State of Competition Regime in Ghana

Preliminary Country Paper

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Correspondence:
Institute of Statistical, Social and Economic Research
P. O. Box LG 74
University of Ghana
Legon, Accra
Email: cackah@isser.ug.edu.gh

I. General background:

Geography, Climate and Demographics

Ghana, the first sub-Saharan African country to gain political independence from colonial rule in March 1957, is located on the west coast of Africa, about 750 km north of the equator. The country has a total land area of 239,460 square kilometres and it borders Burkina Faso to the north, Côte d'Ivoire to the east, Togo to the west and the Gulf of Guinea to the south. Northern Ghana is mostly flat savannah, with brush and grasses being the primary form of vegetation. The southern coastline is generally low-lying, with sandy shores vegetated by scrub grasses. The area of the country in between was, prior to the twentieth century, covered by thick rainforest; now, however, only a few clumps of forest remain, mainly scattered in the southwest. Ghana is also notable for being home to the world's largest artificial lake, Lake Volta.

The climate is generally tropical, with temperatures ranging from twenty-one degrees to thirty-two degrees Celsius. The north is hot and dry, the southeast coast warm and dry and the southwest hot and humid. There are two rainy seasons: March to July and September to October.

Demographically, as at July 2008, Ghana's population was estimated at 28.4 million and the annual population growth rate is estimated at 1.9% (CIA, 2008). Like most developing countries, Ghana's population is skewed towards the youth and, as at 2008, 37.8% of the population is estimated to be 14 years old or younger.

Economy and Poverty

There is no doubt that Ghana has been enjoying a period of relatively strong economic performance over the past few years. This is certainly an encouraging change from the previous decades when economic growth was either negative or stagnating. The last 20 years have seen real GDP growing steadily at about 5% per year. This good performance is principally attributable to relative macroeconomic stability and reform, substantial inflows of external financing and debt relief and rising prices for primary commodities (UNECA, 2007).

In 2007, Ghana's GDP was estimated at $14.89 billion and its real GDP growth rate at 6.2%. The economy has traditionally been dominated by agriculture and in 2006 this sector accounted for 39% of the GDP, with services accounting for 33% and industry, 28%. In terms of employment, agriculture employs about 55% of the labour force, with services employing 30% and industry 15%. In recent years, however, the services sector has been gaining increased importance. Ghana's major sources of foreign exchange are its gold and cocoa exports as well as remittances from abroad. Ghana is very dependent on international aid and in 2007 the total amount of aid in loans and grants was estimated at $1.316 billion. In recent years Ghana has benefited extensively from debt relief: first under the Heavily Indebted Poor Country (HIPC) program in 2002; then under the Multilateral Debt Relief Initiative (MRDI) in 2006 (CIA, 2008; ISSER, 2008).

The incidence of poverty remains high in Ghana albeit substantial declines from the 1991 level of about 52% to 40% in 1999 and 28.5% in 2006. Poverty had fallen in the countryside as well as in the towns, though progress had been more rapid in rural areas. Research at ISSER (2006), suggests that this positive trend is likely to continue if Ghana maintains the average growth rates of the last few years making it likely that a number of targets contained in the Ghana Poverty Reduction Strategy II (GPRS2) will be achieved. This optimism is however tempered by the fact that while poverty declined, inequality increased significantly during the same period. The Gini index for consumption per equivalent adult increased from 0.353 in 1991/92 to 0.378 in 1998/99 and finally 0.394 in 2005/06. The evidence shows that the northern savannah area has been left behind in the national reduction of poverty, even though poverty was smaller in 2005/06 than in 1991/92. Large poverty reductions have occurred among private sector employees in both the formal and informal sectors, and among public sector wage employees, but export farmers have experienced the largest reduction in consumption poverty. Poverty reduction among the large numbers of food crop farmers, on the other hand, has been modest. Reductions in the incidence of poverty over the period have been smaller also for the non-farm self employed and informal sector wage employees. A recent publication by the World Bank suggests that had there been no change in inequality, the reduction in poverty would have reached 27.5 points, so that Ghana would have achieved the MDG target of reducing poverty by half versus its level of 1990. To raise the growth rate and sustain it at the level that will allow Ghana to halve poverty by 2015 requires the recognition of the importance of complementary policies in enhancing the benefits of globalization.

Culture and Religion

There are several tribes in Ghana but the major ethnic groups are Akan, Moshi-Dagomba, Ewe and Ga. Over 200 languages and dialects are spoken including Asante (14.8% of the population), Ewe (12.7%), Fante (9.9%), and a slew of other less prominent languages. However, for official business (and in schools), the language of choice is English. The major religions in the country are Christianity (69% of the population), Islam (16%) and Traditional African beliefs (9%) (CIA, 2008).

History and Worldwide Perception

Ghana attained independence in 1957, the first country in Sub-Saharan Africa to do so. From 1966 till 1981, the country was racked by coup d'etats and their attendant social and economic disruptions. In 1992, however, Ghana became firmly established as a constitutional democracy and since then the country has become noted in the sub-region, and in the whole of Africa, as an example of burgeoning democracy and political stability. Indeed, Ghana's worldwide rankings in terms of civil liberties and press freedom are amongst the best on the continent. For instance, Reporters without Borders ranks Ghana 29 out of 168 countries in terms of its Worldwide Press Freedom Index while Transparency International ranks Ghana 69 among 179 countries according to its Corruption Perception Index (Wikipedia, 2008).

II. Social and Economic Policies affecting Competition

Development Policy:

Political Economy

Consistent with the conventional wisdom at the time of independence, Ghana began with an import substitution industrialisation programme in her quest for economic development, resulting in a centrally planned economy in which free trade was highly discouraged. Indeed, Nkrumah's Seven-year Development Plan stressed industrialization through domestic production of import substitutes. His central planning approach also included state provision of a wide range of social welfare services such as free education, health care, and housing. The results were relatively high growth rates recorded in the period 1960-1964.

However, the 1970s witnessed increasing corruption, political instability and poor macroeconomic management. A wide range of economic policy changes (some self-destructive) and political adventure of the subsequent decade resulted in a steep economic decline and rising poverty by the beginning of the 1980s,[1] culminating in the adoption of the Economic Recovery Programme (ERP) in 1983, under the auspices of the IMF and the World Bank, aimed at correcting the distortions that contributed to the stagnation and decline of the economy in the 1970s and early 1980s (see Aryeetey *et al.*, 2000). These reforms included trade liberalisation, the elimination of exchange rate distortions, price-deregulation, privatisation and divestiture of public enterprises, investment in human capital and institutional capacity building and the rehabilitation of economic and social infrastructure. The policy reforms since 1983, succeeded in reversing the decline of the economy and improving the overall economic performance. The period witnessed a marked transformation of the economy from an administrative system of economic management to a market-oriented system. GDP increased by an average of 5 percent per annum between 1984 and 1992. This process of transformation continued into the 1990s with the private sector increasingly becoming the driving force of the economy.

Following independence in 1957, Ghana under the Nkrumah regime[2], embarked on a strategy of import-substituting industrialisation through the establishment of state-owned enterprises (SOEs) between 1961 and 1966. This development policy enjoyed a boost from the substantial foreign reserves inherited from colonial rule and the high world market price for cocoa (Ghana's major export crop). Between 1961 and 1965, these policies seemed to bear fruit as real GDP growth averaged more than 3 percent per annum. However, Ghana began to experience increasing balance of payments problems, due to the extreme dependence by the regime on huge external loans and the fall in world cocoa market prices during 1964-65. At the same time, due to over-staffing and gross mismanagement, most of the SOEs had become unprofitable. The combined effect of all of these internal and external problems was that of a chronic foreign exchange problem and massive foreign debts. In response to these problems, the ruling Convention People's Party (CPP) government resorted to restrictive trade policies: import controls through quantitative restrictions via the issue of import licences. This, in part, led to Ghana's first military coup in 1966 which turned out to be the beginning of a series of political and economic instabilities.

Nkrumah's CPP government was toppled in a bloodless military coup by the National Liberation Council (NLC) led by Lt. General J.A. Ankrah. With assistance from the World Bank and the International Monetary Fund (IMF) the regime sought to pursue a relatively more liberalised trade

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[1] The Ghanaian economy is said to have reached its nadir with the advent of the macroeconomic crisis of 1983. It is estimated that real GDP per capita was at 70 percent of 1967 GDP per capita.
[2] Dr. Kwame Nkrumah's Convention People's Party (CPP) was the ruling government at the time.

system by removing some of the controls, devalue the currency and empower the private sector to become the engine of economic growth. However, recognized professional bodies representing teachers, lawyers, and industrial workers resisted these market-oriented policies. The 1969 general elections ushered in the Busia regime. This regime was more committed to an open trade system and therefore undertook to liberalize and abolish import controls. Its austerity budget of 1971 introduced taxes on imports, withdrew subsidies, liberalized trade, and abolished free education. In addition, an export promotion package was introduced in 1969 to encourage an increase in manufactured exports. However, the regime began to experience severe balance of payments difficulties as some of the credits contracted by the previous regime (the NLC government) and rescheduled medium-term debts began to fall due in the early 1970s. The problem was exacerbated by a fall in the world market price of cocoa in 1970-71. Prime Minister Busia responded to these crises by a massive devaluation of the Cedi by 48.6 per cent in December 1971. Inflation began to increase rapidly, the public lost confidence in the government, and in January 1972 Ghana experienced another military coup which overthrew the Busia regime.

The Acheampong regime sought to regain the public confidence by reversing the currency devaluation. In February 1972 the cedi was re-valued upward by 44 percent. The Acheampong government decided to repudiate some of Ghana's commercial debts because they were contracted irregularly. The consequence was a sharp reduction in aid and grants from bilateral donors. In seeking to achieve food sufficiency, this regime further embarked on nationalisation programme by launching Operation Feed Yourself (OFY) and Operation Feed Your Industries (OPI) with strict adherence to import controls. This scared away potential foreign investors. The high inflation (a maximum of 54%) and the emergence of a black market that ensued are attributable, in part, to the huge government expenditure due to Acheampong's nationalisation programme. The revaluation exercise is also argued to have led to the emergence of a black market. The overall picture was that of a completely stagnant economy.

Lt. General Akuffo led the 'palace coup' that successfully overthrew Acheampong's regime on July 5, 1978. Notable among the policies implemented by this regime was the (further) devaluation of the Cedi by 60 percent, and the increase of the cocoa price by 100 per cent per load. Between 1979 and 1982 political power within the Ghanaian economy changed hands on two occasions. On June 4, 1979, the Armed Forces Revolutionary Council (AFRC) led by Flt. Lt. Jerry Rawlings as chairman, displaced Akuffo's regime through another military coup. This regime is remembered, among other things, for the introduction of price controls, particularly, on imported goods. Ghana had another chance to return to democracy with the elections of June 1979, which was won by the People's National Party (PNP). Rawlings handed over power to its victorious presidential candidate, Dr. Hilla Limann in September. The Limann administration faced the daunting task of salvaging the economy from further collapse. Just as the regime seemed to be settling into the new political environment to execute its mandate, Ghanaians woke up on the morning of 31st December 1981 with yet another coup d'etat by then Provisional National Defence Council (PNDC) led by Jerry Rawlings. The PNDC basically continued with the price controls introduced during the AFRC era. In an attempt to curb the rising inflation, and mop up excess liquidity, the government embarked on a confiscation of the 50.00 Cedi notes. Individual and company bank accounts containing high balances were deemed suspicious and were frozen by the regime.

Ghana returned to civilian rule in 1992 when Jerry Rawlings was returned to power after his party, the National Democratic Congress (NDC), won the 1996 general elections. In December 2000, the leading opposition party, the New Patriotic Party (NPP), replaced the NDC government after winning the Presidential and Parliamentary elections. This was a historic moment for Ghana in that it was the first time an elected government handed over power to another democratically elected government. However, as the NPP settled into the seat of government it was soon realised, by the end of 2000, that Ghana faced an unsustainable debt service.[3] His Excellency President John Agyekum Kuffour took a bold decision, amid some criticisms, to declare Ghana as a Heavily Indebted Poor Country (HIPC) in order to benefit from the Enhanced HIPC initiative. This facility is expected to make available the much need resources for increasing social spending and reducing poverty. The NPP government was returned to power following the recent Presidential and Parliamentary elections in December 2004. This electoral victory was seen as an endorsement of the policies initiated by the NPP government since December 2000.

Structural Adjustment Programme (SAP)

Ghana was one of the first countries in SSA to initiate a programme of economic stabilisation and market reform under the banner of the Economic Recovery Programme (ERP) supervised by the World Bank. This structural adjustment reform package, adopted in the middle of 1983, was characterised by devaluation, fiscal austerity, tight money and liberalization policies. The programme had a mixed impact on the agricultural sector. On the one hand, the initial opening up of the economy to foreign trade (alongside the flood of foreign assistance to finance it) led to increased availability of capital goods and inputs such as fertilizer; cocoa producers profited from increased producer prices of cocoa and from liberalization of cocoa marketing. On the other hand, the food sub-sector seems to have been weakened by the switch to cash crops (Kraev, 2004).

With regard to the industrial sector, the ERP had a varied impact. The investment incentives, including unlimited repatriation of profits and a reduction in corporate tax rates, led to a shift in price incentives in favour of export industries and against the formerly protected manufacturing industries. The main components of the industrial sector are mining, manufacturing (largely for the domestic market), and utilities (largely government-owned). In response to the investment incentives listed above together with generous tax concessions, the mining sector grew substantially. However, the impacts of ERP policies on domestic manufacturing were largely negative, mainly because the cost of capital goods increased astronomically (Kraev, 2004).

Poverty Reduction Strategy Paper

The overarching aim of Ghana's current socio-economic development agenda is the attainment of middle income status (with a per capita income of at least US$1000) by the year 2015 within a decentralized democratic environment. The Growth and Poverty Reduction Strategy Papers (GPRS I & II) provide the underlying framework by which this agenda may be achieved. GPRS I emphasized poverty reduction initiatives, but GPRS II focuses on the implementation of growth-inducing policies and programmes with the potential to engender wealth creation and sustainable poverty reduction. With the attainment of relative macroeconomic stability and modest economic growth under GPRS I, Ghana's focus has now shifted to the priorities of the GPRS II which include: continued macroeconomic stability; accelerated private sector-led growth; vigorous human resource development; and good governance and civic responsibility.

[3] It was estimated in June 2001 that at end December 2000 Ghana's net present value of debt to revenue stood at 557% which was significantly higher than the critical value of 250% (see Oduro, 2002).

Under the GPRS II, Section 3.2.2 (Promoting Trade and Industry) devotes some space to consumer concerns and aims to "ensure the health, safety and economic interest of consumers". This is to be achieved through: the enforcement of legislation that prevents the sale of unsafe and poor quality goods on the local market; strengthening of the regulatory and enforcement framework for protection of economic rights of consumers; development and implementation of national consumer awareness programmes; encouragement of the formation of a consumer association; and ensuring that consumers have adequate representation on relevant national bodies. Consumer protection is seen as a way to ensure a consistent and stable policy environment within which the private sector and consumers can operate effectively. The expectation is that of an environment that increases competitiveness of producers in both local and international markets.

Despite tremendous gains achieved since the inception of the GPRS, some policy and development challenges still remain to be overcome. Firstly, there are serious infrastructural gaps noticeable in the water, energy, roads and sanitation sectors. Experts estimate the cumulative needs in the four major infrastructural sectors at US$3.4 billion for the period 2004 to 2008, representing annual outlays of approximately 8% of GDP (see Tsibouris *et al*., 2004).

Secondly, the production and export base of the Ghanaian economy still remains relatively narrow, exposing the vulnerability of the economy to external shocks. Agriculture productivity has been low and it has been recognised that the share of agricultural products (cocoa, timber, and other non-traditional exports) in total foreign exchange earnings has been declining since 2004. For instance, agricultural production contributed 52.8% of total foreign exchange earnings in 2004 but this declined to 45.9% in 2005 and 41.1% in 2006 (ISSER, 2007). The gains that have been achieved over the years through export diversification have not been significant enough to make the export sector a major engine of economic growth.

In addition, while the investment climate has improved in recent times, lapses are still noticeable in some key areas such as starting a business, getting a license, registering property and accessing credit among others. There has also been a slow rate of progress with public sector reform and further progress is needed specifically on public expenditure/financial management, transparency, and internal audits.

Agriculture Development Strategy

As discussed in Aryeetey *et al.* (2000), the main focus of Ghana's economic reform programme has been in the area of trade and agricultural liberalisation, reflecting the importance of these sectors in the economy of Ghana. Like the vast majority of SSA countries, Ghana has had restrictive and distortionary agricultural policies since independence until the 1980s (at least), typically motivated by some desire to protect domestic producers. Prior to 1983, agricultural policy in Ghana was geared towards two main objectives, amongst others: (i) to increase food production, (ii) to provide raw materials and other inputs to the other sectors of the economy, and (iii) to ensure food security and adequate nutrition by improving the availability of food for consumers (Brooks *et al*., 2006). Policies used to achieve these objectives included price controls, input and credit subsidies, obligatory credit allocations, and heavy state involvement in production, distribution and marketing. The Ghana Food Distribution Corporation (GFDC), which was established in 1975 to replace the defunct Agricultural Development Board, which had been in place since the 1960s, were the two main institutions responsible for procurement and storage of maize and rice at the guaranteed prices (Brooks *et al.*, 2006).

Since the reforms which begun in 1983, and especially in the 1990s, the sector has undergone dramatic changes. The reforms since 1983 have involved the removal of price distortions on crops, eliminating subsidies for agricultural inputs including fertilizer, and reducing the role of parastatals (Nyanteng and Seini, 2000). The government eliminated the guaranteed minimum price paid to farmers for food crops (mainly maize and rice) in 1990 and subsequently abolished subsidies on inputs (mainly fertilizer) in 1992. As detailed in Nyanteng and Seini (2000), the low level of productivity, particularly in food crops, can partly be attributed to poor farming practices and very low use of fertilizer, following the withdrawal of government subsidies on agricultural inputs. The authors have pointed to the existence of a vacuum in the procurement, supply and distribution of inputs following the withdrawal of government support and the failure of the private sector to assume such responsibilities. This failure may be ascribed to the fact that, although the privatization process was carried out over three years, this was not enough time for the private sector to respond to the new incentives. One of the consequences of such actions is the decreased availability and large increases in the real prices of such critical inputs as fertilizers, insecticides and fungicides. Teal and Vigneri (2004), for example, show that the real prices of inputs rose far faster than the consumer price index after the removal of the subsidies.

In the late 1980s agricultural policies were guided by the Ghana Agricultural Policy: Action Plan and Strategies 1986-88. Its key objectives were: (a) achieving self-sufficiency in cereals, starchy staples and animal proteins, with priority for maize, rice and cassava in the short term; (b) price stabilization and food security through the maintenance of adequate buffer stocks; and (c) improving institutional capacity in research, credit and marketing (see Brooks *et al*, 2006:17). However, weak institutional capacity was soon identified to be one of the key obstacles to a successful implementation of the present initiative, culminating in the Agricultural Services Rehabilitation Project covering the period 1987-1990. This joint Ghana government/World Bank project was aimed at improving the institutional capacity of the country mainly through privatisation. A number of successes were recorded in the area of agricultural research, extension and irrigation. Encouraged by these successes, the government, in collaboration with the World Bank, launched the Medium Term Agricultural Development Program with the key objective of increasing productivity and competitiveness in the agricultural sector during the period 1991-2000. Major areas for reform included reducing government interventions in the input and output markets whilst increasing government support for agriculture through the provision and development of key institutions and infrastructure.[4]

These reforms notwithstanding, the performance of the agricultural sector has not been impressive relative to other sectors of the economy. Between 1988 and 1998 agriculture is reported to have grown on average by about 2.7% per annum and 2.5% per annum during the 1990s. As expected, agriculture's relative importance has been declining with economic development in Ghana. By 1998 for example, the share of agriculture in GDP had decreased from 45 percent in 1985 to 36 percent, while the industrial sector increased from 16% to 25% with negligible changes to the service sector.[5]

[4] In the cash crop sector, the parastatal monopoly (COCOBOD) in cocoa marketing has not been eliminated (World Bank, 1995; IMF, 2000) although reforms ensured that cocoa farmers receive a higher share of world market prices (Kanbur, 1994).

[5] Hutchful (2002) attributes this to the often contradictory and poorly coordinated ERP. The author highlights

Nonetheless, as in most of SSA, agriculture still remains the mainstay of the Ghanaian economy. As the main source of employment and income, agriculture plays a very important role in rural Ghana. It is estimated that about 70 percent of the population of Ghana (mainly rural households) is dependent on agriculture for its livelihood.

Under GPRS II, agriculture is expected to grow at 6 percent per year over the four year period of the plan with the crops and livestock sector leading the growth at an expected average annual growth rate of about 6 percent, followed by forestry and logging and fishing at the rates of 5.1 and 4.8 percent per year respectively. The overall agriculture sector growth for 2006 was estimated to be about 5.7 percent and contribute and contribute about 35.8 percent to the GDP. This was more than the GPRS II target of 5.2 percent, but less than the growth rate of 6.6 percent anticipated in the 2006 budget statement. The shortfall is attributed to the inability of the cocoa sub-sector to achieve the target set under the budget statement.

The Food and Agriculture Sector Development Policy (FASDEP) contained within the GPRS strategy aims to address specific constraints which have been identified as major hindrances to overhauling the sector. Some of its policies are: promotion of selected products through improved market access; development of, and improved access to, technology for sustainable resource management; improved access to agricultural financial services; improved rural infrastructure; and enhanced human resource and institutional capacity. The first phase of FASDEP began in 2002 and the second phase commenced in 2007. To enable agriculture to spearhead the development process, the following areas have been identified for interventions: reform to land acquisition and property rights, accelerating the provision of irrigation infrastructure, enhancing access to credit and inputs for agriculture, promoting selective crop development, modernizing livestock development, improving access to modernize agriculture, increasing access to extension services, provision of infrastructure for aquaculture, and restoration of degraded environment.

Major Crops and Recent Changes in Production Patterns

Ghana's main agricultural products are cassava, yam and cocoa beans. In 2004, cassava production was 9.7 million tonnes, yam production 3.9 million tonnes and cocoa bean production 736 thousand tonnes. Yam production decreased from the previous year but production of both cassava and cocoa beans increased.

Agricultural Contribution to Economic Activity

The agriculture sector has always been and still remains the largest contributor to GDP. In 2006, agriculture contributed 39.3% of GDP, with services contributing 32.9% and industry 27.8%. The agriculture sector also contributed 41.1% of foreign exchange earnings in 2006 (ISSER, 2007). It is interesting to note, however, that since 2004, the share of agricultural products in total foreign exchange has been declining (from 52.8% in 2004, to 45.9% in 2005 and then 41.1% in 2006). This signifies that an increasing proportion of Ghana's foreign exchange is coming from the non-agric sectors. In total, the agriculture sector contributed US$1,356 million of foreign exchange in 2006.

Major Agricultural Imports and Exports

Ghana's total agricultural imports in 2004 were valued at US$1,037.9 million. The top three imports were cotton lint (US$25.5 million), milled rice (US$10.4 million) and refined sugar (US$9.6 million).

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especially the substantial fall in the share of agriculture in public expenditure and in particular the abolition of fertilizer subsidies and the decline in access to credit.

Ghana's two main agricultural exports are cocoa and timber products. In 2006, earnings from cocoa amounted to US$1,004 million, making up over 30% of total foreign exchange earnings. Earnings from timber amounted to US$149 million. Earnings from other non-traditional agricultural exports amounted to another US$203 million. Ghana's major non-traditional exports are horticultural products (shea nuts, pineapple, yam) and fish and seafood (tuna and frozen fish). Horticultural exports earned US$75.64 million in 2006, an increase of 50% over the 2005 figure. Fish and seafood earned US$67.90 million, a 48% increase over 2005. The top five foreign earners in 2006 were: tuna (US$34 million, compared to US$15 million in 2005); shea nuts (US$27.2 million, from US$28.9 million in 2005); frozen fish (US$20.1 million, after US$18.4 million in 2005); pineapple (US$19.1 million, from US$12.8 million in 2005); and yam (US$14.2 million, compared to US$10.9 million in 2005).

Industrial Policy

The Ghanaian manufacturing sector has undergone tremendous changes and has been subjected to various policy prescriptions since independence over four decades ago in an attempt to make it the engine of growth and economic prosperity. At independence Ghana had a relatively underdeveloped and very narrow manufacturing sector accounting for only 0.8% of GDP. The manufacturing sector after three years of independence was still small generating only 4% of GDP and accounting for 9% of total employment.

Under an import substitution industrialisation (ISI) strategy the manufacturing sector between the early 1960s to the early 1970s saw tremendous changes with the state taking an important and growing role in the process. According to Steel (1972), by 1962 state-owned firms were producing about 12% of manufacturing output and this increased to about 20% in 1966. During the beginning of the 1970s the ISI strategy had begun to fail and by 1983 the sector was in a bad shape with negative growth rates.

The Economic Recovery Program (ERP) initiated in 1983 to get the Ghanaian economy out of the mess in which it was, seemed to have had a mixed impact on the manufacturing sector. Steel and Webster (1992) indicated that not only did many small manufacturing firms become more competitive but also they changed their product mix and created new market niches. The period soon after the ERP was initiated also saw the emergence of a new crop of dynamic entrepreneurs. This culminated in increased growth in manufacturing output to about an average of 5% per annum between 1984 and 1987. However this declined to about 3% between 1988 and 1995 due to the negative impact of trade liberalization, credit and financial constraints, poor infrastructure, excessive bureaucracy, competition from illegal imports and market conditions etc. The decade, 1995-2004 saw the manufacturing sector growing at 4.4% on average.

Although Ghana has been categorized as a relatively successful adjuster, trade liberalization has had some negative impact on the manufacturing sector. Manufacturing value-added did rise rapidly after 1983, when imported inputs were made available to existing industries that were suffering from substantial excess capacity. However, as liberalization spread to other imports and excess capacity was used up, the exposure to world competition led to a steady deceleration of manufacturing growth. For instance the rate of growth of manufacturing value added fell to 5.1 per cent in 1988; 1.1 per cent in 1990; 2.6 per cent in 1991; and 1.1 per cent in 1992. Indeed between 1981 and 2001 manufacturing value added per capita grew annually by less than 0.9% from US$37 to US$44 (ISSER, 2004).

The performance of the Ghanaian manufacturing sector after the inception of structural adjustment does not suggest that it is responding well to liberalization. Employment in manufacturing has fallen from a peak of 78,700 in 1987 to 28,000 in 1993. Indeed between 1992 and 2003, the proportion of the working population aged 15 years and above who were employed declined from 8.2% to 6.4%. Although the reforms saw the emergence of a new crop of dynamic entrepreneurs and a subsequent rise in the number of small enterprises, most of the enterprises were engaged in low-productivity activities aimed at local markets. In addition, foreign investment in manufacturing activities did not respond well to the adjustment as most of it was concentrated in primary activities, rather than in manufacturing. This was against the background of the inability of domestic private investment to adequately "dynamise" the manufacturing sector.

Due to the prudent macroeconomic policies instituted by the government under this period, one would have expected that the manufacturing sub-sector and the industrial sector as a whole would show remarkable improvements in growth performance in line with the sustained rising real GDP growth rate recorded since the year 2000. Unfortunately, the manufacturing sub-sector and industrial sector as a whole have not performed too well. This is reflected in the fact that the industrial sector continues to make low contributions to GDP growth and lags behind the service and agricultural sectors in their contributions to GDP growth. In 2006 and 2007 the manufacturing sub-sector appeared to have experienced the lowest growth in the last decade.

Although the Bank of Ghana's Composite Index of Economic Activities (CIEA), an index of eight economic indicators which measures the level of confidence of businesses in the economy indicates significant increases over the past few years, a combination of factors namely; unfavourable competition from cheap Asian imports, rising crude oil prices, the energy crisis of 1998 and 2006/07, poor management, outdated machinery, credit squeeze as well as high taxes and multiplicity of levies have hindered the growth of the manufacturing sector.

Ghana's manufacturing sector comprises, among others, food and beverages, textile, wood chemical, and cement. As the largest contributor to industrial output in Ghana, manufacturing sub-sector output determines to a great extent the overall performance of the industrial sector.[6] The performance of the manufacturing sub-sector can be viewed as consisting of three periods so far: the import substitution industrialization era soon after independence (1960-1982); the era of structural adjustment and economic recovery program (1983-2000); and the third period of sustained macroeconomic stability and increasing investor confidence (2001-2007).

As expressed in the GPRS II, Ghana has a long-term vision of developing an agro-based industrial economy. This aim necessitates a number of broad policy objectives targeted at the industrial sector. The most direct policy measure is to increase the output and improve the competitiveness of domestic industrial products. This would involve, inter alia, mobilizing domestic and international resources for production of value-added products; infrastructure development (i.e. road, water, ICT, electricity, etc); promotion of efficient management practices in production systems; encouraging the use of local products and services in government procurement; actively promoting made in Ghana products within domestic and international markets; ensuring the removal of technical barriers in the way of key current and potential export products; and assisting exporters to comply with standards required by selected international export markets.

[6] The industrial sector comprises of four main sub-sectors i.e. manufacturing, mining, construction, and electricity and water

Other policy measures aimed at the industrial sector include: ensuring proper integration of the nation's production sectors into the domestic market and, in particular, identifying and promoting opportunities for economically beneficial linkages along production and supply chains in new and existing productive sectors; increased agro-processing by promoting and supporting the processing, preservation and utilization of crops, animal and fish products as well as facilitating the establishment of small-scale agro-processing industries for export.

Trade Policy

Over the course of the late 1980s and throughout the 1990s, there have been several macroeconomic and trade policy reforms, including tariff policy and devaluation (depreciation) of the Ghanaian Cedi, all of which have the potential to impact on food production, consumption and poverty. In the case of import tariff liberalisation, the reform process was, perhaps, not dramatic and has generally lagged behind reforms of quantitative restrictions. The liberalisation process entailed a gradual reduction of the tariff structure and level. By the year 2000 the simple average applied MFN tariff rate had fallen to 15%. In addition the tariff structure has been simplified and few non-tariff-barriers are applied. Ghana was already open by the early 1990s, but she has become continuously more open since then. The stabilisation and adjustment policies were generally maintained in the 1990s. In the 1990s several attempts have been made by the government aimed at improving the agriculture and trade sectors. Extensive reforms aimed at reversing previous inward-looking policies were pursued. Moreover, the 1990s witnessed an explicit policy focus on poverty reduction. Trade reforms in the 1990s included specific export promotion measures aimed at improving the relative incentives to producers of exportables. Following trade liberalisation, one would expect to see an increase in imports and exports. The increasing openness of the economy, saw both imports and exports increasing as a share of GDP, but as has always been the case for decades, imports have consistently exceeded exports.

At the start of the 1990s Ghana operated a tariff regime of five lines (i.e. 0%, 10%, 15%, 20% and 25%) but the tariff system was subsequently changed to the present four-tier structure with rates of zero, 5%, 10% and 20%. Most food imports attract the highest duty rate of 20%, although the simple average tariff declined from 17% in 1992 to 13% in 2000 (WTO, 2001). In the unique case of poultry, the import tariff was raised from 20% in 1993 to 40% by the year 2000, as a concession to the National Poultry Farmers' Association which called for higher tariffs aimed at protecting the nascent domestic poultry industry from unfair imports from the European Union. In addition to these import duties the government charges a 12.5 percent (previously 10 percent until 2000) Value Added Tax (VAT) on both imported and domestically produced goods and services. Special import taxes have been a common feature of Ghana's tariff regime with a previous rate of 17.5% only abolished in March 1999 but soon re-introduced at a higher rate of 20% on mainly consumer goods, covering some 7% of tariff lines, which in effect adds a fifth tariff rate of 40% (WTO, 2001).

Economic Partnership Agreements (EPAs)

The EPAs were originally conceptualized to be negotiated as trade and development agreements between the European Community (EC) and groups of ACP countries, going beyond pure market access because both sides agreed that trade was not enough to stimulate economic development in low income countries. The ECOWAS position had always been that the EPAs should come into force in January 2011 instead of the 1st January 2008 as provided under the Cotonou Partnership Agreement. The extension was deemed necessary to allow for further negotiations of the many outstanding issues including strengthening of the regional integration process. As it became apparent that the EC was not prepared to extend the deadline for the waiver, some ECOWAS countries, including Ghana, began scrambling for an interim deal on goods, the so called 'EPA light'. Ghana signed an interim trade deal with the EC in mid-December 2007 as a stepping stone to safeguard exports to the world's biggest trading bloc, leaving controversial issues such as trade in services or measures to strengthen competitiveness to be negotiated in a second stage in 2008. Ghana's interim agreement provides for the immediate abolition of tariffs on virtually all exports to Europe and the gradual dismantling over 15 years of tariffs on 80 percent of imports from the 27-member EU bloc. The remaining 20 percent of imports deemed "sensitive products" will be subject to tariffs even after the 15-year transition period for food security, employment and fiscal reasons.

Future developments in world trade and in the performance of the Ghanaian economy will be influenced to a large extent by the full-blown EPAs and the Doha Round of multilateral trade negotiations when completed. For a country like Ghana, although the signing of an EPA may provide benefits, these are unlikely to be significant in magnitude, at least in the medium term. First, import-competing sectors in Ghana are relatively underdeveloped so that even if they have the potential to be competitive and efficient, they are not so at present. Moreover, weak institutions and unfavourable structural characteristics (e.g. export dependence on a narrow range of primary commodities) may mean that Ghana is unable to avail of the potential benefits from the EPA. Thus, the EPA presents both opportunities and challenges, but the latter are more direct and immediate than the former.

As negotiations for the full-blown EPA continues, there is a call for strong effort and political will to advance and achieve a truly development-oriented outcome. Ghana's negotiators should recognize our unique structural problems and the need for the flexible use of trade policy instruments that could help maximize the impact of trade integration on the development of our domestic productive capacities. It is fundamental to find an arrangement that deals directly with the structural problems of African countries, the real impediments to production of the items to be traded. The EUs 'Aid for Trade' agenda could be helpful in financing infrastructure needs, building ACP state capacities and establishing appropriate regulatory structures.

Privatisation and Regulatory Reforms

The private sector has since the early 1970s been on the periphery of Ghana's economy. In the mid 1980s, the government at that time controlled more than 350 state-owned enterprises, but nearly 300 had been privatized by the end of 2000 under a privatization program. By end of 2003, 18 more had been divested. In the last five years, attention has been drawn to the importance of the private sector in boosting economic growth given the right incentives. The development of a National Medium term Private Sector Development Strategy (2004 – 2008) will attest to this. The strategy is designed to accelerate the government's progress towards achieving the Golden Age of Business. The aim is to create a conducive market system for the private sector to flourish. The key targets are to create a favourable investment climate in Ghana as well as to eliminate any key barriers to doing business.

Ghana reformed trade, tax, and property administration. It introduced a single window clearance process at customs where traders can now file all paperwork at one place. Clearance time dropped from seven days to three days for imports and from four days to two days for exports. Ghana also reduced the corporate tax rate and reconstruction levy for businesses, cutting the overall tax burden from 35.6 percent to 32.3 percent of profits. The stamp duty on property transfers decreased from 2 percent to 0.5 percent of the property value.

Ghana has been able to create a workable framework to regulate all aspects of the economy and minimise any form of duplicity. All these regulatory bodies have been mandated to maintain high standards and protect the interests of both producers and consumers. These bodies are gradually moving from licensing services to ensuring compliance with the maximum standard for quality of service delivery. Though there have been improvements in the areas to do with business, many other sectors in Ghana face a lot of bottlenecks in terms of regulatory reform and the enforcement of these regulations once they are passed as laws.

Investment Policy

Ghana has a comprehensive investment law, the Ghana Investment Promotion Centre Act, 1994 (Act 478). Part 1 of the Act establishes the Ghana Investment Promotion Centre (GIPC), whose functions include initiating and supporting measures that will enhance the investment climate in the country for Ghanaian and non-Ghanaian companies, as well as promoting investments in and outside Ghana through effective promotional means. In 2006, Section 25 of the Act was activated by the government to empower the GIPC Board to enter into negotiations towards the granting of special incentives for projects it considers of strategic importance to national development.

In regards to Foreign Direct Investment (FDI) flows into the country, in 2006, India, China, Britain, Lebanon, USA and Germany were Ghana's major sources of FDI. Indeed, Ghana has benefited significantly from investment inflows from China and India in the past decade. In 2004, India became the main source of foreign investment, followed by China. Between 1994 and 2006, India registered a total of 256 projects with 37 percent of them being in the manufacturing sector and 16 percent in general trade. China followed with a total of 249 projects registered, 34 percent of these in the manufacturing sector and 19 percent in general trade (GIPC, 2006). Nigeria and South Africa remain the leading African investors in Ghana. About 65 and 50 percent of FDI from South Africa and Nigeria respectively, have been invested in the services sector. This increased investment in the services sector is a reflection of the positive impact of the new tourism Law (Legislative Instrument 1817) which grants generous incentives to investors in the tourism and hospitality sub-sector

Government Procurement Policy

In 1960, the Government enacted the Ghana Supply Commission Act which was reviewed later in 1990 by PNDC law 245. In the same year, Contracts Act, Act 25 of 1960 was also passed. In 1976, the National Procurement Agency Decree SMCD 55 was passed by the Supreme Military Council. In 1979, another law, the Financial Administration Decree SMCD 221 was also passed. All these laws, decrees and instruments were meant to provide a comprehensive framework of administrative powers to regulate the activities of procurement within the public sector. The Ghana Supply Commission and National Procurement Agency were established as Central Procurement Agencies which were involved directly in frontline procurement. However, the legal frameworks did not include the establishment of oversight body to oversee the successful implementation of these laws. Hence, the procurement process was characterised by unclear legal framework, lack of harmonized procedures and regulations and unclear institutional and organizational arrangement required in the management of the public procurement process. It became clear therefore that, there was the need to critically examine the processes and procedures of public sector procurement to ensure operational efficiency and institutional capacity to address procurement issues. The draft bill was

finally passed into law on 31 December 2003 and was called Public Procurement Act 2003, (Act 663). The Act essentially provides a framework for developing and strengthening procurement institutions and streamlining their operational processes in the context of poverty reduction, private sector development and good governance as well as anti-corruption. The Public Procurement Authority has therefore been established to perform this role.
Currently, there is no single code for the government procurement process; the rules vary from transaction to transaction. However, a unified code is under preparation. The government alone accounts for about 50 – 70 percent of all imports in the country with the Ghana Supply Company (GSC) acting as the principal purchasing agent of the government. Previously, some parastatal entities received government subsidies to finance imports on behalf of the government but this practice has been abolished. Former government import monopolies have also ceased. In spite of this, rent-seeking private businesses continue to exploit the absence of a harmonized legal framework for government procurement by paying bribes to government ministries, departments and agencies to gain favours in the award of government procurement contracts. It is hoped that the passing of the Public Procurement Act and the establishment of a Public procurement Authority will curb these practises and make the procurement process transparent and free of corruption.

Labour Policy

Ghana's labour regulations and policies are generally favourable to business and labour-management relations are fairly good. A revised Labour law (Act 651) passed in 2003 became effective in March 2004. The new law unified and modified the old labour laws to bring them into conformity with the core principles of the International Labour Convention, to which Ghana is a signatory. All the old labour related laws, except the Children's Law (Act 560), have been repealed. Under the 2003 Labour Law, the Chief Labour Officer issues collective bargaining agreements (CBA) in lieu of the Trade Union Congress (TUC). A National Labour Commission has been established to resolve labour and industrial disputes. Finally, the Tripartite Committee that determines the minimum daily wage now has legal backing and public and private employment centres can be created to help job seekers find work. There is no legal requirement for labour participation in management. However, joint consultative committees in which management and employees meet to discuss issues affecting business productivity are common. There are no statutory requirements for profit sharing, but fringe benefits in the form of year-end bonuses and retirement benefits are generally included in collective bargaining agreements.

Ghana has a statutory minimum wage legislation, which is aimed at protecting workers and their families and guaranteeing low-skilled workers a wage that is enough to cater for their basic needs. The main objective of introducing minimum wage policy in Ghana was to raise income levels of unskilled workers within a social policy context. The policy was necessary because of the belief that the minimum wage may be a policy instrument for reducing poverty, but most employers have no legal obligation to pay apprentices and casual workers the minimum wage. Currently, the National Tripartite Committee (NTC) is tasked with the determination of a daily national minimum wage rate in Ghana. The national minimum wage is the lowest daily wage below which no employer is permitted to pay an employee and it is enforceable by law. Thus the NTC shapes the structure of wages in the formal sector of the labour market in the country.

With the promulgation of the Labour Act in 2003, the NTC received statutory mandate, tasked with the responsibility of determining the national daily minimum wage; advice on employment and labour market issues, including labour laws, international labour standings, industrial relations and occupational safety. The NTC is made of five representatives each from government, employers' organisation and organised labour. The Government is represented by the Minister of Manpower and Employment (chairperson of the Committee) while labour unions are represented by three members from the TUC and these are the secretary-general, the deputy secretary-general and the chairman of TUC. There is a representative each from the Forum and Ghana Federation of Labour. The Forum consists of Civil Servants Association (CSA), Ghana Registered Nurses Association (GRNA) and the Ghana National Association of Teachers (GNAT). The NTC may set up sub-committees at both regional and district levels, as it considers necessary for the effective performances of its functions. The NTC is responsible for determining the composition of the sub-committees but they must also be tripartite in nature. Since its formation, the NTC's other functions have been relegated to the background and it has mostly concentrated on the determination of the national daily minimum wage in the formal sector. The NTC has been a credible institution in setting the national minimum wage, as the rate has always been acceptable to all parties concerned.

The nature of bargaining in the labour market has implications on flexibility as well as employment and wage settlements. In Ghana there are two main levels of bargaining in the private formal sector, these are at the enterprise/company level and at the sectoral level. The enterprise/company level of bargaining is dominant in most of the bargaining process, which indicates that decentralised bargaining is predominant in Ghana. The enterprise level of negotiation is mainly prevalent in the mining sector of the economy. This is because the risk attached to each mining site may not be the same. Decentralised negotiations in the country have led to some flexibility and leverage for employers to respond to changes in labour market conditions. The situation may be attributed to the reduction in the powers of local unions coupled with local employers preferring decentralised form of bargaining. In spite of the dominance of enterprise level of bargaining, there are a few sector-level negotiations in Ghana. The Ghana Timber and Millers Organisation (GTMO) of the Industrial and Commercial Unions (ICU) for instance engage in sector-level negotiations.

The Fair Wages and Salaries Commission

As a result of the problems encountered in the implementation of pay reforms in the country and the fact that salary adjustments have mainly been in response to workers' strikes, public sector wages have continuously received a lot of media attention. Committed to prevent such bad media publicity and to develop and implement a comprehensive public sector pay reform, the government decided in its 2006 budget to embark on a comprehensive salary structure in early 2008. In furtherance of this agenda, the government enacted the Fair Wages and Salaries Commission Act (Act 737) on 4th June, 2007. The Act is to ensure that there is fair, transparent and systematic implementation of public service pay policy and that decisions relating to salaries, wages, grading, classification, job analysis among others are properly coordinated and managed. The Act sets up a commission to play the role of ensuring effective conduct and coordination of public sector wage and salary negotiation. An important aspect of the reform is the introduction of a unified single spine pay structure which places all public sector workers on an integrated pay structure. This pay structure incorporates an incremental point adjustment which will adjust salary levels from time to time. Although the single spine pay structure has been criticized of its inability to address the issue of the numerous allowances and the market premium in the public sector, it is expected to ensure pay equity in the public sector since all the workers in the public sector will be placed on the same spine. It can also make it easier to monitor and control the budget for the public sector and the ability to accommodate accelerated increments by extending the spine.

Consumer Protection Policy and Civil Society Organisations (CSOs)/NGOs

There is no comprehensive consumer protection law. However, there are a number of non-governmental organisations operating in Ghana as advocates of consumer protection and welfare. Three such NGOs are Third-World Network-Africa (TWN-Af), Friends of the Earth-Ghana (FOE-Ghana) and the Consumers Association of Ghana.

TWN-Af is particularly concerned with issues related to development, the Third World and North-South interaction. In Ghana, TWN-Af is very active in organising and participating in seminars and advocating for the interests of Ghana, Africa and developing countries in general. It is also involved in research on economic, social and environmental issues pertaining to the developing world and in disseminating results through books and journals. An example of a TWN-Af initiative is a workshop that was organised in May 2007 in Accra on "Extractive Industries and Human Rights in Africa" during which the participants resolved to, among other things, "work together and with communities, the media and partners from the global south and north to promote, uphold human rights values, and also expose alleged human rights violations".

FOE-Ghana is an NGO focused on environmental, social and economic issues. In 2005, FOE-Ghana issued a briefing paper on Ghana's Trade Policy highlighting key concerns for civil society in which it advocated for continued protection of farmers and producers, especially with the advent of the Economic Partnership Agreements.

The Consumers Association of Ghana is a locally-based NGO whose activities are focused exclusively on the promotion of competitive practice and the safeguarding of consumer interests. The association was formed in 1984 and has ever since taken a very active role in discourse and advocacy on issues on competition and consumer welfare.

III. Nature of the Market/Competition

Market Structure

As is common with most African economies, Ghana has many more small firms than large firms. Approximately 70 percent of the firms are termed as 'micro', employing less than 5 people. According to the Ghana Living Standards Survey 4 (1998/99) about half of the household in Ghana participate in non-farm productive enterprises. It is quite evident that the vast majority of households are engaged in some form of private sector activity even if it is on a rather small-scale. Most of these businesses are operated in the informal sector under very little regulation. Most often these businesses are not registered and do not have access to any property that can be used as collateral. Ghanaian firms especially the small ones tend to focus on the domestic market, with a number of large firms focusing on the international markets. Prices of goods are often determined by the level of supply and demand but prices of the same product may vary from location to location and from one retail point to the other.

Nature of Competition

Previously, many of the firms in Ghana had limited exposure to foreign competition due to their domestic orientation. As a result there was little incentive to invest in more efficient use of resources to improve production. In recent times however, the influx of cheaper food, light manufactures and textile imports from China has created a lot of competition in the market. Some production plants have closed down because of their inability to cut production costs to enable them stay in the markets. Even though the government has been supporting domestic private enterprises with financial incentives to make them more competitive, manufacturers contend that the country's tariff structure places local producers at a competitive disadvantage compared to imports from other countries.

A quick look at competition scenario for individual sectors reveals the following:

Water

Currently, Ghana Water Company Limited (GWCL) owns the production of potable water in Ghana with Aqua Vitens Rand Limited (a joint Dutch and South African company) responsible for the distribution and management of GWCL. Aqua Vitens has come under fire in recent times with some civil society organisations and other pressure groups calling for the termination of the management contract due to the acute water shortage in the Accra-Tema areas and other parts of the country.

The provision of pipe-borne water is a monopoly but due to deficiencies in service provision an informal market has developed in which private operators provide water using water tankers. This secondary market is fairly competitive, though it is characterised by excessive pricing.

The organisation of the drinking water supply in Ghana is very diverse. There are only 350,000 domestic connections for the roughly seven million people in Ghana with access to drinking water. A high percentage of urban consumers depend on water tankers for their drinking water supply. This includes both consumers who are not connected to the piped water system, and consumers who are connected, but receive irregular service. These consumers pay rates far in excess of those who rely on water from the piped system. Estimations indicate that whilst water from the piped system is charged at 0.6 Ghana Cedis per 1000 litres, those who rely on water from stand pipes have to pay between 3 and 5 Ghana Cedis while water tankers charge approximately 13.5 Ghana cedis for the same volume of water.

Power

The power sector is still characterized by government control. Volta River Authority (VRA), Electricity Corporation of Ghana (ECG) and the Northern Electricity Department (NED) of VRA are the key players in the industry. A quarter of Ghana's 3.8 million homes are electrified. Electricity satisfies about 10% of total energy demand and is mainly produced from hydro sources. From late 2006 to September 2007, due to a severe drought and underinvestment in power capacity, Ghana's consumers were affected by endemic power cuts.

Telecom

Ghana has a vastly liberalized telecommunication market. It led the way in telecommunications liberalization and deregulation in Africa when it privatized Ghana Telecom in 1996 (with a 30% managing share bought by Telecom Malaysia, replaced by Telenor of Norway in 2002). However, reforms have been stalled so far, leaving the door open for anti-competitive practices by operators. Reaction to the news that UK-based Vodafone has finally secured a deal with the Government of Ghana to annex 70 per cent stake in state-owned Ghana Telecom has been mixed. Many people, mainly from the opposition parties, believe that even though the capital injection would improve GT's fortune significantly (GT's enterprise value would be approximately US$1.3 billion plus a cash injection of US$500 million, totalling US$1.8 billion after the deal), Vodafone should have paid more.

Now, with two national operators and four mobile networks, annual growth has been significant, notably in the mobile sector where the number of lines exceeds fixed lines by almost 9:1. The four mobile operators are Scancom (MTN), Millicom (tiGO), GT-OneTouch and KASAPA. According to the National Communications Authority (NCA), as of the end of 2007, these operators had, respectively, 52.8%, 26.6%, 16.8% and 3.8% of the total number of subscribers. The two national operators (Ghana Telecom and Westel) held a duopoly on international service until February 2002; now international service is provided by most operators. Since 1994, the number of fixed line telephone subscribers in Ghana has grown from about 50,000 to 909,106 in 2007 and, in the same period of time, mobile subscribers have gone up from a couple of thousands to about 7,600,000.

Financial Services

The past few years have seen a phenomenal growth in the Ghanaian banking sector with a large number of foreign banks, particularly from Nigeria, entering the market. Ghana's financial sector according to the Bank of Ghana (Central Bank) is well capitalised, very liquid, profitable and recording strong asset growth. The Bank of Ghana has licensed 23 banks to operate in the country. In addition to the 23 banks (made up of 21 commercial banks and 2 merchant banks), the sector also comprises a range of non-bank financial institutions, including 5 finance houses, 3 leasing companies, 2 savings and loans companies and several community banks established to mobilise rural savings. The ARB Apex Bank is the umbrella bank for Rural Community Banks and supervises

125 such banks throughout Ghana. A distinguishing feature of the sector is the level of ownership by the private sector, directly or through the capital market when compared with the level of state ownership seen in the financial sector in other African countries. Notwithstanding this phenomenal growth in the financial sector, interest rates are still too high for the average Ghanaian worker and a great majority of Ghanaians are unbanked. There are high interest rates and very little competition among the banks especially with the interest rates deterring people from borrowing from the banks.

Transport

According to the Ministry of Transportation, there are 23 public road transport operators, all organised under one umbrella union, the Ghana Road Transport Co-ordinating Council (GRTCC). The major operators under the GRTCC are the Intercity STC Coaches Company Ltd. (STC), the Ghana Private Road Transport Union (GPRTU), the Progressive Transport Drivers Association (PROTOA) and the Commercial Drivers Association (CDA). These operators have essentially segmented and divided the market and thus there is little direct competition between them.

Extent of Competitiveness of Local Firms

Firms in Ghana are unable to participate effectively in the markets because of weak competence and capacity. The main factors contributing to this include low skill level of the labour force; poor production methods; lack of marketing know-how; and lack of low-cost finance for their operations. In recent times, there have been several efforts by the government to enhance the capacity and competence of Ghanaian firms through the provision of micro credit, venture capital and export credit as well as business support and training.

Existing or Potential Entry Barriers

Import tariffs remain a problem for businesses that rely on imported raw material. Most of them complain that the payments of VAT and import duties greatly reduce their ability to produce at competitive rates whilst foreign firms are given tax incentives to bring these items in.[7] Other constraints are labour costs, the high cost of fuel, lack of access to credit and delays in payments when firms are engaged in government contracts. Some firms (e.g. publishing firms) have to pay about $5,000 to tender textbook contracts which are sometimes difficult for local firms to do. Construction firms in Ghana are currently facing stiff competition from Chinese firms when bidding for contracts. This is because the Chinese firms often have access to cheap public credit (from the Chinese government) and benefit from lower unit costs for raw materials since they are often subsidiaries of large construction conglomerates which are able to take advantage of bulk purchases. This gives the Chinese firms a competitive advantage even though they face the same VAT that local firms do.

Competition Act

The Government of The Republic of Ghana is in the process of developing a Bill on competition law as a means of removing anticompetitive practices in the economy to ensure efficiency in the production system. Two draft Bills have been prepared before; the Trade Practices Draft Bill,

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[7] The Ghana Investment Promotion Centre (GIPC) offers tax incentives as part of a menu of incentives meant to attract foreign direct investment into the country.

drafted in 1993 and the Draft Competition and Fair Trade Practices Bill in 2004, all which could not be developed into an Act of Parliament. Although the two draft Bills have a lot of limitations that can hinder the effective implementation of competition policy in the country, they provide an important starting point for the drafting of any future competition law in Ghana.

Ghana does not have a comprehensive competition law at present. The main source of legal authority to protect consumers of goods and services was the issuance of the "Protection Against Unfair Competition Act, 2000" (Act 589) which is administered by the Minister for Justice. In terms of Act 589, commercial behaviour such as causing confusion with respect to another person's enterprise or its activities, damaging another person's goodwill or reputation, misleading the public, discrediting another person's enterprise or its activities, misleading advertisements and violation of trade secrets or breaching Ghanaian law or international or regional obligations contrary to honest business practices, constitute an act of unfair competition. Causing confusion is defined in the Act as any act or practice, during industrial or commercial activities that cause confusion with respect to another person's enterprise or its activities.

Act 589 covered mostly misleading acts, discrediting acts (false allegations concerning a competitor, which is likely to harm his commercial goodwill) and violation of trade secrets, where one's manufacturing secrets and commercial secrets, which may either be information of a purely technical character, is divulged without the owners' consent. Moreover any act or practice, in the course of industrial or commercial activities, would be regarded as an act of unfair competition if it is deemed to be contrary to honest business practices. The Minister of Justice is authorized under the Act to cause the issue of legislative instruments for the purpose of developing regulations aimed at protecting the public as consumers and also as producers of goods and services from unfair competition.

Competition Enforcement

The Act, although it was an important starting point, cannot regulate the general competition environment in Ghana, particularly with respect to restrictive business practices, mergers and acquisition and unfair trade practices, given the need for an autonomous body to perform the task. The Act is also outdated and less relevant as far as laying out the ideal environment for the attainment of efficiency in production and distribution of goods and services through fair competition is concerned. This was recognised by the Government, hence the drafting of the Trade Practices Bill of 1993, which was later incorporated into the Competition and Fair Trade Practices Bill of 2000, which still has to be developed into an Act.

IV. Sectoral Policies

Public Utilities Regulatory Commission (PURC)
PURC was set up on terms of Act 538, and its activities are also governed by the Energy Commission Act 1997 (Act 541). In summary, PURC's key tasks are to (i) provide guidelines for rates to be charged for the provision of utility services; (ii) examine and approve water and electricity rates; (iii) protect the interest of consumers and provides of utility services; (iv) monitor and enforce standards of performance for provision of utility services; (iv) promote fair competition among public utilities; and (v) receive and investigate complaints and settle disputes between consumers and public utility.

PURC is empowered to seek compensation for a consumer if necessary, pressure the utility to employ technology that improves service delivery and/or reduce cost for the consumer over a reasonable time period. The act further requires that whenever a public utility enters into an agreement with any body corporate the agreement be complied with as entered into in the agreement. There are also provisions on refusal to provide service which do not permit any public utility to refuse to serve anybody except with the permission of the Commission. Public utilities are required to make all rates charged by them public by publishing these.

Given the problems of price fixing by water tankers, the PURC could establish a pricing schedule for water tanker trucks, with small adjustments permitted to reflect varying costs of servicing different communities. There is no evidence that such a plan is under consideration. Many consumer protections provided in other country regulatory contexts appear absent from the PURC rate-setting and other processes. These include formalized quasi-judicial hearings and a specified right of intervention in hearings, and monetary support for intervention. The PURC says that it operates under a philosophy of self-auditing by regulated utilities, on the theory that the utilities are in the best position to provide information about their water quality and operations. However, self-audits are extremely controversial and, internationally, have been shown not to protect consumers.

The legislative framework that shapes the regulatory mandate of the PURC, both in relation to consumer protection and in relation to general oversight of the utilities, could be significantly strengthened Building and strengthening local Ghanaian capacity for effective water service delivery should be a critical part of any water sector reform proposal especially with the current problems with the management company (AVRL).

Water

Currently, there is one public utility, the Ghana Water Company Limited (GWCL) which owns the production of potable water in Ghana. Aqua Vitens Rand Limited (a joint Dutch and South African company) is responsible for the distribution and management of GWCL. Ghana now has its National Water Policy in place with 31 focus areas mainly aimed at ensuring the adequate financing and planning of the sector to enable equitable distribution of potable water to all parts of the country. Also, the Rural Water Sector Investment Plan and the Urban Water Sector Investment Plan are in the completion stages.

Power

The present regulatory framework of the electricity sector in Ghana results from a reform in 1997 when the parliament enacted two laws which created the Public Utilities Regulatory Commission and the Energy Commission. The former is responsible for competition regulation and quality of service monitoring while the latter is in charge of technical standards and licensing of electricity utilities. There has been no significant privatisation programme to date. Electricity pricing should also reflect the true economic cost of economic cost of generation, transmission and distribution and attractive enough to send the right signals to consumers and investors. It is not certain if this is the case, however, previous government subsidy of electricity has been drastically slashed in the past year with consequent increases in electricity tariffs by more than 100 percent.

Energy Commission

The Energy Commission was set up under Act 541, which requires the Commission to work together with the PURC to develop standards of performance for the supply, distribution and sale of electricity or natural gas to customers, by licensed public utilities. The law makes provisions for the payment of compensation, where the utility fails to satisfy the standards set by the regulatory body. The Energy Commission's main focus is on licensing and monitoring the technical and business aspects of energy provision. The PURC, on the other hand, mainly handles the setting of tariffs. There is a great deal of collaboration between the Energy Commission and the PURC with each agency having representation on the others technical committee.

Telecom

National Communications Authority

The National Communication Authority (NCA) was set up in 1996 under Act 524, with the main objectives being (i) ensuring that communications services are provided throughout the nation, as far as practicable, to satisfy consumer demand; (ii) ensuring that provision of communication services is highly efficient and is responsive to customer and community needs; (iii) promotion of fair competition among persons engaged in the provision of communication services; (iv) protection of operators and consumers from unfair conduct from other operators, with regards to the quality of communications services; and (v) protection of consumer interests

In its duties, the NCA is required to grant exemptions from licences; handle applications for licensing; determine conditions of license; monitor performance of equipment and compensation for damage; outline standards of performance; suspension and cancellation of licences as well as settling disputes among operators. The Act also provides that an operator, who controls a network or facility, may not limit access to the network for competitors. In addition, a dominant operator in the geographic market, as specified in a licence, should not resort to conduct or practice that unfairly disadvantage rival operators or calculated actions to curb competition.

In spite of mobile services being more expensive than fixed line services for the subscribers, there are many customers for mobile services, because of the flexibility of mobile services, of course, but also because mobile subscriptions are actually available in contrast to fixed line services where there are long waiting lists. Ghana telecom is the dominant wireline provided with Westel accounting for a very small share of fixed lines.

Indeed, all the mobile operators and the second fixed network operator Westel (and the rural operator Capital Telecom) have had great problems with Ghana Telecom over interconnection. Westel experienced a lot of interconnection problems with Ghana Telecom in the early stages of its operation and this delayed the commencement of its business for some time. According to Westel, the initial interconnection problems encountered with Ghana Telecom and the inability of the NCA to resolve the impasse negatively affected the sector in the capital market. Westel had wanted to operate a pre-paid system which would have allowed users to access its network as well as that of Ghana Telecom. Ghana Telecom objected to this and argued that Westel was to develop its own network as a second national network operator as contained in the license issued by NCA and then interconnect with Ghana Telecom on that basis. This dragged the interconnection negotiations until Westel backed down. Thus, from all indications, the NCA was negligent in fulfilling its regulatory role. However, competition in mobile telephony is still relatively strong, but its sustainability will depend on the government's future commitment to ensuring it.

<u>Financial services</u>

Bank of Ghana
The Bank of Ghana (The Bank), which is the Central Bank for the country, has the overall supervisory and regulatory authority in all matters relating to banking and non-banking financial business. The Bank aims to achieve a sound, efficient banking system in the interest of depositors and other customers of these institutions and the economy as a whole. All banks, non-bank financial institutions and foreign exchange bureaux' operations in Ghana are governed by the regulatory and legal framework as defined in the following legislations:

- Bank of Ghana Act 2002, Act 612
- Banking Act, 2004 (Act 673)
- Financial Institutions (Non-Bank) Law 1993, PNDC Law 328
- Companies Code Act 179, 1963

Bank of Ghana Notices /Directives/Circulars /Regulations
The Bank of Ghana is therefore charged with the responsibility of ensuring that the financial system is stable so as to serve as a facilitator for wealth creation, economic growth and development. Part of the functions, responsibilities and mandates of the Central Bank as a Regulator as defined in Act 612 and Act 673 include (i) regulating, supervising and directing the banking system and credit system to ensure the smooth operation of a safe and sound banking system; (ii) considering and proposing reforms of the laws relating to banking business; (iii) ensuring that depositors' funds are safe; (iv) ensuring that solvency, good quality assets, adequate liquidity and profitability of banks are maintained; (v) enforcing adherence to statutory and regulatory requirements; (vi) ensuring that there is fair competition among banks in Ghana.

Pursuant to this, the laws governing banking operations in Ghana have provisions regarding licensing, withdrawal of license, and arrangement for examining and monitoring banks, powers, and duties as well as protection of the supervisor, all which fall under the ambit of the Bank.

<u>Environment</u>

Environmental Protection Agency
The Environmental Protection Agency (EPA) was set up through a transformation of the existing Environmental Protection Council (EPC) under Act 490, 1994. It maintained its original functions of advising, coordination, collaboration, cooperation and awareness creation. In addition, it was given regulatory functions of issuing environmental permits and pollution abatement notices, prescribe standards and guidelines relating to the pollution of air, water, land and other forms of

pollution including the discharge of waste and the control of toxic substance among others.

Under its mandate the EPA enforces environmental requirements through issue of notice in writing to request for environmental impact assessment containing such information specified; issue enforcement notice when activities poses threat to the environment or public health to prevent or stop the activities; and an offence is committed when the enforcement notice is not complied with and liable to summary conviction to a fine and term of imprisonment. The responsible Minister irrespective of the above actions can also take such steps, as he considers appropriate to ensure compliance with the notice.

V. Anti-competitive Practices

Admittedly, it is generally acknowledged that anti-competitive behaviour damages the business environment everywhere both in the developed and developing worlds. Practices such as price fixing, market sharing, bid rigging, exclusive dealing, tied selling, misuse of dominant market positions and unfair trading practices which prevent firms entering new markets and expanding deny the consumer the wider benefits that competition can bring. In a situation like this a country becomes less competitive with detrimental long term effects on growth and employment.

Currently, Ghana does not have legislation on anti-competitive practices although a bill has been under consideration for several years. There is also no competition authority to tackle any anti-competitive practises. The Ministry of Trade, Industry, Private Sector Development and President's Special Initiatives (PSIs) however oversees all trade dealings and practises including unfair trade practices. These practices have damaging effects on trade and completion especially in the domestic markets.

Most countries have anti-monopoly legislation to control the creation and abuse of monopolies and regulators empowered to enforce these laws. This has been fairly successful at stopping some types of abuses (such as the formation of cartels or the buy-out of competition) but not all kinds. It is quite obvious that there is the need for the establishment of an authority that is solely mandated to assess the extent of anti-competitive behaviour and inappropriate regulation in particular sectors in Ghana. This also indicates the need to build capacity to implement and enforce competition rules.

Due to the absence of a competition authority, it is difficult to get proved cases of anticompetitive practices. Below are some reported allegations of anti-competitive practices from different sources.

Allegation of excessive pricing by GHACEM (Ghana Cement)

Prices of cement in Ghana have nearly doubled in 2007, causing great concern in the building industry, as the nation revisits the dominant hold that Ghana Cement (Ghacem) has over the industry. The pressure had started even before news reached Ghana that over the years, Scancem, the owners of Ghacem, the country's main player in the duopoly of a cement industry (the other player is Diamond Cement), used bribery to consolidate its predominance in the local industry. Indeed, calculations commissioned by the Auditor-General, using data concerning price movements, production and raw material costs, suggest that cement can be retailed at less than 4.6 Ghana Cedis and a decent profit still made on top. For a long time, Ghanaians have suspected excessive pricing. But, unlike India where builders have gone after the cement companies by filing several complaints with the Monopolies and Restrictive Trade Practices Commission, here Ghanaians continue to suffer without redress. Prices of cement range from 5.6 to 10 Ghana Cedis. The owners of Ghacem, long accused of inflating prices because of its tight grip on the product in Ghana, have been found on at least two occasions in ten years to be involved in price fixing in Europe, a continent where anti-cartel systems have been established and are known to be fiercely aggressive. In Ghana, even queries by the Auditor-General into Ghacem books are sharply rebutted as interferences into the affairs of a company no longer state-owned. Government owned 75 per cent of Ghacem until 1999 when it eventually sold off its entire stake in the firm to Scancem. The government appears helpless in the face of allegations of price-fixing, and very little action is taken against suspected cartels and market rigging.

Price-fixing

Price-fixing seems to be evident in the beverage industry. Although there are a number of beer and soft-drink manufacturers, they all sell their products at virtually identical prices and seem to review these prices at the same time. Furthermore, the manufacturers regularly announce "recommended prices" at which their products are to be sold. These prices then become de facto prices all over the country.

Price-fixing is also present in the road transport sector. As mentioned earlier, the operators all belong to unions which fix the fares charged on various routes.

Excessive pricing

As mentioned above, excessive pricing has been alleged in the cement industry. This has caught the attention of both consumers and the Government and the Minister of Trade and Industry has called on GHACEM to reduce prices to manageable levels.

False advertisement

This unfair practice is prevalent in the pharmaceuticals industry, particularly with regards to herbal medicines. Some of these medicines claim to cure a variety of unrelated ailments – for instance, indigestion, asthma and impotence – but they most often turn out to be entirely ineffective. The Food and Drugs Board regularly alerts the general public to the dangers associated with taking such drugs but they still get some level of patronage.

Trademark violation

This practice is extremely common when it comes to music and movies. A tour of any of the business centres will reveal traders selling pirated music and movie CDs selling at only a fraction of the cost of the original material. Both local and foreign music and movies are targets of such trademark violation. The Musician's Union of Ghana (MUSIGA) wages regular campaigns against this practice.

VI. Consumer Protection Scenario

Consumer Protection Law

There is no centralized consumer protection law and/or policy in Ghana. What exists currently is a group of public institutions mandated to oversee specific aspects of consumer protection. These institutions included: Consumer Association of Ghana, Ghana Standards Board (GSB), the Food and Drugs Board (FDB), the Public Utilities Regulatory Commission (PURC), the National Communications Authority (NCA) and the Environmental Protection Agency (EPA).

Consumer Protection Agency

The Consumer Protection Agency (CPA), a non-governmental organization, was very recently formed with the aim of helping to protect the rights of consumers. This new agency is meant to complement the work of the Food and Drugs Board (FDB), the main institution in Ghana constitutionally mandated to ensure that consumers are provided with the right quality and standard of products and services.

The formation of this agency has been hailed as a unique opportunity for Ghanaians to effectively channel complaints about goods and services they purchase. The agency is intended to formulate consumer protection policies and laws at the municipal and district levels to ensure the enforcement of existing policies. It will also mediate on consumer concerns, advocate on social issues and support the development of industry standards and mechanism for addressing abuses of consumer rights.

It is notable, however, that at the launching, the chairman of the occasion expressed reservations about whether the FDB (and by implication, the CPA) would be properly funded to enable them fulfil their mandates.

VI. Conclusions

In recent years, Ghana has made significant gains with regard to macroeconomic performance. Indeed, Ghana seems to be ready to undergo the structural transformation needed to move from an economy dependent on primary exports to one driven by industry (in the form of agro-processing). An essential ingredient of such a change would be the infusion of a strong competition ethos into the general economy. This would enable the output from Ghanaian companies to compete on the world market and not just in protected market. This is especially relevant in the face of the world's inexorable march towards globalisation. Until recently, there has not been much attention paid to instituting a comprehensive competition regime in Ghana. What has existed has been a set of different agencies with different mandates to regulate activity in their various spheres of influence; there has been no over-arching framework for the entire economy. Very recently, however, there has been a push to draft a Competition and Consumer Protection Bill, which will serve as the foundation for a Competition Policy (CUTS is playing a key role in this endeavour). Such a policy is sorely needed to regulate enterprise in the entire economy but especially in certain sectors (like water and power) which have become virtual monopolies and are consequently prone to inefficiency.

There is also a need to protect consumer interests, and this becomes especially relevant because, as Ghana's economy improves, certain vulnerable groups may become casualties of the development process and their needs must be safe-guarded. For instance, concern about the impact of EPAs on local farmers may encourage dissent against the signing of EPAs. Thus, the question of the signing of EPAs is not just one of competition but also one of consumer protection. However, typically, consumer welfare issues are more cut-and-dried in the sense that government tries to intervene to prevent a business from harming the public in some way, whether, for example, through environmental degradation, or through exorbitant pricing of commodities which the public cannot do without (for instance electricity or water). Ghana lacks such an official body and what exists instead are NGOs - like Third World Network-Ghana and Friends of the Earth - which act as de facto monitors of exploitation. It is essential for government to set up a centralised body to ensure that development does not take place to the exclusive benefit of the upper- and middle-classes but to the detriment of the lower-classes.

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