty of a misdemeanour. A person who corrupts a public officer is also guilty of a misdemeanour.⁴⁹ A public officer is deemed guilty of corruption, if he directly or indirectly agrees or offers to permit his conduct as a public officer to be influenced by a gift, promise or the prospect of any valuable consideration.⁵⁰ A person is guilty of corrupting a public officer if he endeavours directly or indirectly to influence the conduct of such public officer in respect of the duties of his office by a gift, promise or the prospect of any valuable consideration.⁵¹

756. Institutions such as the Serious Fraud Office established under the Serious Fraud Office Act, 1993 (Act 466) and the Commission of Human Rights and Administrative Justice (CHRAJ) set up under the 1992 Constitution are charged with investigating financial and economic crimes, including corruption, bribery, fraud, and misappropriation of public money. The recently established Office of Accountability at the Office of the President of the Republic, is another institution charged with working towards the eradication or reduction of corruption. The Office of Accountability is designed to serve as a pre-emptive and preventive measure rather than address the problem after it has arisen.

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45 (a)-(d) are prohibited under the Criminal Code, 1960 (Act 30) as amended. (e) is covered under section 179A, of the Criminal Code (Amendment) Act, 1993 (Act 458), and (f) is prohibited by the Companies Code, the Securities Industry Law 1993 and the Ghana Stock Exchange Membership Regulations and Trading Rules

46 Article 284

47 Includes chairpersons, managing directors, general managers and departmental heads of public corporations or companies in which the state has a controlling interest.

48 Article 286(1)

49 Section 239 (2)

50 Section 240

51 Section 241

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fraud, and misappropriation of public money. The recently established Office of Accountability at the Office of the President of the Republic, is another institution charged with working towards the eradication or reduction of corruption. The Office of Accountability is designed to serve as a pre-emptive and preventive measure rather than address the problem after it has arisen.

758. These institutions like all other public institutions suffer from severe capacity inadequacies including the absence of the requisite level of incentives to attract high calibre staff. The result is that they have very high staff turnover rates. CHRAJ for instance often lose quite a large number of their legal personnel to the private sector. National Service personnel are often recruited to meet this manpower needs, however, this is an inadequate measure. The situation at the SFO is not too different. For several months now, the Board of Directors of this very important institution has not been constituted and definitely has an impact on its operations and activities.

Money Laundering

759. Anti-money laundering measures have mainly been introduced by the Bank of Ghana as the Central Bank and regulator of the banking and non-bank financial sectors, in the form of policy directives, and guidelines. For instance, various Know-Your-Client requirements have been imposed by the Bank of Ghana on banks. While these measures sensitised banks to money laundering issues, they did not lay down a clearly articulated anti-money laundering policy and implementation regime.

760. The Banking Act of 2004 incorporates the Basle Principles including those relating to measures aimed at eliminating or eradicating money laundering. A draft Money Laundering Bill is also currently being prepared for submission to Parliament. The Bill proposes a more comprehensive anti-money laundering regime consistent with international best practice.

761. In addition, the Narcotics Drug (Control) Enforcement and Sanctions Law, 1990 (P.N.D.C.L. 236) prohibits the use, the transfer, sending or delivery to any person or place, the transportation, transmission, alteration, disposal of or other dealings with, any property or proceeds of any property with intent to conceal or convert that property or those proceeds knowing that all or part of that property or of the proceeds was obtained or derived directly or indirectly as a result of the commission of a narcotic drug offence, or as a result of an act anywhere which if it had occurred in Ghana, would have constituted a narcotic drug offence⁵².

Insider Trading

⁵² Section 12

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762. Ghana's securities laws⁵³ make insider trading and other acts associated with false and manipulative trading in securities offences punishable by a fine not exceeding 500 penalty units⁵⁴ and a term of prison not exceeding two years.

Effectiveness of the Above Measures

763. The above measures are proving to be inadequate in the face of fast-changing technology and business practices. In terms of the investigative aspect of the measures, the complexity of these offences requires that high calibre personnel and technology is employed to combat them effectively. In Ghana, there is a huge gap in terms of capacity in this area. Law enforcement agencies are not adequately equipped and also lack the requisite skills to adequately apprehend offenders and detect the commission of economic crimes.

3.6.4 Role of the Media and Quality of Investigative Financial Journalism in Reporting on Economic Crimes and Ethics Violation

764. Overall, Ghana has a vibrant media environment. The media in Ghana today, enjoys the free and democratic environment required for the practice of effective journalism. The 1992 Constitution of Ghana guarantees freedom of speech and expression including freedom of the press and other media. Further, laws that were considered inimical to press freedom such as the criminal libel law have been repealed and the era of intimidation and persecution that characterized especially, military regimes seems now, a thing of the past.

765. In the current media-friendly environment, some journalists occasionally venture into investigative journalism. However, owing to lack of capacity, inadequate training and widespread lack of specialization, media practice in Ghana does not meet expectation as far as investigative financial journalism in reporting economic crimes and ethics violation is concerned.

766. The few newspapers specializing in financial reporting (Business and Financial Times, Business Week) have very limited circulation volumes. A few broadcast media organizations dedicate some time to financial and economic reporting. Most of the areas of coverage are reduced to reportage of policy statements by various financial sector operators, product launches, and trading results of securities, currency, and commodities. Despite these limitations, 56 percent of respondents were of the view that the media had highlighted economic crimes and ethnic violations.

767. In spite of the limitations, several economic malfeasances have been uncovered in both the public and private (although this is more so in the case of the former than

53 Companies Code, the Securities Industry Law 1993 and the Ghana Stock Exchange Membership Regulations and Trading Rules

54 Currently 1 penalty unit is equivalent to €20,000. The cedi equivalents are to be regularly revised by the Minister of Justice

the latter) sectors. In 2000, two presenters of a private radio station made concerted efforts to unearth misappropriations of funds at the Social Security and National Insurance Trust. An independent paper also took the Minister of energy to task over the lifting of crude oil, in what was referred to as the “Sahara Affair”

3.7 OBJECTIVE 4: ENSURING THAT CORPORATIONS TREAT ALL THEIR STAKEHOLDERS INCLUDING SHAREHOLDERS, EMPLOYERS, COMMUNITIES AND SUPPLIERS FAIRLY

3.7.1 Extent of Rights and Powers of Classes of Shareholders

768. Under the Companies Code, 1963 (Act 179) (“the Code”), different classes of shares are recognised and the rights and powers attached to the holders of the various classes duly provided for. Additionally, other legislation, including the Constitution of the Republic of Ghana, 1992, the Ghana Investment Promotion Centre Act, 1994 (Act 478), the Free Zone Act, 1995 (Act 504), the Ghana Stock Exchange Rules on Takeovers and Mergers, the High Court Civil Procedure Rules, 1954 (LN 140A), the Securities Industry Law, 1993 (PNDCL 333), the Securities Industry (Amendment) Act, 2000 (Act 590) and the Bodies Corporate (Official Liquidations) Act, 1963 (Act 180), variously recognise or make provision for the protection of the rights and powers of all classes of shareholders.

769. The main mechanism for shareholders to seek redress in case of violation of their rights is the courts. Most shareholders are, unfortunately not aware of their rights and therefore do not exercise them. Even where they are aware of these rights, the costs and delays associated with the courts make their use prohibitive, for many people. The rules of the Ghana Stock Exchange are currently under review to among other things, provide a clearly defined arbitration regime for resolution of investment-related disputes.

770. Further, pursuant to the Securities Industry Law 1993 (P.N.D.C.L 333) as amended, the SEC has established an Administrative Hearings Tribunal to hear investment-related complaints against publicly-owned companies, licensed market operators, among other things.

Relevant Laws Conferring These Rights

771. A number of laws provide shareholders with various rights and protections, both directly and indirectly, in respect of their shareholding in a company. These include:

- Constitution of the Republic of Ghana, 1992

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- Companies Code, 1963 (Act 179)
- Bodies Corporate (Official Liquidations) Act, 1963 (Act 180)
- Ghana Investment Promotion Centre Act, 1994 (Act 478)
- Free Zone Act, 1995 (Act 504)
- High Court Civil Procedure Rules, 1954 (LN 140A)
- Securities Industry Law, 1993 (PNDCL 333)
- Securities Industry (Amendment) Act, 2000 (Act 590)
- Bank of Ghana Notice BG/EC/93/1 dated June 22, 1993
- Ghana Stock Exchange Rules on Takeovers and Mergers

772. The legal and regulatory regime laid down by the above laws, however, has failed to catch up with international best practices. Even the minimum and often outdated standards prescribed under the Companies Code, have hardly been enforced by the Registrar of Companies, because of a lack of adequate resources.

Mechanisms to Ensure That Different Classes of Shareholders are Treated Equally

773. The Code and other legislation not only make provision for different classes of shareholders within a company but also further provide various mechanisms for ensuring equal treatment of different classes of shareholders. These mechanisms include:

- Provision of clear mandatory procedures by which the rights of shareholders of any class of shares may be varied;
- Vesting of the power to vary shareholders' rights in the shareholders themselves;
- Protection of certain categories of shareholders' rights by providing that such rights cannot be varied without the sanction of the Courts;
- Securing the rights of personal representatives and beneficiaries of deceased shareholders by providing mechanisms for the protection of these rights;
- Protecting the rights of minority shareholders in a takeover

Institutions to Ensure that Different Classes of Shareholders are Treated Equally

774. The primary institutions charged with ensuring the equal treatment of different classes of shareholders are:

- The Registrar of Companies

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- The Courts

775. Other institutions which play roles in ensuring the protection of shareholders' rights include:

- The Securities Exchange Commission
- The Ghana Stock Exchange
- The Ghana Investment Promotion Centre
- The Ghana Free Zones Board

776. While these institutions are constantly striving to become more effective watchdogs of shareholder rights, they suffer from capacity constraints, like many other state agencies. On-site and off-site monitoring and surveillance is challenged due to inadequate resources. The Registrar of Companies for instance, has seven Company Inspectors and given that their mandate covers all companies incorporated in Ghana, this is grossly inadequate. Technological and other resources are also lacking in these institutions.

Policies and Procedures to Ensure That Different Classes of Shareholders are Treated Equally

777. In addition to the various mechanisms provided for ensuring equal treatment of different classes of shareholders, the Code provides clear policies and procedures for ensuring the same goal. Similar policies and procedures are provided for under other legislation listed above.

- Under section 47(6), the Code seeks to ensure equal treatment of different classes of shareholders by providing that any resolution of a company which would have the effect of diminishing the voting or dividend rights of the holders of the existing shares of a class shall be deemed to be a variation of the rights of that class.
- Section 47(5) of the Code provides that notwithstanding any provision in the Regulations of a company, the rights attached to any class of shares (issued after the commencement of the Code) shall not be varied except with the written consent of the holders of at least three-fourths of the issued shares of that class or the sanction of a special resolution of the holders of the shares of that class.
- Section 51(g) states that all shares rank equally in all respects unless the contrary intention appears.
- Section 100 provides procedures for the protection of beneficiaries or persons with an interest in the shares of a company and prohibits the company from dealing in such shares once the prescribed procedure has been followed by the beneficiary/claimant.

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- Section 28 of the GIPC Act provides that no person who owns, whether wholly or in part, the capital of any enterprise shall be compelled by law to cede his interest in the capital to any other person. The Act goes further in section 29 to provide dispute settlement procedures where a dispute arises between an investor and the Government. These include amicable settlement through mutual discussion and the submission of the dispute to arbitration in accordance with the rules of the United Nations Commission of International Trade Law (UNCITRAL). In the case of foreign shareholders/investors, options include arbitration within the framework of any bilateral or multilateral agreement on investment protection to which the Government and the country of which the investor is a national are parties. Similar provisions are contained in sections 31 and 32 of the Free Zone Act..
- The Bodies Corporate (Official Liquidations) Act, 1963 (Act 180) provides under sections 2, 3 and 4 procedures by which the shareholder/s of a company may pass a special resolution or petition the Registrar of Companies or the High Court for the official winding up of the company.

778. As intimated earlier, the fact that the main mechanism for shareholders to seek redress in case of violation of their rights is the courts, minimizes the effect of the protection that the above policies and procedures seek to offer. Most shareholders are, unfortunately not aware of their rights and therefore do not exercise them. Even where they are aware of these rights, the costs and delays associated with the courts make their use prohibitive, for many people. The capacity of the Registrar of Companies, the GIPC, the Ghana Free Zones Board, the Ghana Stock Exchange, and the Securities and Exchange Commission ought to be strengthened to enable them to play a stronger role in providing adequate protection for investors.

3.7.2 Does the Corporate Governance Framework Recognize the Rights of Stakeholders (Other Than Shareholders)?

Consumers

779. There is no consumer-specific legislation currently in force. However, other existing legislation recognises and provides for the protection of the rights of consumers. These include:

- The Contracts Act, 1960 (Act 25)
- The Sale of Goods Act, 1962 (Act 137)
- The Food and Drugs Law, 1992 (PNDCL 350B)
- The Ghana Standards Board (Food, Drugs and Other Goods) General Labelling Rules, 1992 (LI 1541)

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- The Ghana Standards (Certification Mark) Rules, 1970 (LI 662) as amended by the Ghana Standards (Certification Mark) (Amendment) Rules, 1970 (LI 664)

780. These laws establish basic standards for the production, labelling and sale of food, drugs and other consumer goods, intended to ensure the protection and safety of consumers. The laws provide sanctions for non-compliance with these standards and empower various statutory bodies to enforce these sanctions. Consumers ultimately retain the right to seek redress from the law Courts in respect of violations of their statutory or common law rights.

781. A draft Consumer Protection Bill has yet to be submitted for Parliamentary consideration. The draft Bill provides a harmonized framework for claiming compensation for defective products and services. It also provides for the establishment of an independent National Consumer Council, a Commissioner for Consumer Affairs, and the establishment of regional and District Consumer Affairs Councils, and Regional and District Arbitration Committees and small-claim courts.

782. In the meanwhile, the Consumer Association of Ghana (CAG), an independent advocacy group formed in 1999 to champion the rights of consumers, has been leading a campaign for the adoption of the United Nations Guidelines for Consumer Protection which were first adopted in 1985 and expanded in 1999 provide a framework for governments to devise and strengthen policies and legislation to protect their customers.

Labour

783. The Labour Act, 2003 (Act 651) primarily amends and consolidates existing laws relating to labour, employers, trade unions and industrial relations and also establishes a National Labour Commission. The Act provides minimum standards to govern the conduct of the relationship between corporations (employers) and employees and encourages the negotiation of standards which are more beneficial to the employee.

784. Other legislation which variously govern direct relations between enterprises and their employees by providing for the protection of employees' rights and occupational safety include:

- Workmen's Compensation Law, 1987 (PNDCL 187)
- Workmen's Compensation (Calculation of Compensations) Instrument, 1994
- The Factories, Offices and Shops Act, 1970 (Act 328)
- Boilers and Pressure Vessels (Safety) Regulations

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- Food Factories (Welfare) Regulations
- Factories Woodworking (Safety) Regulations
- Docks Safety Regulations

785. These laws variously provide for the assessment of, and compensation for, injuries suffered by employees in the course of employment, and the establishment and enforcement of mandatory safety standards under which employees are expected to work.

786. The Constitution of the Republic of Ghana, 1992, under Chapter Five, provides enforceable rights which extend to labour rights. These include the freedom of association (including the freedom to form or join trade unions) as well as the protection of the rights of women, children and the disabled.

787. The 1992 Constitution also enjoins the State, under Article 36, to safeguard the health, safety and welfare of all persons in employment and to encourage participation in the decision-making process in the workplace. These provisions fall under the Directive Principles of State Policy in Chapter Six of the Constitution, which though not enforceable, serve as a guide for policy formulation and legislative interpretation.

Creditors

788. Creditors' rights are protected by two main laws, namely:

- Companies Code, 1963 (Act 179)
- Bodies Corporate (Official Liquidations) Act, 1963 (Act 180)

789. Under the Code, the rights of creditors are specifically protected. Under sections 75-79 any special resolution of a company limited by shares, which involves a reduction in the unpaid liability on any of its shares or the payment or return to its shareholders any of its assets, shall require the confirmation of the Court and every entitled creditor of the company shall be entitled to oppose the confirmation. Remedies are provided for any entitled creditor adversely affected by the granting of the confirmation order without his knowledge as well as criminal sanctions against officers of the company who wilfully conceal the name of any creditor entitled to oppose the confirmation.

790. The Code and Act 180 further provide for the rights of creditors to be paid in the event of a winding up and the right to petition the Registrar of Companies or the Court for the official winding up of the company. Sections 88 and 93 of the Code also provide the Court with the power to appoint a receiver to protect creditors' interest and make provision for the convening of meetings of debenture holders.

791. There is currently no bankruptcy-specific legislation in force. An Insolvency Act (Act 153) was promulgated in 1962 but did not come into force. There is

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presently under Parliamentary consideration a bankruptcy bill. There is however other legislation in force which provides rights to stakeholders (other than shareholders) in an enterprise or company which goes into insolvency. The Bodies Corporate (Official Liquidations) Act, 1963 (Act 180) entitles the creditors of an insolvent company (under sections 3 and 4) or the Registrar of Companies (section 4) to petition, respectively, the Registrar and/or the High Court for the official winding up of the company.

792. The Bodies Corporate (Official Liquidations) Act also provides protection for creditors from the risk of trading with insolvent companies. Under s. 26 (5) of that Act whenever the business of a company is carried on at a time when to the knowledge of the directors of the company, the company had no reasonable prospect of paying its debts as they fall due any such business shall be deemed to have been carried on with intent to defraud the creditors of the company. In the course of the official winding up of such a company persons who were knowingly parties to the carrying on of the business in the manner aforesaid shall be personally responsible, without any limitation of liability, for all or any of the debts or other liabilities of the company as the Court may direct (s. 26 (1) of the Act.

Unfair Competition

793. The Protection Against Unfair Competition Act, 2000 (Act 589) provides against unfair competition and other incidental matters. The law contains general principles of fair competition and prohibits all acts or practices in the course of industrial and commercial activities, which are contrary to honest practices.

The Environment

794. The Environmental Protection Agency Act, 1994 (Act 490) and the Environmental Assessment Regulations, 1999 (LI 1652) provide a framework for the protection of the environment. The law requires businesses to submit environmental impact assessments to the EPA to obtain Environmental Permits prior to the commencement of any project with possible environmental consequences.

Corporate Social Responsibility

795. There are currently no laws mandating businesses to be socially responsible. Government, however, encourages corporate social responsibility by providing tax deductions for corporate sponsorship of charities, sports development and promotion, educational scholarships, and rural and urban community development

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projects, approved by Government.⁵⁵ Data on the extent to which companies take advantage of these tax incentives is, however, not readily available.

3.7.3. Effectiveness of the measures available to stakeholders' ability to access information

796. Generally, the ability of most non-shareholding stakeholders to directly access corporate information about companies, from the companies themselves, is very limited. Most companies do not have adequate mechanisms for the ready provision of corporate information to non-shareholding stakeholders (including most grades of employees of the company).

797. The lack of a credit bureau/ranking system also impacts negatively the ability of creditors and suppliers of companies to access and assess the information they require to make informed decisions about their relations with such companies.

798. Statutorily, all companies are obligated by the Companies Code, 1963 (Act 179) to file an annual return with the Registrar of Companies. This return contains basic corporate information about the company, which becomes part of the public record when filed and therefore provides stakeholders in companies with an alternate source from which they may access such information. However, the lack of enforcement of the filing obligations of companies by the Registrar combined with inefficiencies in the structure and record-keeping procedures at the Companies Registry, effectively undermine that option to access updated corporate information. It is expected that current efforts by the Registrar-General's Department to computerise the operations of the Companies Registry and to enforce compliance by companies with their statutory filing obligations will improve the access of stakeholders of both private and public companies to corporate information about the companies.

799. Information about public companies listed on the Stock Exchange tends to be more readily available, due to statutory reporting obligations placed on such companies by the Ghana Stock Exchange and the Securities Exchange Commission. To improve accessibility of the investing public to material information on listed companies, the Ghana Stock Exchange organizes regular public briefing sessions by listed companies. The emerging trend amongst private companies to make corporate information available through the medium of the internet (by the creation of corporate websites) is also expected to facilitate the availability of such information and access thereto.

800. Specific types of information normally available to different categories of stakeholders are the following:

⁵⁵ Section 13 of the Internal Revenue Act, 2000 (Act 592) and regulations 2 - 6 of the Internal Revenue Regulations, 2001 (LI 1675)

Employees

801. Employees are entitled by law to obtain copies of the contracts of employment and conditions of service, which provide the framework governing relations between the company and its employees. Direct access to other corporate information beyond this framework is generally limited to management-level employees, and is subject to internal disclosure policies approved by the company boards.

Creditors

802. Institutional creditors generally obtain access to financial and corporate information through the procedures and conditions involved in the credit-approval process. Adequate independent verification of such information however tends to be problematic. The Companies Code entitles creditors to receive audited financial statements of borrowers at least once every year. Continuing reporting and disclosure obligations of corporate borrowers are subject to contractual provisions.

Consumers

803. Some product (labelling etc) or service information is required to be made available to consumers by law. Generally very little or no direct access to corporate information is afforded consumers.

Suppliers

804. In the absence of specific contractual obligations, suppliers generally have very little or no direct access to corporate information.

Local Communities

805. Generally local communities have very little or no direct access to corporate information.

3.8 OBJECTIVE 5: PROVIDING FOR ACCOUNTABILITY OF CORPORATIONS, DIRECTORS AND OFFICERS

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806. This objective relates to the effectiveness of the corporate governance framework regulating disclosure requirements, the enforcement thereof and the adequacy of remedies for breach.

3.8.1 Does the Corporate Governance Framework Ensure that Timely and Accurate Disclosure is Made on All Material Matters Regarding the Corporation?

Schedule of requirements for disclosure of financial and non-financial information by corporations in the private and public sectors and mechanisms monitoring compliance

807. The Companies Code requires public companies to attach a copy of their balance sheet, profit and loss account, group accounts, directors' report and auditors' report to Annual Returns filed at the Companies' registry annually⁵⁶. Additionally, they are obliged to send these reports and statements to their respective shareholders and debenture holders. Companies seeking to raise capital from the public through the issuance of shares are required to issue prospectuses or statements in lieu of prospectuses specifying the particulars of the company⁵⁷. Listed companies have continuing disclosure obligations to the Ghana Stock Exchange and the investing public under the GSE's Listing Regulations 1990 (L.I. 1509) and under the Securities Industry Law 1993 as amended and the SEC's Regulations 2003. Among other things, a listed company must publish quarterly financial statements accompanied by sworn statements of the CEO and CFO testifying to the correctness of information presented. Audited annual financial statements must be published by the end of the first quarter following the end of the financial year. Listed companies are also required on a continuing basis to fully disclose all price sensitive information available to the company, to the investing public.

808. Private companies are also required to file Annual Returns with the Companies Registry. Private companies have an option of attaching copies of audited financial statements or auditors' reports certifying that copies of the audited financial statements have been dispatched to every shareholder and creditor. They are however required to send these reports and statements to their respective shareholders and debenture holders. Private companies operating within regulated industries may have additional reporting requirements to their regulators. For instance, banks (private or public) are required to file returns with the Bank of Ghana on a weekly basis showing their liquidity and other positions. Broker-dealers, investment advisers and other securities market operators are required to file quarterly returns comprising reports on financial and non-financial matters to the Securities and Exchange Commission.

⁵⁶ Section 295

⁵⁷ The combined effect of sections 274, 275, the sixth and the seventh schedule of the Companies Code

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Assessment of the effectiveness of supervisory authorities in monitoring the compliance of corporations with the prescribed reporting requirements and (c) Challenges encountered and efforts to address shortfalls and capacity constraints

Registrar-General's Department

809. The Registrar-General's Department (RGD) has the responsibility for ensuring that Companies incorporated under the Companies Code operate within the law and acceptable standards. It has Company Inspectors who are required to visit companies and conduct regular inspections and investigations into the activities where necessary. The Annual Returns of incorporated companies containing various particulars of companies including their directors and share structure are required to be lodged with the Registrar. This constitutes one of the key modes of ensuring compliance.
810. The RGD is bedevilled with a plethora of problems key among which are capacity and manpower problems. There are currently only 7 company inspectors and besides the RGD is a one-office department without branches in the other regions. There is no electronic database to allow for ease of administration/management of data and information. Conditions of service are not adequate enough to attract the best human resources.

Bank of Ghana

811. This is the prime body responsible for the supervision of the banks, some non-bank financial institutions as well as regulation of the banking and financial sector. The Bank of Ghana has been relatively more effective in its supervisory role particularly in the wake of reforms in the financial sector under the Financial Sector Adjustment Program. It has a Banking Supervision Department, which is primarily responsible for the direct supervision of Banking Institutions in the country. Under section 17 of the Banking Law, 1989 (PNDCL 225), all banks are required to submit their returns to the BoG containing detailed particulars of the banks including analysis of loans and overdraft granted. Section 12 prohibits the granting of loan facilities in which Directors/Officials are interested. The banks are also required to exhibit at every one of their branches a copy of the last audited balance sheet and profit and loss account as well as furnish the BoG with it.

National Insurance Commission

812. The setting up of the National Insurance Commission under the Insurance Law, 1989 (PNDCL 227) helped bring a lot of sanity into the insurance industry, which hitherto was suffering from a crisis of confidence. It is entity responsible for

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regulating and supervising the Insurance Industry. Nevertheless, the law has some inadequacies which the proposed Insurance Bill seeks to address.

813. The NIC is the sole body responsible for the registration of insurance firms, which is a pre-requisite for conducting insurance business. Under section 32 of PNDCL 227 the NIC has the power to suspend or cancel the registration of an insurer for a varied number of specified reasons including conducting business that is in conflict with sound insurance principles and ethics or practices. Section 37 of the Law also obliges insurers to furnish the NIC with all essential information relating to capitalisation, its reserves, and the classes of insurance business that it carries as well as any other information that the Commission may require. Insurers are further required to furnish the NIC with various accounting information including certificate of solvency, balance sheet, analysis of investments, deposits and expenses of management as well as any other information that the NIC may require.
814. It can be said that the NIC has been to a great extent living up its responsibilities under the law. Indeed, some operators in the industry had cause to complain that the NIC was being too scrupulous or perhaps rigid in enforcing the letter of the law. A number of insurers have also been de-registered.

Securities and Exchange Commission

815. The Securities and Exchange Commission (SEC) is the organisation responsible for ensuring the orderly, fair and equitable dealings in securities along with licensing, authorising, registering and regulating operators in the industry. In a nutshell, the ultimate object of the SEC is to ensure that investors are protected.
816. The Commission in line with its responsibilities under the law has established a surveillance department, which conducts on site inspection at the premises of operators in the securities industry. Section 30 of the Securities Industry Law, 1993 (PNDCL 333) empowers the SEC to issue directions to any stock exchange in respect of the carrying of its business and the stock exchange is obliged to comply. The SEC is primarily responsible for licensing⁵⁸ of various operators in the industry and also has the power to suspend, cancel or revoke any such license.

State Enterprise Commission

817. The State Enterprises Commission is responsible for monitoring compliance by state-owned enterprises.

⁵⁸ Sections 48, 49, 50 and 51 deal with licensing of dealers, dealer's representatives, investment advisers and investment representative.

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3.8.2 To What Extent are the Accounting and Auditing Standards and Practices in Line with International Standards?

Auditing and accounting standards in place in Ghana and material differences with international standards on auditing and accounting

818. Accounting and auditing standards in Ghana are high⁵⁹. Most of the auditing of listed companies is carried out by big name accounting firms – KPMG, Deloitte & Touché, PricewaterhouseCoopers and Auditors comply with International Auditing Standards⁶⁰.
819. The Ghana National Accounting Standards (GNAS) issued by the main local accountancy self-regulatory body, the Chartered Institute of Accountants-Ghana (CA-Gh) are largely modelled and updated on the basis of the International Accounting Standards (IAS). Other international standards that the GNAS is consistent with include the Financial Reporting Standards as well as the Statement of Standard Accounting Practice.

Requirements regarding the audit of corporations' annual financial statements, distinguishing between requirements in the private sector and those which apply to the public sector

820. The Companies Code, 1963 (Act 179) at section 124 (c) that the directors of every company at a date not later than 18 months after its incorporation and subsequently once every year shall cause to be prepared an audit report to be sent to each member as well as every holder of debentures.
821. According to section 133 of the Code the auditors' report shall consist of a report on the books of account of the company, and on every balance sheet, profit and loss account, and all group accounts.
822. The audit report is to contain a statement specifying matters outlined in the fifth Schedule of the Code. This includes whether they have obtained all the information and explanations which to the best of their knowledge and belief were necessary for the purposes of their audit; in their opinion whether the proper books have been kept and proper returns adequate for the purposes of their audit have been received from branches not visited by them; whether the company's balance sheet and, unless it is framed as a consolidated profit and loss account, profit and loss account dealt with by the report are in agreement with the books of account and returns.

⁵⁹ Corporate Governance in Africa: A Survey of Publicly Listed Companies, Pages 32 – 34, December 2003- Sam Nganga, Vimal Jain, and Mark Artivor, London Business School, United Kingdom

⁶⁰ *ibid*

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823. The Corporate Governance Guidelines on Best Practices issued by the Securities and Exchange Commission (SEC) states that “the external auditor should be the primary source of an objective, independent, and effective opinion on the financial statements of the corporate body”. It states further that the auditor should employ diligence, objectivity and independence in the discharge of his duties and functions. Auditors are also required to state any departure from accounting standards they observe as well as departure from auditing standards by the auditor. Audit personnel including the audit partner should be regularly rotated.
824. A recent study reported that the use of interim audits has helped reduce the strain of year-end audits and improved the accuracy of accounts⁶¹.

The Regulation and qualification requirements of the audit profession as well as its oversight and disciplinary role including requirements for auditors to inform supervisory authorities and/or shareholders about any involvement of board members or senior management in illegal activities, fraud, or insider abuse.

825. Section 270 of the Companies Code, 1963 (Act 179) provides that no person shall qualify to be appointed as an auditor of private company unless he is a member of the Institute of Chartered Accountants as per the Chartered Accountants Act, 1963 (Act 170) or is a practicing accountant within the meaning of the same Act 170. Persons disqualified from being appointed as auditors of a private Company include an officer of the company or any associated company and a person who is a partner of or in the employment of an officer of the company or any associated company.
826. For a public company, a person to be appointed as auditor must be a member of the Institute of Chartered Accountants under the Chartered Accountants Act, 1963 (Act 170) and is not disqualified for various reasons including: being a fraudulent or dishonest person or has been convicted for any offence relating to the promotion, formation or management of any body corporate.

3.8.3. Does The Corporate Governance Framework Ensure the Strategic Guidance of The Corporation, Effective Monitoring of Management by the Board (Governing or Supervisory Body) and the Board’s Accountability to the Corporations and the Shareholders?

The predominant structures and characteristics of boards of directors or governing and supervisory bodies in public listed corporations, SOEs and SMEs

827. The main law governing boards of directors of companies is the Companies Code, 1963 (Act 179). In relation to companies listed on the stock exchange and firms

⁶¹ Corporate Governance in Africa: A Survey of Publicly Listed Companies, Pages 32 – 34, December 2003- Sam Nganga, Vimal Jain, and Mark Artivor, London Business School, United Kingdom

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falling within the ambit of the operations of the Securities and Exchange Commission, it has put together a Corporate Governance Guidelines on Best Practices to guide among other entities, their boards.

828. The Companies Code mandates that every company incorporated under the Code have at least two Directors⁶². Sections 203 to 216 of the Code deal with the general duties and responsibilities of directors in various circumstances. The Board is responsible for appointing the Managing Director/Chief Executive Officer of companies under section 193 of the Companies Code (Act 179).

Process for appointment or election of board members and criteria for determining eligibility, composition and remuneration of directors, and their key responsibility

Appointment/election of board members

829. Section 181 of the Companies Code (Act 179) deals with the appointment of directors and under it, the first directors of a company shall be named in that company's Regulations. Thereafter the Regulations are to determine the mode of appointment to the extent that they are not inconsistent with sections 181-185 and 272 in respect of private companies. In the case of a public company the relevant sections are 181-185 and 298-300 of the Act 179.

830. Generally, for all companies, the regulations may provide for the appointment by any class of shareholders, debenture holders, creditors, employees or any other person⁶³. More importantly, it is members in general meeting who can remove a director from office. Persons appointed as directors must give their consent in writing.

831. For private companies directors shall continue to hold office until they vacate office (under section 184 of the Code) or are removed from office under section 185 of the Code.

832. For public companies, at their first Annual General Meeting (AGM) all directors are to retire from office and then at subsequent AGMs a third of the directors should retire with those retiring being those who had served the longest. This shall not include the Managing Director. The retiring of directors does not preclude them from seeking re-election.

Eligibility

833. This dealt with by sections 182 and 186 of Act 179. These sections preclude the appointment of infants, persons of unsound mind (as determined by a court of competent jurisdiction), an undischarged bankrupt (except when he had received the leave of the court) as well as a fraudulent and dishonest person or one who has

⁶² Section 180 of the Companies Code, 1963, Act 179

⁶³ Section 181(4)

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committed any offence in relation to the formation, promotion or management of a body corporate.

Remuneration

834. It is the exclusive preserve of members in General Meeting to determine the remuneration or any other fee of directors of a company under Ghana's Companies Code⁶⁴. They do this by means of an ordinary resolution as voted on by majority of the members.

Key Responsibilities

835. Sections 203 to 216 of the Companies deal with the general duties and responsibilities of directors in various circumstances. Among them is the appointment of one of their number to be the Managing Director/Chief Executive Officer of the company.

836. Under section 137 of the Companies Code (Act 179), the powers of the Board are to be determined by the Regulations subject to the Code. However, they are to exercise all powers that are not required by either the Code or the Regulations to be exercised by members.

837. The biggest responsibility of the Board of Directors from which all other responsibilities and duties flow is provided for by section 203 of Act 179. This is to the effect that all directors stand in fiduciary relationship towards the company and are to act in good faith towards the company.

Processes or procedures that ensure the Board monitors compliance with the applicable laws (tax, competition, labour, environmental, equal opportunity, health and safety)

838. There are various penalties and punishments stipulated for breach of laws relating to the environment, tax and labour.

839. The Labour Act, 2003 (Act 651) places certain obligations on employers and the directors along with management represent and act on behalf of the employing organisation. These duties include providing work and appropriate equipment, tools and machinery; take appropriate measures to ensure that the worker is free from risk of personal injury or damage to his or her health in the course of the worker's employment or while lawfully on the employer's premises.

840. The Environmental Protection Agency Act, 1994 (Act 490) provides at section 12 that the EPA may by notice in writing request any person responsible for any undertaking that is likely to have an adverse effect on the environment to carry

⁶⁴ Section 194 of Act 179

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out an Environmental Impact Assessment. This responsibility falls squarely on the shoulders of management and ultimately on the Board. There are penalties (a fine, a prison term of one year or both) for failing to provide the requisite information, knowingly providing false information and obstructing any public officer in the lawful execution of his duties.

841. The Protection Against Unfair Competition Act, 2000 (Act 589) was enacted to prohibit unfair trade practices that are likely to adversely affect the competitors of businesses. It for instance prohibits business from conducting themselves in a manner that is damaging to the goodwill and reputation of other businesses⁶⁵. Other prohibited acts and conduct under the Law include discrediting another person's enterprise or its activities⁶⁶ as well as acts likely to mislead the public⁶⁷. The remedies available to a persons aggrieved under the Act include seeking the award of damages; the granting of an order of injunction to prevent the act or further acts of unfair competition; a provisional order to prevent unlawful acts or to preserve relevant evidence⁶⁸.
842. The Internal Revenue Act, 2000 (Act 592) provides at section 72 that persons including all businesses are required to file a return of income. There is an obligation on the person to provide accurate and complete information. The Management and by extension the Board of Directors bear the responsibility of ensuring that this obligation is satisfactorily discharged. The liability for failure to comply with the above provision is to pay a penalty equal to the Bank of Ghana rediscount rate plus 5% applied to the tax outstanding if the return had been furnished in accordance with this Act calculated for the period the return is outstanding.

Overall assessment of the effectiveness of the Board in providing strategic direction, monitoring and accountability to the corporation and shareholders

843. Boards in Ghana have largely been effective in providing the strategic direction for corporation and this is particularly true in relation to public corporations and other multi-nationals. There may, however, be problems in the small businesses especially the very small family businesses. These problems usually relate to appointment of persons with less than adequate qualifications and competence. This assessment is based on anecdotal evidence. There are various means by which shareholders can hold their Boards accountable (as outlined above). The general lack of awareness by shareholders of the full extent of their rights, however, makes these rights ineffective. Directors are required by law to append their signatures to the financial reports of Public corporations and so presumably this ensures that they perform their monitoring roles effectively.

65 Section 2 of Act 598

66 Section 4 of Act 598

67 Section 3 ibid

68 Section 8 ibid

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Programmes available for training or development of directors and the extent to which this is used as a basis for board appointments or accreditation for that purpose

844. The Ghana Institute of Directors is the main organization, grouping directors under one umbrella. It organises various seminars and workshops for training of its members. The IoD has recently instituted a nine-week week-end Professional Course in Corporate Governance ((PCCG) in partnership with Merchant Bank, Ghana, Limited. The programme targets Board and Council members, CEOs, senior management, company secretaries, partners, entrepreneurs, professionals, academics, clergy, and civil society.

3.8.4 Gender Issues

845. Ghana's commitment and aspiration to mainstream gender equality across public policy, and in the planning and delivery of services, was significantly promoted in December 1998 by the approval by Cabinet of the Affirmative Action White Paper. A Minister of State for Women Affairs was appointed to oversee the implementation of the Affirmative Action Policy in liaison with the National Council on Women and Development (NCWD). Government ministries were mandated to establish Women's Desks or to appoint Focal Persons to ensure prompt action is taken on issues concerning women (Akpalu et. al, 2000).

846. Corporate-led globalization and other prescriptions have deepened inequalities at the workplace. Privatisation, downsizing (rightsizing), casualization and contract work, underemployment and rising unemployment have driven many workers into the informal sector. Workers in the informal sector, the majority of whom are women, are most vulnerable. They are not protected by social and labour legislation; their jobs are precarious, of poor quality, often dangerous, dirty and degrading.

847. Four core issues are addressed in this section:

- Gender stereotyping at work
- Discrimination at the work place
- Balancing work and family responsibilities
- Sexual harassment at the work place

Gender Stereotypes at Work

848. There is a wide perception that many employers (especially in the construction industry) employ subtle methods to avoid hiring certain classes of workers –

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example women and children and old people. Overall, there are very few women in management positions. This is evidenced by the number of women CEOs among the Club 100 (top 100 businesses in Ghana). On the other hand, females are heavily represented in the lower levels of enterprises (secretaries, accounts clerks, cleaners, telephonists, etc.).

Discrimination at the work place

849. The Constitution prohibits discrimination, and under article 12 (2), every person in Ghana, whatever the person's gender, is entitled to the fundamental human rights and freedoms contained in Chapter 5 of the Constitution. Thus, women are entitled to the rights of workers guaranteed by the Constitution. Article 27, however, provides specifically for women's rights. Part IV of the Labour Act is on the employment of women. It expands and reinforces the rights of women as provided under the Constitution.

- Considerable efforts have been made in Ghana to formulate legislation and policies to promote gender equality⁶⁹. Examples from the national level and public sector include:
- The Affirmative Action White Paper, 1998
- The (draft) Ghana National Gender Policy and Strategic Framework
- The Ministry of Health Gender and Health Policy, 1999
- The Ministry of Food and Agriculture Gender and Agricultural Development Strategy (GADS), 1999

850. Despite these laudable measures, there is a perception that discrimination at the work place is still an issue. Employers still prefer males over females for skill development and other training opportunities that enhance incomes and advancements on the job⁷⁰.

Balancing Work and Family Responsibilities

851. Both the Constitution and Labour Act give specific rights and special treatment to women before and after child birth. These provisions are observed in both the formal and informal sectors:

- Women are guaranteed maternity, annual and sick leave under the Act;
- The Act also provides that employers should not assign or engage a pregnant woman to do night work;

⁶⁹ Akpalu et. al. op. cit.

⁷⁰ Ayikwei Kofie, V. 2003. www.ilc.ilo.org/ilc2003/speeches/2_1T310.asp

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- The Act also prohibits the engagement of a pregnant woman or a nursing mother of a baby of less than eight months for overtime;
- A nursing mother is entitled under the Law to interrupt her work to nurse her baby.

Sexual Harassment at the Workplace

852. Sexual harassment in the workplace is a pervasive yet ignored problem in Ghana. A study⁷¹ conducted by Centre for Social Policy Studies (CSPS), University of Ghana in 2001 indicated that about 74 percent of female employees and 42 percent of male employees in Ghana experience sexual harassment within the working environment. The forms of harassment experienced include:

- Unwanted repeated proposals;
- Unwanted sexual teasing, jokes, questions or remarks;
- Pressure for dates;
- Unwanted love letters, cards, or telephone calls;
- Unwanted sexual looks, gestures or pornographic materials;
- Unwanted touching of intimate body parts;
- Pressure for sexual favours, e.g. kisses, etc.;
- Demand for sex in exchange for employment-related benefits; and
- Attempted or actual sexual assault or rape.

⁷¹ Andoh, Augustine K., 2001. Sexual Harassment in the Workplace: The Ghanaian Experience. Centre for Social Policy Studies (CSPS), University of Ghana, Legon.

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CHAPTER FOUR

SOCIO-ECONOMIC DEVELOPMENT IN GHANA

4.0 INTRODUCTION

853. The overall purpose of this study was to provide independent assessment of Ghana's socio-economic development over the past two decades based on the following:

- promote self-reliance in development and build capacity for self-sustaining development;
- accelerate socio-economic development to achieve sustainable development and poverty eradication;
- strengthen policies, delivery mechanisms and outcomes in key social areas including education and combating of HIV/AIDS and other communicable diseases;
- ensuring affordable access to water, sanitation, energy, finance, markets, ICT, shelter and land for all citizens, especially the rural poor;
- progress towards gender equality in all critical areas of concern, including equal access to education for all girls at all levels;
- encourage broad-based participation in development by all stakeholders at all levels

854. These objectives have been assessed using responses from nationwide consultations with civil society and other relevant Ministries, Departments and Agencies (MDAs). This report provides details of the approach to assessing the objectives of the APRM and the key findings. Section two provides a brief overview of socio-economic development in Ghana while section three outlines the methodology for the assessment process. This is followed by a section discussing the findings on the status of the ten standards and codes. Section five of the report provides a detailed discussion on the findings on the APRM objectives. Section six provides concluding remarks and policy recommendations.

855. It is important to emphasize the main message that emerges from the consultations as well as the underlying research. While Ghana has made considerable progress over the last decade in terms of socio-economic development, the progress is not by any means adequate to provide the desired standard of living for the majority of the population, particularly as the nation begins to consider the requirements for achieving both the Millennium Development Goals and the domestic development objective of \$1000 per capita income by 2010. While the progress may be well ahead of that of many African

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countries it is still less than required. But there is room for optimism as government continues to develop the right environment for achieving faster socio-economic development.

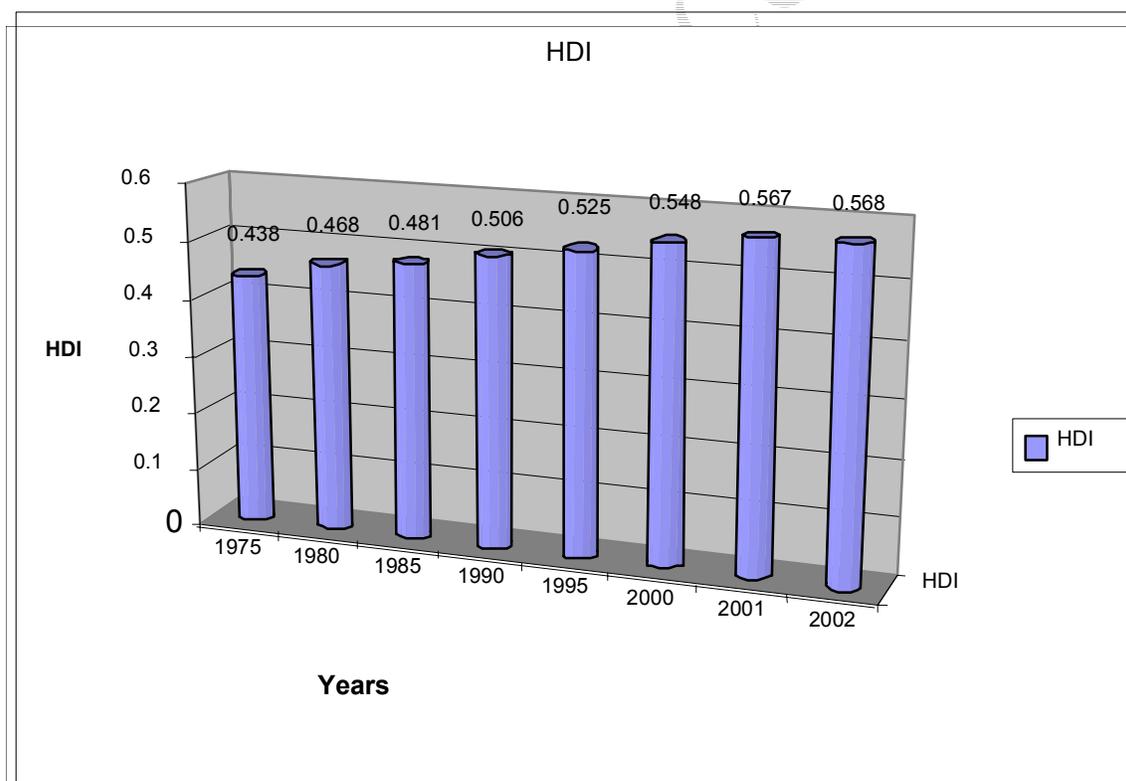
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4.1 OVERVIEW OF SOCIO-ECONOMIC DEVELOPMENT IN GHANA

856. Ghana is currently in the medium human development category, according to the 2004 Human Development Report. The country was ranked 129 out of 175 countries in the 2003 HDR but this declined in 2004 to 131 out of 175 countries (HDR 2004). From Figure 2.1 Ghana's position has improved consistently since 1975. Obviously, despite the improvements, this is not reflected by the rankings, suggesting that other countries may have improved even faster. The other point worth mentioning is that although the indicators of socio-economic development show improvement in recent years, high incidence of poverty and lack of access to basic services are still prevalent in the northern regions of Ghana and other parts of the country. The specific details on access to services are discussed in later sections of the report.

Figure 4.1: Human Development Index (HDI), 1975-2002



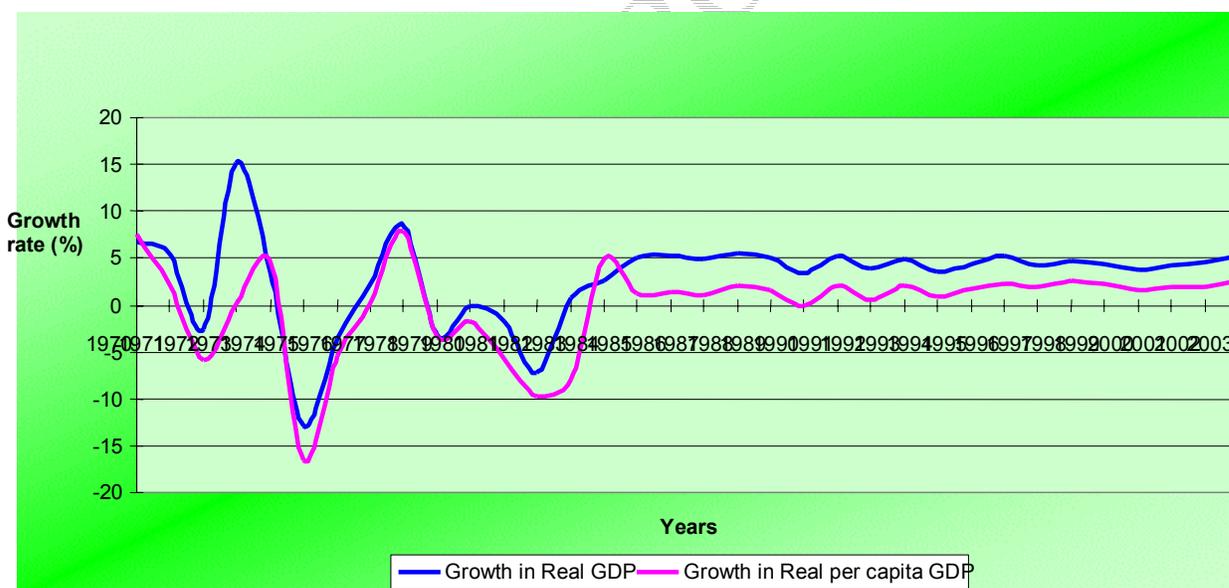
857. It is important to emphasize in this overview of socio-economic development that improvements in the HDI have been significantly driven by the growth experience of the economy. What that experience shows clearly (see Figure 2.2) is that policies do matter. The relative stability in economic growth after 1983 came

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directly from a combination of policy reform and considerable injection of foreign aid. The fact that good policies can help avert disaster is the major lesson of Ghana's economic history in the last four decades.

858. Since the beginning of the 1990s, with the economy recording persistent large budgetary deficits, and their significant effect on inflation, questions about the sustainability of growth continued to be raised, particularly by Ghana's development partners. The continuing vulnerability to external shocks has also been amply demonstrated by the difficulties of the last few years with volatile commodity prices and their effect on the domestic programme. The economy continues to show a high dependence on aid in the financing of the budget and other development activity. Today the biggest issue confronting economic managers is how to achieve macroeconomic stability, significant economic growth and major poverty reduction outcomes all at the same time, and these concerns dominated the last National Economic Dialogue held in Accra in May 2004.

Figure 4.2 Real GDP Growth and Real Per Capita GDP Growth, 1970-2003



859. Thus, after nearly two decades of reforms and sustained positive growth rates, it is now acknowledged that both higher growth rates and direct attempts at tackling poverty are required in order to achieve a more significant impact on poverty reduction. The results of the GLSS household surveys show that there is still a large proportion of the population living below the poverty line. The government's blueprint for pursuing the goals of growth and poverty reduction are incorporated into the Ghana Poverty Reduction Strategy (GPRS). The GPRS

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follows very much the policies laid out within the earlier reform programmes (ERP/SAP) but attaches some importance to direct interventions and expansion in the provision of social services and social safety nets, as will be seen later. The GPRS calls for US\$5,283 million in total investment to achieve its policy goals. Of this, US\$2,515 million will be required for the medium term (2003-2005). It focuses on five priority areas for the three-year period 2003-2005, namely Infrastructure, Modernized Agriculture based on Rural Development, Enhanced Social Services, Good Governance, and Private Sector Development.

860. Based on the above experiences, the rest of this study shows the conditions of the people and the institutionalized processes that are being employed to address the problems arising from the situation captured above.

4.2 METHODOLOGY FOR FIELD STUDY

861. In view of the agreed principle of making the whole peer review exercise as participatory as possible, and mindful of the fact that relatively large numbers were expected to respond to questions, it was necessary to supplement the instrument provided by the APRM secretariat with other tools for gathering data, and analyzing the data as scientifically as possible. Consequently focus group discussions were introduced into the survey.

862. The general approach applied in this study of socio-economic development was to send to a number of relevant public agencies and civil society respondents (stakeholders) specific questions relating to the achievement of objectives and processes. This involved designing pre-coded and structured questionnaires to facilitate quantitative analysis. The approach also involved organizing focus group discussions with a number of relevant stakeholders to discuss questions and more issues on the processes for bringing about socio-economic development. This is largely because it will be extremely difficult to obtain adequate responses to questions about process with a structured questionnaire. The general approach therefore, involved three different but inter-related stages. They include methodology relating to inputs (public sources of information), process (questionnaires plus focus group discussions) and outcomes (published data).

863. The specific details on how information was obtained on the APRM objectives are outlined below for the different sections.

4.2.1 Standards and Codes

864. The standards and codes as presented by the APRM Secretariat are:

1. The NEPAD Framework Document.

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2. The Right to Development in the African Charter on Human and Peoples' Rights.
3. The African Charter for Popular Participation in Development.
4. The World Summit on Sustainable Development (Johannesburg 2002).
5. The United Nations Millennium Declaration.
6. The United Nations Declaration on the Right to Development.
7. The African Charter on the Rights and Welfare of the Child (1990)
8. The World Summit on Social Development.
9. The Constitutive Act of the African Union.
10. The Convention on the Elimination of All Forms of Discrimination against Women (Beijing Platform of Action).

865. In order to introduce relevant Ghana-specific aspects of standards and codes, "The Domestic Violence Bill" was added to the list of standards and codes provided. Steps were then taken to secure all the documentation on the listed standards and codes. This involved first obtaining information on the status of the above standards and codes from the UNDP office and the Clerk of Parliament. In order to assess the extent to which the implementing agencies were familiar with the standards and codes, questionnaires were administered to the relevant institutions. Specifically, information on signatures, implementing institutions, dates of ratification, etc. were ascertained. Some of the specific questions include: has the said code been ratified and complied with? If yes, provide evidence; if no, what are the obstacles? Were the public consulted prior to signing, adopting and ratifying the various codes? Are stakeholders sensitized before these codes are signed? What other specific problems are associated with ratification and compliance? Any benchmarks to measure achievement?

866. The respondents included the following institutions⁷²: Ministry of Regional Cooperation and NEPAD, Ministry of Foreign Affairs, UNDP, Net Right, UNFPA, Commonwealth Human Rights Initiative, South Africa High Commission, Child Right Commission Ghana, Ministry of Manpower Development, Ministry of Women and Children Affairs, Parliament, Attorney-General's Department, Office of the President, National Commission on Women and Development, NGOs and Civil Society Organizations.

4.2.2 Prior Evaluations and Assessments

867. This section relies extensively on the on-going annual monitoring exercises and reviews of the Ghana Poverty Reduction Strategy (GPRS). The list of document reviewed includes the following: GPRS Poverty Monitoring Surveys, World Bank Sponsored PSIAs, ISSER's Human Development Report, ISSER's State of the

⁷² A detailed list of the institutions which returned the survey questionnaires for the assessment is provided at Appendix I.

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Ghanaian Economy Reports, CWIQ Reports, GLSS Reports, Ghana Child Labour Survey, Demographic and Health Surveys, The District Assemblies Common Fund (DACF) Utilization Report. Other specific survey reports were obtained from the National Development Planning Commission, Ghana National Commission on Children, UNICEF, and Ghana Aids Commission.

4.2.3 Questions Relating to Objectives

OBJECTIVE 1: *Promote Self-Reliance in Development and Build Capacity for Self-Sustaining Development*

868. To respond to **Question 1** about the extent to which the country has effective ownership in the orientation and design of national development programmes, we relied extensively on responses received from the National Development Planning Commission, Ministry of Local Government and Rural Development, Ministry of Finance and Economic Planning and selected District Assemblies.

869. This also involved a survey of a cross-section of civil society and local government bodies about the extent of their involvement in the planning process. The interviews were supplemented with focus group discussions on processes and perceived outcomes. Interest was focused mainly on:

- The number and type of agencies required by law for the design of national development programmes;
- The institutions involved in the adoption and implementation of development programmes
- Whether development programmes have been tailored to suit community needs?
- Whether there is adequate capacity to implement development programmes?
- Whether there are adequate monitoring and evaluation mechanisms for development programmes in Ghana?

870. To respond to **question 2** on how the national development programme was funded, the study relied largely on published data from the Ministry of Finance and Economic Planning and budget statements. It also used data from Bank of Ghana, ISSER State of the Ghanaian Economy Reports and the World Development Indicators to compute Aid/GNI, Debt/GDP and Debt Service/Exports ratios as required. In addition, the proportion of the national

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budget funded by donors to establish how aid was substituted for public expenditure (e.g. in health).

871. Perceptions about aid effectiveness were ascertained by asking respondents from selected districts how useful/relevant they found donor funded projects. The Report also draws from previous work on aid effectiveness by Aryeetey and Cox (1997) and considers how local communities could be empowered to raise revenue to complement what government provides.

OBJECTIVE 2: Accelerate Socio-Economic Development to Achieve Sustainable Development and Poverty Eradication

872. To answer **question 1** relating what the country is doing to accelerate socio-economic development and poverty reduction, (in addition to responses to the questionnaire from the National Development Planning Commission, Ministry of Finance and Rural Development), the study reviewed the entire Ghana Poverty Reduction Strategy with a view to ascertaining the following:

(i) Legal, institutional & Policy

- Legal: What are the legal steps taken to ensure good governance? Examine Act 445 for setting up the District Assemblies Common Fund (DACF)
- Policy: Policies under GPRS and PSIs
- Institutional: Privatization, public sector reforms, reforms within the judiciary, etc
- National Governance Programme's Anti-corruption Strategy
- Ghana National Anti- Corruption Coalition (GNACC)

(ii) Volume & Criteria for Resource Allocation

- Examine guidelines for disbursement of District Assembly Common Funds (DACF)
- Proportion of DACF that actually goes into projects and the proportion that goes into administrative expenses
- Guidelines for Disbursement of HIPC Funds
- Interviewed key persons at the Controller and Accountant-General's Department, District Assemblies, and Ministry of Finance and Economic Planning on project disbursements to ascertain the following: what criteria were used to allocate project funds? Were these based on national development programmes such as the GPRS? Is project disbursements based on community needs? On poverty monitoring surveys? On other national surveys? Or an Impact Analysis study? What problems do district assemblies encounter in allocating resources to the priority areas?

874. In answering **question two** on the outcomes of the policies and mechanisms to achieve sustainable development and poverty eradication, both the responses to

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the questionnaire and evidence from the Ghana Living Standards Surveys, Demographic and Health Survey and Poverty Mapping Exercise. Besides publicly available data were used to

- Examine the MDG Indicators and ascertain how well Ghana has performed to date and how far it is from the target set for 2015
- Examine WSSD Indicators
- Examine indicators such as malnutrition, under-five mortality, adult literacy ratios, poverty etc all disaggregated by rural, urban and by gender

874. Officials of social sector ministries such as education and health were also interviewed in order to establish the challenges faced. The interviews identified measures put in place to address the challenges and whether there were adequate monitoring and evaluation mechanisms.

OBJECTIVE 3: *Strengthen Policies, Delivery Mechanisms and Outcomes in Key Social areas including Education and Combating HIV/AIDS and Other Communicable Diseases*

875. To answer **question 1** on steps taken to strengthen policy delivery mechanisms and monitoring in terms of social development targets, the study relied mostly on responses to the questionnaire from NDPC, Ministry of Health, Ministry of Education, National Aids Commission, etc. In addition relevant officers of the Ministries of Health and Education were interviewed. The responses addressed issues such as legal steps taken to reduce under-five child mortality, malnutrition, adult illiteracy, increasing enrolment rates, encouraging girl child education. The Report also looked at how people perceived the disability bill, the District Assembly Common Funds (DACF) disbursements towards the social sectors, the proportion of DACF and HIPC Funds going into education, health, HIV/AIDS, transport, communications, etc.

876. The interview of implementing agencies about social development targets was also used to ascertain constraints faced and how they were addressed.

877. For **question 2** relating to the outcomes of policies and mechanisms on social indicators, the use of existing data from public sources was required. The study also on 5-10 years of data obtained from the Ghana Demographic and Health Surveys, and the Ghana Statistical Service CWIQ and the GLSS reports.

OBJECTIVE 4: *Ensuring Affordable Access to Water, Sanitation, Energy, Finance, Markets, ICT, Shelter and Land to all Citizens, especially the Rural Poor*

878. This section of the assessment used responses to the questionnaire provided by NDPC, GWCL, ECG, Energy Commission, Public Utilities Regulatory Commission, Bank of Ghana, Ghana Microfinance Institutions Network,

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Association of Rural Banks, National Communications Authority, Ministry of Works and Housing, Town and Country Planning Department, Lands Commission, selected District Assemblies, Environmental Protection Agency, Customs, Excise and Preventive Service, etc. We assembled information on

(i) *Legal, Policy and Institutional steps to ensure access to basic needs on the following fronts:*

- (a) Legal: Laws establishing regulatory commissions, rural banks, micro-credit institutions, Savings Bill etc
- (b) Policy – Five Pillars of GPRS – Enhanced Social Services & Reducing Vulnerability, Energy Sector Reforms etc (Make extensive use of Budget Statements)
- (c) Institutional - Construction of social infrastructure facilities, etc

(ii) *Evidence of Resources Mobilized and Allocation*

- Examined details of resources mobilized over the past particularly under the MDBS. Also, annual budget statements were reviewed.

(iii) *Results*

- Data from utility companies and other agencies within the social sectors of the economy. Data was disaggregated by region/district, social category, gender, etc.
- Rural and urban development disparities

879. Also, focus group discussions were organized with the above service providers to determine:

- (a) Problems encountered in generation or production, distribution and revenue collection.
- (b) Ascertain capacity constraints and ways to deal with them

880. Officials of CSIR and MEST were interviewed to determine the following:

- Have Science and Technology been encouraged or promoted in Ghana?
- Any legal, policy and institutional mechanisms to promote Science and Technology?
- Proportion of National Budget to Fund Science and Technology
- Constraints to the Development of Science and Technology
- Ghana Science and Technology Policy proposed by STEPRI

881. The Report relied on responses from the Environmental Protection Agency to assess the capacity of the agency to regulate effectively environmental actions and their outcomes.

OBJECTIVE 5: *Progress towards Gender Equality in All Critical Areas of Concern, Including Equal Access to Education for Girls at All Levels*

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882. **Question 1** here relates to measures taken to mainstream gender equality and the results there have been. The assessment relied largely on responses from the Ministry of Women and Children's Affairs, the National Council on Women and Development, Ministry of Education, FIDA, CHRAJ, GAWE, TUC, NGOs etc. The information sought from these institutions included:

(i) Legal, Policy and Institutional Steps taken to promote gender equality

a) Legal: Domestic Violence Bill, Equal Opportunities Employment and Labour Law (Ghana is a signatory to the Convention for the elimination of all forms of discrimination against women), the Constitution of Ghana and Property Rights of Women

b) Policy: Policies to promote girl child education,

c) Institutional: Setting up of the Ministry of Women's and Children's Affairs, etc.

(ii) Resources put into girl child education, government allocations to promote gender equality.

(a) We reviewed annual budget statements to ascertain the share of national budgets going to promote the activities of women.

(iii) Progress made:

- Proportion of Women MPs, Ministers, and women in other key positions. Selected private and public institutions were visited to ascertain the proportion of women in managerial positions, etc.
- Used Ghana Health and Demographic Surveys to ascertain trends in gender ratios in education, etc
- Ascertain income disparities between men and women (Survey of institutions and also use of CWIQ 2003).

(iv) Prior reports on the status of women in Ghana

- Women in Development, etc

OBJECTIVE 6: Encourage Broad-Based Participation in Development by all Stakeholders at all Levels

883. This section of the assessment focused primarily on the interface between District Assemblies and the National Development Planning machinery. It ascertained the involvement of civil society in the development of policies, as well as the role of other key stakeholders, including the private sector. The study also relied largely on focus group discussions and a number of specific surveys to establish the level of participation in the preparation of key development policies. In particular the interviews and group discussions sought information on stakeholders' participation in the preparation of the Ghana Poverty Reduction Strategy (GPRS)

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and their involvement and significance of the National Economic Dialogue. In detail, the following issues were addressed.

- (i) *Legal, Policy and Institutional steps taken to ensure broad-based participation*
 - a) Legal – Freedom of Information Bill, Press Freedom, Constitution and how they ensured freedom of speech and association
 - b) Policy – Participatory approach to policy development – GPRS, National Economic Dialogue, ‘Meet the Press Series’ of the Ministry of Communications, etc.
 - c) Institutions – the role of decentralized government departments, the District Assemblies, The Houses of Chiefs,
- (ii) *Governance System*
 - o The Allocation of District Assemblies’ Common Fund, District Plans and Budgeting by District Assemblies (Act 445, DACF Act)
- (iii) *Assessment of Measures to ensure Broad-based Participation*
 - Interviewed civil society organizations, the media, rural communities, and women’s groups, etc., to ascertain effectiveness and challenges faced by DAs and others
 - Ascertained the status of the ‘Draft National Policy Document for Strategic Partnership between Government and Civil Society Organizations’.

884. We noted that Participation (Objective 6) and Ownership (Objective 1) were related. These were therefore discussed in a complementary manner.

4.3 FINDINGS ON STANDARDS AND CODES

885. The aim of the assessment of “Standards and Codes” was to ascertain which of the ten international instruments, i.e., treaties, international goals and guidelines have been ratified, and the scope of the ratification process and how the standards have been translated into laws to facilitate socio-economic development. The report also addresses issues of compliance and adherence while finding out how prior assessments, if any, have been done on the standards and codes.

886. Out of the ten (10) standards and codes, which were selected for the purpose of this study, seven (7) of them, including the following, have been fully ratified:

- o The Right to Development in the African Charter on Human and Peoples’ Rights (24/01/1989)
- o The World Summit on Sustainable Development (30/05/2003)
- o The African Charter on the Rights and Welfare of the Child (Feb. 1990)
- o The Constitutive Act of the African Union (adopted July 2000)

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- The Convention on the Elimination of All Forms of Discrimination against Women (Beijing Platform of Action).
- The Convention on the Elimination of All Forms of Discrimination against Women (Beijing Platform of Action) – 02/02/1996.
- The Convention on the Elimination of All Forms of Discrimination against Women (Beijing Platform of Action) – 02/02/1996

4.3.1 The Ratification Process

887. Even though stakeholders were consulted prior to the adoption of the treaties only the top level officials participated in the consultation process. It is worth noting that not every standard or code requires ratification as some are non-binding agreements that have no backing of a court of law. Only treaties go through the ratification process and beyond to become enforceable laws. In Ghana, the procedure for ratification of treaties as outlined in Article 75(2) of the 1992 Constitution is as follows: a treaty, agreement or convention executed by or under the authority of the President shall be subject to ratification by:

- (i) An Act of Parliament, or
- (ii) A Resolution of Parliament supported by the votes of more than one-half of all the members.

888. In order to ascertain the level of participation of stakeholders in the ratification process respondents were asked whether stakeholders, including themselves, were contacted prior to ratification of the various standards and codes. Approximately 60% of valid responses suggested that stakeholders were consulted while the remaining said stakeholders were not consulted.

889. The survey also sought to find reasons why some standards and codes have remained only partly ratified or acceded to for so long. More than a half of the respondents attributed this to financial constraints, bad publicity and ignorance leading to unawareness of such standards and codes. This was also attributed to a lengthy process in programme application. A few of the stakeholders said there were no real obstacles to ratification while a few others did not know why standards and codes remained only partly ratified or not ratified at all.

890. The survey also ascertained measures being taken to complete the ratification process of those standards that were yet to be fully ratified. Most officials suggested that steps were being taken to complete the ratification process, while a few indicated that they did not have any idea about what was going on.

891. To reiterate a point raised earlier, the assessment on standards and codes also included Ghana-specific instruments, particularly, the domestic violence bill. A majority of those surveyed were aware of the bill and other domestic laws and practices which provide protection for women and the vulnerable and commended

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the long-planned establishment of women desks at the various ministries, departments and other institutions to address concerns of women.

4.3.2 Translation of Standards and Codes into Local Laws

892. The generally agreed process for translating standards and codes into local laws appears to be adhered to in Ghana, at least to some extent. Unfortunately, however, many of the implementing agencies are not well informed about the status of the treaties. Ghana belongs to the dualist group of countries and therefore treaties do not become laws once they are adopted by the international community. Instead, there are formal steps required under international law for the creation of obligation. This includes the need for the accreditation of persons who conduct negotiations on behalf of the contracting states, and then there is negotiation and adoption followed by authentication, signature and exchange of instruments. This is followed by ratification, after which there will be accessions and adhesions, and then the entry into force, registration, publication and finally application and enforcement. This is what is provided for under international law, and the survey confirmed that the process was followed to some extent in Ghana.

4.3.3 Compliance/Adherence

893. When different stakeholders were asked about compliance, the survey responses showed some interesting findings. As many as 63.6% of respondents said that the African Charter on the Rights and Welfare of the Child was fully complied with while 27.3% suggested that the charter was only partially complied. A few indicated that there was no compliance whatsoever.

Table 4.1: Compliance to Standards and Codes (Survey Responses)

	Full Compliance (%)	Partial Compliance (%)	No Compliance (%)
The NEPAD Framework Document	71.4	14.3	14.3
The Right to Development in the African Charter on Human and Peoples' Rights	44.4	44.4	11.2
The African Charter for Popular Participation in Development	25.0	75.0	0
The World Summit on Sustainable Development, (Johannesburg 2002).	75.0	25.0	0
The United Nations Millennium	33.3	50.0	16.7

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Declaration			
The United Nations Declaration on the Right to Development	33.3	66.7	0
The African Charter on the Rights and Welfare of the Child (1990)	63.6	27.3	8.1
World Summit on Social Development	100.0	0	0
The Constitutive Act of the African Union	66.7	33.3	0
The Convention on the Elimination of All Forms of Discrimination against Women (Beijing Platform of Action).	NA	NA	NA

Source: Own Survey 2004.

894. Similarly, 71.4% of respondents said that the NEPAD document was fully complied with. Less than half of stakeholders indicated that the African Charter on Human and Peoples' Rights was fully complied with and an equal number indicated that the charter was only partially complied with. A few said there was no compliance at all. With regard to the African Charter for Popular Participation in Development, 75% of respondents indicated partial compliance, with the remaining suggesting full compliance. This is a complete reversal of the findings on the World Summit for Sustainable development where 75% and 25% of respondents indicated full and partial compliance respectively. A third of valid responses showed that the United Nations Millennium Declaration was being complied with; one-half said compliance was only in part. A few thought there was no compliance whatsoever. In the same light, a third of respondents said the United Nations Declaration on the Right to Development was complied with in full; most indicated that compliance is only in part. Again most respondents suggested full compliance with the Constitutive Act of the African Union. The World Summit on Social Development Plan of Action document was the only one that all respondents believed that its provisions were fully complied with (See Table 4.1).

895. Respondents were asked if they had copies of the relevant standard and codes. All respondents had copies of the Constitution of Ghana. Most of them had copies of the document on the Convention on the Elimination of all forms of Discrimination against Women as well as copies of the NEPAD, the African Charter Rights Welfare of the Child, the United Nations Millennium Declaration and the World Summit Social Development Plan of Action documents. Indeed as many as 87.5% of valid respondents had copies of the Constitutive Act of the African Union while 60%, 50%, 40% and 25% respectively of valid respondents had copies of the United Nations Declaration on the Right to Development, the Right to Development in the African Charter on Human and Peoples' Rights, the World Summit on Sustainable Development and the African Charter on Popular Participation.

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4.3.4 Achievements/Prior Assessments

896. In an attempt to establish the level of achievement on the standards and codes, the survey asked respondents to give their opinion on whether any of the standards and codes had achieved the intended outcome. Whereas 81.8% of respondents believed that they have in general, the remaining did not think so. On the NEPAD Framework, the majority awarded a 50-55% score for achievement. This is based on what is perceived as remaining to be done. On the Right to Development in the African Charter on Human and Peoples' Rights, an average of 47% was awarded as level of achievement by a quarter of the stakeholders. The African Charter on the Rights and Welfare of the Child was scored at an average of 48%. With regard to the Constitutive Act of the African Union, half of respondents said there was complete under-achievement while the rest indicated a 50% achievement. Respondents generally suggested that the World Summit on Sustainable Development has achieved a 50% outcome. On the Convention on the Elimination of all forms of Discrimination against Women, 60% of respondents believed that the country has realized 50% outcome while the rest feel the country has under-achieved. Respondents did not comment on the level of achievement of the United Nations Declaration on the Right to Development, the United Nations Millennium Declaration, and the African Charter for Popular Participation in Development and the World Summit on Social Development.

897. Standards and Codes that are most frequently mentioned to have achieved the intended outcome include the Convention on the Elimination of all forms of Discrimination against Women, the African Charter on the Rights and welfare of the Child, the NEPAD Framework Document and the African Charter on Human and Peoples' Rights in order of merit. The respondents commended the old proposal to establish women's desks at various ministries, departments and other institutions to address women's issues thus enhancing the work of the Ministry of Women's and Children's Affairs. They added that the earlier establishment of the National Commission on Children and the National Commission on Women and Development in addition to the Ministry of Women's and Children's Affairs was an indication of Government's commitment to women's and children's issues. They, however, cautioned that a lot more was to be done by government to ensure compliance with the African Charter on Human and Peoples' Rights.

898. Respondents were also asked to comment on the usefulness of the standards and codes. A large majority believe that they are useful for their work and for socio-economic development. Indeed most of the respondents said they had no specific problems with the standards and codes; only a few registered specific problems that they faced with them. These were as follows:

- (i) On the Convention on Elimination of all Discrimination against Women, it was observed that there are no stated sanctions against non-compliance by signatory states.

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- (ii) Most codes are not brought down to the local level due to limited education and publicity to get the message to the masses, especially the rural folk.
- (iii) The issues affecting implementation are not adequately addressed.

899. On the issue of report availability, all respondents indicated that there is regular report availability on the NEPAD Framework document and the Constitutive Act of the African Union. On the contrary, a 100% of valid responses indicated that reports on the World Summit on Social Development and the African Charter for Popular Participation were irregular. The reports on the World Summit on Sustainable Development, the United Nations Millennium Declaration, the United Nations Declaration on the Right to Development, the African Charter on the Rights and Welfare of the Child, tend to be mostly regular according to some 67-80% of valid responses. On the other hand, reports on the Right to Development in the African Charter on Human and Peoples' Rights and the Convention on the Elimination of all forms of Discrimination against Women are seen to be mostly irregular, and this was indicated by 62.5% and 50% of respondents respectively.

4.4 OBJECTIVE ONE: ENSURING SELF-RELIANCE IN DEVELOPMENT AND BUILDING CAPACITY FOR SELF-SUSTAINING DEVELOPMENT

4.4.1 Ownership of National Development Programmes

900. As earlier observed, the Ghana Poverty Reduction Strategy (GPRS) is currently the major policy framework for Ghana's development policies, strategies, and projects. The process of developing the GPRS and the results of the process are generally perceived to be satisfactory. Extensive consultations were held prior to the issuing of the document, but these have generally been among selected bureaucrats, CSOs and donors. Many stakeholders believe that consultations will have to be extended to local government bodies in a more structured way and also to other members of society in order to foster ownership. In general there is a need for improvement in the manner in which consultations and participation in development programmes is conducted in order to widen the scope for the participation of all stakeholders. This is particularly so since the implementation of a self-reliant and sustained poverty reduction programme requires maximum consultation, coordination, participation and ownership by all stakeholders.

4.4.2 Funding of National Development Programmes

901. Traditionally, development programmes geared towards poverty reduction are financed through a combination of public resources and donor support and

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increasingly private NGO's. The public resources include revenue generated from government agencies and domestic borrowing. The Government of Ghana, in attacking poverty, has identified the medium-term priority areas of the economy to which funds are allocated. The main problem remains that the domestic resource base is rather narrow as the tax base has not increased significantly over the past four decades. As a result Ghana has relied quite a bit on donor support and domestic borrowing. Indeed, compared to countries like Nigeria, Kenya and Botswana, Ghana is very much aid dependent.

902. The reliance on aid is also reflected in the funding of district development projects. District assemblies in general derive over 80% of total revenues from grants. While DACF is a major source of these, the role that donors play is more acutely seen in the budgets of the northern DAs where support from donors outside of the budget is immense.

903. In allocations to DAs for their development projects through the DACF, factors considered over the years have been:

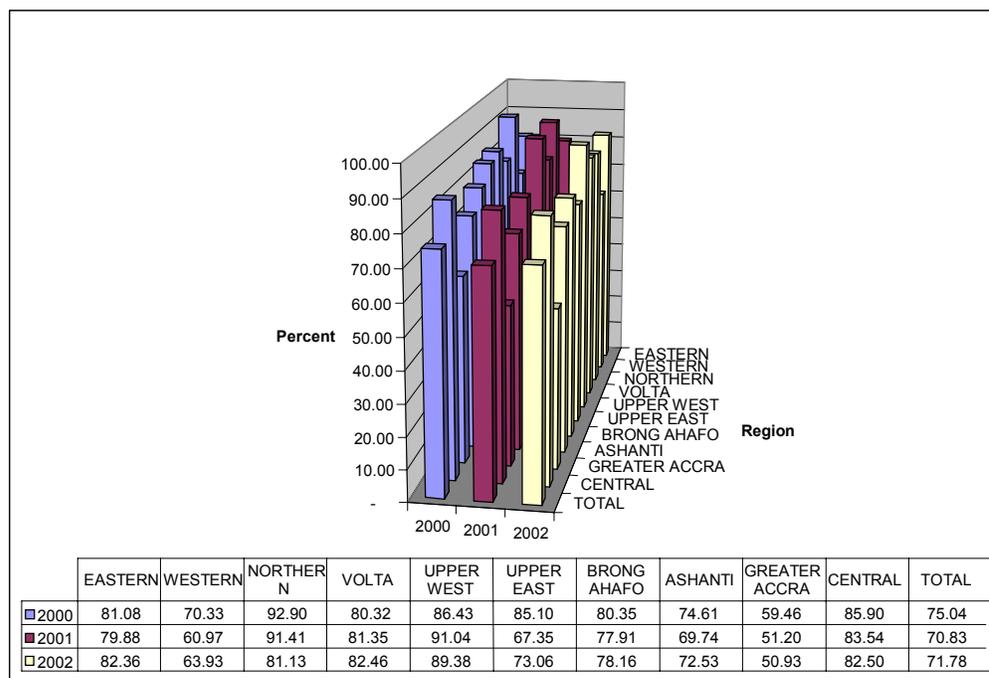
- Need factor – where allocation takes into account the level of development of each district with a view to redressing any imbalances in development [Health and Education needs are emphasized].
- Responsiveness factor – where sharing is designed to motivate the district/local revenue generation capacity to meet development needs [Per capita revenue collection is an important factor here].
- Equality factor – which is designed to provide all DAs with some minimum level of funding regardless of their individual circumstances. This factor ensures that the well-endowed districts and the less well-endowed districts all receive some allocation from the DACF.
- Service pressure factor – which is designed to compensate urban districts for wear and tear on the facilities they provide [Population density is key when service pressure is considered].

904. It is our opinion that the factors that inform the allocation of the DACF are fair. They have been considered as relevant, comprehensive, and reliable. They are feasible to measure and simple to interpret. However, the quality of the data available currently for computing the district indices for allocation remains poor.

905. The DACF remains the most significant source of central government resources to the DAs. Figure 4.3 shows that grants form a significant proportion of total revenue to the DAs in each region. Except in the Greater Accra and Western Regions, the share of grants in total revenue is above 70%. Figure 5.1 also shows that for all regions, grants received have been growing steadily. However, Upper East and Upper West are the two regions with the lowest amounts of grant inflow.

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Figure 4.3: Ratio of Grants to Total Revenue



906. What Figure 4.3 clearly suggests is the need for an enhanced capacity of district assemblies to generate revenues from a more diversified set of sources, including internal ones. That will be the surest way to fund the in a sustained manner the numerous essential development projects.

4.5 OBJECTIVE TWO: ACCELERATE SOCIO-ECONOMIC DEVELOPMENT TO ACHIEVE SUSTAINABLE DEVELOPMENT AND POVERTY ERADICATION

4.5.1 Review of Ghana Poverty Reduction Strategy

907. The GPRS constitutes policies, strategies, programmes and projects to support growth and poverty reduction over a three-year period, from 2003 to 2005. The goal of the Government of Ghana is to create wealth by strengthening the economy to achieve growth, accelerated poverty reduction and the protection of the vulnerable and excluded groups within a decentralized and democratic environment. The GPRS provides a comprehensive understanding of poverty and

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its proximate relationships, and also includes strategies to promote macro-economic stability and a framework for sustainable economic growth to support poverty reduction. The five thematic areas of the GPRS include: the macro economy, production and gainful employment, human resource development and basic services, vulnerability and exclusion, and governance.

908. In terms of outcomes, there has been some degree of stability in the macroeconomic aggregates including inflation, exchange rates and interest rates in the last few years. Certain major infrastructural projects are also nearing completion. Skills training and human resource development are also being pursued. However, it appears the private sector is not growing fast enough to absorb the new labour force that is being created. Governance has been improved and this should be strengthened and encouraged.

4.5.2 Institutional Framework for Reducing Poverty through the GPRS

Constitutional Mandate

909. The whole of Chapter Five of the 1992 Constitution of Ghana spells out in detail the entitlement of all Ghanaians to the enjoyment of civil and political rights, and indicates the right to economic, social and cultural rights. The latter are further outlined in Chapter Six of the Constitution (Directive Principles of State Policy). In order to create the environment for the enjoyment of these rights, the Constitution upholds the state as the principal duty-bearer on behalf of the Ghanaian people. Article 36 (1), indicates that the state shall take all necessary action to ensure that the national economy is managed in such a manner as to maximize the rate of economic development, to secure the maximum welfare, freedom and happiness of every person in Ghana, provide adequate means of livelihood and suitable employment and ensure public assistance to the needy. Thus within two years of assuming office (Article 36(5)), the President shall present to parliament a co-ordinated programme of economic and social development policies at all levels and in all the regions of Ghana. Article 36(6) also requires that the State shall also afford equality of economic opportunity to all citizens and, in particular, the State shall take all necessary steps to ensure the full integration of women into the mainstream of the economic development of Ghana. The GPRS was partly driven by this requirement.

The Policy Environment

910. The general policy context in which the GPRS has been formulated is described as pro-poor and is based on the expectation of wealth creation – an approach which allows the government to support private capital investment in a manner that may create job opportunities for the poor. At the same time the approach

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borrowed from the human development concept and commits the state to the development of human capital to enhance people's potential and choices. These ideals are implied in the President's broad perspective on development which was presented to parliament. These ideas are also expressed in the Coordinated Programme for Economic and Social Development of Ghana (2003 -2012), the GPRS and in other policy documents such as the Budget and Economic Policy of 2003.

4.5.3 Criteria for Allocating Resources to GPRS Thematic Areas

911. There are no definite criteria for the allocation of resources to the GPRS thematic areas. Resources are allocated to each thematic area based on the medium term priorities of government which are extracted from the GPRS. The priority areas for the next three to five years include energy, ports and harbours, telecommunications and infrastructural development; agriculture; education, health and sanitation; ensuring the rule of law, human rights, the achievements of social justice and equity; and private sector development.
912. In monitoring and evaluating the poverty level in the economy as well as the progress of the GPRS, about 60 indicators have been created from the GPRS core targets, the HIPC triggers, the Millennium Development Goals and the Medium Term Priorities (NDPC 2003). The criteria used for the selection of the indicators are that indicators should have a small number of measures; should provide evidence linking the indicator to poverty reduction to mention but a few.

4.5.4 Challenges Facing GPRS Implementation

913. The Annual Progress Report (APR) provides a framework for the systematic review of the GPRS programme and project implementation and their impacts on socio-economic development. The APR also comments on the status of the GPRS-based triggers and targets for assessing performance in the Donor support programmes such as the Poverty Reduction Support Credit (PRSC), the Multi Donor Budget Support (MDBS) and the Poverty Reduction and Growth Facility (PRGF). The APR again assesses the GPRS' performance in achieving the Millennium Development Goals. The report also uses earlier surveys by GSS as well as two new surveys conducted by the GSS in the first quarter of 2003, namely, the Core Welfare Indicator Questionnaire (CWIQ) and the Ghana Demographic and Health Survey (GDHS).
914. The major challenge of the GPRS' annual progress report is the lack of consistent and reliable data. The inconsistency and availability of data from several uncoordinated sources makes the report difficult to complete. There is lack of harmonization in data from the various sector ministries, departments and agencies that provide input for the Annual Progress Report (APR). The other challenges include problems related to accuracy and timeliness of data from primary and secondary sources; lack of motivation for staff in the MDAs and

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Districts to institutionalise the collection and provision of data; in-frequent national outcome/impact surveys by GSS due to inadequate resources and the challenge of reporting on several indicator/trigger achievements for a number of programmes, such as, the GPRS, MTPs, PRSC, MDBS, HIPC and MDGs.

4.5.5 Outcomes of Policies and Mechanisms to Achieve Sustainable Development and Poverty Reduction

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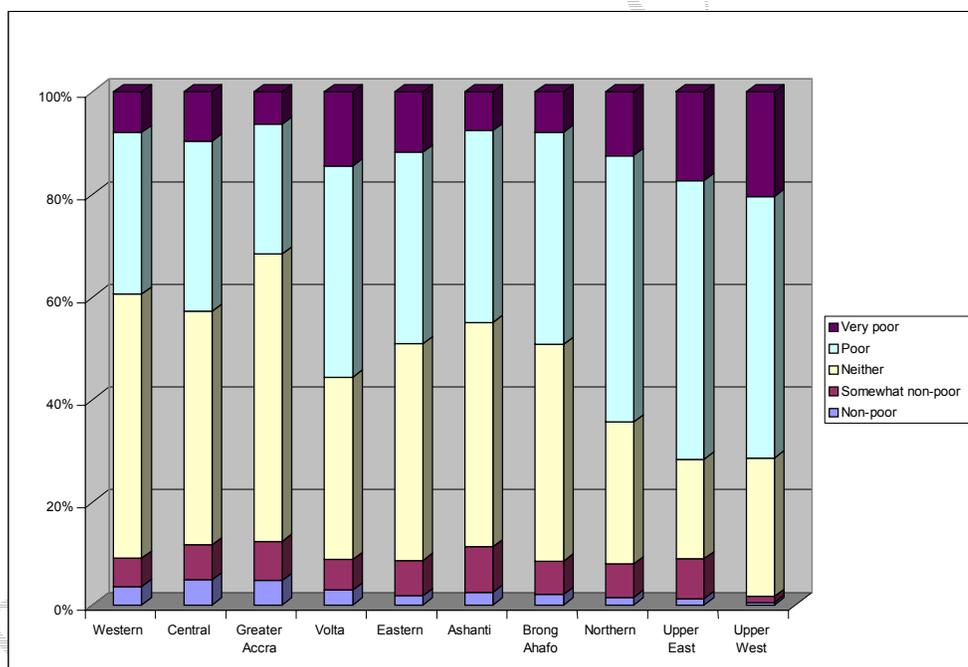
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915. The economy of Ghana has grown at an average rate of about 4.5% for the past decade and the aim of the economy is to move from the current growth path to a higher one. According to Coulombe and McKay (2003), the economic performance of Ghana was relatively weak in the 1990s compared to the first few years after the launch of the Economic Recovery Programme in 1983. The weakness resulted from a slow growth in per capita income as well as high and volatile inflation. With the population growing at an average rate of about 2.7% over the same period, real GDP growth in per capita terms translates into an average of about 1.7%. Thus, the government's proposition that the country will assume a middle-income status by 2013 becomes rather ambitious. In order to achieve middle-income status in the proposed period, Ghana needs about 10% annual growth in per capita GDP taking into account an annual population growth rate of about 1.5%.
916. The modest but stable growth rates seen earlier have been accompanied by reductions in national poverty. Estimates of poverty in Ghana are obtained from 4th Ghana Living Standards Survey, (GLSS 4, 1999) which showed that the level of poverty had declined from the early 1990s level of about 52% to about 40%. Coulombe and McKay (2003) in a study of poverty in Ghana showed that the decline in poverty during the period 1991-98 could mainly be found in Accra and the Rural Forest area where average income levels have increased and inequality fallen. The rest of the country however experienced little change in both their poverty level and average incomes and in fact experienced worsening inequality over the period. The three Northern Regions of the savannah zone are less well endowed and have benefited much less from economic growth in the country. Poverty reduction in localities was in tandem with increases in different economic activities such as cocoa, fishing, forestry and logging, transport storage and communication, wholesale and retail trade. In Accra, poverty reduction is associated primarily with increased income from non-farm self-employment activities like trading and there is a significant number of households engaged in these activities. Increased incomes from cocoa as well as increased receipts of remittance incomes were noted to be the cause of poverty reduction in the Rural Forest of Ghana. The coastal zone however did not experience any economic growth over this period despite its greater proximity to Accra (the capital city), suggesting a greater number of households in the rural coastal and savannah zone having persistent poverty. Again, the study showed that these households have hardly benefited from the pattern of growth associated with activities such as trading in Accra, the cocoa sector and remittances.

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917. The results of CWIQ 2003 are discussed to present the most up to date information on the state of poverty in the regions of Ghana. The results showing the distribution and intensity of poverty across regions are represented in Figure 4.4 below. Proportions of the poor in the three northern regions remain high relative to the other regions. About 68% to 74% of people in the three northern regions are either poor or very poor compared to between 18% and 58% in other regions.

Figure 4.4: Regional Distribution of Households by Poverty Status



Source: CWIQ2003

918. Apart from consumption, access to public facilities is recognised as one of the contributory factors to determining the poverty status of individuals in any community. The indicators selected for measuring the availability of public facilities include access to water, access to health care facilities and access to education infrastructure and we discuss these later.

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919. Other information on poverty in Ghana may be drawn from the UNDP Human Poverty Index (HPI) which measures deprivations in the three basic dimensions of human development⁷³ captured in the UNDP Human Development Index. These revealed that the level of national deprivation has declined between the period 1997/98 and 2002/03 (UNDP Human Development Report, 2004). The Ghana Human Poverty Index declined from 51.7% to 41.0% between 1997/8 and 2002/3⁷⁴. This implies that the proportion of the population deprived was 51.7% in 1997/98 and in 2002/3 it had declined to 41.0%. However, the same cannot be said of the ten regions of Ghana; whereas the level of deprivation in Accra increased, that of the nine regions declined (UNDP/ISSER, forthcoming). The Ashanti Region recorded the highest improvement in Human Poverty, followed by the Eastern region, then by the Central Region. Although Greater Accra had the lowest HPI, it recorded deterioration in its level of deprivation between the period 1997/98 and 2002/03.

920. One can also draw poverty implications from other macroeconomic aggregates that impact more directly on the cost of living or purchasing power of Ghanaians. The key macro indicators here include inflation, exchange rate and employment.

Inflation

921. Inflation rates averaged 35% in 1993-97, reaching a peak of around 60% in 1995. Inflation rose from 13.8% in 1999 to 40.5% in 2000. The end-of period inflation rate declined from 40.5 in 2000 to 15.2 in 2002. However, there was a reversal in this downward trend following the institution of adjustment and corrective measures aimed at rationalizing the prices of petroleum products. The annualized inflation rate increased from 16.3% at the end of January 2003 to 30% by the end of April 2003. The pursuit of tight fiscal and monetary policies resulted in a decline in the rate of inflation to 23.6% by the end of December 2003. The decline in the rate of inflation meant that real incomes have increased and households can increase their purchases of consumer goods and services.

Exchange Rate

⁷³ The three dimensions are: long and healthy life, knowledge and a decent standard of living

⁷⁴ See Appendix for technical details.

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922. The nominal exchange rate fell consistently over the period, 1991-1998, but the real effective exchange rate depreciated sharply between 1991 and 1994 and then appreciated for most of the rest of the decade (IMF, 2000). The appreciation of the real exchange rate in the latter half of the 1990s eroded any competitiveness the economy benefited from the earlier depreciation. The trade balance was consistently in a deficit during this period of movements of the exchange rate. The major driving force of the exchange rate was financial flows such as remittances, interest payments, official investment assistance and foreign investment flows. The exchange rate has been very volatile between 1998 and 2001 but was relatively stable in 2002 and 2003. The annual depreciation of the US\$ was 11.4% in 1998, 49.8% in 2000, 8.3% and 9.3% in 2002 and 2003 respectively. The year 2000 was an elections year and the excessive depreciation of the currency indicates the lax in fiscal and monetary policies.

Employment

923. According to the Ghana Human Development Report (2000), unemployment doubled between 1992 and 1999. In 1991/92, the rate of unemployment was 4.7% and increased dramatically to 8.2% in 1998/99. By the end of 2000 the rate of unemployment was 10.4% (GSS Population Census 1984 & 2000). In Table 4.2 vacancies announced by industrial establishments increased from 7,058 in 2001 to 7,487 in 2002 and then to 7,682 in 2003. Compared to the number of jobseekers these vacancies were obviously inadequate. In 2001 alone, the number of registered job-seekers was about 35 times the number of vacancies. It needs to be pointed out that the 2001 figure was itself not representative of those who were jobless in the economy as the number that registered with the Labour Department was less than a quarter of the number that registered during the government registration exercise in the same year. Of the number that registered in 2001, only about 2.6% were employed while in 2002, about 2.7% of those who registered were employed. However, in 2003, the proportion of jobseekers who were employed increased to 40.6% shown in the lower number of people that registered for jobs.

Table 4.2: Employment and Unemployment

Year	Vacancies	Registration of Job Seekers	Placement	Unemployed	Proportion Employed (%)
2001	7,058	245,579	6,363	21,807	2.6
2002	7,487	241,864	6,510	42,769	2.7
2003	7,682	18,452	7,498	10,954	40.6

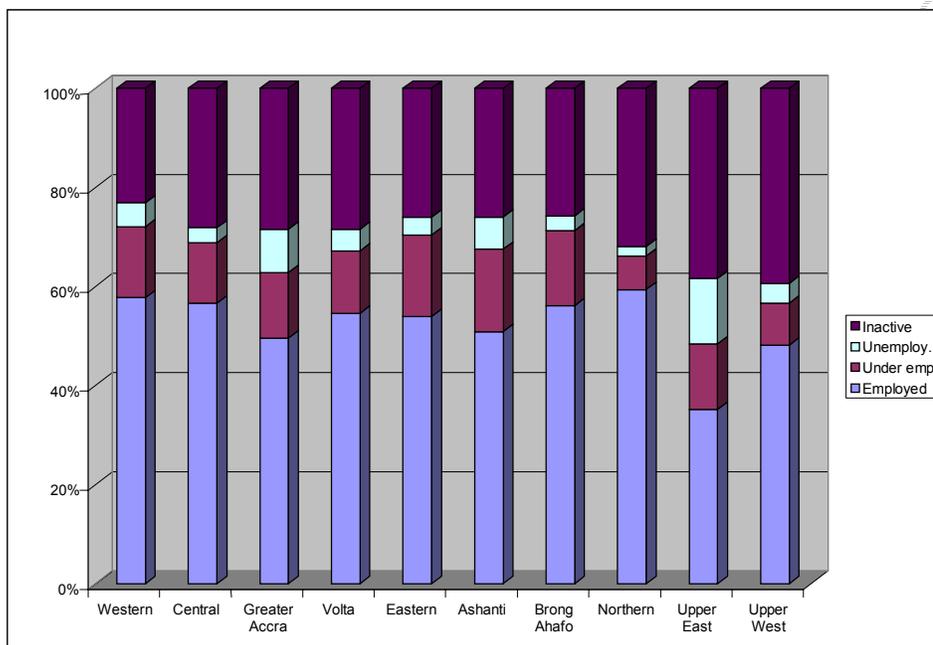
Source: Labour Department

924. The pattern observed here suggests that the rate at which jobs are being created is very low compared to the rate at which the labour force may be growing.

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925. The CWIQ 2003 results show the distribution of working age population by region as in Figure 5.4. The figure shows clearly that the percentage of the working age population that is inactive is relatively high in the three northern regions. The inactive population in Upper East and Upper West Regions is over 40% and a little below 40% in the Northern Region. The Upper East Region also has the highest regional proportion of residents who are unemployed whilst the Northern Region has the least number of unemployed populations.

Figure 4.5: Percentage Distribution of Working Age Population by Work Status

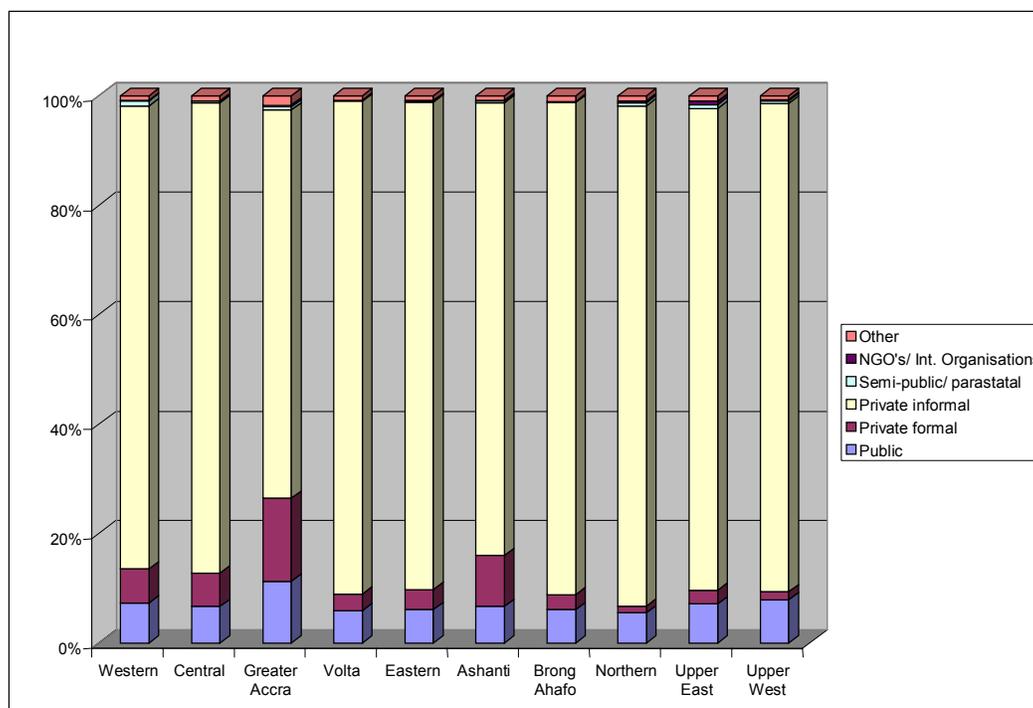


Source: CWIQ2003

926. The GLSS 4 survey reports suggest that unemployment affects the poverty status of individuals significantly. Two characteristics of the distribution of the working population in the three northern regions relative to other regions that make them more prone to higher poverty incidence include the dominance of the large private informal sector and the relatively small segment of people working in the private formal sector compared to the other regions (see Figure 4.6)

Figure 4.6: Percentage Distribution of Working Population by Sector

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Source: CWIQ2003

927. In conclusion, the sustainability of poverty reduction in Ghana is not assured given that the important driving factors are quite sensitive to the macroeconomic environment, which is often unstable and linked to international conditions. Cocoa farmers in the forest zone for example have benefited from increased investment due to new planting arrangements but remain vulnerable to fluctuations in the world price and to inelastic world demand. Remittances to households, a major source of income for poor households, are dependent on the income levels of the remitting households. In Accra, trading has been a major source of increased income but this is also dependent on levels of demand. Also, with the exception of cocoa, agricultural production has not experienced much growth and diversification. There has also not been any significant growth in private sector investment which raises concern about long term growth prospects and poverty reduction in Ghana.

4.5.6 The Millennium Development Goals

928. The Millennium Development Goals comprise 8 key goals proposed by the UN and to which Ghana is a signatory. The goals are (i) eradicate extreme poverty and hunger – halve the proportion of people who live on less than a dollar a day and halve the proportion of people who suffer from hunger by 2015; (ii) achieve universal primary education and ensure that by 2015 boys and girls complete primary education (iii) Promote gender equality and empower women – eliminate

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gender disparity at all levels of education; (iv) reduce child mortality – reduce by two-thirds the under-five mortality rate by 2015; (v) improve maternal health – reduce by three-quarters the maternal mortality ratio by 2015; (vi) Combat HIV/AIDS, malaria and other diseases – halt and reverse the spread of HIV/AIDS and halt and reverse the spread of malaria, tuberculosis and other diseases; (vii) ensuring environmental sustainability; (viii) develop a global partnership for development.

929. The assessment of the rate of achievement in the MDGs indicates that unless more resources are committed towards the priority sectors of the economy, it is unlikely that a significant number of the MDGs can be met by 2015. Indeed Ghana may achieve only the first and third goals without any major change in approach.

4.5.7 Perceptions about Well-Being

930. Respondents were asked whether they felt the country was making progress. Out of 313 people who responded to the question, 87% felt strongly that the country was making progress while 6% felt otherwise. Similarly, responses from the focus group discussions also indicated that Ghanaians felt their lot was improving particularly from the projects financed through the District Assemblies Common Fund (DACF) and the HIPC Funds. These funds have been used to upgrade or construct classroom blocks, provide WC toilet facilities, provide potable drinking water, provide credit to women, etc. However, despite the various interventions through HIPC and DACF, some of the respondents, particularly those from the Northern part of the country and also the Volta Region, felt that poverty levels were still high in the country and may have even worsened over the years. This position is indeed confirmed by a number of participatory poverty studies (Korboe et.al. 1995).

4.6 OBJECTIVE THREE: STRENGTHEN POLICIES, DELIVERY MECHANISMS & OUTCOMES IN KEY SOCIAL AREAS

4.6.1 Assessment of Social Development Policies and Initiatives

931. Policies and programmes in the social sector, as highlighted in the GPRS, seek to promote activities that would enhance access to education, enhance access to and delivery of health care services, enhance access of women to reproductive health services and increase access to potable drinking water and improve sanitation. Also, the educational policy aims to provide relevant education for all Ghanaians to enable them acquire skills, which will make them functionally literate and productive in order to facilitate poverty reduction and promote wealth creation.

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Access to Basic Education and Literacy

932. The declining quality of education is often captured by the poor pass rate for the Criterion Reference Test (CRT) which remains very low. Only 9 percent of the pupils in public schools were able to achieve mastery scores in Mathematics and 12 percent mastery scores in English in the 2001/2002 academic year. There is the perception, however, that the educational policies have yielded some positive outcomes, even if the total picture is mixed. Thus, while the Gross Primary Enrolment Ratio (GPER) increased from 63.2% in 2000/2001 academic year to 81.1% in 2002/3 academic year nationally, this was far below the target of reaching 88.5% by 2005. Total secondary school enrolment declined from 40% to 38.1% over the period. Female enrolment however increased marginally over the period.
933. The general increase in enrolment is believed to have compromised the quality of education and the worsening pupil-teacher ratio is used as evidence of the growing burden on the school system. The policy target for the pupil-teacher ratio is 33:1 by 2005. However, as at 2003, the ratio was 31.3:1, which is regarded as inefficient. Between the period 1998 and 2003, the general pupil/teacher ratio at the basic and secondary school level experienced negative growth, declining by 3.4 percentage points over the period.

Table 4.3: Pupil/Teacher Ratios, 1998-2003

Level of Education	1998/99	1999/00	2000/01	2001/02	2002/03*	% Change
Basic	33.2 to 1	34.2 to 1	32.6 to 1	32.1 to 1	31.3 to 1	-5.4
JSS	19.3 to 1	19.6 to 1	18.2 to 1	18.2 to 1	17.6 to 1	-8.8
SSS	20.0 to 1	19.6 to 1	20.7 to 1	-	-	3.5
All	26.8 to 1	27.2 to 1	25.9 to 1			-3.4

Source: Ministry of Education * Provisional

935. Table 4.4 below shows that the percentages of trained teachers in primary schools declined between the 1998/1999 academic year and the 2002/2003 academic year. However, the declines have been more severe in the Northern Region. As can be observed in Table 4.4, the percentage of trained teachers in primary schools in Upper East and Upper West Region is much better than the national average, which is better than the count in the Northern Region.

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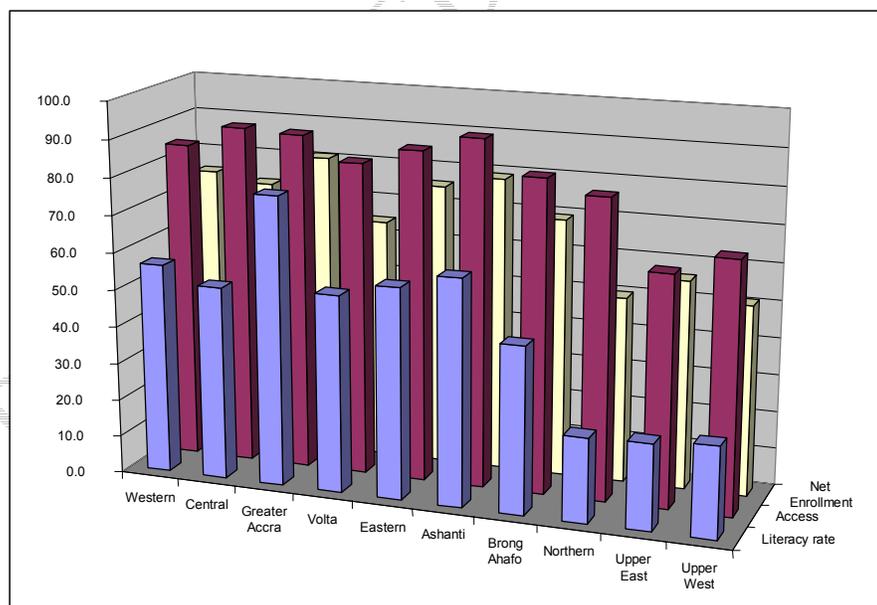
Table 4.4: Percentage of Trained Teachers in Primary Schools by Region

REGION	1998/99	1999/00	2000/01	2001/02	2002/03
Ashanti	71.2	68.5	67.7	68.5	69.3
Brong Ahafo	67.8	63.4	62.8	63.4	64.0
Central	71.8	68.8	66.7	68.8	70.9
Eastern	80.4	75.0	74.3	75.0	75.7
Gt.Accra	69.7	62.7	65.1	67.5	69.9
Northern	60.8	57.4	56.9	57.4	57.9
Upper East	87.0	82.0	81.3	82.0	82.7
Upper West	85.5	82.9	84.2	85.5	86.8
Volta	90.7	88.7	87.9	88.7	89.5
Western	64.4	58.6	56.9	58.6	60.3
National	73.4	69.1	68.6	69.1	69.6

Source: APR2002

936. The CWIQ 2003 results suggest that the literacy rate is lower in the three northern regions compared to the other regions in Ghana; however, access to primary education is about the same in the Northern Region as in the other regions, but about 10 percentage points lower in Upper East and Upper West. Similarly net enrolment in primary school is relatively lower in the three northern regions (see Figure 4.7).

Figure 4.7: Selected Education Indicators



Source: CWIQ 2003

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Table 4.5: Literacy Rates, 1997 and 2003

Indicator (%)	1997			2003		
	National	Urban	Rural	National	Urban	Rural
Youth Literacy	64.1			68.7	81.7	56.4
Male	71.8			74.5	87.5	63.1
Female	57.0			62.9	76.4	49.3
Adult Literacy	48.5	63.0	39.9	53.4	69.6	39.8
Male	62.4	77.1	54.4	65.8	81.9	52.6
Female	37.2	51.7	28.4	42.3	58.9	28.2

Source: CWIQ, 1997, 2003

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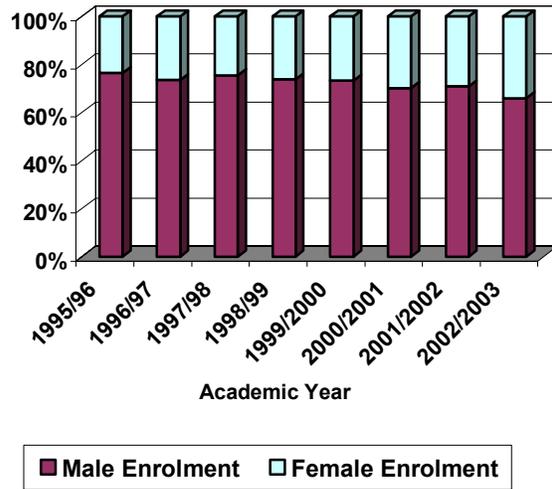
937. Over the period 1997 to 2003, adult literacy rates improved by 4.9 percentage points, rising from 48.5 percent to 53.4 percent. The adult male literacy rate, however, continues to be substantially higher than that for females. The gap between male and female of literacy rates was however narrowed between the period 1997 and 2003. Another point worth noting is the unfortunate wide gap between literacy rates in the rural and urban areas.
938. These trends are further confirmed by the 2000 Population and Housing Census Report which indicates that as at 2000, 53.3 percent of the population of Ghana aged 15 years and older were literate either in English or some known Ghanaian language. The effective literacy rate was however considered to be 46.9 percent since much literature and mass communication was done in English. Even though it is possible to acquire literacy without going through the formal school system, the latter still remains the major process of acquiring literacy and thus ability to access vital information to enhance personal development. While the literacy rate has improved, there is still a large proportion of Ghanaians who are non-literate
939. In order to improve access to education, a total of 685 (3-unit) classroom blocks were constructed in 2003. Also, to ensure equity in access to quality education at the Senior Secondary School (SSS) level, the MoE begun renovating some senior secondary schools located in deprived districts for upgrading to model schools in 2002. According to the GPRS APR report, in 2003 work on the first batch of 31 schools progressed steadily.

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Access to Tertiary Institutions

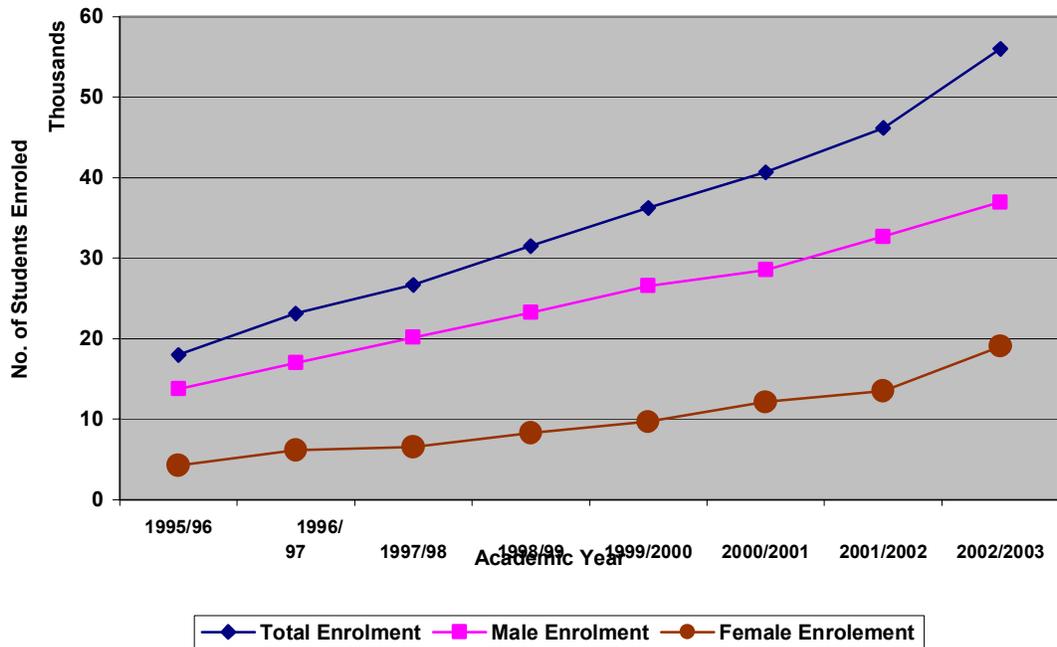
940. Over the last few years there has been what could be termed an exponential growth in the demand for tertiary education in general and university education in particular. Many reasons account for this phenomenon. First, the population of the country has been increasing; second, the new educational system which was introduced in 1987 has over the years contributed to increased numbers of students entering secondary school. It is also worth noting that apart from the five public universities, there has been, over the past five years, an increase in the number of private universities from only one in 1997 to over 10 in 2003.
941. Total university enrolment increased from about 18,000 students in 1994 to about 56,000 in 2003. Like all other levels of education, there have been concerns with regard to female enrolment at the tertiary level. As evident in the charts below, males considerably outnumber females at both university and polytechnic levels. In 1994, total university enrolment of females stood at about 4,400 compared to 13,700 by males. Female enrolment however increased to about 19,000 in 2003, an increase of about 352 percent. The increment is due to affirmative action policies pursued by the universities. This strategy has relied on a number of instruments, including concessionary entry requirements, expansion in residential accommodation and general support for girl-child/female education.
942. Male dominance in terms of enrolment is also evident in the polytechnics. In 1997 only 20.51 percent of total enrolments were female. In 2003 female enrolment increased to 28.17 percent which is still very low and the increase of over the six year period is relatively marginal.

Figure 4.8 Male and Female University Enrolment



Sources: Ministry of Education *and* National Council for Tertiary Education

Figure 4.9: Growth in University Enrolment, 1995-2003



Sources: Ministry of Education *and* National Council for Tertiary Education

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Access to Health Services and Outcomes

943. In the area of health, the emphasis of government's health policy is on the prevention of disease, health promotion and basic primary health care. Under the GPRS framework, emphasis is on bridging the inequalities in the delivery of health care with priority on the following:

- Bridge the gaps in access to quality health services
- Ensure sustainable financing arrangements that protect the poor; and
- Enhance efficiency in service delivery.

944. The government has embarked on a number of programmes in line with these priorities. These include the National Health Insurance Scheme, National HIV/AIDS Programme, and HIV/AIDS Surveillance.

Trends in Health Outcomes

945. The health sector in Ghana has faced considerable challenges including issues of difficult access to health services, deteriorating quality of health services and affordability of these services. The phenomenon of brain drain in the health sector is also a critical issue in Ghana's health care and delivery. Trends in health indicators have shown mixed results (Table 4.6). In the past five years for instance, indications point to the fact that infant and child malnutrition as measured by the proportion of children underweight has increased by 10.5 percentage points.

Table 4.6: Basic Health Indicators

Indicator	1988	1993	1998	2003
Infant mortality rate	77	66	57	64
Under five mortality rate	155	119	108	111
Immunization coverage		43	62	69.4
Child malnutrition	24	27	25	35.8
Maternal mortality rate	240	214	214	-
Crude death rate	17	12.5	10	-
Life Expectancy	54	56	58	60
Crude birth rate	47	44	39	-
Total fertility rate	6.4	5.5	4.6	4.4

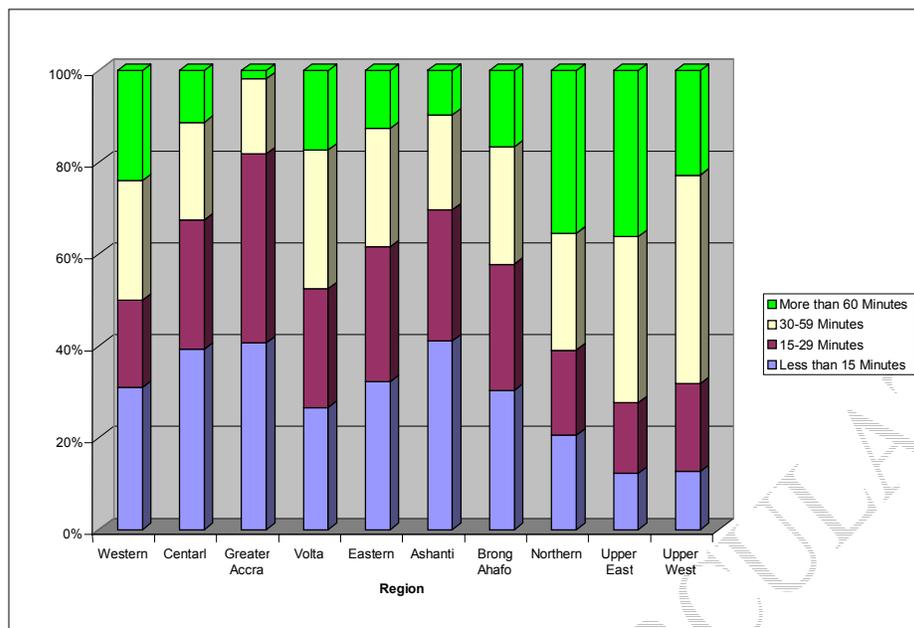
Source: DHS, WDR, and Health Sector Program of Work in *Ghana-Facts and Figures*.

946. Even though access to health is still low the proportion of the population with access to health improved from 37.2% in 1997 to 57.6% in 2003. More deliveries took place under the supervision of health professionals in 2003 as compared to deliveries in 1997. This improvement however was marginal, considering the fact that the annual percentage increase over the period was only about 1.2 percent. From Table 4.6, infant mortality and under-five mortality also worsened between 1998 and 2003.

947. There have been efforts to improve access to health care throughout the country. Access to health care, defined in terms of time taken to reach nearest health facility, increased from 52.9 percent in 1998 to 57.6 percent in 2003. It is worth noting however that the three northern regions still have very low percentage access to healthcare although there was a tremendous leap particularly for the Upper West Region. Some efforts made to improve the healthcare system in the country include the provision of at least one model health centre in each district. Others include the attempt to replace the cash-and-carry system which is ongoing, increasing the coverage of exemptions, carrying out rapid delivery programmes to reduce under-five and maternal mortality, and the improvement of safe water, especially in Guinea worm endemic areas.

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Figure 4.10: Time Taken to Health Facility by Region



Source: CWIQ2003

948. Apart from access to health care facilities, the availability of human resources to man the facilities determines the quality of service available to the communities. Again, the three northern regions have the lowest numbers of health care professionals. This fact, combined with the difficulties of physical access, suggest that the northern regions are less endowed in terms of health service provision compared to other regions of Ghana.

949. Fifteen health centres and two hospitals were completed in 2003 through the support of the OPEC Fund and the Ghana Government. Work is ongoing on an additional fifteen health centres, which have started under the Saudi Phase II programme. Work has been completed on the upgrading of three health centres. Parliament has also passed the National Health Insurance Act with 45 districts piloting the scheme.

950. The Ministry of Health in collaboration with UNICEF is currently implementing a high Impact and Rapid Delivery Programme intended to reduce under-five and maternal mortality in all districts in two deprived regions (Northern and Upper East Regions). Health spending averages 4.7 per cent of GDP, of which public expenditure is equivalent to 1.8 per cent of GDP and private expenditure 2.9 per cent. There are approximately 1.5 hospital beds per 1,000 people.

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4.7 OBJECTIVE FOUR: ENSURING AFFORDABLE ACCESS TO WATER, SANITATION, ENERGY, FINANCE, MARKETS, ICT, SHELTER AND LAND FOR ALL CITIZENS, ESPECIALLY THE RURAL POOR

4.7.1 An Assessment of Socio-Economic Infrastructure and Progress towards Meeting Basic Needs

Housing

951. In rural areas, formal housing delivery and financial institutions are absent because rural areas do not provide lucrative markets for housing units delivered by real estate developers. The assessment exercise revealed that there was also a shortage of rental accommodation in the urban areas primarily due to the fast-growing populations, slow growth in income and significant land litigation. The shortage has resulted in high rental charges, which impose undue hardships on many low income households. Many Accra residents are required to make advance payments for 2-3 years, and rents are quite high. The rent charged for a modest two-bedroom apartment in Accra is between ₵500,000 and ₵800,000. Some residents are forced to live in uncompleted housing units that lack access to water, electricity, and toilet and bathroom facilities. The major difficulties with increasing the housing stock include the poor security of tenure, delays in the processing of applications for building permits, the high cost of building materials relative to income, absence of housing finance, and the inadequate public investment in housing programmes. Most stakeholders favour public-private partnerships in housing delivery and also government direct intervention in the provision of houses. They saw the withdrawal of SSNIT and the state's direct intervention in housing delivery as having aggravated the housing situation in urban areas.

952. There were 2,181,975 housing units in the country with 65% located in the rural areas in 2000 (Table 4.7). With the exception of the Greater Accra Region, all other regions had 62%-85% of their housing stock in rural areas. The distribution of housing stock was a reflection of the urban status of the regions. This figure does not include the numerous temporary dwellings such as kiosks which have become a common form of alternative housing for poor persons.

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Table 4.7: Stock of Housing Units by Region

Region	Population	Houses	% in Rural	Pop per house
Ashanti	3,612,950	682,759	62.9	11.0
Brong Ahafo	1,815,408	342,808	71.1	8.4
Central	1,593,823	365,777	73.2	7.1
Eastern	2,106,690	456,683	73.4	7.4
Greater Accra	2,905,726	626,616	19.6	10.1
Northern	1,820,806	245,617	75.6	10.2
Upper East	576,583	80,635	82.6	11.1
Upper West	920,089	144,386	85.3	10.4
Volta	1,635,421	345,821	78.7	6.2
Western	1,924,577	410,142	72.9	7.4
Total	18,912,079	2,181,975	65.9	8.7

Source: GSS, Population and Housing Census Report, 2004

953. In discussions with stakeholders, there was the perception that the housing difficulties could be resolved through housing loan schemes, the promotion of the use of local building materials, enforcement of bye-laws and regulations on housing construction in both rural and urban areas. In order to facilitate access to affordable houses, it was often suggested that the Department of Rural Housing and Cottage Industries and NGOs should be strengthened to operate housing schemes in all districts especially in rural areas.

Electricity

954. Access to electricity is relatively low in rural areas (16.1%) compared to the urban connection of about 74.6% of households. Access for rural households is being improved through the Self Help Electrification Programme (SHEP), which is partly financed through a levy on electricity consumption and loans and grants from donors. In order to enhance private sector participation in the investment and delivery of electricity services, Government has embarked on a Power Sector Reform Programme. Tariffs for electricity are set by the PURC to promote equity and fairness. A 'lifeline tariff' is set to subsidize poor households whose consumption is below a threshold of 50 units per month. Government subsidies for lifeline consumers of electricity were about ₵449.9 billion and ₵272.5 billion in 2002 and 2003 respectively. Even though commendable, those households living in multiple dwellings appear not to benefit from the lifeline subsidies as intended. Interestingly, although there has been some improvement in the supply of electricity to residential consumers in terms of the overall number of outages in 2002, there is still dissatisfaction with inaccurate billing.

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Water

955. Access to water continues to be a major challenge facing the country. Two institutions, Ghana Water Company Limited (GWCL) and the Community Water and Sanitation Agency (CWSA) are responsible for the production and sale of water in the urban and rural areas respectively. The Ministry of Works and Housing is responsible for policy formulation and implementation while the Water Resources Commission and PURC are the regulatory agencies responsible for water extraction, pricing and quality of service respectively.

956. Access to pipe borne water by the urban population is estimated at about 71.2% compared to 16.1% of the rural population with access. GWLC is currently able to meet only 59% of the demand of the urban population because of its inability to invest in the expansion of the system. Due to the efforts of the CWSA, the rural population with access to safe drinking water increased from 41% to 46.4% between 2000 and 2003 through the provision of boreholes and hand dug wells.

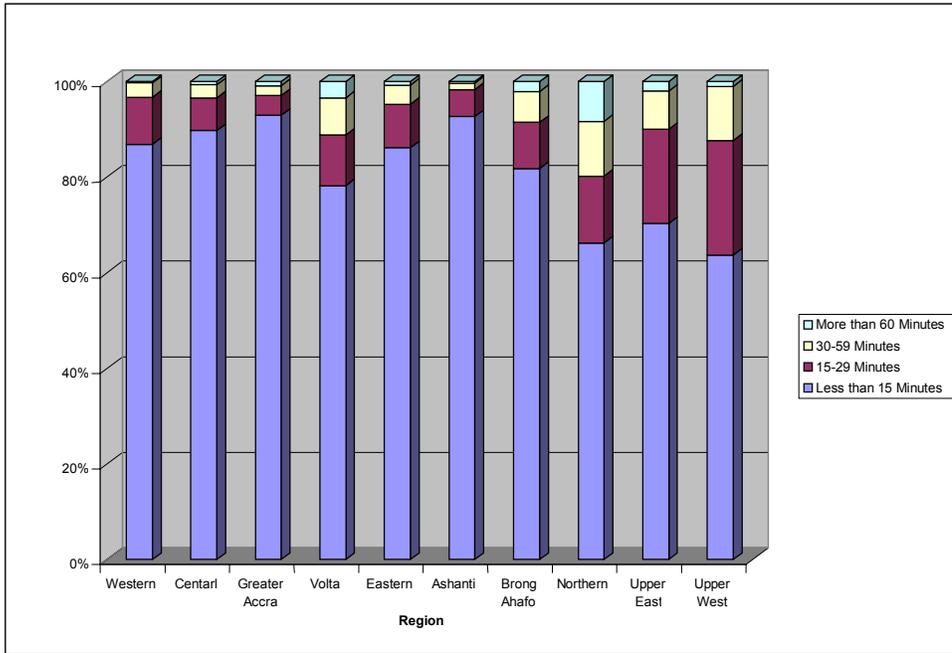
957. In 2000, 71.2% and 16.1% of the urban and rural populations had access to pipe-borne water. About 26.6% of the rural population depended on rivers, streams and springs as sources of drinking water (GSS, 2002). The provision of safe drinking water has been recognised as an important strategy to sustain the fight against poverty. Thus the rural population with access to safe drinking water rose from 41% in 2000 to 46.4% in 2003 (NDPC, 2004). This was attributed to the activities of CWSA in the provision of water facilities like bore holes and hand dug wells in rural communities (see Table 4.8).

Table 4.8: Water Facilities Provided by CWSA: 1994 – 2003

Water Facility	1994-2000	2001	2002	2003	Total	%
Bore holes *	5377	1050	1029	1405	8861	89.5
Hand dug wells*	568	50	67	67	752	7.6
Small c'unity pipe system	110	4	10	19	143	1.4
Small town pipe system	64	25	10	46	145	1.5
Total	6119	1129	1119	1537	9901	100.0

SOURCE: NDPC, 2003 & 2004 * included those repaired

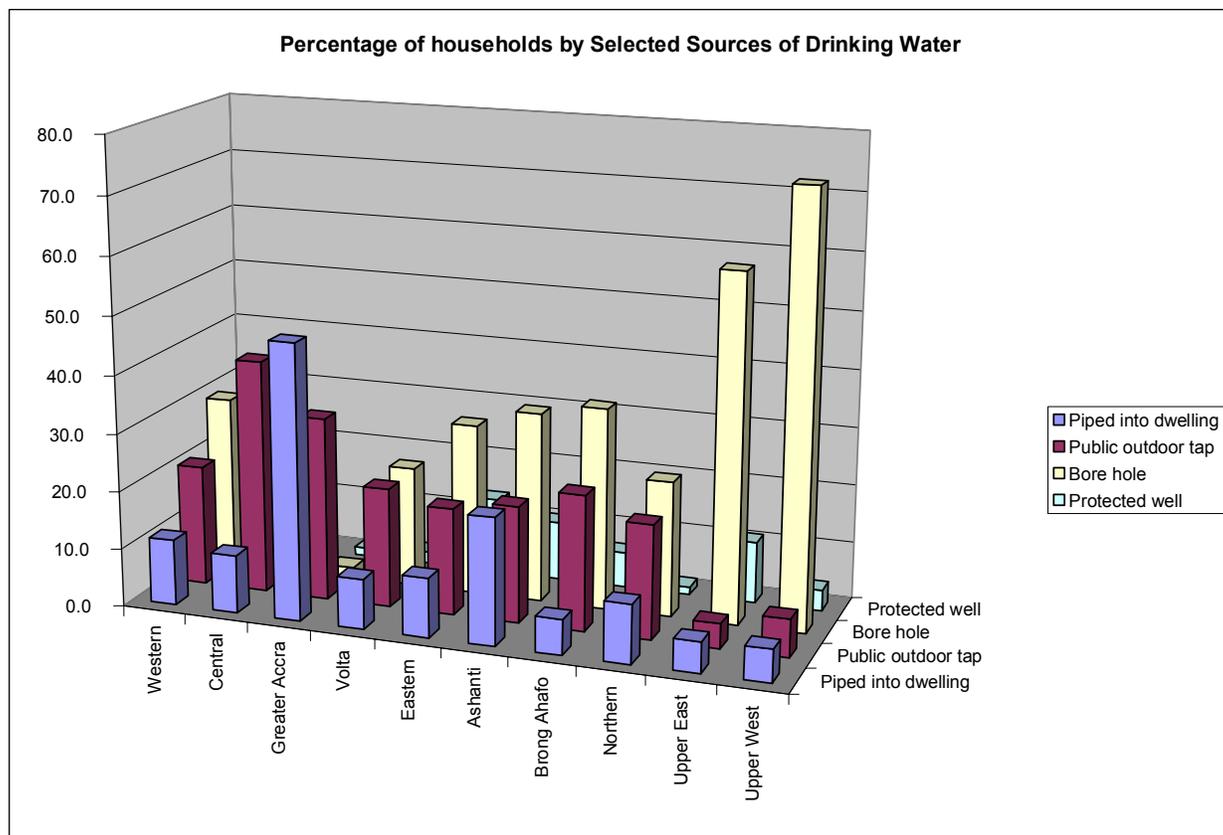
Figure 4.11: Time Taken to Drinking Water Supply by Region



Source: CWIQ2003

Figure 4.12: Households by Selected Sources of Drinking Water

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Source: CWIQ 2003.

Finance

958. Another interesting observation in this study has been that access to financial services continues to elude many small business operators. While the urban areas tend to use the services of banks and other financial institutions, the main source of financial activity in the rural areas is the rural banking system, which currently comprises 117 Rural Banks in the ten regions. Other sources of credit are the informal *susu* operators, credit unions, savings and loan companies and Non Governmental Organisations (NGOs). The Rural Banks mobilise savings in the rural areas, provide credit facilities to rural communities, promote agriculture and commercial activities, provide socio-economic infrastructure and also act as catalysts for the development of the rural communities. In performing their traditional function of mobilizing deposits in the rural areas, the rural banks together were able to contribute about 4.08% of the total deposits of the whole banking industry in Ghana at the end of September 2002.

959. Quite recently, under the enhanced HIPC initiative, HIPC funds have been applied to poverty related activities including micro finance programmes to assist women and other groups in the various districts for agricultural production and marketing activities. These funds are managed by the district assemblies. Inadequate capacity of management, high perception of political interference in

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the disbursement of funds coupled with inadequate size of credit given to beneficiaries constitute the main issues that bother on financial services in rural areas and the informal sector.

Markets

960. Adequate and well-functioning goods markets are relatively well developed in urban Ghana. Indeed there are different types of markets and they are classified by volume of trade (wholesale and retail markets), by location (rural and urban markets) and by type of commodities sold (there are specific commodities markets such as yam market, the fish market, the maize market). In practice, however, all the markets have a mixture of all the items identified above, the only difference being in respect of proportions. There are 911 main markets distributed throughout the country with most of the markets located in the southern part of the country.

961. Access to these goods markets, especially those in the rural areas, is sometimes hindered by an inadequate road network and the poor conditions of existing feeder roads. Most of the markets in Ghana are relatively small and underdeveloped with over 90% being less than 5 acres in size and have neither paved grounds nor well constructed stalls. Most of the organized markets have offices for revenue collectors although they do not have any organized warehousing facilities, thus forcing farmers to sell their produce at very low prices. The markets do not have information centres; neither do they make provision for fire fighting equipment. To ensure a well-functioning goods market, limited efforts are being made by local government bodies and NGOs to ensure that a number of markets have good facilities, including warehouses and toilet facilities.

Table 4.8: Access to Food Markets (%)

Region of residence	Locality		Total
	Rural	Urban	
Western	64.6	92.1	74.4
Central	84.1	90.8	86.6
Greater Accra	73.3	82.5	81.4
Volta	52.2	83.4	60.4
Eastern	66.6	90.0	75.4
Ashanti	74.0	89.3	81.7
Brong Ahafo	58.4	88.7	71.1
Northern	31.5	80.8	47.0
Upper East	27.7	57.2	32.6
Upper West	33.8	75.7	42.7
Total	60.5	86.2	72.3

Access is defined as less than 30 min of travel time; Source: GSS, CWIQ 2003

962. Table 4.8 illustrates access to food markets in the various regions. Nearly two-thirds of households (72.3%) have access to food markets in Ghana. Access in this case is broadly defined as a household located within 30 minutes of travel

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time to the market. This percentage is higher in urban areas where about 86% of households have access. Because of vast distances and a relative weaker economy, most households in the northern part of the country do not have good access.

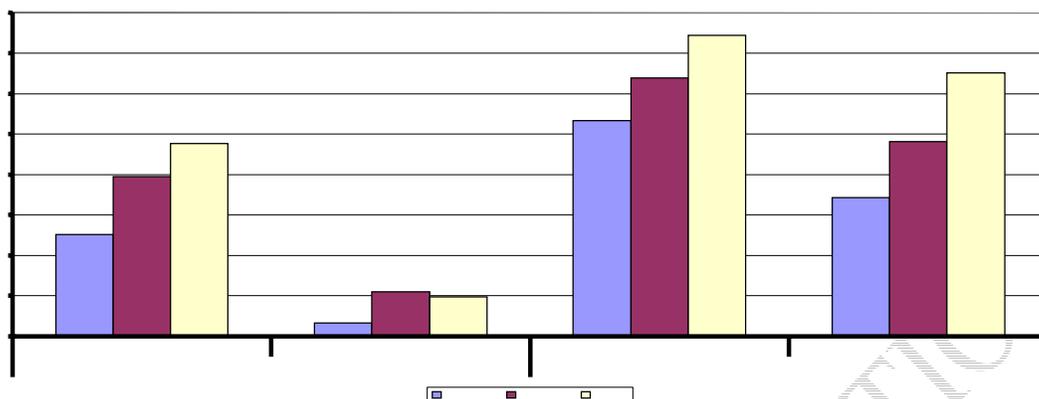
Information and Communication Technology (ICT) Usage and Application of Science and Technology

963. Government has identified ICT as a driver and enabler for achieving the objectives of the GPRS. The Government, through the Ministry of Communications, is responsible for actively promoting the effective development of ICT and its related industries. Government strategy for promoting ICT is to encourage ICT growth through a privately competitive marketplace at all levels, with particular emphasis on promoting local entrepreneurship. The National Communications Authority (NCA) is the institution mandated to regulate communications by wire, cable, radio, television, satellite and similar means of technology for the orderly development and operation of efficient communication services in Ghana.
964. The provision of ICT and related facilities is undertaken by several operators. There are two major fixed line networks (Ghana Telecom and Westel) while five operators provide wireless mobile network services. Public telephone and telecentres (Communication Centres) allow consumers to make telephone calls for a one-time charge. The number of Internet Service Providers has increased over the years but only a few (about 7 of them) play a significant role in the industry.

Access to ICT Services

965. Over the years there has been an obvious improvement in access for almost all sections of the Ghanaian population. The current ICT policy framework has, as a part of its objectives, “to increase women’s access to ICTs”. As evidenced in Figure 4.13 below, both rural and urban areas have all witnessed tremendous improvements in access in the last decade. We do not have information on trends in access by gender.

Figure 4.13 Households Owning TV and Radio, 1991/92, 1998/99 & 2003



Source: Computed from GLSS III & IV, and CWIQ Survey, 2003

966. Television and radio represent the most widespread and basic equipment for information and technology dissemination. The opening of the airwaves has meant a rise in the number of radio stations, especially private FM stations. The increased diversity of these stations, both in content and language use, has meant owning a radio is now of major importance to households. Access to telephones has also increased. There are more payphones currently (3200 and rising), and more communities now have telephone services as existing communities have expanded lines. Expansion of facilities to the rural areas is currently underway.

Level of Satisfaction with Services

967. Anecdotal evidence suggests that while service scope has expanded considerably, users of ICT facilities, mainly telephone and internet services are far from satisfied with the level of service from the providers. Formal complaints have often been made to the service providers themselves and to the NCA. There have also been complaints to other institutions that supervise ICT related enterprises, such as the Ministry of Communications (MoC). It is also obvious that the quality and coverage of these services have generally improved with time; the coverage of the three leading mobile phone operators now reaches almost all major urban centres in Ghana. Notwithstanding these advances, there are a few shortcomings. Notable among these is the issue of tariffs. The tariffs paid by consumers have generally been high, especially for mobile phone services and internet services, although competition among providers has tended to bring prices down somewhat.

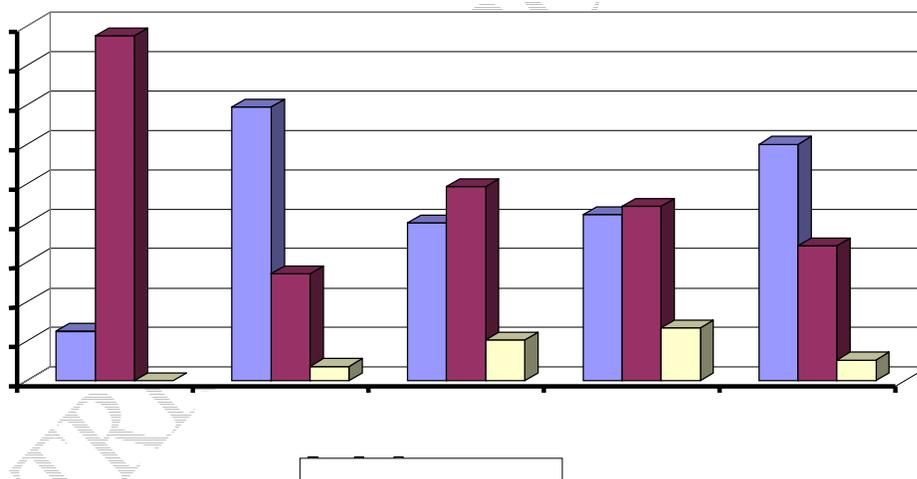
Science and Technology

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968. In terms of the promotion of Science and Technology, a substantial number of survey respondents commended the efforts made by Government to promote and encourage Science and Technology (S&T). However, close to half of the respondents to the APRM questionnaire felt Government was providing inadequate funding to Science and Technology promotion. Surprisingly, a very large section of the sample indicated that District Assemblies were not adequately promoting science and technology.

969. With regard to Science and Technology application, Figure 4.14 depicts responses from the APRM survey conducted in 2004. While a substantial number indicated that there were efforts by government to promote and encourage Science and Technology (S&T), a very large number of the sample indicated that District Assemblies were not playing enough of a role in the promotion of S&T. Close to half of the respondents to the APRM questionnaire felt government was providing far less funding to Science and Technology than was required.

Figure 4.14 Survey Responses on Science and Technology Promotion and Application



Source: APRM Survey, 2004

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4.8 OBJECTIVE FIVE: PROGRESS TOWARDS GENDER MAINSTREAMING AND EQUALITY

4.8.1 Institutional Framework for Gender Mainstreaming

970. Over the years, government, NGOs and other agencies have put policies in place to strengthen and make gender mainstreaming more effective. More concerted efforts to integrate women into mainstream development and other affairs of the nation started with the establishment of the National Council on Women and Development (NCWD) in 1975 (NRCD 332). In 2001, the Ministry of Women and Children's Affairs (MOWAC) was set up by Government and given legal backing by Executive Instrument (EI) 18 of 26th October 2001. All the government ministries, departments and agencies (MDAs), some UN agencies, Non-Governmental Organisations (NGOs), other women and child-focused organisations and Civil Society are expected to collaborate with MOWAC.

Gender, Safety and Human Rights

971. The safety of the citizenry is an issue that in recent years has received considerable attention in terms of its constitutional significance. The Police Service has also received additional support in recent years to boost their capacity to cope with what appeared to be a rising wave of crime against women. Since the Beijing Platform was launched violence against women has been given more serious attention. Cultural and other social practices that seemed to suggest domestic violence was 'normal' in spousal relations have received widespread criticism by women activists. A number of studies on the situation in Ghana have been conducted, and they reveal that indeed violence directed at women and children was not uncommon in everyday life in Ghanaian society. Violence in this study was classified under the following themes:⁷⁵

- Physical violence
- Psychological violence
- Socio-economic violence
- Violence related traditional practices
- Sexual violence

972. The establishment of WAJU by the Ghana Police Force has been a major step forward in official acknowledgement that violence needs to be addressed. It has also created an opportunity to wage a public campaign against domestic violence. WAJU is presently established in all regional capitals, though the aim is to extend

⁷⁵ Bortei-Doku Aryeetey, E. 2004; Bortei-Doku Aryeetey E. and A. Kuenyehia, 1998; Coker-Appiah D. and K. Cusack 1999

this facility to district capitals in the near future. Several NGOs are currently engaged in this business. WAJU staff is being trained by NGOs to make the members more sensitive to the task; while other NGOs have taken up the campaign to educate the public about citizens (women, children and men) rights in relation to violence. Between 1999 and 2003 WAJU received several complaints of physical violence and sexual violence, mostly against women and girls (Table 4.9).

Table 4.9: Type of Cases Reported at WAJU by the Public (1999-2003)

Type of Case	1999	2000	2001	2002	2003	Total
Rape	23	34	58	134	100	349
Defilement	154	181	204	533	509	1581
Assault	95	86	232	1456	1559	3428
Threatening	21	16	60	652	461	1210
Offensive Conduct	4	1	2	175	165	347
Non-Child Maintenance	523	1383	1047	1899	3024	7876

WAJU, Accra.

The Domestic Violence Bill

973. The Domestic Violence Bill, which is yet to be passed by Parliament, was formulated in recognition of the seriousness of a persistent culture of violence against women and children. While there are already existing instruments for addressing violence, such as the Criminal Code, the general view among gender activists is that this does not duly accommodate the peculiarities associated with domestic violence. In particular the Bill seeks to spell out in no uncertain terms the scope of violence that is subject to redress, including physical deprivation (food and safety) as well as emotional abuse and uncommon forms of sexual offence such as sexual harassment.⁷⁶ Table 4.10 shows attitude towards the domestic violence bill.

Table 4.10: Attitude towards Domestic Violence Bill, in Percentages.

Attitude	Yes	No	Don't Know
Familiarity with Domestic Violence Bill	49%	42%	9%
In favour of Bill	42%	11%	47%

Source: APRM Fieldwork, 2004.

974. Many development partners now commit resources to developing the capacity and infrastructure for dealing with domestic and other related violence. In May 2003, the Canadian High Commissioner launched a Trust Fund for the Gender Violence Survivors Support Network (GVSSN) with seed money of €46 million to help victims obtain the necessary assistance and rehabilitation. It is to be stationed at WAJU and managed by a committee comprising representatives from CIDA, WAJU, CHRAJ, Korle-Bu Teaching Hospital, Korle-Bu Polyclinic, Ark Foundation and WISE.

⁷⁶ Bortei-Doku Aryeetey, E. 2004.

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Women in Public Life

975. Getting women into public office has been the most difficult aspect of gender mainstreaming in the country for a number of reasons. While the 1992 Constitution is quite clear on the equality of women in Ghanaian society, there are many traditional barriers to office holding for women in the country. In addition, women’s inability often to attain the same educational heights as men, makes it difficult for them to make inroads into leadership or senior positions in both the public and private sectors.

976. Other factors have influenced women’s involvement in public life within the professional or political context. Generally domestic responsibilities compete with other activities that women might engage in, often leaving them with little choice but to opt for their caring roles. Cultural attitudes also impede women’s engagement in decision-making and attempts to take initiative. In many respects Ghanaian women have made important strides in the public service since they were first employed into the civil service in 1939, particularly in relation to their terms of engagement. But in other ways the position of women has not altered much. The bulk of women employees have remained at the lower end of appointments, specifically in clerical jobs. The period has been marked by the occasional appointment of women to high office in the public services.

Table 4.11: Women In Public Life from 1992 to 2003

Type of Office	Numbers and Period	Comments								
Ministerial Appointment	<table border="1"> <thead> <tr> <th>Minister</th> <th>Deputy</th> </tr> </thead> <tbody> <tr> <td>1992 - 3</td> <td>5</td> </tr> <tr> <td>1996 - 8</td> <td>4</td> </tr> <tr> <td>2000 - 5*</td> <td>7</td> </tr> </tbody> </table>	Minister	Deputy	1992 - 3	5	1996 - 8	4	2000 - 5*	7	<p>These numbers may have changed during the term of a government due to cabinet reshuffle.</p> <p>*The 2000 ministerial figure includes 2 women who were designated ‘Ministers of State’ in the Ministry of Education. These figures include a hand full of regional ministers and deputy regional ministers between 1992-2003.</p>
Minister	Deputy									
1992 - 3	5									
1996 - 8	4									
2000 - 5*	7									
District Assemblies	<p>DCEs 1998-2000 – 11/110 2001-2003 – 6/110 Dist. Elections – 4% women Dist. Appointments – 30% - 38% female for the 10 Regions</p>	<p>In 1996 42 DAs did not have any elected women.</p> <p>DA appointments by the have been used to level representation between men and women, but the proportion of women has remained below the 40% sought by the Affirmative Action Policy; the Government aspires to 50% representation for women.</p>								
Parliament	<p>1992 – 16/200 1996 - 18/200 2000 – 19/200</p>	<p>More women are standing for parliament, but the number elected has remained more or less stable</p>								
Council of State	<p>1992 – 4/24 1996 – 4/24 2000 -</p>	<p>Women normally enter the Council of State through appointment by the President, rather than by election.</p>								

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Source: ISSER/ DPPC, 1998. Women in Public Life. ISSER. Legon; NCWD, Ghana's Draft 3rd and 4th Report to CEDAW, n.d.

977. While policies have been progressive, implementation of the gender mainstreaming agenda has been unsatisfactory. To be able to improve implementation of gender mainstreaming the following problems have to be resolved:

- The institutional machinery established to oversee gender issues;
- Lack of political will from the national machinery and the NGOs in raising a unified and coordinated voice on gender issues;
- Programmes geared towards achieving government commitments to women empowerment are not systematic and lack benchmarks making it difficult to hold government accountable;
- Women's lack of skill in advocacy which prevents their active participation to represent their constituencies;

4.9 OBJECTIVE SIX: BROAD-BASED PARTICIPATION IN DEVELOPMENT

4.9.1 Encourage Effective Participation in Development by Key Stakeholders

978. Policy formulation at the national level is vested in the cabinet while at the decentralised level of governance it is in the hands of the metropolitan, municipal and district assemblies (MMDAs). Parliament considers and approves policies formulated by cabinet. Enhancing broader participation of stakeholders in policy formulation, beyond cabinet and parliament, has been attempted through a number of initiatives. These include

- The National Economic Dialogue;
- The Home Coming Summit;
- Stakeholders' Workshops on Policy; and
- Memoranda Presentation to Parliament

979. Unfortunately, too often, most of the recommendations emanating from these forums and workshops do not necessarily find their way into policies or are not implemented. Policy formulation at the level of MMDAs has essentially been the responsibility of the Chief Executives in conjunction with the members of MMDAs. While there have been attempts to involve other stakeholders in policy making at the level of MMDAs they have not been adequate and also not been effectively organised. There is indeed a general apathy towards participation in MMDAs' policy making activities.

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980. In terms of national policy implementation, the ministries, departments and agencies (MDAs) are responsible. Despite the existence of a local government law that prescribes roles as well as a planning law that outlines functions, tension in the relationship between MDAs and MMDAs often reduces their effectiveness in coordination. To ensure effective implementation of policies and improve inter-sectoral policy formulation and implementation monthly meetings of Chief Directors of the various ministries have been institutionalised. At the grassroots level, MMDAs are both policy formulators and implementers. The added responsibility of the MMDAs to implement national policies seems to pose a challenge to the implementation of their own-formulated policies as national policies seem to take precedence over policies formulated by the MMDAs.

981. There is some monitoring and evaluation of policies in the country. Every ministry and department responsible for policy implementation has a monitoring and evaluation unit. Monitoring and evaluation of development projects is, however, weak at MMDAs owing to lack of monitoring and evaluation teams in some of them, coupled with the weakening structure of the local government administration. Specifically, there are weak or non-existent area/town councils and unit committees. Thus, while efforts have been made to broaden public participation in decision making and policy formulation in the country, institutional weaknesses have often worked against effective grass root participation and the realisation of local government objectives. To be able to enhance the broader participation of the people in the development process, monitoring and evaluation units must be strengthened, development programmes must be well coordinated, the decentralisation process must be deepened in its entirety and the relationship between MMDAs and civil society should be strengthened.

4.10 RECOMMENDATIONS

982. On the basis of the above observations, the report recommends the following:

- Implementing agencies for the various standards and codes need to be regularly sensitized on the status of the standards and codes. A related issue is that consultations on any standards and codes that are to be adopted or ratified should involve a wider group of stakeholders and not simply limited to the implementing agencies. This practice may be extended to consultations on all national development policy documents and programmes.
- An accelerated growth strategy is essential for achieving various socio-economic ends. Conscious and pragmatic policies should be put in place to ensure that the savings rate is increased to well beyond 20% per annum while investment rates climb to over 27%. These are the rates that were achieved in South-East Asia prior to the period of rapid growth in the 1980s and 1990s, and there is enough

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evidence to show that they are attainable. Sound macroeconomic policies should be pursued in addition to conscious efforts to attract investments. Also, considering that growth has not trickled down to some sectors and some regions of the economy, a set of appropriate redistributive policies is necessary to ensure that all benefit equitably from economic growth.

- A much stronger focus on the distributional pattern of growth and poverty reduction, and also on inequality is required. Discussions of poverty reduction typically have focused on the national level poverty headcount figures (where progress has been achieved), but have not focused on the disaggregation showing that sizeable groups of the population have been excluded from poverty reduction. This calls for different policies which focus on excluded regions and groups. The north-south differential is a key aspect, but a more sophisticated discussion is required, recognising diversity of experience within both southern and northern Ghana. Finally inequality has not been an important focus of discussion in Ghana, perhaps because levels of inequality are lower than in some other Sub-Saharan African countries. However, increases in inequality carry important political risks. This issue does not feature much at all in the GPRS. In a volatile region politically, Ghana needs to aspire to pro-poor growth in a relative sense.
- Data availability and data inconsistency remain a major challenge to the country in assessing outcomes of national economic policies. The Ghana Statistical Service should be resourced and tasked to produce regular and up-to-date statistics on the economy. The MDAs and other agencies should also be made to consciously produce electronic information on their operations and outputs.
- Considering that although conscious efforts are being made to improve access to education, the quality of education is perceived to be declining, investments for enhanced teacher training, better remuneration for teachers and other incentives to attract teachers to the rural areas are essential now. In terms of access to health, the migration of health professionals from Ghana has to be seriously addressed. The reasons for the brain drain are not just economic but also due to poor working environments.
- In order to improve access to other basic social and economic services such as water, electricity, housing, ICT, finance and markets, the following suggestions are made: first, access to water can be improved through public-private partnerships but with conscious effort to ensure that poor people's access is not compromised. Access to electricity, particularly by the poor, could be greatly enhanced if meters were provided to poor households. In terms of housing, it is suggested that an effective regulation of private house developers in order to outlaw the practice of taking so many years of rent advance will significantly improve access to shelter. This must be accompanied by proper incentives and a stable macroeconomic environment. The government can also enter into agreement with private estate developers to provide affordable houses to the population. Access to finance continues to be a major obstacle to entrepreneurs hence it is suggested that government finds alternative means of financing its deficits and reduce the use of treasury bills which crowds out private investors.

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- Finally, more funds should be put into ICT usage and the promotion of Science and Technology.
- It is also suggested that the implementation of policies to ensure gender mainstreaming and equality should be accelerated. It is not good enough to have policies that are either not implemented or only implemented at a very slow pace.
 - Finally, broad-based participation in the design and implementation of national development policies should be effectively pursued. Participation leads to effective ownership and therefore effort should be made to ensure wider participation in national programmes. Monitoring and evaluation of policies and programmes should be carried out regularly to ensure their effectiveness.

CHAPTER FIVE

CONCLUSION

5.0 KEY ISSUES AND CHALLENGES

983. In line with the broad APRM principles, this Report has focused special attention on the situation in Ghana in the four thematic areas and throws some light on our understanding, the challenges and the best ways to address to gaps identified to spur progress and share the best practices with others. In highlighting the progress made in governance and the difficulties identified so far, the performance of the political, economic and corporate processes that the study has revealed are viewed as linked to the outcomes in socio-economic development that were observed at the end. The assessment focuses on the extent to which Ghana's political system conforms to a raft of international standards acceptable to Ghana, and outlined a Program of Action, including recommendations for the improvement of the country's democratic and political institutions.
984. The major conclusion that may be drawn from the report is that there has been considerable improvement in Ghana in the performance of the country's institutions. By institutions we may refer to the organizations of the state, the rules, regulations, norms and conventions that direct the actions of people. This includes the organization of markets for economic activity. The study reveals that efforts have been made to bring these developments in line with international expectations. The institutions work better today than they did a decade ago. As a result the outcomes are also seen to be better and improving as the years roll by.
985. Significantly, too, it is generally agreed that the outcomes are still far less than desirable. Even the institutions that are performing somewhat creditably have not met the aspirations of the people relative to growth and prosperity. This is because they have not been able to deliver efficient services and attract the needed private

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investment. Consequently, while poverty may have declined, there is still considerable inequality. While the governance arrangements are more transparent, there is still a high level of perception of corruption. Furthermore, while the school system has been expanded there is consensus that the quality of education is declining. There is also a shortage of skills availability to industry and management. Briefly stated whatever gains may have accrued from new state functions, governance arrangements, public policy choices and economic reform, have been mixed. These, however, would seem to compare favourably with most African countries.

986. The study established that the new institutional arrangements are expected to lead to improved material outcomes for the people, enhanced well-being and greater self-esteem. These indications of socio-economic progress are expected to result from improvement in political governance, economic governance, and corporate governance. It is important to emphasize that many of the governance arrangements that are being developed find their source and expression in the Constitution of the Republic of Ghana, especially as reflected in the Directive Principles of State Policy.
987. Another significant finding of the study worth noting is that the processes leading to the changing face of governance arrangements at different levels of organization have their roots in political and economic reforms that the country has been experiencing since the past two decades. The main lesson from that trajectory of reform has been that it is pointless trying to reform only parts of dysfunctional systems and hope for total positive outcomes. The partial reforms of the system led to partial success, which has not been enough to satisfy the aspirations of the people. It is this history that compels the need for a more comprehensive programme of reform that covers the economy, political arrangements and the organization of the corporate worlds of public and private sector.
988. Today the role of the state, as well as the use of public policy, is changing very fast in Ghana. It is increasingly accepted that the state must use its authority and resources to facilitate the functioning of markets. Thus, Ghana is moving steadily away from the situation where the state replaced the market in the first decade of independence. This trend is indeed a part of a more global trend. Today, all modern states engage in income redistribution, macroeconomic management and in market regulation, even though the scope of the functions varies from country to country and from one historical period to another.
989. Ghana has embraced a new model of governance with its attendant privatisation, liberalisation, welfare reform and also deregulation of state structures. Significantly, traditional methods of regulation and control are giving way as a result of the forces of technological, economic, financial and regional integration to a paradigm shift in governance and a radical transformation in management practices.
990. The Ghanaian experience has indeed been influenced by its association with the rest of the world, particularly Europe and North America. But even more fundamental has been the role that the international financial institutions have played in shaping governance arrangements. This has been challenged as part of the process of

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globalization. Given its exogenous drive, there has been considerable experimentation in order to meet both domestic and external challenges. Thus, while the process of reform has been on-going for close to two decades, the transition has been fraught with difficulty and a number of challenges that are yet to be overcome.

991. What this report has clearly established is that the institutions that are intended to make the transition workable have been saddled with a number of problems that should be addressed urgently. Until they begin to work soundly, the market does not function properly and this affects the capacity of the economy to deliver the socio-economic development outcomes that are regarded to be essential.
992. A number of issues come out of the review of governance and development performance in Ghana in the last decade or so. They show clearly the enormous strides that have been made in improving governance arrangements, at the political, economic and corporate levels. They indicate the socio-economic developments that have taken place even if a lot still remains to be done. It is clear that the will to improve living conditions for Ghanaians through improved governance is getting better and stronger with time. Whatever remaining problems there are, are largely a consequence of the difficulty in harnessing the human and domestic financial resources required for the development exercise. Thus, while the rules and regulations have improved considerably, the studies reveal the enormous human capacity problems in the management of policy, structures and institutions that should lead to growth and development. They also throw significant light on the difficulties of financing many activities, particularly at the district level, both in the public sector and in the private sector. The continuing poverty and the fact that many of the current interventions are overwhelmed by the magnitude of the problem should be a source of worry.
993. The study shows that while a number of issues present themselves as opportunities others constitute constraints for dealing with the challenges analysed in this Report.

Opportunities

994. The achievement of a relatively stable democracy in Ghana, as demonstrated in the transfer of political power from one elected government to another in December 2000, the first of its kind in the nation's history and is relatively unique in Africa. This has been followed by the successful election of December 2004. This encouraging development provides the much needed confidence in the stability of the government and in the likelihood of maintaining a stable policy environment and process.
995. After difficulties of the 1990s the change in government provided an opportunity to be more focused on policy shifts that were essential to achieving a more stable macroeconomic environment. This was important considering the pervasive view that quite a number of approaches tried in national economic management had outlived

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their usefulness, thereby creating room for new ideas. There is reason to believe that this is really happening.

996. A major opportunity has been created by the willingness on the part of the international community to perceive Ghana's current development goals as necessary if Ghana and Africa are going to come out of the usual cycles of instability and poor growth. It is now no longer considered idealistic for African countries to want to grow at 8%-9%, as has been reflected by the Millennium Development Goals. Developed countries have pledged to assist developing countries to achieve faster growth rates.
997. Ghana's position in Africa should also see an opportunity created by the expected growth throughout the region. With the NEPAD initiative and the increasing accession of countries to the APRM that can spur improvements in governance, African economies will recover and grow faster. This point is based on the assumption that African economies will continue with macroeconomic reforms and institutional strengthening and development activities, at the same time that the external environment and natural conditions improve. Within the sub-region, a number of developments make for improved regional co-operation and an expansion of markets. Nigeria's democracy, coupled with its size and willingness to engage in partnerships with Ghana provide an enormous opportunity to expand the markets for their mutual benefit. ECOWAS is definitely moving to establish itself as a major institution for facilitating development and good governance, as reflected in experiences with Togo.
998. Recent developments in the science of producing food and other agricultural goods, as well as in information communications technology, present significant opportunities for expanding, modernizing and expanding agricultural production, while improving Ghana's competitiveness in this area. Information communications technology creates access to information that should transform production for human development. It is important to remember that in the new knowledge-based economy, a lot will depend on the acquisition of information and the transformation of such information into productive assets.

Constraints

999. The major external development that threatens the stability of the Ghanaian economy in the coming years will be those in the oil market. There are serious concerns about the implications of the expected high prices at the same time that the US and European economies are not showing rapid growth. Apart from the high prices affecting Ghana's import bills and capacity to produce, they will adversely affect European and Japanese growth and this in turn may have negative implications for Ghana and the rest of the developing world. The fact that the terms of trade are expected to deteriorate is probably not surprising, but that is the main problem Ghana faces: the undue dependence on a narrow group of commodities for exports.

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1000. Difficulty in financing development from domestic sources will continue to be a major constraint. In the absence of radical policy and institutional developments, rising rates of poverty would mean that the growth of domestic financial assets among households will be far slower in the coming years than it is presently and also far less than is required for the acceptable growth rates. The situation is made worse by the fact that various structural and institutional factors keep households from making their assets financial. There is ample evidence that financial sector reforms of the last decade have not resulted in significant resource mobilization. The fragmented market structure provides little incentive to financial sector borrowers to seek marginal savers and borrowers in view of relatively high transaction costs. But it is unlikely that those market structures will change, independent of the structures of economies.
1001. The prospect for significantly increased official development assistance in the medium-term is improving. Despite recent developments in the aid environment and debt relief signals, as well as the pledges from donors to assist Africa achieve higher growth rates, there is still scepticism about the willingness and capacity of the donor institutions to respond positively to that gesture. Frequent reference to *aid fatigue* and *aid dependency syndrome* may be used as indicators of a perceived growing unwillingness to raise aid volumes significantly in the short-medium term.
1002. The prospects for foreign direct investment (FDI) and other private capital flows in the short-medium term are quite mixed. Ghana's ability to attract private capital is weakened by the high risk perception associated with Africa in general. The existing evidence suggests that country risk, by implication, macro-economic risk, is the predominant source of variation in stock returns across countries (versus industry-specific shocks).
1003. The threat posed by HIV/AIDS is real. It was ranked highly among the major killers in Ghana. There have been reports of its incidence in every district of Ghana, with a reporting level of about 40%. At the current HIV prevalence rate of 3.6%, Ghana has to work hard to avoid the 5% threshold seen by experts as marking the beginning of an explosion. Under that scenario, public expenditure on AIDS management will rise tenfold by 2014 in real terms. Probably the most significant threat it will pose is the loss of manpower, especially in the agricultural and industrial sectors.

RECOMMENDED POLICY FOCUS FOR THE MEDIUM-TERM

1004. As part of the Country Self-Assessment, a preliminary Draft Programme of Action has been prepared to address the policy gaps that have been identified in the Report. The preliminary Draft Programme of Action is comprehensively reflected in the four thematic areas. Based however on the key issues and challenges identified in this concluding chapter the following abridged recommendations as a focus of public policy over the medium term are made:

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- Renewed Macroeconomic Reforms
- Capacity-Building
- Development of Science and Technology Capacity for Production
- Attracting Foreign Direct Investment
- Ensuring the Effectiveness of Decentralisation
- Achieving Public-Private Partnerships

Renewed Macroeconomic Reforms

1005. It is recognised that when markets are far from perfect, as they are in Ghana, the capacity of market forces to efficiently allocate resources is often severely compromised. One of the lessons learned from Ghana's experience so far is that policy reform can hardly be adequate. In the face of structural and institutional bottlenecks, potential gainers need to act together and take the necessary steps to promote the establishment of efficiency enhancing institutions (including effective private markets), that would bring transactions costs to a more manageable level and help put the economy on a dynamic growth path.

Capacity-Building

1006. Over the years Ghana has basically failed to adapt its human resource development programmes towards the exigencies of changing socio-economic and political structures. The poor capacity to deal with economic and social development problems has arisen from two main sources: (i) the lack of investment in the institutions and processes that form capacity, and (ii) the slow destruction of the enabling environment for maintaining existing capacities. Ghana needs to tackle the capacity problem within a more comprehensive framework than has been the case in earlier attempts.

Development of Research and Technology Capacity for Production

1007. It is generally recognised that the achievement of Ghana's long term development goal of becoming a middle income country requires the establishment of appropriate science and technology development processes and the attainment of effective outcomes from research endeavour. The strategies should include;

- prioritisation of the national research agenda;
- increasing public spending on research and technology development without affecting the budget size unduly;
- achieving public-private partnerships in research and technology development;
- achieving greater interaction between researchers and research users;
- cost-effectiveness in research and technology development; and
- addressing human capacity problems beyond remuneration.

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Attracting Foreign Direct Investment and Other Private Capital

1008. An objective of attracting private capital is to create jobs for the many unemployed persons. The plan should be to initially make up for a half of the outstanding amount of Gross Domestic Investment that has to be funded from foreign savings. The need to re-vitalise exports must be seen as an essential activity to bring in FDI and other private capital. Quite a lot is known in the literature about what brings in private foreign capital. It usually goes where consistent growth has been achieved and where there is country risk minimisation, development of infrastructure, appropriate macroeconomic policies, with particular reference to stable exchange rates, etc. It is obvious that Ghana needs to do more than achieve what is in the standard recommendations in view of the competition with other countries in the region. There are three things that Ghana must have in place in order to attract private foreign capital.

- Ghana must have a strategic framework for industrial development that will indicate how foreign participation will be utilised, and that has to be reflected in the various incentive packages that are to be prepared.
- Ghana must have a fairly stable macroeconomic regime, governed in a transparent manner that keeps exchange rates stable.
- The financial system must be made more robust and in tune with global developments.

Ensuring the Effectiveness of Decentralisation

1009. Poverty is going to be fought largely through the initiatives of local government bodies. It is generally acknowledged that while Ghana's efforts to achieve a decentralised framework for administration and planning are laudable, they have been hamstrung by a number of difficulties. The biggest problem facing the decentralisation exercise has been the difficulty of drawing adequate resources. But decentralisation is acknowledged to be the most feasible means by which effective rural development can be made achieved.

1010. The policy response to the current problems of district assemblies and other units should be to make it easier for decentralised units to raise the resources required for their operations. While it may be easy to legislate what proportion of public expenditures need to be administered and controlled by district assemblies, on account of their resource requirements in relation to the national budget, there is every indication that they may have substantial capacity problems in handling such resources. This suggests caution in the exercise of expanding the scope of resources for decentralised units.

Achieving Public-Private Partnerships

1011. Public-private partnerships should underscore most of the development initiatives of the medium-term. There are a number of developments that already make this an essential and still-growing part of institutional processes in Ghana. An example is cost-sharing and cost-recovery in the delivery of social and other public

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- services. An effective legal system is also crucial to nurturing a good relationship between the public and private sectors. For the purpose of poverty-reduction, however, an even more crucial institution for mediating the concerns of the public and private sectors should be the district assemblies.
1012. An area of crucial importance in the process of creating jobs, facilitating the development of exports and attracting foreign direct investment will be the development of business partnerships. Strategic partnerships in the development of business will be fostered so long as the exit strategies of the public sector are not harmful to social progress.

Conclusion

1013. In conclusion the willingness of African governments to subject themselves to the APRM has signalled that a new wind of change is blowing across Africa. To confront this change, African leaders and their people have resolved to take their destiny in their own hands. There is now the determination that the clock of progress must tick in one direction - the direction of renewal, growth and prosperity. Through the APRM they are leaning on each other to reassure themselves against being blown away off course but rather have a firm and unshakable grounding that anchors them on track. In this way the APRM provides a lead candle light that is showing the way and retracing the footsteps of the present generation of leaders back into the trail that was blazed by the founding fathers.
1014. It is hoped that this will re-position them to the realization that the independence and emancipation of Africa from dependence, marginalization, poverty and a just world can only be attained when Africans get their own act together. For far too long Africans have groped in the dark oblivious of their bearings and even a sense of purpose. If this Report on Ghana becomes a bearer of the rediscovered torch of progress that is now lit and a harbinger of African renaissance, progress, growth and prosperity it would have made a fair share of its contribution, however, small in this quest to pull Africa from its current state of political, economic, corporate and socio-economic doldrums onto a pedestal of regeneration as our own architects and builders of a blossomed future.

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