CORPORATE SOCIAL RESPONSIBILITY IN GHANA

FINAL REPORT

SUBMITTED TO:

Friedrich Ebert Foundation (FES) - Ghana

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EXECUTIVE SUMMARY

INTRODUCTION TO THE ISSUES
Corporations are critical actors in the political, economic, social and cultural development of all countries. Besides providing goods and services, they are a source of livelihood for many, pay taxes effectively enabling governments to operate, and have an impact on the physical and social environment. As things stand today, and given the absence of any promising efforts to radically change existing paradigms, the continued existence of the human race is linked to our ability to create and maintain profitable, competitive and sustainable corporations.

Most corporations are formed to undertake business activities with a view to making profit. In view of this, corporations have been criticized as being driven by motives that militate against concern for the common good. Thus, it is sometimes argued that if business is to be allowed to get on with the production of wealth, it must be made, by a combination of law and public pressure, to discharge responsibilities that are additional to the maximization of profit. This has led to a heightened interest in promoting Corporate Social Responsibility (CSR) at both national and international levels.

DEFINITION OF CSR
There is no universal definition of CSR. The concept is always being redefined to serve changing needs and times. While the fundamentals of CSR remain the same everywhere, different emphases are found in different parts of the world because CSR issues vary in nature and importance from industry to industry and from location to location. However, which ever way one looks at it, CSR it is about the relationship of corporations with society as a whole, and the need for corporations to align their values with societal expectations in order to avoid conflicts and reap tangible benefits.

There has emerged over the years a new mindset on CSR, one that goes beyond corporate philanthropy, to building processes of internally and externally generated demands for corporate governance that are responsive and responsible to the different levels of the environments in which businesses operate. Virtually all stakeholders in CSR have gone beyond the question whether CSR is voluntary or mandatory and are looking at all the real challenges of ensuring that economic globalisation is coupled with good environmental and social performance on the part of businesses around the world.

RESEARCH FINDINGS
In this report we examine this new mindset; international and national principles; codes and practices that attend it; examples of how it has fared in Ghana; and provide some recommendations for improving CSR in Ghana.

The corporate environment in Ghana is very diverse. There are Limited Liability Companies; Companies Limited by Guarantee; non-Ghanaian companies registered in Ghana as External Companies; and State-Owned Corporations created by statute. There are also a whole lot of associations such as Partnerships and Co-operatives that have corporate personality. There are also unincorporated businesses, such as Sole Proprietorships, that act more or less like Corporations. All these corporate and “quasi-corporate” forms are described in detail in this report in order to show the range of persons and institutions that are affected by CSR principles.

In the face of public concerns about the political, economic, social and environmental impact of the activities of corporations in societies in which they operate, there is now a proliferation of initiatives at the global level to promote CSR. Among these are three key multilateral initiatives
aimed at encouraging corporations to make a positive contribution to economic and social progress, and to minimize and resolve the difficulties to which their operations may give rise. These initiatives are the Organisation For Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises, the International Labour Organisation (ILO) Tripartite Declaration on Principles Concerning Multinational Enterprises and Social Policy, and the United Nations Global Compact. The international legal system prescribes for States areas of freedom of actions as well as controls over state actions. Hence the question of CSR can be derived not only in the context of municipal law of a country like Ghana but also within the context of international law. In the case of CSR, international laws and standards are particularly important because of the international, transnational and global character of the most important corporations.

In the domestic arena, there is no comprehensive or readily available document on CSR in Ghana. Non-the-less, there are a variety of policies, laws, practices and initiatives that together provide the CSR framework in Ghana. In other words, CSR in Ghana is regulated by policies, legislation, and other forms of Law. There are many government policies, such as the Ghana Land Policy document that bear directly on CSR. These policies are not named as “pro-CSR initiatives” but have the potential to promote or denigrate CSR. There are, in addition, specific laws regulating particular industries and sectors of the economy such as banking, insurance, mining and commerce and which have bearing on CSR. A number of International Conventions that Ghana has ratified are also applicable to Ghana and have a bearing on CSR.

In the absence of a clear CSR policy, individuals, advocacy groups and public agencies seeking to hold corporations responsible to their social responsibilities usually encounter difficulties in doing so because of the absence of a readily available source document on CSR for reference. Also, companies seeking to meet their corporate social responsibilities are not sure that they are doing what they should be doing and are unclear about the exact parameters of CSR.

Government’s responses to CSR issues in Ghana have included mandating; facilitating; partnering; and endorsing practices that are CSR friendly and condemning and discouraging those that are not. Flowing from this, public sector agencies play varied roles in providing an “enabling environment” for CSR in Ghana. In particular, the government seeks to promote CSR by putting in place legislation that defines minimum standards for business performance. Examples include requirements for environmental impact assessments. Government also facilitates CSR by providing incentives to companies undertaking activities that promote the CSR agenda and drive social and environmental improvements. The role of the government here is basically catalytic, secondary, or supportive. In some instances, attempts at self-regulation exist as is the case of business and professional associations such as the Ghana Chamber of Mines and the Ghana Medical Association.

Corporations in Ghana are formed for varied reasons and the rules that regulate their operations vary from one sector or industry to the other. There are a number of regulatory bodies in the country, established by different laws, each working towards the protection of consumers, the environment, the country and all stakeholders in these sectors. The key sectors examined in this report, together with the regulatory bodies that police them, are the following: mining, energy, water, telecommunications, insurance, finance, forestry, and health. Cross-cutting sectors such as consumer protection, labour, social security and taxation have also been examined. There is a section on cases decided by the Ghanaian courts on CSR issues and a note on the special case of Non-governmental Organisations (NGOs) and CSR.

By far it is the forestry sector in Ghana that can boast of a pretty comprehensive legal regime on CSR. The sector insists on Social Responsibility Agreements (SRAs) with corporations who
wish to operate in the sector. This is an innovative attempt to realize broad ambitions of socially responsible and sustainable timber production. Previously, communities received benefits from logging operations on an, at best, ad hoc basis and in the form of magnanimous contribution to local infrastructure. Now they can expect at least a basic sustained level of direct material rewards in addition to control over how the company operates on their land. In return the company can anticipate more harmonious relations with local people and hence more predictable and less expensive operations.

RECOMMENDATIONS
Clarifying the concept of CSR
By way of recommendations, this report calls for the clarification of the concept of CSR in Ghana. In Ghana, issues of CSR are not well understood, and are regarded as ‘philanthropic add-on’. Some see CSR as a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis. However, this view which limits the CSR agenda to market driven “voluntary” action beyond minimum legal requirements has the potential to constrict the exact purview and parameters of CSR. Again, there is conflation of the concepts of Corporate Governance with CSR. The latter is clearly a subset of the former, and so it is easy for it to be subsumed and easily eclipsed by the broader concept of Corporate Governance and thereby become a mere footnote. This is how CSR was treated in the recent African Peer Review Mechanism (APRM) report.

It is recommended to clarify the concept of CSR in Ghana and make efforts to bring the full import of the concept to all stakeholders especially government, corporations, communities and CSOs.

Developing CSR Policy and Laws for Ghana
Secondly, there should be a firm and consolidated policy and legal basis for CSR in Ghana. Many laws exist in Ghana for the regulation of corporations. It is part of the CSR of corporations to obey the law, and so it is arguable that obeying these laws means that corporations are engaged in CSR. However, these laws hardly contain any progressive provisions on CSR, except perhaps the laws that regulate the Forestry Sector and which make provision for SRAs in Timber Utilization Contracts. There are hardly any laws that directly require businesses to be socially responsible. The Government, however, encourages CSR by providing tax deductions for corporate sponsorship of charities, sports development and promotion, educational scholarships, and rural and urban community development projects. CSR reporting is not a requirement for listed companies. The key CSR issues dealt with by our laws include: matters relating to the formation of a company, governance, raising capital and voluntary liquidation; the fiduciary responsibility of directors and their duty to promote the interests of all stakeholders; proper accounting and auditing practices; equality of shareholders of the same class; redress for violation of stakeholders’ rights; rights of employees; safety products; tax obligations and the environmental impact of corporate activities. The existing policies in Ghana on CSR vary from one sector to the other. For some sectors, such as the Forestry Sector, there is a comprehensive legal regime tailor-made to deal with issues of CSR. In other sectors such as banking, insurance, and the stock market, the focus is on broad issues of Corporate Governance almost to the exclusion of CSR, which is a critical component of Corporate Governance.

It is recommended that a CSR policy be developed for Ghana and that the laws that regulate the various sectors of the economy (and aspects of social life) in Ghana be amended to include specific CSR provisions. The relevant precedent could be the laws on the Forestry Sector and business and professional codes of ethics in Ghana. The various international instruments on CSR are also very useful standards that can be adopted and/or adapted to Ghana.

It is particularly important that a detailed and enforceable CSR policy for Ghana be prepared by stakeholders and adopted by Cabinet. Ghana already has such Policy documents in various key sectors. Examples are the National Land Policy, the National Youth Policy and the
National Aids Policy. It is particularly important that the CSR principles stated in laws and in the Policy be made directly enforceable even if they are stated in aspirational or programmatic terms.

Enforcing Business and Professional Codes and Ethics
Next and flowing from the above, there is the need to create opportunities for the enforcement of business and professional codes of ethics as they relate to CSR. Many business and professional bodies have adopted codes of conduct and codes of business ethics that are very CSR friendly. These are, however, purely voluntary and hardly enforceable by external stakeholders. Thus, where such codes exist, external enforcement mechanisms are absent. Disciplinary actions where they are taken are not publicized, giving the impression that there are no sanctions. Meanwhile most of the associations are limited in capacity and resources to effectively monitor the activities of their members and to organize refresher courses on current issues and business ethics for members as would be desirable. To demand high ethical standards from businesses, the Consumer Association of Ghana (CAG) has been formed. The Association is however plagued by inadequate capacity and financial constraints, which has affected their effectiveness. The formation of a Shareholders’ Association is also under consideration.

It is recommended that modalities be put in place to ensure some measure of enforcement of business and professional codes of ethics by external stakeholders in order to improve CSR in the country. This is because most CSR principles are contained in these codes that are held close to the chests of the business and professional associations.

Enforcing CSR Principles Where They Exist
CSR enforcement in Ghana also needs to be improved. CSR in Ghana appears to consist in the main of legal regulation of various sectors that corporations are involved in. Usually, a regulatory body is set-up and the body is expected to enforce the relevant regulatory laws. Thus, many regulatory bodies exist to keep corporations and professional bodies within the law, even if the laws hardly contain any progressive provisions on CSR. However, most regulatory and enforcement agencies need strengthening in terms of human and institutional capacity to be able to effectively execute their mandate. This is because human, institutional and resource problems hinder the effective implementation of the mandate of these regulatory institutions.

It is recommended that legislative reforms and the development of a CSR Policy for Ghana be speeded up so that regulatory bodies will have a framework to guide them in their effort to keep corporations socially responsible. It is further recommended that innovative mechanisms for providing resources-human and material-to ensure effective CSR policing be developed in the context of the CSR policy.

Advocacy for CSR
All over the world, legal codes and policies on CSR are supported by huge advocacy efforts. This must be the case for Ghana. To take one little example, the criteria for determining Ghana Club 100 must include, explicitly, a detailed section on CSR.

It is recommended that regulatory institutions include in their regulatory efforts, definitive efforts at facilitating the formation and supporting the activities of CSR advocacy groups. These advocacy groups should undertake and advocate for:

1. The establishment and periodic review of a comprehensive policy, legal and regulatory framework for CSR;
2. CSR reporting for corporations;
3. Sensitisation of communities, civil society and corporations about CSR issues;
4. Encourage corporations to support community and social programmes; and
5. Motivate corporations to engage in sustainable CSR initiatives such as training, apprenticeships and skills development in the communities they work in.
CONCLUSION

Corporate Social Responsibility (CSR) is a helpful conceptual framework for exploring the corporate attitude of companies towards stakeholders. It is about balancing the corporate need to make profit with the diverse demands of communities and nations to engage in sustainable development. For a longtime, corporations had free reign and very limited commitments to external stakeholders. Today, corporations must recognise the needs and demands of many stakeholders including communities, governments, CSOs, and newly empowered stakeholders (such as indigenous peoples). They must identify the interests, concerns and objectives of all these stakeholders and decide whether and how to address them. The concept of CSR is a means by which companies can frame their attitudes and strategies towards, and relationships with, stakeholders within a legitimate, popular and acceptable concept.

Corporations play an important part in the economies of most countries and in international economic relations. Through international direct investment and other means, corporations can bring substantial benefits to home and host countries by contributing to the more efficient utilization of capital, technology and labour. Within the framework of development policies established by governments, they can also make an important contribution to the promotion of economic and social welfare; to the improvement of living standards and the satisfaction of basic needs; to the creation of employment opportunities, both directly and indirectly; and to the enjoyment of basic human rights, including freedom of association, throughout the world. On the other hand, the advances made by corporations in organizing their operations beyond the national framework may lead to abuse of concentrations of economic power and to conflicts with national policy objectives and with the interest of the workers. In addition, the complexity of multinational enterprises and the difficulty of clearly perceiving their diverse structures, operations and policies sometimes give rise to concern either in the home or in the host countries, or in both.

From the 20th to the 24th day of November this year, participants from all over the world will meet in Accra, Ghana, to learn about challenges of implementing the Global Compact principles and partnerships for development. As discussed in the second section of this report, the Global Compact contains extensive CSR principles and is the latest of the international CSR efforts. The meeting is organized by the Global Compact office in partnership with the Centre for Corporate Citizenship of the University of South Africa and United Nations Development Program (UNDP) Ghana.

This is a great opportunity for the Government of Ghana, corporations and the CSOs interested in CSR issues to develop the nucleus of stakeholders who will together initiate the process for developing a CSR Policy for Ghana.

In the words of a background paper for the Africa Economic Summit held in Durban in 2002 summarizing the links between CSR and New Partnership for African Development (NEPAD):

“Good corporate citizenship will be absolutely central to the success of [NEPAD] and its goals of encouraging economic growth and reducing poverty. African governments must play the key leadership role in setting the appropriate framework in order that the private sector itself can contribute to these goals”.

‘…Caterpillar’s Code of Worldwide Business Conduct recognizes "the social dimension of [corporate] responsibility [for] Caterpillar’s impacts on the social systems in which we work and live.” That observation is inarguable, and those impacts are variously felt across Caterpillar’s worldwide operations. By its Code, Caterpillar has accepted “the responsibilities of global citizenship” and asserted that: “Wherever we conduct business or invest our resources around the world, we know that our commitment to financial success must also take into account social priorities.” This solid principle grounds a position of laudable corporate accountability and sets a standard for other enterprises as well…Caterpillar’s “reputation for making a difference in the world is something we are proud of as a company—and as individuals. Whether it's caring for the safety of our fellow employees, improving the communities in which we live and work, or sustaining the environment we all share, Caterpillar people are fully committed to and engaged in good corporate citizenship. We are doing well by 'doing good' all around the world.” However the knowing sale of Caterpillar equipment to Israel for purposes of demolition and dispossession of Palestinian communities runs contrary to all claims of “good corporate citizenship.”’

Open Letter to James W. Owen, CEO
On the occasion of Caterpillar Inc. stockholders meeting
Chicago, 14 June 2006 by Joseph Schechla, Coordinator, Housing and Land Rights Network, Habitat International Coalition, 11 Tiba Street, 2nd Floor, Muhandisin, Giza, Egypt.
1 INTRODUCTION

1.1 GENERAL OVERVIEW

Societies and institutions the world over are remarkably similar. They all aim at attaining, inter alia, political equality; social justice; human dignity; freedom from want, disease and exploitation; equal opportunities; and high per capita income equitably distributed\(^1\).

While different societies attach different weights and priorities to these objectives, it is largely in the political and economic means adopted for achieving these ends that societies differ. However, it is largely agreed that good governance is a fundamental building block of a just and economically prosperous society. This is as true for public governance as it is for corporate governance. Good corporate governance requires corporations to be socially responsible by providing goods and services; providing employment to many which will serve as their source of livelihood; pay taxes to enable governments to operate; and have a positive impact on the physical and social environment. CSR requires managing the costs and benefits of business activity to both internal stakeholders such as workers, shareholders, and investors; and external stakeholders such as institutions of public governance, community members, civil society groups, and other relevant stakeholders. Setting the boundaries for how these costs and benefits are managed is partly a question of business policy and strategy and partly a question of public governance.

There has emerged over the years a new mindset on CSR, one that goes beyond corporate philanthropy, to building processes of internally and externally generated demands for corporate governance that is responsive and responsible to the different levels of the environments in which businesses operate. In this report we examine this new mindset; international and national principles, codes and practices that attend it; examples of how it has fared in Ghana; and recommendations for sound CSR in Ghana.

What then is CSR? Why is it important? What are the issues involved? Why do we need a CSR study for Ghana? We proceed to address these questions in the next segments of this introduction.

1.2 BACKGROUND

1.2.1 Meaning of Corporate Social Responsibility (CSR)

There is no universal definition of CSR. The concept is always being redefined to serve changing needs and times. While the fundamentals of CSR remain the same everywhere, different emphases are found in different parts of the world because CSR issues vary in nature and importance from industry to industry and from location to location.\(^2\)

In the eyes of the European Commission being “socially responsible” means “going beyond compliance and investing more in human capital, the environment and relations with

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The Commission places particular emphasis on the importance of integrating CSR permanently into corporate governance and establishing corresponding principles and objectives which must be carried over into strategy development, investment planning and general day-to-day activities.

The World Business Council for Sustainable Development (WBCSD) has defined CSR as “the commitment of business to contribute to sustainable economic development, working with employees, their families, the local community and society at large to improve their quality of life.”

The Commonwealth Association for Corporate Governance sees CSR as the distinctive contribution a company makes to the advancement of society or alleviation of social concerns, usually through some form of investment in partnership with the community which may include government. This view requires corporate entities to operate in a manner that meets or exceeds the ethical, legal, commercial and public expectations that society has of business.

The Philippine Business for Social Progress identifies the genesis of CSR as the recognition that the most valuable resource in any country is the person; that the growth and vigorous development of private enterprise must be anchored on sound economic and social conditions; that the higher purpose of private enterprise is to build social and economic conditions which shall promote the well being of the community.

Corporate Social Responsibility (CSR) is about the relationship of corporations with society as a whole, and the need for corporations to align their values with societal expectations in order to avoid conflicts and reap tangible benefits.

It is important to distinguish CSR from charitable donations and "good works". Corporations have often, in the past, spent money on community projects, the endowment of scholarships, and the establishment of Foundations. They have also often encouraged their employees to volunteer to take part in community work thereby creating goodwill in the community which will directly enhance the reputation of the company and strengthen its brand.

CSR goes beyond charity and requires that a responsible company takes into full account the impact of its activities on all stakeholders and on the environment when making decisions. CSR “is not an elective in the university of the hard world. It is a full credit course”. This requires them to balance the needs of all stakeholders with their need to make a profit and reward their

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8 Lassonde, Pierre (President of Newmont Mining Corporation), “How to Earn Your Social Licence-Without Local Community Support, Your Project is Going Nowhere.” A paper presented to the 2003 Cordilleran Roundup Conference.
sharholders adequately. This holistic approach to business regards organizations as (for example) being full partners in their communities, rather than seeing them more narrowly as being primarily in business to make profits and serve the needs of their shareholders. Leading companies are now routinely publishing separate reports on business ethics, corporate behaviour, employee policies, community involvement, and environmental protection measures.\(^9\)

Definitions of Corporate Social Responsibility (CSR) range from business ethics, to sustainability, to corporate citizenship. Some companies simply see CSR as "the right thing to do"; while others see it as a strategic differentiator for their company and a means to achieving greater business value.\(^10\) A number of issues bear on CSR namely:

- Environmental stewardship
- Proper treatment of workers/safety and good working conditions/retirement benefit/Health Insurance
- Defective or faulty products
- Disclosure of relevant information
- Sustainable development
- Ethical business practices
- Observation of human rights standards
- Discriminatory practices /anti discrimination policies
- Protecting interests of minorities/service to minorities
- Service to women and children
- Misleading advertising
- Community relations/engagement
- Customer relations
- Setting and ensuring compliance with minimum standards
- Public policy role of business
- Corporate governance

It appears therefore that CSR is an expression used to describe a company’s obligation to be sensitive to the needs of all of its stakeholders in its business operations. The principle is closely linked with the imperative of ensuring that these operations are "sustainable", that it is necessary to take account not only of the financial/economic dimension in decision making but also the social and environmental consequences. A company’s stakeholders are all those who are influenced by and/or can influence a company’s decisions and actions, both locally and globally. These include (but are not limited to): employees, customers, suppliers, community organizations, subsidiaries and affiliates, joint venture partners, local neighborhoods, investors, and shareholders (or a sole owner) and even whole communities and national governments.

**1.2.2 Why Corporate Social Responsibility?**

Business entities are critical actors in the economic, social and cultural development of all countries. Besides providing goods and services, they are a source of livelihood for many, pay taxes effectively enabling governments to operate, and have an impact on the physical and social environment. Indeed, it is increasingly evident that our continued prosperity as nations,
communities, and ultimately as individuals is closely linked to our ability to create and maintain profitable, competitive and sustainable enterprises.\textsuperscript{11}

Undoubtedly, most corporate entities are formed to undertake business activities with a view to making profit. In view of this, business enterprises have been criticized as being driven by motives that militate against concern for the common good. So it is sometimes argued that if business is to be allowed to get on with the production of wealth, it must be made, by a combination of law and public pressure, to discharge responsibilities that are additional to the maximization of profit.

This has led to a heightened interest in the proper role of businesses in society. Many people have become increasingly sensitive to the environmental and ethical impact of business activities. Consumers are now very interested in the CSR performance of the companies from which they buy their goods and services. Also, issues like environmental damage, improper treatment of workers, and faulty production leading to customers inconvenience or danger, are highlighted in the media on a daily bases. In some countries Government regulation regarding environmental and social issues has increased, and standards and laws are also often set at a supranational level. Some investors have begun to take account of a corporation’s social responsibility policy in making investment decisions. These trends have contributed to the pressure on companies to operate in an economically, socially and environmentally sustainable way.

Corporate social responsibility is at the heart of a process of managing the costs and benefits of business activity to both internal (for example, workers, shareholders, investors) and external (institutions of public governance, community members, civil society groups, other enterprises) stakeholders. Setting the boundaries for how those costs and benefits are managed is partly a question of business policy and strategy but also a question of public governance that must concern all.\textsuperscript{12}

1.2.3 Justification for Study

There is no comprehensive or readily available document on CSR in Ghana. There are, however, scattered laws and policies in Ghana that touch on CSR.

The regulation of Ghana’s corporate environment dates back to the first decade of the twentieth century. The earliest known piece of company legislation of any real significance in Ghana was the Companies Ordinance, No. 14 of 1907. The chief aim of company legislation in Ghana has been primarily the promotion of confidence in business and, in a much wider sense, the encouragement of economic growth, African business and foreign investment.\textsuperscript{13} These objectives have consequently informed the drafting of the current legislative regime which is the Companies Code, 1963 (Act 179). It is arguable that besides the Constitution of Ghana, the other key document on CSR in Ghana is Act 179. By far the most predominant philosophy underlining the provisions of Act 179 is the protection of creditors, investors and the general public through the disclosures of company affairs.\textsuperscript{14} These provisions, though useful, do not expressly address issues of corporate social responsibility (CSR). Hence there is little or nothing by way of a

\textsuperscript{11} Wikipedia, Corporate Social Responsibility at \url{http://en.wikipedia.org/wiki/Corporate_social_responsibility} (last visited on 5th July 2006).


\textsuperscript{14} Fiadjoe, A.K., \textit{A Century of Company Law-An overview} at p. 225.
comprehensive or readily available policy document on CSR in Ghana. At best, information on CSR can be gleaned from a maze of laws and policy initiatives.

In view of the above, individuals, advocacy groups and public agencies seeking to hold corporations responsible to their social responsibilities usually encounter difficulties in doing so because of the absence of a readily available source document on CSR in Ghana for reference. Also, companies seeking to meet their corporate social responsibilities are not sure that they are doing what they should be doing and are unclear about the exact parameters of CSR.

In the light of the above, FES engaged the LRC to produce this report on the state of the law and policy on CSR in Ghana. This report will serve as the basis for broad consultations to be organized by a partner organization of FES-the Corporate Social Responsibility Movement (CSRM)-for the development of a CSR policy document for Ghana.

This report is therefore a quite detailed source document for advocacy groups and for corporations. The document is meant to:

1. Provide an explanation of what CSR is all about, why it is an important issue and why we need to conduct a study on CSR in Ghana;
2. Map out the corporate terrain in Ghana and answer the question: who does CSR apply to in Ghana;
3. Provide details of several attempts at international regulation of CSR;
4. Provide in some detail the basic policy and legal framework for CSR in Ghana and in relation to particular industries and sectors;
5. Provide examples of some CSR practices in Ghana; and finally
6. Raise some nagging CSR issues and make some recommendations for improving CSR in Ghana.

How to incorporate the principles of corporate social responsibility into normal business practice will vary from company to company and according to local circumstances. There is no standard blueprint, but there are an increasingly large number of case studies to draw on. Partnership with other organisations - NGOs, international institutions, and academic institutions - is often crucial. This is because of the expertise they bring in such specialist areas as the environment, human rights, governance and development and because of the links they may already have developed with local communities and government agencies. There is also scope for companies to get together to develop voluntary standards or codes of practice with help from experts in NGOs and support from governments. This can be a useful way to develop a common understanding of best practice in complex operating situations and in establishing performance benchmarks. By following such standards, companies will be able to enhance their reputation. They can also improve relationships with contractors and suppliers, boost consumer confidence and improve risk management. Corporate social responsibility is also underpinned by various international conventions and codes. These instruments may not carry the force of law locally, but are important in establishing principles against which companies operating abroad can assess their performance. It is important that Ghana takes all these into account in positing for herself a CSR framework that works for her and her corporations.

1.3 METHODOLOGY

A simple library and internet based research methodology was adopted for the study. This comprised the collection, collation and analysis of both national and international policy and legal instruments on CSR. The major sources of law considered included the following:
1. International conventions;
2. The Constitution of Ghana;
3. Acts of Parliament;
4. Subsidiary Legislation;
5. Administrative Instructions;
6. Judge-made Law/Case Law; and
7. Customary law

Interviews were conducted with key stakeholders in CSR and the analyses of the various policies and laws on CSR in this report have been interlaced with views and comments from the interviewees.

The report also contains some case studies.

The report is written in quite some detail so that most of the relevant material on CSR in Ghana and pointers to such material may be contained in one source document. The sections of the report correspond roughly to the six (6) content items contained in the sub-section immediately above.

1.4 CSR IN GHANA TODAY\textsuperscript{15}

“Good corporate governance provides a level of disclosure and transparency regarding the conduct of corporations and their boards of directors that enables the supervision of their accountability while ensuring that they comply with their legal obligations and remissions, are accountable to shareholders and responsible to stakeholders including employees, suppliers, creditors, customers and communities, and act responsibly regarding the environment”\textsuperscript{16}

In Ghana, several developments have placed a new emphasis on the need for good corporate governance and CSR. Globalization; the liberalization of the economy; a government commitment to a Golden Age of Business; the creation a Ministry for Private Sector Development (MPSD) to spearhead the realization of a competitive and vibrant private sector; a promising and emerging capital market with remarkable performance, significant momentum and a determined will for improvement; have all led to a palpable growth of the private sector in the country. Corporations generally have a conducive atmosphere to be born and to thrive in Ghana.

A liberal Constitution and public investments in the capital and stock markets have ensured that corporations have to disclose relevant information and be more transparent in their dealings with stakeholders and communities. However, several challenges continue to exist in connection with Ghana’s corporate governance and CSR policy and legal framework.

Awareness of corporate governance in general and CSR in particular, is low. Enforcement and compliance with what policies and laws exist is also below par. The Companies Code (1963) provides the main corporate governance framework for registered companies. Though robust and very detailed, it is out of touch with current corporate governance developments and is in need of updating. The institutions that are active in the promotion of good corporate governance and CSR are weak in finance, human and institutional terms. Organizations that contribute to the CSR agenda in Ghana include the Commission on Human Rights and Administrative Justice (CHRAJ), Ghana Anti-Corruption Coalition, Transparency International, the media and a

\textsuperscript{15} This section draws heavily from the African Peer Review Mechanism Report, June 2005. The report contains the latest assessment of Corporate Governance and CSR in Ghana.

\textsuperscript{16} APRM Report, June 2005, P.83.
number of NGOs that deal with social and environmental issues. CSR reporting is, however, not a requirement for listed companies. Generally, issues of CSR appear not to be well understood. Most corporations are not actively engaged in the communities and CSR is widely regarded as a philanthropic “add-on”.

There are many CSR issues that corporations in Ghana must be concerned with. There is rising unemployment in Ghana; apprenticeship and practical training opportunities are dwindling; workers and worker organizations are clamouring for better conditions of service including employee protection and better wages; with a male-dominated corporate Ghana, gender issues such as stereotyping and discrimination against women in the workplace are rife; child labour and its related ills are becoming a mantra; proactive engagement on environmental issues is not apparent and there is limited concern for the environment (mining, logging, construction and fishing).

The corporate environment in Ghana is very diverse. There are Limited Liability Companies; Companies Limited by Guarantee, non-Ghanaian companies registered in Ghana as External Companies; and State-Owned Corporations created by statute. There are also a whole lot of associations such as Partnerships and Co-operatives that have corporate personality. There are also unincorporated businesses that act more or less like Corporations. Corporate governance and CSR is regulated by legislation and various rules of the Common Law. A number of International Conventions that Ghana has ratified are also applicable to Ghana and have a bearing on corporate governance and CSR. There are, in addition, specific laws regulating particular industries like banking, insurance, mining and commerce. Lastly, there are many government policies that bear directly on CSR. These policies are not undertaken explicitly as “pro-CSR initiatives” but nonetheless have the potential to promote CSR.

In the next section, section 2, we examine the various corporate forms that exist in Ghana. Section three looks at the international framework for ensuring CSR in Ghana. Section four is devoted to the domestic framework for CSR and includes sub-sections on the various major industries in Ghana. Section five, the concluding section contains a set of recommendations for improving CSR in Ghana.
2 CORPORATE FORMS IN GHANA

2.1 CORPORATIONS UNDER THE COMPANIES CODE

Corporations are formed for many different purposes and to provide a reasonable degree of flexibility and freedom of choice, the law permits the formation of different kinds of corporations. The types of corporations that may be formed in Ghana under the Companies Code, 1963 (Act 179) are the following:

1. Companies Limited by Shares;
2. Companies Limited by Guarantee;
3. Unlimited Companies; and
4. External Companies.

Each of the above corporations may be Public or Private.

2.1.1 Company Limited by Shares

In a company limited by shares, the liability of members to contribute to the company’s assets is limited to the amount, if any, unpaid on the nominal value of their shares. Once the shares are fully paid there is, in general, no further liability and the member will not be obliged to make any further contribution in the event of the company’s insolvency. A shareholder need not pay the whole amount of his shares to the company at once when acquiring the shares. The usual practice is that shareholders make payments when the directors make "calls" upon them to pay. The shareholder's liabilities are therefore limited to any amounts unpaid on the shares, and once a shareholder has fully paid for his shares, he is not to incur any further liabilities in respect of the company. However, the company may decide, by special resolution, to reserve any unpaid liability on shares until the company is being wound up.

The Regulations of a company limited by shares must include a section which states the fact that ‘the liability of members is limited’. The last word of the name of a company limited by shares shall be "limited", or its abbreviation "Ltd."

Most for-profit business entities in Ghana are registered as Companies Limited by Shares.

2.1.2 Company Limited by Guarantee

In the case of a company limited by guarantee, the liability of members is limited to such amount as they undertake to contribute to the assets in the event of its being wound up. The regulation of the company contains a basic statement of the limited liability of its members and an undertaking by members to contribute a specified amount of money towards the assets of the company in the event of it being wound up and unable to pay its debts in full. Unlike companies limited by shares, where the liability of the member may be called in aid at any time during the existence of the company, that is, during the active lifetime of the company as well as during winding up, in a company limited by guarantee, the liability of the company arises only after the commencement of the winding up of the company.

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17 This section draws heavily on the previous work of Bentsi Enchil on this topic available at Http://Www.Belonline.Org/Business1a.Htm (Last Visited On 3rd July 2006).
19 Ibid.
A guarantee company is not registered with shares and is not permitted to create any shares. This type of company is therefore only suitable if no initial funds are required or those funds are obtained from other sources, e.g. endowments and donations. The company is also not permitted to engage in trading. The company is not permitted to pay dividends or distribute/return any assets to members.

Whilst other companies may operate on a "one share, one vote" principle, the operating principle in respect of guarantee companies is "one member, one vote".

Most NGOs in Ghana are registered as Companies Limited by Guarantee.

2.1.3 Unlimited Company

This type of Corporation is also registered with shares but there is no limit on the liability of the members. In this type of company there is no statement of limited liability in the regulations of the company and the members are liable to contribute, without limit, whatever is required for payment of the debts of the company in liquidation.

There are not too many of such companies in Ghana. The few that exist are mostly law firms and other professional establishments who are prevented by professional codes and ethics from limiting their liability by operating as limited liability companies.

2.1.4 Public and Private Companies

Each of the above types of companies may be "private" or "public". A company is a private company if by its Regulations, it fulfills the following conditions:

- Where it is a company registered with shares, there is a restriction of the right to transfer shares;
- The total number of members and debenture holders do not exceed 50. This number excludes genuine employees and ex-employees of the company who became members or debenture holders during their employment, and continue to be so after their employment. The exclusion of employees is designed to enable companies to institute co-partnership schemes with employees without forfeiting their private status;
- The company is prohibited from making of any public invitations for the acquisition of its shares and debentures;
- The company is prohibited from making an invitation to the public to deposit money for fixed periods or payable at call, whether interest-bearing or not.

Any other company is a public company.

2.1.5 External Companies

Corporations formed outside Ghana that seek to operate in Ghana need not automatically incorporate subsidiaries in Ghana. Such corporations are allowed to establish a place of business in Ghana after they have registered with the Registrar of Companies as an "external company". Such corporations must have an "established place of business", which means a fixed place of business such as a branch, registered office, factory or mine. The following are not considered as established places of business:

20 Ibid.
An agency through which the external company makes purchases, except where the agency does more than mere purchases, for instance, exercises general authority to negotiate and conclude contracts on behalf of the body corporate outside Ghana;

- Bonafide brokers;
- General commission agents;
- The established place of business of a subsidiary.

An external company must appoint a local manager as its representative in Ghana. The local manager must have the qualifications required of a director of a Ghanaian company, that is, he must not be an infant, lunatic, corporation, un-discharged bankrupt or a fraudulent person. Persons dealing with a local manager are entitled to assume that he has authority to carry on the business in Ghana.

External companies are required to file yearly accounts with the Companies Registry. Where the external company is wound up, is dissolved or has ceased to exist in accordance with the law of its home country, the local manager must within 28 days, cause a notice to that effect to be delivered to the Registrar of Companies for registration and publication in the Gazette.

### 2.2 SPECIAL TYPES OF COMPANIES

The laws of Ghana permit the formation of special purpose companies that are regulated by special legislation in addition to regulation under the Companies Code. We now examine the extra regulations that exist for setting up specialized corporations in Ghana.

#### 2.2.1 Banks

Banks are regulated by the **Banking Act, 2004 (Act 673)**. Banks in Ghana operate under the supervision of the Bank of Ghana. No person is allowed to carry on the business of banking in Ghana unless that person is a corporation or a body corporate. In addition such a person must obtain a license from the Bank of Ghana and abide by a host of regulatory requirements that are prescribed by the Act and the Bank of Ghana and policed by the latter.

#### 2.2.2 Insurance Companies

Insurance companies in Ghana operate under the supervision of the National Insurance Commission (NIC), established under the **Insurance Law, 1989 (PNDCL 227)**. No person is allowed to carry on insurance business in Ghana unless that person is a corporation or body corporate. As is the case with the banking sector, there are a host of other regulatory requirements that are imposed by the Insurance Law and the National Insurance commission that Insurance Companies must abide by in order to obtain or renew their operating licenses. These regulations are policed by the NIC.

#### 2.2.3 Non-Banking Financial Institutions (NBFIs)

NBFIs operate in Ghana under the Financial **Institution (Non-Banking) Law, 1993 (PNDCL 328)**. The businesses affected by the provisions of this law are those, other than banks, that take deposits, provide financing by way of loans or advances, deal in securities without being licensed under the Securities Industry Law, engage in leasing, letting or hire-purchase, or where an insurance company carries on any business other than insurance. The following are specifically classified as NBFIs under the schedule to the Financial Institution (Non-Banking) Law:

- Discount Companies
NBFIs operate under the supervision of the Bank of Ghana, and no person is allowed to carry on the activities of a non-banking financial institution unless a corporation of a corporate body; has obtained a license from the Bank of Ghana; and maintains a prescribed minimum paid-up capital amongst a host of other regulations.

### 2.2.4 Finance Lease Companies

A finance lease is defined by the [Finance Lease Law, 1993 (PNDCL 331)](https://www.legislation.gov.gh/laws/acts/PNDCL%20331) as an arrangement by which a lessor leases to a lessee, either the lessor's own already acquired assets or an asset that the lessor agrees to acquire from a third party, for the lessee's use only and against payment of mutually agreed lease rentals over a specified non-cancelable period and under which the Lessee may exercise an option to purchase the asset outright after the period of the lease at an agreed price, subject to the agreement of the lessor. Under the [Finance Lease Law](https://www.legislation.gov.gh/laws/acts/PNDCL%20331), a person is not allowed to become a lessor under a finance lease agreement unless that person is a corporation of a corporate body; is licensed to engage in finance leasing; and complies with guidelines prescribed by the Bank of Ghana, including any prescriptions relating to minimum paid-up capital requirements.

### 2.3 BUSINESS ENTITIES NOT INCORPORATED UNDER THE COMPANIES CODE

There are a number of business entities in Ghana that are not incorporated under the companies code. These include: statutory corporations, partnerships, co-operative societies, voluntary associations, sole proprietorships, franchise agreements, joint ventures, building societies and unit trusts.

#### 2.3.1 Statutory Corporations

Under the [Statutory Corporations Act, 1964 (Act 232)](https://www.legislation.gov.gh/laws/acts/Act%20232), the President may by legislative instrument create a corporation. Parliament may also by Act of Parliament establish a corporation. Such corporations are called "statutory corporations".

In 1993, many statutory corporations slated for privatization were converted to limited liability companies under the provisions of the [Statutory Corporations (Conversion to Companies) Act, 1993 (Act 461)](https://www.legislation.gov.gh/laws/acts/Act%20461). A long list of statutory corporations were converted to limited liability companies by this law. The list may be extended by the Minister responsible for finance.

#### 2.3.2 Partnerships

A partnership is an association of two or more individuals carrying on business jointly for the purpose of making profits. Partnerships are required to be incorporated under the Incorporated Private Partnerships Act, 1962 (Act 152) (IPPA) A partnership will not be registered where the membership exceeds 20. The reason for this may be found under the [Companies Code](https://www.legislation.gov.gh/laws/acts/Companies%20Code), which
makes it mandatory for any association, company or partnership that consists of more than 20 members, and has for its object the acquisition of gain to be incorporated as a company under the Code.

In Ghana, an incorporated partnership is a body corporate, distinct from the partners, and capable of exercising all the powers of a natural person of full capacity which are capable of being exercised by a body corporate. However, partnerships in Ghana do not have limited liability, and every partner is liable with the firm and the other partners, without any limitation, for the debts and obligations of the firm incurred while he is a partner.

Every partner is considered to be an agent of the firm and all acts authorized or approved by the other partners or within the scope of the firm's business bind the partnership. Incoming partners are under no liability for acts or omissions committed or events occurring prior to the date on which they joined the partnership. A retiring partner remains liable for any debts incurred before his retirement.

Although partnerships have legal personality, the firm does not have direct income tax liability. Rather, a partner is taxed directly on his income, as if that income was the divisible income of the partnership for that period.

2.3.3 Co-operative Societies

A Co-operative society is a union of individuals, (e.g. farmers), formed for the prosecution in common of some productive enterprise, the profits being shared in accordance with the capital or labour contributed by each. Co-operatives are usually consumer-oriented, that is, the customers of the society are the members who have voting and dividend rights. Under the Co-operative Societies Decree, 1968 (NLCD 252), a co-operative society, that is a society which has as its object the promotion of the economic interest of its members in accordance with co-operative principles, must be registered with the Registrar of Co-operative Societies, and may or may not have limited liability. Such a society is, however, a body corporate upon registration.

2.3.4 Voluntary Associations

These are associations of persons combining for purposes other than carrying on a business. Sometimes known as "clubs", such associations may be established for religious, educational, literary, scientific, sport, social or charitable purposes. It is possible to incorporate such associations as guarantee companies under the Companies Code. However, the rules regulating companies under the Companies Code, such as the filing requirements, may not suit the aims and operations of such associations. The Trustees (Incorporation) Act, 1962 (Act 106) provides that the trustees/officers of any unincorporated voluntary association or body established for any of the above-mentioned purposes may apply for a certificate of registration as a corporate body. Upon the grant of the certificate, the trustees/officers shall become a body corporate by the name described in the certificate, have perpetual succession, and the capacity to acquire and hold property and to sue and be sued in the corporate name.

The incomes of certain voluntary organizations, namely statutory or registered friendly societies, are tax-exempt where such income is not derived from a business carried on by such society. Further, gifts made to religious bodies which use the gifts for the benefit of the public, or a section thereof, are not taxable.

Many Churches in Ghana are registered under the Trustees Incorporation Act.
2.3.5 Sole Proprietorship

The majority of business operations in Ghana are unincorporated, sole proprietorships. These deal in a wide range of productive and commercial activities, including agriculture, manufacturing, transportation, commerce and other services. Many of these unincorporated businesses are located in homes, market stalls, or operated by mobile vendors.

In principle, every person in Ghana is free to engage in any kind of lawful business activity. There is no special body of rules regulating sole proprietorships; the general principles of commercial law apply to them. The conflict between ownership and management, which is a feature of company law, does not arise and there is no need for special rules to protect creditors because the trader is fully liable for the debts of his business.

Every individual (and indeed, a company) may carry on business under a name other than his or its own name. Such a name is known as a business name. Under the Registration of Business Names Act, 1962 (Act 151), such names must be registered with the Registrar of Business Names. In practice, however, there is very little regulation of the activities of sole proprietors.

Traders may be subject to professional restrictions of a general nature, which apply to all persons engaged in a particular trade, business, profession or vocation. Only duly qualified, licensed or registered persons can carry on some businesses. It is, for instance an offence under the Legal Profession Act, 1960 (Act 32) for a person who is not enrolled as a lawyer to practice as a lawyer or prepare any document for reward to be used in or concerning any cause or matter before any court. Under the Pharmacy Act, 1994 (Act 489) it is an offence for a person who is not appropriately registered or who does not have the requisite qualification to practice as a pharmacist or hold himself out as such.

2.3.6 Building Societies

Under the Building Societies Ordinance, 1955 (No. 30), a building society is a society formed for the purpose of raising by the subscriptions of members a stock fund from which to make advances to members. The main purpose of a building society is to assist members to purchase their own residential property. The fund is raised by the issue to members of shares that are either paid up or payable in installments. In Ghana, Building Societies must be registered with the Registrar of Building Societies. The income of a statutory or registered building society is tax-exempt except where the income is derived from a business activity carried on by the society. A Building Society registered under the Ordinance is a body corporate.

2.3.7 Unit Trusts

Under the Securities Industry Law, 1993 (PNDCL 333), a unit trust scheme is an arrangement by which, usually under a trust deed, the managers of the trust acquire certain defined securities and transfer them to the trustees named in the trust deed. On the strength of the block of securities so held, the managers issue "units" or "sub-units", with a view to an invitation being made to the public to acquire such units. The investors are the beneficiaries under the trust deed and are entitled to a pro rata share of the dividends, interest or other income of the securities.

In Ghana, no person shall establish or operate a unit trust scheme unless the scheme is approved by and registered with the Securities Regulatory Commission. The manager of a Unit Trust must be a company incorporated in Ghana, and the trustee must be either a bank, insurance company or a wholly-owned subsidiary of either of them, that is distinct from the manager.
The interest, dividends or other income of an approved unit trust scheme or payable to a holder or member of that scheme is tax-exempt.

### 2.3.8 Joint Venture

A joint venture is essentially a commercial arrangement between two business groupings to undertake a particular project. The main advantage in joint venture is its flexibility. It allows the parties to cooperate without binding their entire undertakings with a full-scale merger. However, sometimes, a joint venture may take a corporate form, for which reason the rules on company law will apply.

### 2.3.9 Franchise and Agreements

Under a typical franchise arrangement, a person having developed a concept for marketing goods or services (the franchisor) licenses another person having a retail outlet (the franchisee) to undertake the actual supply. The only caution about this mode of operation is for the parties to ensure that the terms of the agreement do not create such an intimate nexus between them as to render them partners, and hence be covered by the rules on incorporating partnerships.

### 2.4 CORPORATE FORMS AND CSR

In strict legal-technical terms, all the corporate forms discussed so far are corporations. This means that CSR refers to the social responsibility of all these bodies corporate ranging from statutory corporations and limited liability companies, through partnerships, co-operative societies and sole proprietorships, to companies limited by guarantee, voluntary associations and churches.

Yet it is common knowledge that CSR usually refers to for-profit corporations, mainly those limited by shares. In the last three sections, CSR will be discussed with an emphasis on for-profit corporations. Before we examine CSR in Ghana, we will take a look at the international legal framework for CSR.
3 INTERNATIONAL LEGAL FRAMEWORK ON CORPORATE SOCIAL RESPONSIBILITY

The international legal system prescribes for States, areas of freedom of actions as well as controls over state actions. Hence the question of CSR can be derived not only in the context of municipal law of a country like Ghana but also within the context of international law. States are not only bound by international law, they also make it. They do so in a number of ways. The most explicit method is by entering into treaties. Hence the primary sources of international law are treaties. These may be bilateral or multilateral. The traditional actors in the realm of public international law are states. In the last century corporations have come to be regarded as very significant players in the international arena and the international law applicable to them has correspondingly grown.

Corporations and multinational enterprises are an important part of the international economy. Through international direct investment, they bring substantial benefits to home and host countries in the form of productive capital, managerial and technological know-how, job creation and tax revenues. At the same time, public concerns remain about the social, economic and environmental impact of multinational companies’ activities on the societies in which they operate.

These concerns have led to a proliferation of initiatives at the company, industry, national and global levels, including the development of codes of conduct, monitoring and reporting initiatives, and social labeling schemes covering a broad range of issues, including labour standards. Among these are three key multilateral initiatives aimed at encouraging corporations to make a positive contribution to economic and social progress, to minimize and resolve the difficulties to which their operations may give rise. These initiatives are the OECD Guidelines for Multinational Enterprises, the ILO Tripartite Declaration on Principles Concerning Multinational Enterprises and Social Policy, and the United Nations Global Compact. There are also other specific and general initiatives that bear on CSR such as the Kimberley Process on so-called “conflict diamonds” and the NEPAD respectively:

1. **OECD Guidelines for Multinational Enterprises**: These are recommendations from governments to multinational enterprises. They set out voluntary principles and standards for responsible business conduct, consistent with domestic and international laws, in areas such as human rights, information disclosure, employment and industrial relations, environmental stewardship, combating bribery, consumer rights, science and technology, competition and taxation. Countries adhering to the Guidelines are required to set up a National Contact Point (NCP) that is responsible for promoting the Guidelines and contributing to the resolution of issues that arise in relation to the implementation of the Guidelines in specific cases. NCPs are expected to operate in accordance with the core criteria of visibility, accessibility, transparency and accountability.

2. **ILO Tripartite Declaration on Principles Concerning Multinational Enterprises and Social Policy**: is the universal basic reference point for social responsibility in the world of work. It sets out principles, developed through tripartite dialogue, in the fields of employment, training, working conditions, and industrial relations. The effect given by

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governments, employers and workers’ organizations and multinational enterprises (MNEs) to the principles of the Declaration is monitored through a periodic survey.


4. **Intergovernmental Processes**: have also emerged to tackle sector-specific issues—for example, through the innovative Kimberley Process on so-called “conflict diamonds”. The high profile issue of “conflict diamonds” (those mined areas of civil conflict in Africa) has led to recognition of a need for large mining companies to ensure that their products can be clearly identified on the global market. The Kimberley Process has been working to establish minimum international standards for national certification schemes relating to trade in rough diamonds. The process has involved more than 30 governments, the European community, the diamond industry, and civil society. Through participation in the Kimberley Process, the governments of various diamond producing countries in Africa including Ghana have helped to support the legal trade in diamonds, as well as create the potential for reduction in the illicit trade. The South African government has acted as chair of the process. The governments of South Africa, Namibia, Angola, and Botswana have hosted meetings for the development of the certification scheme.

5. **The New Partnership for African Development (NEPAD)**: was announced by the representatives of 15 African countries in October 2001 as an integrated program for the socio-economic development of Africa. A background paper for the Africa Economic Summit held in Durban in 2002 summarizing the links between CSR and NEPAD states: “good corporate citizenship will be absolutely central to the success of [NEPAD] and its goals of encouraging economic growth and reducing poverty. African governments must play the key leadership role in setting the appropriate framework,” in order that the private sector itself can contribute to these goals.

Of all the attempts to address the issue of CSR at the global level, the most comprehensive are the first three initiatives listed above. They are considered in greater detail below.

### 3.1 OECD GUIDELINES

There is no comprehensive international convention on CSR. The closest attempt made so far to provide for CSR in international law is the OECD Guidelines for Multi National Corporations. The guidelines were made pursuant to article 1 of the Convention establishing the Organization for Economic Cooperation and Development which was signed in Paris on 14th December 1960, and came into force on 30th September 1996. The Guidelines are recommendations on responsible business conduct addressed by governments to multinational enterprises operating in

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22 See, the Kimberly Certification Act, 2003 (Act 652).
or from the 33 adhering countries. While many businesses have developed their own codes of conduct in recent years, the OECD Guidelines are the only multilaterally endorsed and comprehensive code that governments are committed to promoting. The Guidelines express the shared values of the governments of countries that are the source of most of the world’s direct investment flows and home to most multinational enterprises. They apply to business operations world-wide.

The original Member countries of the OECD are Austria, Belgium, Canada, Denmark, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States.

The following countries became Members subsequently through accession at the dates indicated: Japan (28th April 1964), Finland (28th January 1969), Australia (7th June 1971), New Zealand (29th May 1973), Mexico (18th May 1994), the Czech Republic (21st December 1995), Hungary (7th May 1996), Poland (22nd November 1996) and Korea (12th December 1996).

It is widely recognized that foreign investment is important for economic growth and that multinational corporations contribute to economic, social and environmental progress. At the same time, public concerns remain about the impact of their activities on home and host countries. The new Guidelines represent an important step in responding to some of these concerns while improving the climate for international investment. The basic premise of the Guidelines is that principles agreed internationally can help prevent conflict and to build an atmosphere of confidence between multinational enterprises and the societies in which they operate.

The Guidelines are not a substitute for, nor do they override, applicable law. They represent standards of behaviour supplemental to applicable law and, as such, do not create conflicting requirements.

The key concepts and principles that regulate the applicability and implementation of the guidelines are summarized below:

1. The Guidelines are recommendations jointly addressed by governments to multi-national enterprises. They provide principles and standards of good practice consistent with applicable laws. Observance of the Guidelines by enterprises is voluntary and not legally enforceable.

2. Since the operations of multinational enterprises extend throughout the world, international co-operation in this field should extend to all countries. Governments adhering to the Guidelines encourage the enterprises operating on their territories to observe the Guidelines wherever they operate, while taking into account the particular circumstances of each host country.

3. A precise definition of multinational enterprises is not required for the purposes of the Guidelines. These usually comprise companies or other entities established in more than one country and are so linked that they may co-ordinate their operations in various ways. While one or more of these entities may be able to exercise a significant influence over the activities of others, their degree of autonomy within the enterprise may vary widely from one multinational enterprise to another. Ownership may be private, state or mixed. The Guidelines are addressed to all the entities within the multinational enterprise (parent companies and/or local entities). According to the actual distribution of responsibilities
among them, the different entities are expected to operate and to assist one another to facilitate observance of the Guidelines.

4. The Guidelines are not aimed at introducing differences of treatment between multinational and domestic enterprises; they reflect good practice for all. Accordingly, multinational and domestic enterprises are subject to the same expectations in respect of their conduct wherever the Guidelines are relevant to both.

5. Governments wish to encourage the widest possible observance of the Guidelines. While it is acknowledged that small and medium-sized enterprises may not have the same capacities as larger enterprises, governments adhering to the Guidelines nevertheless encourage them to observe the Guidelines recommendations to the fullest extent possible.

6. Governments adhering to the Guidelines should not use them for protectionist purposes nor use them in a way that calls into question the comparative advantage of any country where multinational enterprises invest.

7. Governments have the right to prescribe the conditions under which multinational enterprises operate within their jurisdictions, subject to international law. The entities of a multinational enterprise located in various countries are subject to the laws applicable in these countries. When multinational enterprises are subject to conflicting requirements by adhering countries, the governments concerned will co-operate in good faith with a view to resolving problems that may arise.

8. Governments adhering to the Guidelines set them forth with the understanding that they will fulfill their responsibilities to treat enterprises equitably and in accordance with international law and with their contractual obligations.

9. The use of appropriate international dispute settlement mechanisms, including arbitration, is encouraged as a means of facilitating the resolution of legal problems arising between enterprises and host country governments.

10. Governments adhering to the Guidelines will promote them and encourage their use. They will establish National Contact Points that promote the Guidelines and act as a forum for discussion of all matters relating to the Guidelines. The adhering Governments will also participate in appropriate review and consultation procedures to address issues concerning interpretation of the Guidelines in a changing world.

The guidelines are categorized into a number of sections and what follows is a brief summary of some of the important sections in the Guidelines.

**3.1.1 General Principles**

Business enterprises are required to take fully into account established policies in the countries in which they operate, and consider the views of other stakeholders. In this regard, enterprises are entreated to:

1. Contribute to economic, social and environmental progress with a view to achieving sustainable development.
2. Respect the human rights of those affected by their activities consistent with the host government’s international obligations and commitments.
3. Encourage local capacity building through close cooperation with the local community, including business interests, as well as developing the enterprise’s activities in domestic and foreign markets, consistent with the need for sound commercial practice.

4. Encourage human capital formation, in particular by creating employment opportunities and facilitating training opportunities for employees.

5. Refrain from seeking or accepting exemptions not contemplated in the statutory or regulatory framework related to environmental, health, safety, labour, taxation, financial incentives, or other issues.

6. Support and uphold good corporate governance principles and develop and apply good corporate governance practices.

7. Develop and apply effective self-regulatory practices and management systems that foster a relationship of confidence and mutual trust between enterprises and the societies in which they operate.

8. Promote employee awareness of, and compliance with, company policies through appropriate dissemination of these policies, including through training programmes.

9. Refrain from discriminatory or disciplinary action against employees who make bona fide reports to management or, as appropriate, to the competent public authorities, on practices that contravene the law, the Guidelines or the enterprise’s policies.

10. Encourage, where practicable, business partners, including suppliers and sub-contractors, to apply principles of corporate conduct compatible with the Guidelines.

11. Abstain from any improper involvement in local political activities.

### 3.1.2 Disclosure

1. Under this section, the Guidelines require business enterprises to ensure that timely, regular, reliable and relevant information is disclosed regarding their activities, structure, financial situation and performance. This information should be disclosed for the enterprise as a whole and, where appropriate, along business lines or geographic areas. Disclosure policies of enterprises should be tailored to the nature, size and location of the enterprise, with due regard taken of costs, business confidentiality and other competitive concerns.

2. Enterprises should apply high quality standards for disclosure, accounting, and audit. Enterprises are also encouraged to apply high quality standards for non-financial information including environmental and social reporting where they exist. The standards or policies under which both financial and non-financial information are compiled and published should be reported.

3. Enterprises should disclose basic information showing their name, location, structure, the name, address and telephone number of the parent enterprise and its main affiliates, its percentage ownership-direct and indirect-in these affiliates, including shareholdings between them.

4. Enterprises should also disclose material information on:
   a) The financial and operating results of the company.
   b) Company objectives.
   c) Major share ownership and voting rights.
   d) Members of the board and key executives, and their remuneration.
   e) Material foreseeable risk factors.
   f) Material issues regarding employees and other stakeholders.
   g) Governance structures and policies.

5. Enterprises are encouraged to communicate additional information that could include:
   a) Value statements or statements of business conduct intended for public disclosure including information on the social, ethical and environmental policies of the enterprise and other codes of conduct to which the company subscribes. In addition,
the date of adoption, the countries and entities to which such statements apply and its performance in relation to these statements may be communicated.

b) Information on systems for managing risks and complying with laws, and on statements or codes of business conduct.

c) Information on relationships with employees and other stakeholders.

3.1.3 Employment and Industrial Relations
Enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices:

1. Respect the right of their employees to be represented by trade unions and other bona fide representatives of employees, and engage in constructive negotiations, either individually or through employers’ associations, with such representatives with a view to reaching agreements on employment conditions;

2. Contribute to the effective abolition of child labour.

3. Contribute to the elimination of all forms of forced or compulsory labour.

4. Not discriminate against their employees with respect to employment or occupation on such grounds as race, colour, sex, religion, political opinion, national extraction or social origin, unless selectivity concerning employee characteristics furthers establishes governmental policies which specifically promote greater equality of employment opportunity or relates to the inherent requirements of a job.

5. Provide facilities to employee representatives as may be necessary to assist in the development of effective collective agreements.

6. Provide information to employee representatives which is needed for meaningful negotiations on conditions of employment.

7. Promote consultation and co-operation between employers and employees and their representatives on matters of mutual concern.

8. Provide information to employees and their representatives which enables them to obtain a true and fair view of the performance of the entity or, where appropriate, the enterprise as a whole.

9. Observe standards of employment and industrial relations not less favourable than those observed by comparable employers in the host country.

10. Take adequate steps to ensure occupational health and safety in their operations.

11. In their operations, to the greatest extent practicable, employ local personnel and provide training with a view to improving skill levels, in co-operation with employee representatives and, where appropriate, relevant governmental authorities.

12. Consider changes in their operations which would have major effects upon the livelihood of their employees, in particular in the case of the closure of an entity involving collective layoffs or dismissals, provide reasonable notice of such changes to representatives of their employees, and, where appropriate, to the relevant governmental authorities, and co-operate with the employee representatives and appropriate governmental authorities so as to mitigate to the maximum extent practicable adverse effects. In light of the specific circumstances of each case, it would be appropriate if management were able to give such notice prior to the final decision being taken. Other means may also be employed to provide meaningful co-operation to mitigate the effects of such decisions.

13. In the context of bona fide negotiations with representatives of employees on conditions of employment, or while employees are exercising a right to organize, not threaten to transfer the whole or part of an operating unit from the country concerned nor transfer employees from the enterprises’ component entities in other countries in order to influence unfairly those negotiations or to hinder the exercise of a right to organize.
14. Enable authorized representatives of their employees to negotiate on collective bargaining or labour-management relations issues and allow the parties to consult on matters of mutual concern with representatives of management who are authorized to take decisions on these matters.

3.1.4 Environment
Enterprises should, within the framework of laws, regulations and administrative practices in the countries in which they operate, and in consideration of relevant international agreements, principles, objectives, and standards, take due account of the need to protect the environment, public health and safety, and generally to conduct their activities in a manner contributing to the wider goal of sustainable development. In particular, enterprises should:

1. Establish and maintain a system of environmental management appropriate to the enterprise, including:
   a. Collection and evaluation of adequate and timely information regarding the environmental, health, and safety impacts of their activities;
   b. Establishment of measurable objectives and, where appropriate, targets for improved environmental performance, including periodically reviewing the continuing relevance of these objectives; and
   c. Regular monitoring and verification of progress toward environmental, health, and safety objectives or targets.
2. Taking into account concerns about cost, business confidentiality, and the protection of intellectual property rights:
   a. Provide the public and employees with adequate and timely information on the potential environmental, health and safety impacts of the activities of the enterprise, which could include reporting on progress in improving environmental performance; and
   b. Engage in adequate and timely communication and consultation with the communities directly affected by the environmental, health and safety policies of the enterprise and by their implementation.
3. Assess, and address in decision-making, the foreseeable environmental, health, and safety-related impacts associated with the processes, goods and services of the enterprise over their full life cycle. Where these proposed activities may have significant environmental, health, or safety impacts, and where they are subject to a decision of a competent authority, prepare an appropriate environmental impact assessment.
4. Consistent with the scientific and technical understanding of the risks, where there are threats of serious damage to the environment, taking also into account human health and safety, not use the lack of full scientific certainty as a reason for postponing cost-effective measures to prevent or minimize such damage.
5. Maintain contingency plans for preventing, mitigating, and controlling serious environmental and health damage from their operations, including accidents and emergencies; and mechanisms for immediate reporting to the competent authorities.
6. Continually seek to improve corporate environmental performance, by encouraging, where appropriate, such activities as:
   a. Adoption of technologies and operating procedures in all parts of the enterprise that reflect standards concerning environmental performance in the best performing part of the enterprise.
   b. Development and provision of products or services that have no undue environmental impacts; are safe in their intended use; are efficient in their consumption of energy and natural resources; can be reused, recycled, or disposed off safely.
   c. Promoting higher levels of awareness among customers of the environmental implications of using the products and services of the enterprise; and
d. Research on ways of improving the environmental performance of the enterprise over the longer term.
e. Provide adequate education and training to employees in environmental health and safety matters, including the handling of hazardous materials and the prevention of environmental accidents, as well as more general environmental management areas, such as environmental impact assessment procedures, public relations, and environmental technologies.
7. Contribute to the development of environmentally meaningful and economically efficient public policy, for example, by means of partnerships or initiatives that will enhance environmental awareness and protection.

3.1.5 Combatting Bribery
Enterprises should not, directly or indirectly, offer, promise, give, or demand a bribe or other undue advantage to obtain or retain business or other improper advantage. Nor should enterprises be solicited or expected to render a bribe or other undue advantage. In particular, enterprises should:

1. Not offer, nor give in to demands to pay public officials or the employees of business partners any portion of a contract payment. They should not use sub-contracts, purchase orders or consulting agreements as means of channeling payments to public officials, to employees of business partners or to their relatives or business associates.
2. Ensure that remuneration of agents is appropriate and for legitimate services only. Where relevant, a list of agents employed in connection with transactions with public bodies and state-owned enterprises should be kept and made available to competent authorities.
3. Enhance the transparency of their activities in the fight against bribery and extortion. Measures could include making public commitments against bribery and extortion and disclosing the management systems the company has adopted in order to honour these commitments. The enterprise should also foster openness and dialogue with the public so as to promote its awareness of and co-operation with the fight against bribery and extortion.
4. Promote employee awareness of and compliance with company policies against bribery and extortion through appropriate dissemination of these policies and through training programmes and disciplinary procedures.
5. Adopt management control systems that discourage bribery and corrupt practices, and adopt financial and tax accounting and auditing practices that prevent the establishment of “off the books” or secret accounts or the creation of documents which do not properly and fairly record the transactions to which they relate.
6. Not make illegal contributions to candidates for public office or to political parties or to other political organizations. Contributions should fully comply with public disclosure requirements and should be reported to senior management.

3.1.6 Consumer Interests
When dealing with consumers, enterprises should act in accordance with fair business, marketing and advertising practices and should take all reasonable steps to ensure the safety and quality of the goods or services they provide. In particular, they should:

1. Ensure that the goods or services they provide meet all agreed or legally required standards for consumer health and safety, including health warnings and product safety and information labels.
2. As appropriate to the goods or services, provide accurate and clear information regarding their content, safe use, maintenance, storage, and disposal sufficient to enable consumers to make informed decisions.
3. Provide transparent and effective procedures that address consumer complaints and contribute to fair and timely resolution of consumer disputes without undue cost or burden.
4. Not make representations or omissions, nor engage in any other practices, that are deceptive, misleading, fraudulent, or unfair.
5. Respect consumer privacy and provide protection for personal data.
6. Co-operate fully and in a transparent manner with public authorities in the prevention or removal of serious threats to public health and safety deriving from the consumption or use of their products.

### 3.1.7 Science and Technology

Chapter 7 of the Guidelines is on science and technology (S&T). The section provides that business enterprises should endeavour to ensure that their activities are compatible with S&T policies and plans of the countries in which they operate and as appropriate contribute to the development of local and national innovative capacity. Aside this they are required to do the following:

1. Adopt, where practicable in the course of their business activities, practices that permit the transfer and rapid diffusion of technologies and know-how, with due regard to the protection of intellectual property rights.
2. When appropriate, perform science and technology development work in host countries to address local market needs, as well as employ host country personnel in an S&T capacity and encourage their training, taking into account commercial needs.
3. When granting licenses for the use of intellectual property rights or when otherwise transferring technology, do so on reasonable terms and conditions and in a manner that contributes to the long term development prospects of the host country.
4. Where relevant to commercial objectives, develop ties with local universities, public research institutions, and participate in co-operative research projects with local industry or industry associations.

### 3.1.8 Competition

The Guidelines require that enterprises should, within the framework of applicable laws and regulations, conduct their activities in a competitive manner. In particular, enterprises are enjoined to refrain from entering into or carrying out anti-competitive agreements among competitors. They are also required to avoid fixing prices, making rigged bids or collusive tender, establishing output restrictions or quotas; or sharing or dividing markets by allocating customers, suppliers, territories or lines of commerce.

Further the Guidelines require business entities to conduct all of their activities in a manner consistent with all applicable competition laws, taking into account the applicability of the competition laws of jurisdictions whose economies would be likely to be harmed by anti-competitive activity on their part.

The Guidelines also require business entities to co-operate with the competition authorities of their host countries subject to applicable laws and appropriate safeguards, providing as prompt and complete responses as practicable to requests for information. Aside these, they are supposed to promote employee awareness of the importance of compliance with all applicable competition laws and policies.

### 3.1.9 Taxation

It is important that enterprises contribute to the public finances of host countries by making timely payment of their tax liabilities. In particular, enterprises should comply with the tax laws
and regulations in all countries in which they operate and should exert every effort to act in accordance with both the letter and spirit of those laws and regulations. This would include such measures as providing to the relevant authorities the information necessary for the correct determination of taxes to be assessed in connection with their operations and conforming transfer pricing practices to the arm’s length principle.

We now turn our attention to the second of the most comprehensive international instruments on CSR.

### 3.2 ILO TRIPARTITE DECLARATION OF PRINCIPLES CONCERNING MULTINATIONAL ENTERPRISES AND SOCIAL POLICY

In the complex and controversial area of the activities of multinational enterprises and social policy, the ILO has established the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy. The Declaration is interlinked with the ILO’s international labour standards and governs the relationship of governments and the social partners. This voluntary code was adopted by the Governing Body of the ILO at its 204th session in November 1977 at Geneva and it is the result of a consensus between governments, employers and workers.

The aim of this Tripartite Declaration of Principles is to encourage the positive contribution which multinational enterprises can make to economic and social progress and to minimize and resolve the difficulties to which their various operations may give rise, taking into account the United Nations Resolutions advocating the Establishment of a New International Economic Order. This aim will be furthered by appropriate laws and policies, measures and actions adopted by the governments and by cooperation among the governments and the employers' and workers' organizations of all countries.

The Declaration starts with a statement of general policies, sets out principles in the fields of employment, training, conditions of work and life and industrial relations which governments, employers' and workers' organizations and multinational enterprises are recommended to observe on a voluntary basis; its provisions do not limit or otherwise affect obligations arising out of ratification of any ILO Convention.

#### 3.2.1 General policies

1. All the parties concerned by this Declaration should respect the sovereign rights of States, obey the national laws and regulations, give due consideration to local practices and respect relevant international standards. They should respect the Universal Declaration of Human Rights and the corresponding International Covenants adopted by the General Assembly of the United Nations as well as the Constitution of the ILO and its principles according to which freedom of expression and association are essential to sustained progress. They should also honour commitments which they have freely entered into, in conformity with the national law and accepted international obligations.

2. Multinational enterprises should take fully into account established general policy objectives of the countries in which they operate. Their activities should be in harmony with the development priorities and social aims and structure of the country in which they operate. To this effect, consultations should be held between multinational enterprises, the government and, wherever appropriate, the national employers' and workers' organizations concerned.

3. The principles laid down in the Declaration do not aim at introducing or maintaining inequalities of treatment between multinational and national enterprises. They reflect good practice for all. Multinational and national enterprises, wherever the principles of this
Declaration are relevant to both, should be subject to the same expectations in respect of their conduct in general and their social practices in particular.

4. Governments of home countries should promote good social practices in accordance with the Declaration of Principles, having regard to the social and labour laws, regulations and practices in host countries as well as to relevant international standards. Both host and home country governments should be prepared to have consultations with each other, whenever the need arises, on the initiative of either.

3.2.2 Employment promotion

1. With a view to stimulating economic growth and development, raising living standards, meeting manpower requirements and overcoming unemployment and underemployment, governments should declare and pursue, as a major goal, an active policy designed to promote full, productive and freely chosen employment. This is particularly important in the case of host country governments in developing areas of the world where the problems of unemployment and underemployment are at their most serious.

2. Multinational enterprises, particularly when operating in developing countries, should endeavour to increase employment opportunities and standards, taking into account the employment policies and objectives of the governments, as well as security of employment and the long-term development of the enterprise.

3. Before starting operations, multinational enterprises should, wherever appropriate, consult the competent authorities and the national employers' and workers' organizations in order to keep their manpower plans, as far as practicable, in harmony with national social development policies. Such consultation, as in the case of national enterprises, should continue between the multinational enterprises and all parties concerned, including the workers' organizations.

4. Multinational enterprises should give priority to the employment, occupational development, promotion and advancement of nationals of the host country at all levels in cooperation, as appropriate, with representatives of the workers employed by them or of the organizations of these workers and governmental authorities.

5. Multinational enterprises, when investing in developing countries, should have regard to the importance of using technologies which generate employment, both directly and indirectly. To the extent permitted by the nature of the process and the conditions prevailing in the economic sector concerned, they should adapt technologies to the needs and characteristics of the host countries. They should also, where possible, take part in the development of appropriate technology in host countries.

6. To promote employment in developing countries, in the context of an expanding world economy, multinational enterprises, wherever practicable, should give consideration to the conclusion of contracts with national enterprises for the manufacture of parts and equipment, to the use of local raw materials and to the progressive promotion of the local processing of raw materials. Such arrangements should not be used by multinational enterprises to avoid the responsibilities embodied in the principles of this Declaration.

3.2.3 Equality of opportunity and treatment

1. All governments should pursue policies designed to promote equality of opportunity and treatment in employment, with a view to eliminating any discrimination based on race, colour, sex, religion, political opinion, national extraction or social origin.

2. Multinational enterprises should be guided by this general principle throughout their operations without prejudice to government policies designed to correct historical patterns of discrimination and thereby to extend equality of opportunity and treatment in employment.
Multinational enterprises should accordingly make qualifications, skill and experience the basis for the recruitment, placement, training and advancement of their staff at all levels.

3. Governments should never require or encourage multinational enterprises to discriminate on any of the grounds stated above, and continuing guidance from governments, where appropriate, on the avoidance of such discrimination in employment is encouraged.

### 3.2.4 Security of employment

1. Governments should carefully study the impact of multinational enterprises on employment in different industrial sectors. Governments, as well as multinational enterprises themselves, in all countries should take suitable measures to deal with the employment and labour market impacts of the operations of multinational enterprises.

2. Multinational enterprises equally with national enterprises, through active manpower planning, should endeavour to provide stable employment for their employees and should observe freely negotiated obligations concerning employment stability and social security. In view of the flexibility which multinational enterprises may have, they should strive to assume a leading role in promoting security of employment, particularly in countries where the discontinuation of operations is likely to accentuate long-term unemployment.

3. In considering changes in operations (including those resulting from mergers, take-overs or transfers of production) which would have major employment effects, multinational enterprises should provide reasonable notice of such changes to the appropriate government authorities and representatives of the workers in their employment and their organizations so that the implications may be examined jointly in order to mitigate adverse effects to the greatest possible extent. This is particularly important in the case of the closure of an entity involving collective lay-offs or dismissals.

4. Arbitrary dismissal procedures should be avoided.

5. Governments, in cooperation with multinational as well as national enterprises, should provide some form of income protection for workers whose employment has been terminated.

### 3.2.5 Training

1. Governments, in cooperation with all the parties concerned, should develop national policies for vocational training and guidance, closely linked with employment. This is the framework within which multinational enterprises should pursue their training policies.

2. In their operations, multinational enterprises should ensure that relevant training is provided for all levels of their employees in the host country, as appropriate, to meet the needs of the enterprise as well as the development policies of the country. Such training should, to the extent possible, develop generally useful skills and promote career opportunities. This responsibility should be carried out, where appropriate, in cooperation with the authorities of the country, employers’ and workers’ organizations and the competent local, national or international institutions.

3. Multinational enterprises operating in developing countries should participate, along with national enterprises, in programmes, including special funds, encouraged by host governments and supported by employers' and workers' organizations. These programmes should have the aim of encouraging skill formation and development as well as providing vocational guidance, and should be jointly administered by the parties which support them. Wherever practicable, multinational enterprises should make the services of skilled resource personnel available to help in training programmes organized by governments as part of a contribution to national development.

4. Multinational enterprises, with the cooperation of governments and to the extent consistent with the efficient operation of the enterprise, should afford opportunities within the enterprise
as a whole to broaden the experience of local management in suitable fields such as industrial relations.

### 3.2.6 Conditions of work and life

1. Wages, benefits and conditions of work offered by multinational enterprises should be not less favourable to the workers than those offered by comparable employers in the country concerned.
2. When multinational enterprises operate in developing countries, where comparable employers may not exist, they should provide the best possible wages, benefits and conditions of work, within the framework of government policies. These should be related to the economic position of the enterprise, but should be at least adequate to satisfy basic needs of the workers and their families. Where they provide workers with basic amenities such as housing, medical care or food, these amenities should be of a good standard.
3. Governments, especially in developing countries, should endeavour to adopt suitable measures to ensure that lower income groups and less developed areas benefit as much as possible from the activities of multinational enterprises.

### 3.2.7 Safety and health

1. Governments should ensure that both multinational and national enterprises provide adequate safety and health standards for their employees. Those governments which have not yet ratified the relevant conventions on this are urged nevertheless to apply to the greatest extent possible the principles embodied in these Conventions and in their related Recommendations. The Codes of Practice and Guides in the current list of ILO publications on Occupational Safety and Health should also be taken into account.
2. Multinational enterprises should maintain the highest standards of safety and health, in conformity with national requirements, bearing in mind their relevant experience within the enterprise as a whole, including any knowledge of special hazards. They should also make available to the representatives of the workers in the enterprise, and upon request, to the competent authorities and the workers' and employers' organizations in all countries in which they operate, information on the safety and health standards relevant to their local operations, which they observe in other countries. In particular, they should make known to those concerned any special hazards and related protective measures associated with new products and processes. They, like comparable domestic enterprises, should be expected to play a leading role in the examination of causes of industrial safety and health hazards and in the application of resulting improvements within the enterprise as a whole.
3. Multinational enterprises should cooperate in the work of international organizations concerned with the preparation and adoption of international safety and health standards.
4. In accordance with national practice, multinational enterprises should cooperate fully with the competent safety and health authorities, the representatives of the workers and their organizations, and established safety and health organizations. Where appropriate, matters relating to safety and health should be incorporated in agreements with the representatives of the workers and their organizations.

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26 ILO Conventions on Guarding of Machinery (No. 119), Ionizing Radiation (No. 115), Benzene (No. 136) and Occupational Cancer (No. 139).
27 Recommendations Nos. 118, 114, 144 and 147.
3.2.8 Industrial relations

Multinational enterprises should observe standards of industrial relations not less favourable than those observed by comparable employers in the country concerned. These should include freedom of association and the right to organize. Thus:

1. Workers employed by multinational enterprises as well as those employed by national enterprises should, without distinction whatsoever, have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization. They should also enjoy adequate protection against acts of anti-union discrimination in respect of their employment.

2. Organizations representing multinational enterprises or the workers in their employment should enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration.

3. Where appropriate, in the local circumstances, multinational enterprises should support representative employers' organizations.

4. Governments, where they do not already do so, are urged to apply the principles of Convention No. 87, Article 5, in view of the importance, in relation to multinational enterprises, of permitting organizations representing such enterprises or the workers in their employment to affiliate with international organizations of employers and workers of their own choosing.

5. Where governments of host countries offer special incentives to attract foreign investment, these incentives should not include any limitation of the workers' freedom of association or the right to organize and bargain collectively.

6. Representatives of the workers in multinational enterprises should not be hindered from meeting for consultation and exchange of views among themselves, provided that the functioning of the operations of the enterprise and the normal procedures which govern relationships with representatives of the workers and their organizations are not thereby prejudiced.

7. Governments should not restrict the entry of representatives of employers' and workers' organizations who come from other countries at the invitation of the local or national organizations concerned for the purpose of consultation on matters of mutual concern, solely on the grounds that they seek entry in that capacity.

3.2.9 Collective bargaining

1. Workers employed by multinational enterprises should have the right, in accordance with national law and practice, to have representative organizations of their own choosing which is recognized for the purpose of collective bargaining.

2. Measures appropriate to national conditions should be taken, where necessary, to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers’ organizations and workers’ organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

3. Multinational enterprises, as well as national enterprises, should provide workers' representatives with such facilities as may be necessary to assist in the development of effective collective agreements.

4. Multinational enterprises should enable duly authorized representatives of the workers in their employment in each of the countries in which they operate to conduct negotiations with representatives of management who are authorized to take decisions on the matters under negotiation.

5. Multinational enterprises, in the context of bona fide negotiations with the workers' representatives on conditions of employment, or while workers are exercising the right to
organize, should not threaten to utilize a capacity to transfer the whole or part of an operating unit from the country concerned in order to influence unfairly those negotiations or to hinder the exercise of the right to organize; nor should they transfer workers from affiliates in foreign countries with a view to undermining bona fide negotiations with the workers’ representatives or the workers’ exercise of their right to organize.

6. Collective agreements should include provisions for the settlement of disputes arising over their interpretation and application and for ensuring mutually respected rights and responsibilities.

7. Multinational enterprises should provide workers’ representatives with information required for meaningful negotiations with the entity involved and, where this accords with local law and practices, should also provide information to enable them to obtain a true and fair view of the performance of the entity or, where appropriate, of the enterprise as a whole.

8. Governments should supply to the representatives of workers’ organizations on request, where law and practice so permit, information on the industries in which the enterprise operates, which would help in laying down objective criteria in the collective bargaining process. In this context, multinational as well as national enterprises should respond constructively to requests by governments for relevant information on their operations.

3.2.10 Consultation

In multinational as well as national enterprises, systems devised by mutual agreement between employers and workers and their representatives should provide, in accordance with national law and practice, for regular consultation on matters of mutual concern. Such consultation should not be a substitute for collective bargaining.

3.2.11 Examination of grievances

Multinational as well as national enterprises should respect the right of the workers whom they employ to have all their grievances processed in a manner consistent with the following provision: any worker who, acting individually or jointly with other workers, considers that he has grounds for a grievance should have the right to submit such grievance, without suffering any prejudice whatsoever as a result, and to have such grievance examined pursuant to an appropriate procedure. This is particularly important whenever the multinational enterprises operate in countries which do not abide by the principles of ILO Conventions pertaining to freedom of association, to the right to organize and bargain collectively and to forced labour.

3.2.12 Settlement of industrial disputes

Multinational as well as national enterprises jointly with the representatives and organizations of the workers whom they employ should seek to establish voluntary conciliation machinery, appropriate to national conditions, which may include provisions for voluntary arbitration, to assist in the prevention and settlement of industrial disputes between employers and workers. The voluntary conciliation machinery should include equal representation of employers and workers.

3.3 GLOBAL COMPACT

The Global Compact28, initiated by the UN Secretary-General in 1999, invites business entities to commit to international norms regarding human rights and environmental protection. Business

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organizations which express support for the Compact are expected to make the assessment of the risks of human rights abuses, and their potential complicity in such, a part of their decision-making process in evaluating a project. They should also:

1. Ensure respect in their workplaces for international norms regardless of any weaknesses in local laws;
2. Avoid complicity in violations of the rights of communities affected by their operations;
3. Take interest in compliance or breaches by their suppliers; and
4. Contribute to the implementation of the internationally accepted regime in the societies in which they operate.

United Nations Secretary-General, Kofi Annan first proposed the Global Compact in an address to the World Economic Forum on 31st January 1999. The Global Compact’s operational phase was launched at UN Headquarters in New York on 26th July 2000. The Secretary-General invited business leaders to join an international initiative—the Global Compact—that would bring companies together with UN agencies, labour and civil society to support nine universal principles in the areas of human rights, labour and the environment.29

Through the power of collective action, the Global Compact seeks to advance responsible corporate citizenship so that business can be part of the solution to the challenges of globalization. In this way, the private sector—in partnership with other social actors—can help realize the Secretary-General’s vision: a more sustainable and inclusive global economy.

Today, hundreds of companies from all regions of the world, international labour and civil society organizations (CSOs) are engaged in the Global Compact. The Global Compact is a direct initiative of the Secretary-General.

The Global Compact is a voluntary corporate citizenship initiative with two complementary objectives:

1. Making the Global Compact and its principles part of business strategy and operations; and
2. Facilitating cooperation among key stakeholders and promoting partnerships in support of UN goals.

To achieve these objectives, the Global Compact offers facilitation and engagement through several mechanisms: Policy Dialogues, Learning, Local Networks and Partnership Projects.

The Global Compact is not a regulatory instrument, it does not “police”, enforce or measure the behavior or actions of companies. Rather, the Global Compact relies on public accountability, transparency and the enlightened self-interest of companies, labour and civil society to initiate and share substantive action in pursuing the principles upon which the Global Compact is based.

The Global Compact is a network. At its core are the Global Compact Office and four UN agencies: Office of the High Commissioner for Human Rights; United Nations Environment Programme; ILO; and the United Nations Development Program(UNDP). The Global Compact involves all the relevant social actors: governments, who defined the principles on which the initiative is based; companies, whose actions it seeks to influence; labour, in whose hands the concrete process of global production takes place; civil society organizations, representing the

29 On 24th June 2004, during the UN Global Compact Leaders Summit it was announced that the UN Global Compact henceforth includes a tenth principle against corruption.
wider community of stakeholders; and the UN, the world’s only true global political forum, as an authoritative convener and facilitator.

As a voluntary initiative, the Global Compact seeks wide participation from a diverse group of businesses and other organizations. To participate in the Global Compact, a company must:

1. Sends a letter to Secretary-General Kofi Annan expressing support for the Global Compact and its principles;
2. Sets in motion changes to business operations so that the Global Compact and its principles become part of strategy, culture and day-to-day operations;
3. Is expected to publicly advocate the Global Compact and its principles via communications vehicles such as press releases, speeches, etc.; and
4. Is expected to publish in its annual report (or similar corporate report) a description of the ways in which it is supporting the Global Compact and its principles.

In terms of the practical ways in which companies pursue the principles, the Global Compact offers engagement opportunities to all participants through the following:

1. **Policy Dialogues**: Each year, the Global Compact convenes a series of action-oriented meetings that focus on specific issues related to globalization and corporate citizenship. The meetings offer opportunities for constructive engagement, bringing businesses together with UN agencies, labour, non-governmental organizations and other groups to produce solutions to contemporary problems. Issues addressed have included “The Role of the Private Sector in Zones of Conflict” and “Business and Sustainable Development”. From 20th-24th November 2006, participants from all over the world will meet in Accra, Ghana to learn about challenges of implementing the Global Compact principles and partnerships for development. The meeting targets managers and other experts from business and civil society that are working on corporate citizenship, sustainability and partnership issues. This dialogue will afford managers of the Global Compact and participants worldwide the opportunity to share their experience and to explore their existing challenges and dilemmas in implementing the Global Compact.
2. **Learning**: Companies are invited to share examples of corporate practices on the Global Compact web portal. In addition, participants are encouraged to develop in-depth case studies and analysis, and to use these for learning activities in the corporate and academic worlds. Local, regional and international Learning events support the sharing of knowledge.
3. **Local Networks**: The Global Compact encourages the creation of local structures and networks at the country or regional level. Such networks are designed to support: the implementation of the nine principles; mutual learning and information exchange; the convening of local/regional dialogues on globalization issues; partnership projects; and the recruiting of additional companies.
4. **Partnership Projects**: The Global Compact encourages companies to participate in partnership projects with UN agencies and civil-society organizations that are aligned with UN development goals.

The Global Compact’s ten principles in the areas of human rights, labour, the environment and Transparency & Accountability enjoy universal consensus, and they are derived from:

1. The Universal Declaration of Human Rights;
2. The International Labour Organization’s Declaration on Fundamental Principles and Rights at Work; and
3. The Rio Declaration on Environment and Development.
The ten principles are:

1. **Principle 1**: Businesses are asked to support and respect the protection of international human rights within their sphere of influence; and
2. **Principle 2**: Make sure their own corporations are not complicit in human rights abuses.
3. **Principle 3**: Businesses are asked to uphold the freedom of association and the effective recognition of the right to collective bargaining;
4. **Principle 4**: The elimination of all forms of forced and compulsory labour;
5. **Principle 5**: The effective abolition of child labour; and
7. **Principle 7**: Businesses are asked to support a precautionary approach to environmental challenges;
8. **Principle 8**: Businesses are to undertake initiatives to promote greater environmental responsibility; and
9. **Principle 9**: Businesses are to encourage the development and diffusion of environmentally friendly technologies.
10. **Principle 10**: Businesses should work against corruption in all its forms, including extortion and bribery.

The origin of Principles 1 and 2 is in the 1948 Universal Declaration of Human Rights (UDHR). The aim of this Declaration was to set basic minimum international standards for the protection of the rights and freedoms of the individual. The fundamental nature of these provisions means that they are now widely regarded as forming the foundation of international human rights law. In particular, the principles of the UDHR are considered to be international customary law and do not require signature or ratification by the state to be recognized as a legal standard. This Declaration begins by laying down its basic premise that "all human beings are born free and equal in dignity and rights." The Declaration then goes on to give content to its understanding of equality by prohibiting any distinction in the enjoyment of human rights on such grounds as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The Declaration also guarantees the rights to life, liberty and security of the individual, and the right to be free from slavery servitude, torture or cruel, inhuman or degrading treatment or punishment. The rights of the individual to a just national legal system are also set out. The right to recognition as a person before the law, to equal protection of the law, to a judicial remedy before a court for human rights violations, to be free from arbitrary arrest, to a fair trial before an independent court, to the presumption of innocence and not to be subjected to retroactive penal laws are all set out in the Declaration.

Rights protecting a person's privacy in matters relating to family, home, correspondence, reputation and honour and freedom of movement are all part of the Universal Declaration. The right to seek asylum, to a nationality, to marry and found a family and the right to own property are also proclaimed by the Declaration. Freedom of thought, conscience and religion and freedom of opinion and expression are set out along with the right of peaceful assembly and association and the right to take part in government.

Touching other aspects of the daily lives of people, the Declaration proclaims the right to social security and to the economic, social and cultural rights indispensable to human dignity and the free development of each individual's personality. These rights are to be realized through national efforts and international co-operation in accordance with conditions in each state.
The right to work, the right to equal pay for equal work, and to just and favourable remuneration ensuring for the worker and the worker's family an existence worthy of human dignity (which can be supplemented if necessary by other means of social protection). The Declaration also recognizes that right to form and join trade unions, the right to rest and leisure, reasonable limitations on working hours and periodic holidays with pay. The right to a standard of living adequate for health and well being, including food, clothing, housing, medical care, and to social services and security, if necessary, are part of the UDHR, as are the rights to education, and to participate in the cultural life of the community, and to the protection of the moral and material interests resulting from any scientific, literary or artistic production.

Global Compact Principles 1 and 2 therefore, call on businesses to develop an awareness of these human rights and to work within their sphere of influence to uphold these universal values, on the basis that responsibility falls to every individual in society.

The three environmental principles of the Global Compact are drawn from a Declaration of Principles and an International Action Plan (Agenda 21) that emerged from the United Nations Conference on Environment and Development (the Earth Summit) held in Rio de Janeiro in 1992. Chapter 30 of Agenda 21, identified that the policies and operations of business and industry can play a major role in reducing impacts on resource use and the environment. In particular, business can contribute through the promotion of cleaner production and responsible entrepreneurship.

There are three (3) key documents as far as the principles on environment are concerned and the content of these documents are summarized below:

1. **The Rio Declaration**, a statement of 27 principles upon which nations agreed to base their actions in dealing with environmental and development issues, builds on the previous Declaration of the United Nations Conference on the Human Environment which was adopted in Stockholm in 1972. The Stockholm conference was the first global environmental meeting of governments, which stated that long-term economic progress needs to be linked with environmental protection.

2. **Agenda 21**, a 40 chapters, action blueprint on specific issues relating to sustainable development that emerged from the Rio Summit, explained that population, consumption and technology were the primary driving forces of environmental change and for the first time, at an international level, explicitly linked the need for development and poverty eradication with progress towards sustainable development.

3. **The 'Bruntland Report', 'Our Common Future'** which was produced in 1987 by the World Commission on Environment and Development, also laid the foundations for the Environment Principles. This landmark document highlighted that people needed to change the way they lived and did business or face unacceptable levels of human suffering and environmental damage.

The environmental principles of the Global Compact provide an entry point for business to address the key environmental challenges. In particular, the principles direct activity to areas such as research, innovation, co-operation, education, and self-regulation that can positively address the significant environmental degradation, and damage to the planet's life support systems, brought by human activity. Some key environmental challenges in today’s world include the following:

1. Loss of biodiversity and long-term damage to ecosystems;
2. Pollution of the atmosphere and the consequences of climate change;
3. Damage to aquatic ecosystems;
4. Land degradation;
5. The impacts of chemical use and disposal;
6. Waste production; and
7. Depletion of non-renewable resources.

The four labour principles of the Global Compact are taken from the ILO's Declaration on Fundamental Principles and Rights at Work. This Declaration was adopted in 1998 by the International Labour Conference, a yearly tripartite meeting that brings together governments, employers and workers from 177 countries. The Declaration calls upon all ILO Member States to apply the principles in line with the original intent of the core Conventions on which it is based. A universal consensus now exists that all countries, regardless of level of economic development, cultural values, or ratifications of the relevant ILO Conventions, have an obligation to respect, promote, and realize these fundamental principles and rights. At the most recent G 8 Meeting in Evian, France, in 2003, the leaders of the industrialized world encouraged companies to work with other parties to implement the Declaration. The Principles and Rights identified in the ILO Declaration comprise the labour portion of the Global Compact.

The aim of the ILO is to harness the support of the business community for these principles through the Global Compact. The labour principles deal with fundamental principles in the workplace and the challenge for business is to take these universally accepted values and apply them at the company level.30

On 24th June 2004, during the UN Global Compact Leaders Summit, it was announced that the UN Global Compact henceforth includes a tenth principle against corruption. This was adopted after extensive consultations and all participants yielded overwhelming expressions of support, sending a strong worldwide signal that the private sector shares responsibility for the challenges of eliminating corruption. It also demonstrated a new willingness in the business community to play its part in the fight against corruption.31

Corruption is now recognized to be one of the world's greatest challenges. It is a major hindrance to sustainable development, with a disproportionate impact on poor communities and is corrosive on the very fabric of society. The impact on the private sector is also considerable - it impedes economic growth, distorts competition and represents serious legal and reputation risks. Corruption is also very costly for business, with the extra financial burden estimated to add 10% or more to the costs of doing business in many parts of the world. The World Bank has stated that "bribery has become a $1 trillion industry."32

The rapid development of rules of corporate governance around the world is also prompting companies to focus on anti-corruption measures as part of their mechanisms to protect their reputations and the interests of their shareholders. Their internal controls are increasingly being extended to a range of ethics and integrity issues and a growing number of investment managers are looking to these controls as evidence that the companies undertake good business practice and are well managed.33

The principle that it is illegal to bribe foreign officials was first established in the US Foreign and Corrupt Practices Act of 1977 and since then, this principle has gained legal standing within the whole of the OECD and other countries. The international legal fight against corruption has gained momentum in more recent times through the OECD Convention on Combating Bribery of

30 See http://www.ilo.org/business for details on these principles.
32 Ibid.
33 Ibid.
Foreign Public Officials in International Business Transactions and through the entering into force of the first globally agreed instrument, the United Nations Convention against Corruption (UNCAC) in December 2005.

The enforcement of anti-corruption legislation internationally has hitherto been relatively poor, but this is slowly changing. In developing countries and emerging markets, where the opportunity for corruption has been rife because of weak law and regulation, corruption has become an issue of significant political importance and there is growing determination to act and to take those accused of corrupt practices to court. There are also a growing number of examples where developing countries with limited capacity to handle such cases have obtained outside legal assistance. To this end the OECD is playing a critical role in ensuring that its member states are developing judicial capacity to enforce the prohibition against any involvement in bribing foreign officials.

There is now clear evidence that in many countries corruption adds upwards of 10 per cent to the cost of doing business and that corruption adds as much as 25 per cent to the cost of public procurement. This undermines business performance and diverts public resources from legitimate sustainable development.34

It is now clear that corruption has played a major part in undermining the world's social, economic and environmental development35. Resources have been diverted to improper use and the quality of services and materials used for development seriously compromised. The impact on poorer communities struggling to improve their lives has been devastating, in many cases undermining the very fabric of society. It has led to environmental mismanagement, undermining labor standards and has restricted access to basic human rights. Business has a vested interest in social stability and in the economic growth of local communities. It has therefore suffered, albeit indirectly, from the impact of lost opportunities to extend markets and supply chains. The business community can and should play its part in making corruption unacceptable. It is important to recognize that corruption diverts resources from their proper use.

Financial resources that were intended for local development may, as a result of corruption, end up in foreign bank accounts instead of being used for local purchasing and the stimulation of local economies. At the same time it distorts competition and creates gross inefficiencies in both the public and private sectors. In most cases when corruption occurs, the services or products being purchased are inferior to what had been expected or contracted for. The long-term sustainability of business depends on free and fair competition. Corrupt practices also accompany and facilitate drug dealing and organized crime. Money laundering and illicit international money transfers are used as support mechanisms for international terrorism. Global businesses have to be constantly vigilant to avoid being associated with these major international challenges.

It is clear that the international legal framework for CSR comprises a few binding principles and a maze of principles that are only of persuasive authority and which are meant to be used as guidelines by corporations. Again, the principles are tailored to foreign companies and very little is said, except tangentially, about local corporations. Having examined the international legal framework for CSR, it is now time to look at the domestic Ghanaian setting.

34 Ibid.
35 Ibid.
4 OVERVIEW OF DOMESTIC LEGAL FRAMEWORK ON CORPORATE SOCIAL RESPONSIBILITY

4.1 INTRODUCTION

There is no comprehensive CSR policy or law in Ghana. Yet, there are a variety of policies, laws, practices and initiatives that together provide the CSR framework in Ghana. There are a variety of ways to view government’s responses to CSR issues in Ghana. These include: mandating; facilitating; partnering; and endorsing practices that are CSR friendly. This section considers these varied roles that public sector agencies are called to play in providing an “enabling environment” for CSR in Ghana.

In Ghana, the government seeks to promote CSR by putting in place legislation that defines minimum standards for business performance. Examples include constitutional provisions, local government laws and requirements for environmental impact assessments contained in an Act of Parliament.36

The Ghanaian Constitution provides for a long list of fundamental human rights in its Chapter 5. These include the right to life, the right to personal liberty and human dignity, protections from slavery and forced labour, the right to property and various other socio-economic rights, etc. The Constitution enjoins all “natural and legal persons in Ghana” to respect and uphold all these rights. Since corporations are legal persons, they are bound by this provision in article 12 of the Ghana Constitution. It follows that corporations cannot engage in conduct that denigrates the compendium of civil, political, economic, social and cultural rights contained in the Ghana Constitution. The Constitution provides for a quick and automatic means of redress in the High Court for any rights violations and corporations may thus be liable for any rights violations that are proven in the High Court by an applicant.37

Again, the Local Government Act, 1993 (Act 462) makes the District Assembly the highest political and administrative authority in the District with deliberative, legislative and executive powers and functions. These powers and functions are to be exercised to, among other things, ensure the overall development of the district; formulate and execute plans, programmes and strategies for the effective mobilization of the resources necessary for the overall development of the district; promote and support productive activity and social development in the district and remove any obstacles to initiative and development; initiate programmes for the development of basic infrastructure and provide municipal works and services in the district; and be responsible for the development, improvement and management of human settlements and the environment in the district.38 Sometimes the Local Government Act is more specific as to some aspect of CSR. It provides in its section 13 that the District Assembly shall be the authority for carrying out and executing the provisions of the Trees and Timber (Chain Saw Operators) Regulations, 1991 (L.I. 1518). It is clear that District Assemblies are a major part of the institutional framework for CSR in Ghana. This is because District Assemblies can among other things: regulate corporations and corporate activity within their Districts as part of their mandate to generally developing their districts; enforce particular laws that they are mandated to enforce (such as forestry laws and liquor laws) which impact directly on corporations and corporate activity; and pass bye laws that may affect corporations and corporate activities.

36 Environmental Assessment Regulations 1999 (L.I 1652).
38 Section 10.
Aside putting in place legislative and regulatory frameworks to ensure CSR, the Government also facilitates CSR by providing incentives to companies undertaking activities that promote the CSR agenda and drive social and environmental improvements. The role of the government here is basically catalytic, secondary, or supportive.

Properly considered the varied roles of state agencies in Ghana in the promotion of CSR revolves around the following:

1. Setting and ensuring compliance with minimum standards in key sectors like mining, banking, insurance, communication technology and commerce in general.
2. Corporate governance.
3. Responsible investment.
4. Community relations.
5. Consumer protection.
6. Sustainable production and consumption.
7. Environmental stewardship.
8. Good labour standards.
10. Defective or faulty products.
11. Disclosure of relevant information/Pro-CSR reporting and transparency.
12. Ethical business practices.
15. Anti discrimination policies.
16. Misleading advertising.
17. Anti corruption and bribery.
18. Protecting interest of minorities/service to minorities.

Business organizations in Ghana are formed for varied reasons and the rules that regulate their operations vary from one sector or industry to the other. There are a number of regulatory bodies in the country, established by different laws, each working towards the protection of consumers, the environment, the country and all stakeholders in the relevant sector. In this section we examine the ways in which government ensures the observance of the CSR principles listed above in the various major sectors and industries in the country.

4.2 THE MINING SECTOR

4.2.1 Introduction

Many developing countries see mining as a panacea for rapid development and Ghana is not an exception. Gold mining for instance has been with us for about 2000 years serving as a major economic activity for women and men in areas like Obuasi, Wassa and other parts of Ghana and attracting Arabs, Europeans and people from other parts of the world.

The last three decades have recorded an influx of mining companies into Ghana resulting mainly from the generous fiscal concessions and other incentives provided to the extractive sector including the retention of between 75-90% of gross gold sales in offshore accounts. Because of competition in the world in attracting foreign direct investment and the benign way in which we

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package the benefits of mining, we keep on lowering our standards and enhancing incentive packages with a view to attracting investors.

The Minerals Commission is the body that has been established to regulate mining activities in the country. The Commission has the authority under the Constitution to regulate and manage the utilization of mineral resources in Ghana and co-ordinate policies in relation to minerals.\textsuperscript{40}


Below is a detailed consideration of some of the key laws on mining in Ghana as they relate to CSR.

\subsection*{4.2.2 The 1992 Constitution of Ghana}

The main legislative framework for mining in Ghana is laid down in the constitution and the \textit{Minerals and Mining Act, 2006 (Act 703)}. Within this legal framework, the State is the owner of all minerals in Ghana. Article 257 (6) of the Constitution provides that every mineral in its natural state in, under or upon any land in Ghana, rivers, streams, water courses throughout Ghana, the exclusive economic zone and any area covered by the territorial sea or continental shelf is the property of the Republic of Ghana and shall be vested in the president on behalf of and in trust for the people of Ghana. Thus, regardless of who owns the land upon or under which minerals are situated, the exercise of any mineral right requires, by law, a license to be granted by the Minister for Mines who acts as an agent of the State for the exercise of powers relating to Minerals. Mineral rights are legally defined to include the rights to reconnoitre, prospect for, and mine minerals.\textsuperscript{41}

By Article 268 (1) any transaction, contract or undertaking involving the grant of a right or concession by or on behalf of any person including the Government of Ghana to any other person or body of persons howsoever described, for the exploitation of any mineral, water or other natural resource of Ghana made or entered into after the coming into force of the constitution shall be subject to ratification by Parliament. However, parliament may by resolution supported by the votes of not less than two thirds of all the members of parliament, exempt any particular class of transactions, contracts or undertakings from the need for parliamentary ratification.\textsuperscript{42}

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{40} 1992 Constitution of Ghana, Article 269.
\item \textsuperscript{41} Section 111 of Act 703 which defines mineral rights as “a reconnaissance license, a prospecting license, a mining lease, a restricted reconnaissance license, a restricted prospecting license or a restricted mining lease”.
\item \textsuperscript{42} 1992 Constitution of Ghana, Article 268 (2).
\end{itemize}
\end{footnotesize}
To have a body that regulates and manages the utilization of mineral resources in Ghana, the Constitution mandated parliament to establish a Minerals Commission six months after the coming into force of the constitution\(^{43}\) and this was done through the passage of the Minerals Commission Act, 1993 (Act 450).

### 4.2.3 The Minerals and Mining Act, 2006 (Act 703)

This Act, which came into force on 31\(^{st}\) March 2006, revised and repealed many of the laws on mining in Ghana. It was passed to streamline Ghanaian law on mining to reflect new thinking, new developments and international best practices in the mining industry and to consolidate it with the enactment on small scale gold mining. Another object of the law is to provide an internationally competitive framework that ensures a stable and equitable tax regime. Of particular relevance to CSR, the object of the law is also to take cognizance of environmental protection as well as community interests with a view to providing a firm basis for the development and sustainability of mining in Ghana\(^{44}\). It appears that an original draft of the law provided that “A holder of a mining right shall in consultation with the Minister responsible for mines provide a percentage of its earnings as may be prescribed by Regulations under [the] Act for community development”. This provision does not appear in the Act as passed by Parliament. Given the immense lobbying efforts by constituents on both sides of the fence during the deliberations on the Mining Bill in Parliament, this is not surprising. It, however, constitutes a major set-back for CSR in the Mining Sector in Ghana.

The Act contains a provision in its Section 4 that can be used to protect sacred places within mining communities. The section provides that the Minister may by Executive Instrument declare that a particular piece of land should not be made the subject matter of a mineral right.

The Law also spells out in broad terms the rights and obligations of a holder of a mineral right and the terms and conditions upon which each mineral right grant should be made. Under Section 5 of the Act, the Minister for Mines is authorized to exercise, within defined limits, powers relating to the grant, transfer, amendment, renewal, cancellation and surrender of mineral rights. The powers conferred upon the Minister must be exercised contingent upon the advice of the Minerals Commission which has the authority under the Constitution to regulate and manage the utilization of mineral resources and co-ordinate policies in relation to minerals. These powers can be useful tools for ensuring CSR in the mining sector.

It is provided under Section 17 of the Act that a mineral right holder, desirous of obtaining, diverting, conveying or using water from any river, stream or watercourse within its area of operation needs to obtain the requisite license from the Water Resources Commission and not the Minister for Mines. It is remarkable that mineral right holders do not have almost automatic permission to use water resources that fall in their concessionary areas. This means that a body distinct from the Ministry of Mines will be able to provide a more impartial assessment of the propriety of using particular water resources for mining purposes. This arrangement has the potential of promoting CSR in the mining sector in relation to the use of water resources in mining communities.

In the same vain, Section 18 of the Act provides for the obligation of a mineral rights holder to comply with laws on environmental protection and the need to obtain applicable licenses or permit from the Environmental Protection Agency.

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\(^{43}\) 1992 Constitution of Ghana, Article 269(1).

\(^{44}\) Memorandum to the Minerals and Mining Act, 2006, (Act 703).
Holders of mineral rights are required by Section 19 of the Act to furnish the Minerals Commission with documents and records on mining activities. These include reports on mineral operations and geological information. Such information is to be kept confidential and shall not be divulged without the prior written consent of the holder unless the disclosure is required by Government or for the purposes of the Act. Such disclosure may be useful where it is sought to hold mining companies to their CSRs.

Sections 22 to 26 of the Act deal with royalties, rent, and fees applicable to operators in the mining industry. Fees for application for mineral rights and licenses are to be prescribed by legislative instrument. The Act expands the requirements for rents that are to be paid annually by holders of mineral rights. These include annual mineral right fees which are to be paid to the Minerals Commission; grounds rents which are to be paid to the owner of the land or in the case of stool land to the Office of the Administrator of Stool Lands, for distribution by it as appropriate. Royalties payable to the Republic are to be prescribed by Legislative Instrument. All these payments are a part of the CSR of mining companies.

In order to avoid criminal sanctions in respect of certain failures of compliance under the Act, section 26 decriminalizes the failure to pay fees and other charges and makes them a debt owed to the state and recoverable in the courts. This might pose problems for CSR since criminal sanctions are a good threat for ensuring CSR compliance by corporations.

Section 27 is on resolution of disputes and includes domestic and international Alternative Dispute Resolution processes. These avenues could be useful for CSR claims.

The surface rights of owners of land subject to mining activities and compensation for disturbance of such rights are assured under Sections 72 and 73 of the Act. Specific provisions on compensation, including alternate settlement, to which an owner or lawful occupier of land subject to a mineral right may be entitled to are provided for in Sections 74 and 75 of the Act.

4.2.4 Minerals Commission Act, 1993 (Act 450)


MINCOM functions through a Secretariat which is headed by a Chief Executive and assisted by professionals and technical personnel within the six departments of the Secretariat, namely:

1. Planning and Policy Analysis
2. Monitoring and Evaluation
3. Finance, Marketing and Research
4. Personnel and Administration
5. Legal
6. Small Scale Mining

4.2.5 Kimberley Process Certificate Act, 2003 (Act 652)

This law makes the possession of a Kimberley Process certificate a condition precedent for the export of diamond to any part of the world. This law was put in place in an attempt to contribute towards the international efforts to bring an end to trading in conflict diamonds by ensuring that such diamonds are not traded. A person who has been granted a mineral right shall not export
rough diamonds unless that person has applied for and been issued a Kimberley Process Certificate.

4.2.6 Mining and CSR

Mining activities impact a lot on the social, economic, political and cultural life of people living in mining communities. Below is an attempt to highlight some of the effects of mining which bear directly on the concept of CSR. The discussion contains the various legislative, policy and other efforts that have been made to enhance CSR in the mining sector.

4.2.6.1 Mining and Water Resources

Mining impacts greatly on water bodies which serve as sources of livelihood for many people. Traditionally, rural communities are established around rivers and streams which are important for food production, river-based employment, recreation and cultural reasons in addition to the satisfaction of biological and household needs. The proliferation of surface mining companies has resulted in the pollution of some of these rivers and streams through cyanide spillages, acid mine drainage, tailings leakages, mine waste disposals, and mine pits. These have tended to deprive communities of access to water—a basic need for human survival. This is a clear violation of the economic, social and cultural rights of the mining communities. The dewatering effects of mining also reduce the availability of water to support plant life, and fertile lands are reduced to marginal lands. The lack of access to clean potable water in mining communities has a relationship with the reduced health status of the communities, as they are plagued with many water-borne diseases. It should be noted that under the new Minerals and Mining Act, Section 17 is devoted to water rights. This section provides that a holder of a mineral right may for purposes ancillary to the mineral operations, obtain, divert, impound, convey and use water from a river, stream, underground reservoir or water course within the land, the subject of the mineral right. To be able to do this however, the law requires the holder to obtain the necessary license from the Water Resources Commission (WRC). Thus, the right to use water on land which is the subject matter of a mineral right is not automatic; it is subject to the approval of the WRC. If this approval process is effectively done, some of the effects of mining on the water resources of mining communities may be reduced or eliminated.

The WRC is the statutory body set up under the Water Resources Commission Act, 1996 (Act 522) to regulate and manage the utilization of water resources in Ghana and for related matters.

4.2.6.2 Mining and Community Livelihood

Mining competes with agriculture for land. Many community folks are engaged in agriculture or depend on the forest for their livelihoods. The persons who depend on these lands are far greater in number than the real owners of the land. This means that the real loss of incomes and livelihood support through loss of forest and agricultural lands are not identifiable subjects of compensation. Uncultivated lands and standing forests in the rural areas attract little if any compensation in the event of compulsory acquisition of land for mining. Once community lands are lost to mining, the economic power of the people is correspondingly diminished.


In some cases, farmers whose lands have been taken over have usually been given cash compensation for their crops and the loss of their livelihood, instead of similar land and the means to continue farming. In 1996, such issues prompted community protests in the major mining area of Tarkwa. To address some of these issues Section 72 of the Minerals and Mining Act provides that the lawful occupier of land within an area subject to a mineral right shall retain the right to graze livestock and to cultivate the surface of the land if the grazing or cultivations do not interfere with the mineral operations in the area. The owner is also given the opportunity to erect buildings on his land which is the subject matter of a mining lease but this can be done only with the consent of the holder of the mining lease. Where such consent is unreasonably withheld the landowner can apply to the Minister of mines for his consent.

Where mining activities are to be extended to cover a farm land, a survey of the crops shall be conducted at the instance of the holder of the mining lease for the purpose of valuing the crops and compensating the affected person accordingly. The law also restricts the right of landowners by prohibiting them from upgrading the value of their crops without the written consent of the holder of the mining lease.

Section 105 (2) tries to deal with community livelihood issues by requiring every holder of a mineral right to give preference to citizens when it comes to employment and put them under conditions which are consistent with safety, efficiency and economy.

4.2.6.3 Mining and the Environment
Mining affects the right to a healthy environment. In mining communities large tracts of forestlands are lost to surface mining. Surface mining is an activity that generates a lot of waste. It is estimated that the production of one gold ring, could generate 20 tons of waste.\(^{47}\)

Mine waste disposal is also a major problem for the industry and in most cases, the mining companies look for the cheapest method of waste disposal with serious environmental consequences. The high sediment load from mine waste into community streams during rainfall is a major source of stream pollution when community farmlands are used as waste dumps. Communities in some instances have experienced pollution of community streams by the sewerage directed into the streams from residential bungalows of mining companies. Environmental accidents like cyanide spillages/leakages into community streams have become associated with mining operations.

An attempt has been made in the Minerals and Mining Act to protect our forests and the environment in mining communities. By section 18 of the Act, before undertaking any activity or operation under a mineral right, the holder of the mineral right is required to obtain the necessary approvals and permits required from the Forestry Commission (FC) and the Environmental Protection Agency (EPA) for the protection of natural resources, public health and the environment.

The FC is set up under the Forestry Commission Act, 1999 (Act 571) to coordinate the activities of the main public bodies and agencies implementing the functions of protection, development, management and regulation of forests and wildlife resources and to provide for related matters, whilst the EPA is set up under the Environmental Protection Agency Act, 1994, (Act 490) to advise on the formulation of policies on all aspects of the environment; make recommendations for the protection of the environment; prescribe and enforce standards and guidelines in relation to environmental pollution; co-ordinate the activities of bodies concerned

\(^{47}\) Owusu-Koranteng Hannah, supra.
with the technical or practical aspects of the environment and for related matters. There are a number of regulations passed under the EPA Act. These are the *Environment Assessment Regulations, 1999 (LI 1652)* and the *Environmental Assessment (Amendment) Regulations, 2002 (L.I. 1703)*.

A Biosafety Bill has also been drafted by Government but is yet to be laid before Parliament. The Bill is planned to give legal backing to all the expected key components of the National Biosafety Framework for Ghana.

The combination of the laws and many regulations on mining, forestry, and water together with the attendant policy and enforcement agencies are requisite for CSR in the mining sector in Ghana. As it the case for many other social issues, it remains for these to be effectively operationalized.

### 4.2.7 Case Studies on CSR

In recent years the global mining industry has taken up the mantle of corporate social and environmental responsibility. The finite nature of non-renewables, the diverse environmental impacts associated with their extraction and use, and the social impacts on local communities associated with mining activities require that the mining industry and communities work together to ensure *sustainable* exploitation of mineral resources. Where this is not done, there are invariably many conflicts and confrontations between mining companies (usually backed by government) and community groups (usually backed by civil society organisations including NGOs). In the rest of this sub-section, we detail a number of case studies that show on the one hand serious and commendable efforts at CSR and on the other practices that are contrary to the internationally recognized principles of CSR.

#### 4.2.7.1 The Ghana Chamber of Mines Est. 1928

**Introduction**

The first offices of the West Africa Chamber of Mines, which gave birth to the Ghana Chamber of Mines, were set up in 1903 with the principal objective of advancing and protecting the mining interests of the shareholders.

On 6<sup>th</sup> June 1928, the Gold Coast Chamber of Mines was incorporated as a private Company and operated at Tarkwa in the Western Region. On Ghana’s attainment of independence on 6<sup>th</sup> March 1957, the name of the Chamber was altered to the Ghana Chamber of Mines. By a special resolution on 6<sup>th</sup> May 1960, the form of the objects of the Chamber was also altered, and on 14<sup>th</sup> February 1964, the Chamber was converted under the *Companies Code 1963 (Act 179)* into a Company Limited by Guarantee. In 1967, the registered office of the Chamber was moved to the national capital.

The Chamber has since remained a voluntary private sector employers’ association representing companies and organizations engaged in the minerals and mining industry in Ghana. Programmes and activities of the Chamber are funded entirely by its Member Companies, which are largely responsible for producing almost all of Ghana’s minerals.

**Vision**

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To be a respected, effective and unified voice for the mining industry.

**Mission Statement**

To represent the Mining Industry in Ghana using the resources and capabilities of its members to deliver services that address members, government and the community needs, in order to enhance development.

**Core Values:**

The principles that will guide decision making which the members of the Chamber will not compromise whilst achieving the mission and pursuing the vision are: **Honesty, Transparency, Good Governance, Good Corporate Citizenship, Commitment and Unity.**

**Objectives of the Chamber**

The objectives of the Chamber taking into consideration the strategic challenges for achieving its vision are:

- Promote and protect the interests of the Mining Industry.
- Promote and protect the image of the Mining Industry.
- Establish and maintain effective membership governance.
- Provide leadership for the solution of national issues related to mining.

**Membership Structure**

There are five broad categories of membership, namely, Represented, Pre-production, Contract Mining, Exploration, and Affiliate Categories.

**Alternative Livelihood Programmes**

The industry’s commitment to sustainable development has resulted in the initiation and implementation of community development programmes. These programmes have been introduced to ensure the long term sustainability of projects in mining communities even after activities have ceased in a particular region, or once the funding is limited.

The programme, which is being implemented by all Chamber members seek to initiate and promote the establishment of projects that would have a direct economic and social benefits for host communities. Through these projects, the Chamber and its members aim to assist communities to improve the quality of lives by helping them to acquire the skills and knowledge needed to manage their environment sustainably.

The membership of the Chamber subscribes to and upholds a prescribed code of conduct. Although the Code is applicable to all signatories’ activities in Ghana and does not prescribe management practices, it insists on the adoption of key principles of the ICMM (International Council on Mining and Metals) that enables signatories to focus on the planks of sustainable development; namely:

- General Corporate Responsibility
- Environmental Responsibility
- Product Stewardship
• Community Responsibility

**General Corporate Responsibility**

The mining industry in Ghana deems itself to be a very responsible corporate citizen. In that sense, the industry does not condone the willful or intentional infringement on the rights of the communities on whose land it operates.

Members of the Chamber are subject to district and national laws and are also enjoined to comply with the laws and regulations in the country. In interpreting the laws and regulations, members endeavor to adopt a course, which conforms to the enhanced image of the Chamber and the reputation and integrity of its individual members.

The mining industry upholds fundamental human rights and respects culture, customs and values in dealings with employees and others who are affected by its activities. We also endeavor to conduct ourselves with integrity; to be fair and honest in our dealings and treat other stakeholders and persons with dignity.

In this sense, the social responsibility contributions to host communities by our mining companies between 2003 and 2004 alone amounted to 155.3 billion Ghana cedis. These voluntary payments and expenditures are made in addition to the statutory payments such as royalties and other taxes. Royalty payments in 2003/4 were 414.1 billion Ghana cedis whilst dividend payments over the same period amounted to 111 billion Ghana cedis.

**Environmental Responsibility**

The Chamber recognized environmental management as corporate priority and its members have integrated environmental management into the continuum of operations from exploration, through design and construction to mining, minerals processing, rehabilitation and decommissioning.

Our members abide by all the laws and regulations of the Environmental Protection Agency as we seek to operate responsibly to mitigate the effect of our operations on the Environment. Mining Companies also contribute to bio-diversity and integrated approaches to land use planning. This is evidenced by our collaboration with the Centre for African Wetlands based in Legon.

**Product Stewardship**

The industry has initiated programmes that facilitate and encourage responsible product design, use, re-use, recycling and disposal of its waste products. Where feasible, members have facilitated value addition to their products. For instance, as part of the beneficiation and value addition, the College of Jewellery has become a member of the Chamber.

**Community Responsibility**

Members proactively consult their host communities on their aspirations, and values regarding development and operation of mining projects, recognizing that there are links between environmental, economic, social and cultural issues. Members in addition voluntarily contribute to the socio-economic development of their host communities in so far as their resources will allow.
… [T]he code does not seek to replace statutory regulations. It rather complements the country’s laws and regulations as it motivates companies to exceed national targets through continuous improvement. Stakeholders with interest in the signatory’s activities could review the signatories’ conformance to the Code. We believe that adopting the code signifies a company’s commitment to responsible management in all its activities.

**Stakeholders Expectations**

The Chamber acknowledges that stakeholders’ expectations of responsible conduct are higher than ever before. The Chamber remains to upholding human rights within their operational areas and to promote its observance in the host communities where member companies operate.

Since the mining industry was re-modeled as an offshoot of the Mining and Minerals Law of 1986 the paramount desire of the Ghana Chamber of Mines and its member companies has always been to recognize, promote and pursue a balance between social equity, environmental conservation and economic development.

The mining industry has progressively recognized that to minimize the social conflict associated with mining which are often fanned by other extraneous actors, it is necessary to involve the local inhabitants, be sensitive to the traditions and culture of the people, and develop the communities into understanding the dynamics of modern mining and their implication on company/community relations as well as the new challenges in the sustainable management of the environment.

**Land Use Conflict**

All development activities have land use implications, whether it is real estate development, agriculture, the construction of stadia, roads, ports, stations or railways. Therefore, it is not surprising that there is conflict between mining and other land use activities. Currently however, less than 2 per cent of the entire landmass of Ghana is under active mining. The important issue here is how the impact of mining can be managed in a sustainable manner so that generations yet unborn will not be deprived of their source of livelihood.

It must be noted however that the process of ensuring that mining is carried out in the best environmentally responsible manner possible is governed by statutory requirements and controls as well as internal self imposed code of ethics by the members of the Chamber.

**Environmental Practices**

In order to sustain and build on its contribution to the development of Ghana, the mining industry is seriously addressing the key development of environmental questions, particularly the relationship of mining and metallurgy to sustainable development. A good deal of attention is now being paid to health and safety at the workplace and the local community, and loss control strategies are being put in place because environmental problems from mining, may be contributory to environmental pollution despite being number one foreign exchange earner now. It is therefore not surprising that a lot of concern is being raised about the environmental impact of the increasing activities of the mining industry.

Since 1989, it has been the requirement in Ghana to subject all major development projects to the Environmental Impact Assessment (EIA) process, and mining projects which cover concession area of more than 25 acres is required to submit an EIA to the Environmental Protection Agency.
(EPA), because the National Environmental Policy aims to avoid any exploitation of these resources from damaging the environment.

**Water Monitoring**

Water sampling sites are selected with the intention of monitoring all water emanating from the operation sites, which ensures that any source of contamination is easily identified. The type of water monitoring can be classified into three: potable, streams and boreholes. Some full analyses which include other parameters like trace metals are done regularly at each sample site.

Where water bodies have been impacted, alternative sources of water are provided for the communities. In addition, companies provide potable water as part of their CSR activities. In 2003 alone over 7.26 billion Ghana cedis was spent on the voluntary provision of water to mining communities.

**Contribution to Ghana’s Gross Domestic Product (GDP)**

If one assumes that mining is an essential activity, the question then becomes, to what extent can its adverse environmental and social effects be ameliorated? The industry’s historical record in both these areas has been poor, because of lack of information and policies on environmental management. But the situation has changed radically over the past couple of decades. In response to new legislation and environmental concerns, the industry has reformed itself and there are no companies in the Chamber that are not fully committed to protecting the environment and contributing very significantly to the communities around them.

The mining sector declined in the period leading to the promulgation of the Minerals and Mining Law in 1986. In that period the industry was virtually run by the State. When the effects of the new law took hold, mining’s contribution to GDP increased to an average of 5.5% which compares favourably with the sector’s contribution to GDP in other mining countries.

However, it is simplistic to measure mining’s contribution to the nation’s economy merely on its share of the country’s GDP since a lot of multiplier effects arise out of mining activities.

**Conclusion**

Mining will continue to play a central role in economic development of this country. However, we believe and accept that the exploitation of minerals ought to be carried out in a prudent and sustainable manner. Within the context of mineral extraction sustainable development includes conservation and prudent use of resources in order not to significantly narrow the range of opportunities for future generations.

Sustainable development is a desired goal and to reach it, the Chamber is willing to work with government and stakeholders to implement principles of co-operative decision-making and shared responsibility for the management of social and environmental issues.

**4.2.7.2 Newmont Ghana Ltd**

An example of CSR within the context of a multinational corporation (MNC) is Newmont. This is a mining giant based in Denver in the United States of America with its operations in countries like Peru, Indonesia and Ghana. The operations of this company in these countries continue to receive media scrutiny bringing to the fore issues of corporate social responsibility.
For instance, in Choropampa in Peru 400 people were hospitalized after mercury, a toxic metal and mining by-product, was spilled in the environment near a Newmont gold mine in 2000. The company did not agree to local demands for an independent health impact study. At La Apalina, the company closed an irrigation channel that is crucial for the survival of local farmers. One Father Marco Arana of the Peruvian NGO Grufides sums up the extent of the damage thus:

“Water is the source of life. To deprive poorest people of this right so that a few people can get rich is one of the gravest sins that Newmont is committing in the Northern Andes of Peru,”

In Indonesia, the Ministry of Environment commissioned an investigation about pollution around a Newmont mine in the Buyat Bay area in 2004. Drinking water for the local community contained up to three times the legally allowed amount of mercury, a toxic metal and mining by-product, and the amount of arsenic, which is also toxic, exceeded legal norms. High concentrations of mercury and arsenic were detected in the Buyat Bay seabed. Health problems such as skin diseases, tumors and birth defects have become more and more frequent. In August 2004, 23 people were hospitalized and had to undergo surgery.

Now in Ghana, Newmont’s operations in Ahafo, even at the construction stages, have impacted negatively on water availability in the area. According to Mr. Daniel Owusu-Koranteng of the Wassa Association of Communities Affected by Mining (WACAM) in Ghana the construction of a dam on river Subri has deprived many communities of access to drinking water and for water-based livelihoods. The dam has left the river Subri almost dead and the disposal of fecal matter into river Asuopre has rendered it unsafe for use by communities. The water situation of the communities is expected to worsen when Newmont starts its mining operations.

Newmont refused to address many complaints by locals in the cases mentioned above but also in other countries. Demands for independent research were ignored and promises made at the previous shareholder meeting have been broken. The company merely responds with Public Relations activities to explain how environmentally friendly its operations supposedly are. Friends of the Earth International, the Indigenous Support Network and the Fourth World Centre for Indigenous Law and Politics (both from the University of Colorado in Denver) invited Mr. Daniel Owusu-Koranteng, from WACAM in Ghana, and Father Marco Arana, from Grufides in Peru, to Denver where they presented the impacts of mining on indigenous people in their countries at the conference dubbed “The Real Price of Gold?” on April 24, 2006. On April 25, they attended the Newmont shareholder meeting and met Newmont officials. They asked Newmont to stop poisoning drinking water and stress the need for independent research and monitoring of Newmont’s performance in guaranteeing water quality around its operations worldwide.

These examples show that local communities around the world are not properly protected against companies like Newmont and their destructive mining activities. Local people are often negatively affected and most of the time they don’t want giant mining operations in the first place. Affected people need to get better rights to protect their environment and their health. If needed, they must be able to take a company like Newmont to court in the US for crimes committed in other parts of the world…Worst practices should be immediately halted, especially cyanide heap leach gold mining and submarine and riverine tailings disposal.

References:
4.2.7.3 Bogoso Gold Limited

In Ghana, the dumping of mine waste and the creation of mine pits by Bogoso Gold Limited (BGL) has been environmentally destructive and created many problems for local communities. In October 2004, Dumase and other communities were endangered by cyanide spillage from a new BGL tailings containment, which had not received a permit from the Environmental Protection Agency (EPA). BGL refused to provide adequate medical treatment for over 30 persons who fell ill, and the company is now subject to a court action by the victims. On 7 June 2005, 5,000 people from Prestea, Himan, and Dumase united to peacefully protest BGL surface mining in Prestea. Security Personnel, associated with the Military and Police, fired on the demonstrators, wounding seven people.

In yet another egregious example, a waste dump was set up 30 metres from the Prestea Government Hospital. The hospital provides medical services to thousands of people in Prestea and the surrounding towns and villages. The mine waste has already covered a spring water source, which is used by the Prestea Government Hospital. The Medical Director, nurses, and staff of the hospital have marched on the company’s offices in Prestea in protest. After an initial suspension ordered by the EPA in September 2005, local communities were shocked to learn that BGL had again resumed operations with EPA approval in late October. The EPA had insisted on the relocation of the Prestea Police Station and the erection of a fence around the mine pit, but did not include any of the communities’ concerns about the increasing quantity of mine waste and lack of access to clean drinking water.

4.2.7.4 Gold Fields Ghana Limited

Cyanide Spillage effect now felt

Huniiso (W/R), May 16, GNA - The people of Huniso and Samahuu, two communities in the catchments area of the Gold Fields Limited, are now feeling the effects of cyanide spillage into their drinking water. Many people have complained that they have developed eye problems. This came to light when a team from the World Bank visited some communities to assess the benefits these catchments communities have enjoyed from mining companies and the level of relationship between the companies and the catchments communities. The team visited Samahuu, Huniso and Teberebie.

Mr. Yahaha Moro, an elder of Huniso, said about four years ago Goldfields Ghana Limited Tarkwa spilled cyanide and it polluted the town's source of water supply. He said before the company informed the community, a lot of people had already consumed the water.

Mr. Moro said boreholes that were sunk for the community are now faulty and access to water is not easy. He said the vibration emanating from blasting has opened cracks in their buildings and there was the need to control blasting at the mine. The Assembly Member for Huniso, Mr.

52 Press Statement of the PRESTEA CONCERNED CITIZENS ASSOCIATION with the support of Wassaa Association of Communities Affected by Mining-WACAM, at the International Press Centre, Accra, August 25, 2005. See also WACAM Press Releases on 3 October 2005 and 2 November 2005, circulated by WACAM and archived by Mines and Communities at: http://www.minesandcommunities.org/Company/company.htm#B.
Daniel Kwarteng, mentioned a clinic, primary and junior secondary schools, teachers quarters, hand dug wells fixed with pumps as some of the facilities the mine has provided the community. He said there was the need to construct culverts on the road leading to the Tarkwa/Bogoso main road. The town has embarked on an electrification project but the mine has turned down its request for help to get it hooked to the national grid. Mr. Kwarteng said water in the boreholes dries up during the dry season and it was necessary to sink new ones to ensure a year round supply of water.

Samahuu, the people complained of developing Asthma owing to polluted air from the mine. Mr. Yaw Britwum Opoku, the Senior Community Relations Officer, said 70 per cent of money voted for the mine's social responsibilities goes into education.

4.3 ENERGY AND WATER SECTORS

In Ghana, the major CSR issues in the Energy Sector are less dramatic than those of the mining sector. For one thing, privatization of the Energy and Water Sectors has not been as fast-paced as the Mining Sector and the sectors are still very much regarded as government sectors. The effect is that the public makes less CSR demands on these sectors mainly because CSR, as conceived and practiced, is hardly demanded of government and no-for-profit corporations. The thrust is to go against the big, for profit, usually foreign-owned or controlled corporations. Again, energy and issues, as they relate to the environment, are far less poignant and dramatic than is the case with mining and the environment.

CSR issues in the Energy and Water Sectors in Ghana relate to the environmental effects of the exploitation of energy and water resources; the inherent hazards associated with the exploitation and sale of energy and water products and related safety precautions (for example against the outbreak of fires in gas retail plants); voltage and pressure stability and the resultant damage to equipment-corporate and household; weights and measures for energy and water products; and billing irregularities.

The Energy and Water Sectors in Ghana are mainly regulated by the Energy Commission (EC), the Public Utilities Regulatory Commission (PURC), the National Petroleum Authority (NPA) and the Water Resources Commission (WRC) laws. The relevant laws include the following plus their relevant subsidiary legislation.

1. **The Energy Commission Act, 1997 (Act 541);**
2. **The National Petroleum Authority Act, 2005 (Act 691);**
3. **The Public Utilities and Regulatory Commission Act, 1997 (Act 538);** and

4.3.1 The Energy Commission Act, 1997 (Act 541)

The Energy Commission is the statutory body established to regulate and manage the development and utilization of energy resources in Ghana. The commission is empowered to grant licenses for the transmission, wholesale supply, distribution and sale of electricity and natural gas; and the refining, storage, bulk distribution, marketing and sale of petroleum products.

It is provided by Section 27(1) of the EC Act that the Commission in consultation with the PURC shall by legislative instrument prescribe standards of performance for the supply, distribution and sale of electricity or natural gas to consumers by licensed public utilities.
The standards of performance with respect to electricity include matters relating to voltage stability; maximum number of scheduled and unscheduled outages; number and duration of load shedding periods; and metering. Similarly, with respect to natural gas, matters that may be regulated include gas pressure; number of scheduled and unscheduled interruptions in supply; gas quality; and metering.

Where a licensee fails to meet any required standard of performance, it may in addition to any penalty provided under the law be required to pay such compensation as the Commission may determine to any person adversely affected as a result of the failure. The requirement for payment of compensation does not limit the right to any other remedy at law which may be available to the complainant; and it does not preclude the Commission from taking any other measure that the Commission has a right to impose in respect of the act or omission that constitutes the failure.

Under Section 28 of the EC Act, the Commission may come out with a Legislative Instrument prescribing technical and operational rules of practice for electricity and natural gas public utilities which shall be applied uniformly throughout the country. The EC has issued a number of regulations in this regard. Section 29 of the Act also establishes the Electricity and Natural Gas Technical Committee to oversee the development, implementation and monitoring of the rules that the commission may issue.

The Act also contains special provisions related to the operation of petroleum refineries and for the supply of petroleum products. Persons interested in operating a refinery or supplying petroleum products are required by the law to obtain a license from the Commission. Licensees under this sector are authorized by their license to convert crude oil into petroleum products for sale without discrimination to customers and persons licensed to market petroleum products.

4.3.2 The Water Resources Commission Act, 1996 (Act 522)

This Water Resources Commission Act, 1996 (Act 522) provides in its Section 2(1) that “[t]he Commission shall be responsible for the regulation and management of the utilization of water resources, and for the co-ordination of any policy in relation to them”. As far as statutory law is concerned, it should be noted that the 1992 Constitution, the fundamental law of the land, does not explicitly provide for the establishment of an institutional basis for the regulation of water as it does for the related resources of land, fisheries and forestry through the establishment of Lands, Minerals and Fisheries Commissions charged with the management and coordination of policy in relation to these resources. The activities of these Commissions could, however, impact on the water sector. Perhaps taking a cue from the Constitution which provides for the creation of other Commissions to address natural resource management, the Legislature has established a Water Resources Commission (WRC) for the management of the water resources of Ghana. The WRC Act is the major instrument that governs water use and management in Ghana. However, prior to, and after the enactment of the WRC Act, various governments have sought, through the instrumentality of legislation and policy initiatives, either directly or indirectly, to regulate water and its uses through various Ministries, Departments and Agencies (MDAs) of the state. Consequently several enactments that have a bearing on water use and or management exist on the statute books, and these include:

1. Rivers Ordinance, 1903 (Cap 226)
2. Forests Ordinance, 1949(Cap157)
3. Mosquitoes Ordinance, 1951(Cap 157 Rev)

56 See for example the Electricity (Technical And Operational) Rules, 2002 (L.I. 1702).
57 Section 31.
4. **Wild Animals Preservation Act, 1961** (Act 43)
5. **Volta River Development Act, 1961** (Act 46)
7. **Oil in Navigable Waters Act, 1964** (Act 235)
8. **Irrigation Development Authority Decree, 1977** (SMCD 85)
9. **Minerals and Mining Act 2006** (Act 703)
10. **Environmental Protection Agency Act, 1994** (Act 490)
11. **Ghana Highway Authority Act** (Act 540)
12. **Timber Resources Management Act, 1998** (Act 547)

The plethora of legislation dating from the colonial era vest powers in various MDAs, for the varied and contemporary uses of water including irrigation, power generation, transportation and industrial uses. These enactments did not affect pre-existing customary rights; they sought to regulate water uses in areas that had hitherto not been addressed by customary law. Further, there was no provision for a single body or institution charged with the responsibility for the control, regulation and management of Ghana’s water resources until the enactment of the WRC Act. ⁵⁸

The Act abolished the pre-1996 customary regime for ownership of water which resided in stools, communities, families and individuals. In their stead, the state has assumed ownership, management and control of water through the establishment of a multi-institutional cum sectoral body, the WRC. This arrangement has radically affected the legal regime for the control and management of water. At the same time, the WRC Act leaves several legal issues unresolved in the area of the competence of some of the pre-existing regulatory bodies in the water sector vis-à-vis the WRC. Whatever the case may be, the Act gives the Commission enough powers to ensure CSR in the Water Sector.

As a supplement to the WRC Act, the Government has adopted a water policy based on integrated water resource management, in order to achieve a sustainable management of the country’s water resources in consonance with the principle of sustainable development.

**4.3.3 Public Utilities Regulatory Commission Act, 1997** (Act 538)⁵⁹

The PURC is an independent body set up to regulate and oversee the provision of the highest quality of utility services. The Commission was established in October 1997 under the **PURC Act, 1997** (Act 538) to regulate and ensure the provision of quality utility services.

The mission of the PURC is to develop and deliver the highest quality of utility services to all consumers and potential customers, while building a credible regulatory regime that will respond adequately to stakeholders concerns and also ensure fairness, transparency, reliability and equity in the provision of utility services. The PURC aims at becoming a model institution that ensures the delivery of the highest quality utility services to all consumers at fair prices.

PURC is mandated to regulate the Urban Water, Electricity and Gas sectors. The utility service providers under these sectors are as follows:

1. Volta River Authority (VRA)

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⁵⁹ The information on this is taken from the PURC website: [http://www.purc.com.gh/regulatedactivities.htm](http://www.purc.com.gh/regulatedactivities.htm).
2. Northern Electricity Department of VRA (VRA-NED)
3. Electricity Company of Ghana (ECG)
4. Ghana Water Company Limited (GWCL)

The key regulatory tools utilised by the Commission in pursuance of its objectives are:

1. Rate Setting.
2. Regulations.

The PURC is mandated to set tariffs which will ensure both efficiency and equity in the provision of utility service. Consequently since its inception, the Commission has developed procedures to attain tariff levels that will not only make the service operators financially viable, but also ensure that consumers get value for money.

Currently based upon a transitional plan, tariffs have been gradually adjusted to full cost recovery levels. Furthermore, to prevent any erosion of tariff values through certain exogenous factors such as inflation, cost of oil and generation mix, an Automatic Adjustment Formula (AAF) has been put in place to ensure the sustainability of the process of cost recovery and service delivery.

It should be noted that prior to the inception of the Commission, utility service providers had the power within the statutes that established them, to issue regulations in respect of their operations as well as their relations with consumers. This power is now vested in the Commission.

The PURC has so far issued the following regulations pursuant to the PURC Act:

1. **Public Utilities (Termination of Service) Regulations 1999, (L.I.1651)** provides the framework for the disconnection of service by public utilities. The legislative instrument is designed to inculcate some civility into the process of termination and remove some of the abuses of the old system under which the utilities operated.
2. **Public Utilities (Complaints Procedure) Regulations 1999, (L.I. 1665)**: These regulations provide the framework for submission, hearing and determination of complaints as well as a dispute resolution mechanism for consumer complaints against utility companies.
3. **Consumer Services Committees (CSCs), (L.I.1704)**: This legislative instrument lays down the procedures enabling the Commission to establish and operate CSCs. The committees will act as “watchdogs” in respect of utility companies within their districts, advise on policy issues, assist with consumer education and generally assist the PURC in protecting consumer rights as well as promoting observance of consumer’s responsibilities.

One of the most important functions of the Commission is to monitor the performance of the utility service providers with the aim of ensuring that the desired quality of service is delivered to consumers. Performance targets for compliance by the utilities set after every tariff review are also communicated to consumers, to ensure transparency. Currently the Commission has adopted three main approaches for monitoring, namely:

1. Auditing approach;
2. Physical approach; and
3. Consumers’ feedback approach.
Under the Auditing Approach, report formats indicating the required information, have been designed and are submitted to the service providers to fill and present to the Commission on a quarterly basis.

In order to corroborate the information provided by the utilities and also gain a first hand information of the quality of service, the Commission through a task force undertakes routine inspections of operators’ premises, plants equipment and their areas of service. Onsite testing of products and interviews with consumers are also conducted to gain an insight to the level of service received or required. Regular visits of residential, non-residential and industrial areas are undertaken on a quarterly basis. This aspect of monitoring plays a vital role in assisting the Commission make informed decisions and establish appropriate policies for regulation.

As noted earlier, one of the PURC’s most important tasks, as far as consumers are concerned, is to develop and operate a regulatory framework that requires the utilities to provide to the public, service that is safe, adequate, reliable, and efficient and also at reasonable cost and on a non-discriminatory basis. To that end, the Commission's Bureau of Consumer Services was instituted in the Secretariat with the primary responsibility of monitoring the performance of the utility companies in the delivery of good quality of service to meet consumer expectations.

The Bureau of Consumer Services (BCS) within the PURC Secretariat has the responsibility of ensuring that the regulated utilities deliver good quality of service to meet consumer expectations. The bureau is charged with the following responsibilities:

1. Providing responsive, efficient and accountable management of consumer complaints;
2. Protecting rights of consumers with regard to quality of service;
3. Advising consumers of their rights and responsibilities, and conducting public education to help customers make informed choices; and
4. Investigating consumer complaints and resolving service related disputes.

PURC’s BCS has prepared a comparative analysis of non-tariff charges of the VRA-NED and ECG for the consideration of the Commission. The Commission is reviewing the recommendations made to ensure that there is some degree of standardization in the pricing of services rendered by the two sister utility companies. Standardization in pricing would reduce the disparity in the pricing of the same services by the VRA and ECG.

As part of PURC’s objectives to ensure that consumers are not exploited, and that their rights are adequately and effectively protected, the Commission, in pursuance of Section 3(b) of Act 538, has requested the utilities to post copies of their Schedule of Charges for Services Rendered in front of their offices. This directive has been duly complied with and charges were found posted in most offices of the utilities. The objective was to avoid arbitrariness in pricing, price discrimination and to protect consumers from marketing practices that were unfair or abusive in nature.

In response to some violations in disconnection procedures, the Commission has had to remind the utilities of their duty to comply with the provisions of L.I. 1651 on "Termination of Service". In all cases, the Ghana Water Company Limited GWCL was reminded that any circumstances that result in interruption of water supply to their customers must be explained to them to avoid negative publicity. Moreover, the PURC ought to be apprised of interruption in supply and the steps taken to restore supply. The Commission also demands that prior notification and explanation of any prolonged interruption in water supply in future must be given to the affected
consumers. It must be stated that PURC has ensured the inclusion of these minimum requirements in the utilities' Customer Charters.

4.3.4 National Petroleum Authority Act, 2005 (Act 691)

The purpose of this law as indicated in the memorandum to the law is two fold. It is to establish by statute a national authority which is to function as a regulatory body to support Government’s policy on deregulation of the petroleum downstream sector; and secondly, establishes a Unified Petroleum Price Fund with the object to compensate oil marketing companies for the differences in the costs of the transportation of petroleum products with a view to creating an enabling environment for equal pricing of products in the country.

The NPA is established as a body with responsibility to regulate, oversee and monitor activities in the petroleum downstream sector. The mechanism to give effect to this responsibility will be by the Authority setting the ceilings on the price of petroleum products and simultaneously endorsing and monitoring private participation and investment in the petroleum downstream.

In particular relation to CSR, the NPA is mandated to protect the interests of consumers and petroleum service providers and provide guidelines for petroleum marketing operations. Other functions are to initiate ad conduct investigations into standards of quality in the provision of petroleum services, promote fair competition amongst petroleum service providers, periodically review the prescribed petroleum pricing formula and to periodically publish in the Gazette, ex-refinery, ex-pump and import parity prices of petroleum products. The authority is also to collaborate with relevant institutions including the EC, the Ghana Standards Board and the EPA in the performance of its functions. Such collaboration is obviously to ensure the efficient use of energy resources, ensure that petroleum products conform to national quality and quantity standards and ensure that petroleum operations accord with national environmental standards. The NPA is required to have a Consumer Services Committee and a Complaints Settlement Committee among others.

4.4 TELECOMMUNICATIONS SECTOR

CSR issues in the Telecommunications Sector are similar to those in the Energy and Water Sectors in Ghana. These include consumer protection and satisfaction (such as connectivity problems, and resultant disruption and loss of business-corporate and personal) the need to regulate hazardous emissions from telecommunications equipment (for example radiation); rates and measures; and billing irregularities. In addition, there are CSR issues related to the many private newspapers, radio and television stations and internet cafes that have sprang up in Ghana since the deregulation of the media in the mid-1990s. These relate mainly to the content of what is broadcast on the airwaves and the need for these media corporations to apply the principles of CSR to the content of their broadcasts.

Flowing from the above, the fastest growing industry in the country today is the telecommunication industry. The 1992 Constitution guarantees the freedom and independence of the media. The constitution establishes the National Media Commission (NMC) as an independent body to promote and ensure the freedom and independence of the media. These events have made for a free print press and electronic media culminating in the establishment of numerous newspapers, Frequency Modulation (FM) radio stations, and new television stations as well as Internet cafes. A National Communication Authority has also been established as an

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60 1992 Constitution of Ghana, Article 162.
independent body to regulate the activities of the players in the telecommunications sector especially as regards licensing.

A draft National Communication Policy has been formulated to address policy issues relating to the convergence of the various sub-sectors within the communication industry with an emphasis on the need to attract more private investment.

The key pieces of legislation on the telecommunications sector are discussed below.

4.4.1 National Media Commission Act, 1993 (Act 449)

This Act was passed in accordance with Chapter 12 of the 1992 Constitution to provide for an independent NMC with the mandate of ensuring and promoting the freedom and independence of the Media. The functions of the commission as detailed out in Section 2 of the Act, as they relate to CSR, include taking all appropriate measures to ensure the establishment and maintenance of the highest journalistic standards in the mass media, including the investigation, mediation and settlement of complaints made against or by the press or other mass media; and taking measures to ensure that persons responsible for state-owned media afford fair opportunities and facilities for the presentation of divergent views and dissenting opinions. Section 12 of the Act established a complaint settlement committee to deal with complaints by or against the media. Any person aggrieved by a publication or by the act or omission of any journalist, newspaper proprietor, a publisher or any person in respect of any publication in the media may lodge a complaint against the editor, publisher, proprietor or other person before the Commission. A person who has lodged a complaint with the Commission shall, unless he withdraws the complaint, exhaust all avenues available for settling the issue by the Commission before recourse to the courts.

4.4.2 The National Communications Authority Act, 1996 (Act 524)

The National Communication Authority (NCA) was established in 1996 by Act 524 to among other things: ensure that there are provided throughout Ghana as far as practicable such communications services as are reasonably necessary to satisfy demand for the services; ensure that communications system operators achieve the highest level of efficiency in the provision of communications services and are responsive to customer and community needs; promote fair competition among persons engaged in the provision of communications services; protect operators and consumers from unfair conduct of other operators with regard to quality of communications services and payment of tariffs in respect of the services; protect the interest of consumers; to facilitate the availability of quality equipment to consumers and operators; to promote research into and the development of technologies and use of new techniques by providers of communications services and to develop adequate human resources in collaboration with such other government departments and agencies as the Authority considers appropriate.

In addition to the above functions, the NCA is responsibility for advising the relevant Minister on policy formulation and development strategies for the communications industry; ensuring strict compliance with the Act and any regulations made under it; and granting licenses for the operation of communications system in the country; and to provide guidelines on tariffs chargeable for the provision of communications services. It is clear that the Authority is well placed to ensure CSR in respect of corporations in the Telecommunications Sector.
Another provision in the law that is of particular relevance to CSR is the mandate given to the Authority to issue standards of performance in consultation with operators. If an operator fails to meet any required standards, he shall be required to pay to any person who is adversely affected by the failure such compensation as may be determined by the Authority. This is a progressive provision especially in the area of consumer protection. The requirement for payment of compensation upon failure to meet the required standard does not preclude any other remedy at law which may be available or any other measure or sanction that may be taken or imposed by the Authority in respect of the act or omission which constituted that failure.

To keep the public aware of the operations of communication operators and the activities of the NCA the law requires the Authority to publish in the Gazette, and in such other newspapers of national circulation, notice of every, modification, suspension or cancellation of a license made under the Act.

To promote good customer relations, Section 35 of the Act requires every operator to establish a procedure for dealing with complaints by its customers or potential customers in relation to the provision by the operator of the relevant communication services. In establishing these procedures the operator is required to consult with persons or bodies that constitute a fair representation of customers for whom he provides the services; and the proposed procedure or modification must have been approved by the Authority. The operator is obliged to disseminate or publicize the approved procedure in such a manner as the Authority may require and send a description of it free of charge to any person who asks for it.

The law also envisages disputes between operators and customers and provides for the referral to the Authority any dispute in which it is alleged that the operator has exercised undue discrimination against a customer in respect of charges or terms applied, or to be applied for the provision of the service in question; or has shown undue preference to any other person in respect of the charges or terms to the detriment of the customer.

Another interesting provision in our law which seeks to secure privacy and protect users of communication facilities is contained in Section 42 on misleading interception and non-disclosure of messages. By this provision, a person who is or has been an employee of an operator is prohibited from sending or attempting to send by means of communication equipment or facility any message which to his knowledge is false or misleading or is likely to prejudice the efficiency of any service or endanger the safety of any person.

Where an offence under the Act is committed by a corporation or by a member of a partnership, every director or officer of that corporation or any member of the partnership or other person concerned with the management of the firm shall be guilty of the offence and shall, on conviction, be liable to a fine and shall in addition be liable to the payment of compensation for any damage resulting from the breach unless he proves to the satisfaction of the court that he exercised due diligence to secure compliance with the provisions of the Act; and the offence was committed without his knowledge, consent or connivance.

### 4.4.3 National Communications Regulations, 2003 (LI 719)

In 2003 and in exercise of the powers conferred on the Board of the NCA under Section 41 of the Act, the above regulations were made to supplement the provisions of the NCA Act and to give effect to the provisions of the Act. The regulations deal in detail with the principle of universal

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61 National Communications Authority Act, 1996 (Act 524), Section 23.
coverage; non-discrimination; fair competition; privacy and secrecy of communications; priority of public over private communications services; priority of national security and defense; the public interest obligations of private operators, and the development of the communications industry. Like the Act, the regulations give a lot of regulatory powers to the NCA to ensure CSR in the sector.

4.5 INSURANCE SECTOR

Insurance is a risk transfer mechanism where losses of a few are paid from the contributions of many people faced with similar risk. In Ghana, insurance was introduced by the British colonial traders to offer financial protection for commercial interest. Until independence in 1957, almost all the Insurance Companies operating in the then Gold Coast were subsidiaries of insurance companies in Britain.

Insurance companies in Ghana operate under the supervision of the NIC, established under the Insurance Law, 1989 (PNDC 227). The NIC was established in 1989 as an autonomous body by the promulgation of PNDCL 227, to administer, supervise, regulate and control Insurance business in Ghana. The NIC has under its supervision, Insurance Companies, Reinsurance Companies, Broking Companies and Insurance Agents. Its functions are broadly to ensure compliance with Insurance Laws and Regulations; to ensure capital adequacy and solvency of insurance and reinsurance companies; to set standards and formulate policies to govern the conduct of insurance business; to educate the public on insurance and to address their complaints. Through the performance of its functions, the NIC is able to promote fair and efficient service delivery in the insurance industry for the benefit and protection of policy holders.

The vision of the NIC is to lead Ghana’s insurance industry to the stage where it is largely self-regulatory, has developed within itself the forces for its growth and prosperity and operates independently with a strong sense of accountability and social responsibility including operating under sound, fair and effective rules both amongst themselves and in relation to their clients and being an effective custodian of the public interest ensuring the solvency of insurance companies and prompt attention to grievances of policyholders and interested third parties.

The NIC is given powers under its constituent Act to enforce all the many regulations that the Act imposes on operators in the Insurance Sector in order to ensure a robust, sustainable and customer-friendly insurance industry for the Ghanaian public. The NIC may use these powers to ensure CSR in the sector.

4.6 FINANCIAL SECTOR

A country's legal framework and governing principles define the roles of its banking and financial sectors and those of the regulatory authorities (such as the central bank), setting out rules for entry and exit of financial institutions, determining and limiting their businesses and products, and specifying criteria and standards for the sound and sustainable operation of the industry. A primary reason for regulating and supervising traditional financial institutions is consumer protection for public depositors in financial institutions.

Banks in Ghana are regulated by the Banking Act, 2004 (Act 673) and they operate under the supervision of the Bank of Ghana according to the terms of the Bank of Ghana Act, 2002 (Act 62)

See the NIC website at http://nicgh.org/web/index.php for more information on the sector.
The Bank of Ghana has an overall supervisory and regulatory authority in all matters relating to banking business in Ghana and is responsible for promoting an effective banking system; dealing with any unlawful or improper practices of banks, and considering and proposing reforms of the laws relating to banking business.\textsuperscript{63}

In Ghana no person is allowed to carry on the business of banking unless that person is a body corporate;\textsuperscript{64} has obtained a license from the Bank of Ghana to carry out the business of banking; and maintains the minimum paid-up capital prescribed by the law, the quantum of which differs, depending on whether it is a Ghanaian banking business, foreign banking business, development banking business or a rural bank. By Section 90 banking business is defined to include the following:

1. Accepting deposits of money from the public, repayable on demand or otherwise and withdrawable by cheque, draft, orders or by any other means;
2. Financing, whether in whole or in part or by way of short, medium or long term loans or advances, of trade, industry commerce or agriculture; and
3. Any other business activities that the Bank of Ghana may prescribe or recognize as being part of banking business.

The Bank of Ghana may, by notification, restrict the permissible activities of banks in general or a class of banks or an individual bank or remove the restriction so imposed as it considers appropriate.\textsuperscript{65} The Bank of Ghana is obliged by Section 54 of the Banking Act to, without prior notice, carry out an examination of the operations and affairs of a bank, with reference to its books and records including documents, at intervals of not less than once a year.

Section 62 of the Act impose a mandatory duty on the Bank of Ghana to revoke the license given to a bank to carry on banking business when the entire capital base of the bank is eroded and the liabilities exceed the assets unless the shareholders are able to inject additional capital to restore the bank to normalcy within six months from the time of the capital erosion. On the revocation of the license the Bank of Ghana shall petition the High Court for the winding up of the bank. Where the Bank of Ghana has revoked the banking license of a bank, and is of the opinion that the bank is not likely to pay its depositors and creditors in full, it may, appoint a liquidator to wind up the affairs of the affected bank.\textsuperscript{66} To avoid a situation where banks secretly wind up voluntarily to the disadvantage of customers, the law prohibits banks from voluntarily winding up unless the Bank of Ghana has certified in writing that the bank is able to meet its obligations in full to the depositors and creditors as the obligations accrue. If the Bank of Ghana, at any stage of the voluntary winding up, considers that the bank which is being wound up is unable to meet its obligations in full to depositors or creditors, the Bank of Ghana shall appoint a liquidator to wind up the affairs of the bank.\textsuperscript{67}

Section 73 of the Act requires the balance sheet, profit and loss account, and other accounting records of the bank for the every financial year shall be audited by qualified auditor duly appointed in accordance with law. In order that the public and customers are informed of the operations of a bank and its financial position, the Banking Act requires all banks to exhibit at each one of its branches or agencies in a conspicuous place throughout the year, a copy of the last audited financial statements in respect of the operations of the bank; furnish the Bank of Ghana with a copy of its audited financial statements together with the auditor’s statutory and

\textsuperscript{63} Banking Act, 2002 (Act 673), Section 2.
\textsuperscript{64} Ibid, Section 3.
\textsuperscript{65} Ibid, Section 11(2).
\textsuperscript{66} Ibid, Section 68.
\textsuperscript{67} Ibid, Section 69.
long form audit reports; and cause the financial statements together with the auditors’ certificates to be published in a daily newspaper circulating in Ghana.\textsuperscript{68}

The banking Act also guarantees the secrecy of customer information. Section 84 provides that a director, an officer or any other employee of a bank shall not disclose information relating to the affairs of a customer with that bank except where the disclosure of the information is required by law or by a court of competent jurisdiction or the Bank of Ghana or is authorized by the customer or is in the interests of that bank.

Apart from the Banking Act and the Bank of Ghana Act, there are other laws that regulate the financial sector and some of these are considered below.

4.6.1 Financial Institutions (Non-Banking) Law, 1994 (PNDCL 328)

This is the main piece of legislation that regulates non-banking financial institution. The law applies to the following institutions and they may not carry on any businesses unless they are incorporated in Ghana and licensed by the Bank of Ghana to carry out that business:

1. Discount Companies
2. Finance Houses
3. Acceptance Houses
4. Building Societies
5. Leasing And Hire Purchase Companies,
6. Venture Capital Funding Companies
7. Mortgage Financing Companies
8. Savings and Loads Companies
9. Credit Unions

No non-bank financial institution shall be licensed unless it maintains a minimum paid-up capital of one hundred million Ghana cedis or such amount as the Bank of Ghana may prescribe.\textsuperscript{69} The Bank of Ghana has supervisory authority in all matters relating to the businesses of any non-bank financial institution licensed under this law.\textsuperscript{70} The Bank of Ghana may suspend or revoke the license of any non-bank financial institution if it is satisfied that it obtained the license by fraud or mistake; has contravened any provision of this Law or any terms or conditions upon which the license is granted; has engaged in undesirable methods of conducting the business in respect of which the license is issued; or has failed to maintain the minimum paid-up capital. Where the Bank of Ghana is satisfied that a non-financial institution is not carrying on its business in the interest of its depositors or creditors; or has insufficient assets to cover its liabilities, the Bank of Ghana may, after consultation with the relevant minister, direct the institution to take such steps as the Bank of Ghana may consider necessary to deal with the situation; prohibit the receipt by the institution of any fresh deposits; or suspend or revoke the license of the institution. It is clear that this law gives the Bank of Ghana enough powers to regulate the affairs of non-banking financial institutions in order to protect depositors.

4.6.2 Bank of Ghana Act, 2002 (Act 612)

This law re-establishes the bank of Ghana as the central bank of Ghana and as a body corporate with perpetual succession. The primary objective of the Bank is to maintain stability in the

\textsuperscript{68} Ibid, Section 81.
\textsuperscript{69} Financial Institutions (Non-Banking) Law, 1994 (PNDCL 328), Section 2.
\textsuperscript{70} Ibid, Section 13.
general level of prices and to support the general economic policy of the Government and promote economic growth and effective and efficient operation of banking and credit systems in the country, independent of instructions from the Government or any other authority.\textsuperscript{71}

The law also requires the establishment of a banking supervision department within the Bank which shall be responsible for the supervision and examination of all banking or financial institutions in the country. As is evident from this and the other laws considered under the Financial Sector, the Bank of Ghana is the key body with responsibility for the financial health of the country and the protection of depositors.

4.7 FORESTRY SECTOR

The forestry sector\textsuperscript{72} is one sector in Ghana that can boast of a most comprehensive legal regime on CSR. This sector is regulated by the Forestry Commission (FC). The establishment of the FC is mandated by Article 269 of the 1992 Constitution which provides that the FC shall be responsible for the regulation and management of the utilization of the forest resources of Ghana and the coordination of policies in the forestry sector. In 1999, Parliament passed the Forestry Commission Act, 1999 (Act 571), which re-established the Forestry Commission as the main implementing body for the forestry laws of Ghana. The commission is a corporate body that takes charge of all the activities of the public agencies that were previously responsible for the management and regulation of the utilization of forest and wildlife resources in Ghana.

Since the establishment of the FC it has focused on improving staff performance, monitoring, coordination and accountability. Managers from the various Divisions are trained to be aware of the forest's and wildlife’s value as commercial assets and to develop a business-like attitude in delivering service. This change of focus enables scarce resources to be targeted at clearly defined priorities.

Under the new FC, the right to harvest and utilize timber is awarded in the form of a ‘timber contract’. This is contained in the Timber Resource Management Act, 1997 (Act 547) and the Timber Resources Management (Amendment) Act 2002, (Act 617). Under this Act, the contract holder enters into a contract with the Government to utilize and manage the timber resource on stated Terms and Conditions. The regulations to guide the implementation of Act 547 are contained in the Timber Resource Management Regulations, 1998 (LI 1649).

Ghana also has a Forest and Wildlife Policy. The guiding principles of the policy are based on both national convictions and international guidelines and conventions. From the national standpoint are such principles are embodied in the 1992 Constitution, the Environmental Action Plan, as well as agreements emanating from existing projects, particularly the Forest Resource Management Project and its various studies. Ghana has also endorsed certain international principles including those contained in the Guidelines for Tropical Forest Management published by the International Tropical Timber Organization, the Rio Declaration and Forest Principles, the African Convention on Wildlife Conservation, and the Convention on International Trade in Endangered Species among others. The Forest and Wildlife Policy of Ghana aims at conservation and sustainable development of the nation’s forest and wildlife resources for maintenance of environmental quality and perpetual flow of optimum benefits to all segments of society.

\textsuperscript{71} Bank of Ghana Act, 2002 (Act 612), Section 3.

Existing legislation has established 282 forest reserves and 15 wildlife protected areas which occupy more than 38,000 kilometers (Km) or about 16 percent of the country’s land area. Outside the gazetted areas, an estimated 4000 km of forests still exist, from which the bulk of timber is now being extracted without adequate control while uncontrolled hunting persists in other unprotected areas. Within forest reserves, some 60,000 hectares of plantations have been established, while private interests and communities are planting trees on an increasing scale around the country. Emphasis is now being placed on reforestation initiatives towards restoring a significant proportion of the country’s original forest cover.

4.7.1 The Timber Resource Management Act, 1997 (Act 547)

Another important legislation as far as the management of our forest resources is concerned is the Timber Resource Management Act. The purpose of this law as captured in its long title is to provide for the grant of timber rights in a manner that secures the sustainable management and utilization of the timber resources of Ghana and to provide for related purposes.

Only Corporations and Incorporated Partnerships may enter into a Timber Utilization Contract (TUC) with the government.73 Such contracts are subject to specified terms and conditions including the provisions for: prompt payment of rents, royalties, compensation and such management and service charges as prescribed by law; and the payment of annual rent to the landlord or owner of the area of land relevant to the grant.

Section 15 of the law permits the Minister, acting on the recommendations of the Commission to suspend or terminate, as is appropriate in the circumstances of the case, a timber utilization contract where, among other things, the holder has breached any of the terms or conditions of the TUC.

4.7.2 Timber Resources Management Regulations, 1998 (L.I. 1649)

These regulations were made to provide details to the Timber Resource management Act. A good deal of the Regulations relate to CSR.

Under Regulation 11, the criteria for qualification to apply for timber rights include:

1. Evidence of ownership or membership of a registered company or partnership relevant to forestry with a commercial business certificate attached;
2. Evidence of full payment of forest levies where applicable;
3. Income tax and social security clearance certificates; and
4. An undertaking:
   a. To provide specific social amenities for the benefit of the local communities that live in the proposed contract area;
   b. For the reforestation or afforestation in any area that the Chief Conservator of Forests may approve; and
   c. Evidence of capability to undertake reduced impact logging.

The undertaking to provide specific social amenities for the benefit of the local communities is a laudable provision and if enforced will go a long way to improve CSR and ultimately the relationship between communities and timber companies.

73 Timber Resource Management Act, 1997 (Act 547), Section 2.
After the initial evaluation of applications, short-listed applicants are required to submit proposals on a reforestation or afforestation plan for the establishment and management of forest plantations of at least 10 hectares for each square kilometre of the contract area. They are also to submit a SRA to assist inhabitants within the contract area with such amenities as shall be specified in the agreement at a cost of not more than 5% of the annual royalty accruing from the operations under the TUC. The Evaluation Committee then assesses the proposals and recommends the award of the contract to the highest scoring applicant. These are very important provisions for the purposes of CSR.

The FC is given the power through an authorized officer to enter into any contract area for timber operation at any reasonable time to inspect the records of the operator with a view to verifying the ownership and source of any timber product and to ensure that any timber that is produced, processed or sold is in accordance with law. This is very essential in ensuring compliance with environmental standards, the logging manual and harvesting plan of the operator.

To promote the relationship between communities and timber companies, the law obliges timber corporations to pay stumpage fees in respect of harvested timber which shall be deposited by the Administrator of Stool Lands (ASL) in the relevant stool lands account. Aside this, holders of TUCs are obliged to pay for their contract areas, specified rent to the ASL or to the owner of the land.

Where a contractor’s operation ceases, or the contractor’s operations have lapsed the Chief Conservator of Forests with the approval of the FC is empowered to dispose of any standing timber or logs left over from the operations, and off-cuts and branches are required to be disposed of as raw wood material for the benefit of the inhabitants of the contract area.

4.7.3 **Timber Resources Management (Amendment) Regulations, 2003 (L.I. 1721)**

This law amends the set of Regulations on Timber Resource Management of 1998. Regulation 9 of this law provides for competitive bidding in all cases of allocation of timber rights. It provides for a two stage approach: a prequalification process; and a bidding for timber rights process. Only pre-qualified applicants are eligible to bid.

The FC then refers the winner of the bid to the Minister in charge of Forestry with a recommendation to grant a timber right. The Minister in discharging this function issues a notice of grant of a timber right which shall specify activities that will be completed by the winner before the right is granted. Some of these activities include:

1. The conclusion of a SRA with local communities, which shall include an undertaking by the winner of the bid to assist communities and inhabitants of the timber utilization areas with amenities, services, or benefits, provided that the cost of the agreed amenities, services or benefits shall be 5% of the value of stumpage fee from the timber that is harvested;

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74 Section 13 (1).
75 Section 15.
76 “Harvesting Plan” as defined by section 20 of Timber Resource Management Act, 1997 (Act 547) means the schedule of planned felling and harvesting operations for an area to which the contract relates prepared by the holder of the contract for a period of 5 years in accordance with the Logging Manual.
77 Regulation 16.
78 Regulation 25.
79 Regulation 27.
80 Regulation 39.
2. The completion of all planning activities as specified in the relevant Manual of Procedures; and
3. The payment of the timber right fee for the first year of the contract.

Where a winner of a bid fails to comply with any of the requirements specified in the Notice of Grant of timber right, the Minister shall nullify the grant.

There is also the **Forest Plantation Development Fund Act, 2000 (Act 583)** and the **Forest Plantation Development Fund (Amendment) Act, 2002 (Act 623)** which establish a Forest Plantation Development Fund to provide financial assistance for the development of private and public commercial forest plantations on lands suitable for commercial timber production and for research and technical advice to persons involved in plantation forestry.

Lastly, there is the **Forest Protection (Amendment) Act, 2002 (Act 624)**. This law provides that any one who interferes with the integrity of a Forest Reserve without the written consent of the competent forest authority commits an offence. This law is undoubtedly useful in ensuring that corporations do not adversely affect the integrity of Forests Reserves in the course of exploiting natural resources.

The office of Administrator of Stool Lands (OASL) and the FC are responsible for the management of the forest proceeds on behalf of stool / landowners. While the FC manages the forest and collects revenue by way of stumpage fees, the OASL ensures that the stool / landowners are fairly treated in the context of the prevailing disbursement laws. To enhance transparency in the disbursement of any forest proceeds, the OASL and FC publish joint half yearly reports on stumpage and rent disbursements.81

4.7.4 Forestry Sector and CSR82

Most land in Ghana is owned not privately or by the state but under customary tenure, subdivided into areas presided over by individual traditional leaders known as stools. However all forest and timber resources on the land, other than planted trees, are vested in the state, represented by the Ministry of Forestry. The considerable tropical forest resources of Ghana are thus logged under a grant of timber rights from government. Until the late 1990s, payments from logging concessions were generally sporadic and generally benefited only the traditional chiefs.83

During the 1990s, Ghana undertook a complete review and update of forestry policy aimed at more equitable and sustainable management of forest resources. One outcome was new legislation in 1998 that requires logging companies operating on customary land to negotiate SRAs with local communities (not just the chiefs). These SRAs are unique because they are legally enforced and overseen by the national government. They are worth considering in some detail as they provide a useful model for more closely regulated approaches to managing deals between forestry companies and local communities and generally for enhancing CSR.

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The main purpose of SRAs is to oblige timber companies to operate in a socially responsible manner with due respect for the rights of land-owning communities. These include the right to certain forest products, the right to be consulted in the management and exploitation of their resources and the right to maintain cultural sites and practices without interference from the corporations. The process of negotiating the SRA provides an opportunity for communities, or at least community leaders, to specify the conditions under which contracted timber corporations may operate on their land. In addition, the SRA provides a means for the community to benefit directly from the exploitation of forest resources, via a legal requirement for the company to invest a negotiated proportion of profits into community development projects.

Another purpose of SRAs is to contribute to a more transparent and equitable system of allocating timber concessions in Ghana. Under the new law, anyone wishing to harvest timber must secure a Timber Utilization Contract (TUC) for a specific area. The TUC system allows for competing bids to be compared according to explicit criteria, as well as for ongoing monitoring of the performance of the companies according to a variety of indicators including the performance of their SRAs. To date about 42 TUCs covering an area of over 290,000 hectares have been granted and ratified under the new timber rights allocation system. All of these have been required by law to draw up SRAs with local stool chiefs. In the following paragraphs we review experience with SRAs.

Essentially, each SRA contains two key sections: a code of conduct and a statement of social obligations. The code of conduct describes the manner in which the timber company should operate to ensure that all timber operations are conducted with due respect for rights of the communities inside or adjacent to the harvesting area. It includes provisions to ensure respect for local customs and beliefs, local infrastructure and local livelihoods. Usually the code of conduct also includes analogous provisos that local people should allow the company to operate without hindrance as long as the terms of the SRA are being met.³⁴

The conditions listed in the code of conduct of an SRA may include agreements over a number of technical and institutional factors, such as:

1. Timing of timber harvesting with agricultural activities;
2. Specific logging techniques to minimize crop damage;
3. Compensation rates for damage to crops;
4. Respect for cultural norms such as taboo days;
5. Processes of consultation with communities over the siting of access tracks;
6. Assurance of minimal disturbance to sacred sites, existing community infrastructure (e.g. bridges), water collection points, and prime areas for gathering non-timber forest products;
7. Tending fees to be paid to individual farmers directly before felling commences;
8. Protection of drinking water sources;
9. Assurance of prompt payment of royalties for trees felled; and
10. Employment of local people as casual labourers.

It should be noted that nothing in an SRA overrides the right of a farmer to veto felling on his or her fields (unless this is a specific provision of the agreement, with consent of all the farmers in the area). The code of conduct could also specify any recompense that should go to the communities in the case of damage to the sustainability of important forest resources such as bush meat or other non-timber forest products.

The statement of social obligations pledges specific contributions to community development. Generally these are infrastructural, for example, the construction of roads, schools, clinics, electricity lines or boreholes. Support might be in the form of a community development fund financed from the exploitation of timber in the area or otherwise a commitment to supply materials such as lumber, cement, roofing sheets or furniture for these projects. The SRA usually specifies the financial value of the contribution. The maximum cash value stipulated by law is 5% of the total accrued stumpage fees from the TUC area.

In developing SRAs, the procedure used is for the local District Forest Manager to locate and define the boundaries of the TUC area, in consultation with traditional leaders and land-owning communities. During such meetings the purpose of SRAs as part of TUCs is explained and the community as a whole is asked to propose particular conditions for a future logging company’s operations and their priorities for local development. These conditions and development objectives are incorporated into a preliminary document called the Timber Operational Specifications, which is included in the advertisement for tenders for the TUC, and also forms the subsequent basis for SRA negotiations. Logging companies then submit bids for the TUC. These are evaluated by a governmental Timber Rights Evaluation Committee, which short-lists the five best proposals. The successful candidate is chosen via a non-financial selection procedure based on the applicants’ proposals for provision of social amenities and reforestation.

The company that wins the TUC must then negotiate the terms of the SRA with the appropriate land-owning community or communities. At present the stool chiefs are the official representatives of the land-owning communities and have the authority to sign the agreement with the TUC holder, though the law stipulates that benefits are to go to the people of the land-owning communities and not to the office of the stool chief. A common feature of emerging SRAs is in fact the establishment of a new committee to represent the various stakeholder groups involved in the TUC.

SRAs are at an early stage in Ghana, yet to go through iterations of experience and modification. Although it is possible to predict where future difficulties within the system might arise, it is worth making the point that the policy itself is an innovative attempt to realize broad ambitions of socially responsible and sustainable timber production. Previously, communities received benefits from logging operations on at most an ad hoc basis and in the form of magnanimous contribution to local infrastructure. Now they can expect at least a basic sustained level of direct material rewards in addition to control over how the company operates on their land. In return the company can anticipate more harmonious relations with local people and hence more predictable and less expensive operations.

Some of the fundamental features of the content and process of SRAs are very positive:

1. Minimum standards for social responsibility by logging companies are clearly laid out and backed by legislation;
2. The process of tendering for timber production areas is transparent, based on a simple scoring system;
3. Tenders are judged in part according to projected contributions to local livelihoods and values rather than projected contributions to government revenues;
4. Agreements are negotiated and signed directly between companies and communities, with government confined to a clear refereeing role as monitor and evaluator.
5. The basic format and process of SRAs have been designed to be simple enough to be implemented fairly quickly and widely without stalling due to insupportable expense or misunderstanding.
Modifications to the approach will be needed as lessons are learnt. Some of the likely difficulties can be foreseen already. Perhaps the most important is that there is no sharing of risk between the company and the community. For the company, the fact that payments towards community development projects are determined as a fixed sum based on projected profit, rather than as a percentage of actual revenues, means that the company risks paying more than the stipulated 5% of profits should timber prices fail to meet projected levels. This is one aspect of the policy’s rigidity at present. What is worse, there is little scope for re-negotiation and adjustment to the terms over time. Hopefully, as SRAs become more sophisticated, more flexible systems for the company to calculate and deliver payments should arise, alongside capacity for re-negotiation as need arises on either side.

On the side of the community, there is no specific link between their own inputs and the benefits they receive. Secondly, it is not clear how SRAs will ensure equity among community members in terms of whose values are represented in the code of conduct and the proposed community development projects, who will be the real beneficiaries of the development projects and other outcomes and who will have to invest time, skill and effort in keeping the SRA alive.

Some policy makers in Ghana have already suggested that ultimately local people should become shareholders in timber harvesting contracts, using the value of their social responsibility as equity in joint ventures. It has been argued that enabling communities to become shareholders would increase both their returns and their commitment. Development of such future scenarios will hopefully guide SRAs towards greater equity of inputs and rewards between the partners, as well as within the community. In the mean time, the emerging SRAs are a major first step towards more equitable and sustainable timber production in Ghana and constitute the beginning of a useful learning process for CSR in Ghana and beyond.

4.8 HEALTH SECTOR

The Ministry of Health is the central government agency on all matters related to health. Its role is to define and monitor health needs, to ensure equitable access to basic health care, to set service standards for all health care providers and to monitor the implementation of essential public health programmes. Within the last decade, the Ministry of Health has implemented a series of related reforms involving sector policy formulation, ministerial restructuring and administrative reorganization aimed at improving the capacity to deliver effective and efficient health service. The passage of the Ghana Health Service and Teaching Hospitals Act, 1996 (Act 525) completes the restructuring exercise, which began in 1993 and fulfils a constitutional requirement for setting up a Ghana Health Service as an executing agency within the health sector. By this Act the Ministry of Health is de-linked from service provision and focuses on sector policy formulation and monitoring.

Aside the Ministry of Health (MOH), there are several regulatory bodies that see to the maintenance of health standards in the country. Together with these bodies, the MOH is capable of ensuring CSR in the Health Sector. These bodies include the Ghana Medical and Dental Council, the Pharmacy Council, the Nurses and Midwives Council, Traditional Medicine Practice Council, Narcotics Control Board, National Quality Control Laboratory (NQCL) of the Food and Drugs board (FDB), Private Hospitals and Maternity Homes Board, Veterinary Council of Ghana, Pharmaceutical Society of Ghana, Ghana Medical Association, Ghana Registered Nurses Association, and Ghana Registered Midwives Association.

The various government policies in the Health Sector may be used as standards for ensuring CSR for corporations in the Health Sector. For example, the Ghana National Drug Policy of 2004 forms the basis of government’s responsibility to ensure citizens’ access to good quality drugs at affordable prices, enacting drug regulations, developing professional standards, and promoting the rational use of drugs. The overall goal of the policy is to improve and sustain the health of the population of Ghana by ensuring the rational use and access to safe, effective, good quality and affordable pharmaceutical products. These could be used as guidelines for CSR.

4.8.1 Global Trade and Pharmaceuticals

Today’s global trade in pharmaceuticals is governed largely by WTO rules on Trade-Related Aspects of Intellectual Property Rights (TRIPS). The TRIPS agreement introduces global minimum standards for protecting and enforcing nearly all forms of intellectual property rights, including pharmaceutical products and processes. It however raises concerns about the major impact of this agreement on people’s access to drugs and public health. Governments are required to bring their legislation on intellectual property rights to conform to the TRIPS agreement within a five-year transitional period.

Within this international context and having regard to Ghana’s international obligations and the need to make health care accessible to all, the objective behind the Government policy on Global trade and pharmaceuticals is to ensure that legislation and regulations developed maintain a balance between the minimum standard of intellectual Property Rights protection and the public health good.

Therefore in implementing regulations related to intellectual property rights, Government policy is to take advantage of all the safeguards within the TRIPS Agreement for the promotion of public health and ensuring access to pharmaceuticals and not to enact legislation and regulations more stringent than the TRIPS requirement.

The MOH intends to actively collaborate with the Ministry of Trade and Industry, Attorney General’s Department and other relevant agencies in the area of intellectual property rights in developing a consistent legal framework that enhances access to essential drugs. What remains to be done is for the MOH to include a positive CSR element in its strategy.

4.9 CONSUMER PROTECTION

Many corporations are into the production of goods and services for the consumption of the public. This brings into sharp focus CSR as it relates to consumer protection. Consumers, in practice do not have the knowledge nor the means of ascertaining whether goods and services that are offered for sale are in reality what they are claimed to be, or whether he or she is the victim of unfair practices agreed between traders, or whether the goods are in fact reasonably safe to use.

Consumer protection is therefore an important concern which must be addressed. At the moment the international legal framework that seeks to ensure consumer protection is the UN Guidelines.

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for Consumer Protection. Taking into account the interests and needs of consumers in all countries, particularly those in developing countries; recognizing that consumers often face imbalances in economic terms, educational levels, and bargaining power; and bearing in mind that consumers should have the right of access to non-hazardous products, as well as the right to promote just, equitable and sustainable economic and social development, these guidelines for consumer protection were adopted with a view to achieving the following objectives:

1. To assist countries in achieving or maintaining adequate protection for their population as consumers;
2. To facilitate production and distribution patterns responsive to the needs and desires of consumers;
3. To encourage high levels of ethical conduct for those engaged in the production and distribution of goods and services to consumers;
4. To assist countries in curbing abusive business practices by all enterprises at the national and international levels which adversely affect consumers;
5. To facilitate the development of independent consumer groups;
6. To further international co-operation in the field of consumer protection; and
7. To encourage the development of market conditions which provide consumers with greater choice at lower prices.

In Ghana there is no comprehensive law on consumer protection but there are many pieces of legislation and common law principles that seek to protect the consumer. Some of these laws impose criminal liability on traders or others who infringe them and provide civil remedy for the aggrieved consumer. The relevant laws, some of which have already been considered in this report, include the following:

1. Food and Drugs Law, 1992 (PNDCL 305B) as amended by Food and Drugs (Amendment) Act, 1996 (Act 523)
2. Standards Decree, 1973 (NRCD 173) as amended by Standards (Amendment) Decree, 1979 (AFRCD 44)
3. Protection Against Unfair Competition Act, 2000 (Act 589)
5. Hire-Purchase Decree, 1974 (NRCD 292)
7. Illiterates’ Protection Ordinance (Cap 262); Illiterates’ Protections Ordinance (Amendment) Act, 1963 (Act 217)
8. Weights and Measures Decree, 1975 (NRCD 236)
10. Finance Lease Law, 1993 (PNDCL 331)
13. Limitation Decree 1972 (NRCD 54)
14. Trade Mark Act, 2004 (Act 664)
15. Bills of Lading Act, 1961 (Act 42)

A number of these laws are considered below.

88 General Assembly Resolution 39/248.
4.9.1 The Standards Decree, 1973 (N.R.C.D. 173)

The Standards Decree establishes the Ghana Standards Board to establish and promulgate standards with the object of ensuring high quality of goods produced in Ghana, whether for local consumption or for export, to promote standardization in industry and commerce; to promote industrial efficiency and development and to promote standards in public and industrial welfare, health and safety.

The main function of the Board is to prepare, frame, modify, or amend specifications and promulgate standard specifications, promote research in relation to specifications; and provide for the examination and testing of goods, commodities, processes, and practices and to prohibit the importation into Ghana of foods which have not been certified by the Board as complying with its standards. The Board also provides for the registration, and regulation of the use of standard marks. The Board may from time to time make, alter, and rescind rules governing the treatment, processing and manufacture of goods; the packaging, labeling, advertising and selling of goods; the size, dimensions, and other specifications of packages of goods; prescribing standards of composition, purity, or other property of goods, among others.

Persons desiring to use any standard mark in connection with any goods, commodity, process, or practice are required to apply to the Board in such manner as the Board may determine or as may be prescribed. The Board may, if it is satisfied that the goods, commodity, process, or practice with respect to which the applicant desires to use a standard mark conforms to a standard specification, grant to the applicant a license to use a standard mark upon, or subject to, such conditions, if any, as the Board may think fit or as may be prescribed by rules made under this Decree.

No license under this section shall be granted for any period exceeding one year, provided that, so long as the terms of any such license are complied with, the license may from time to time be renewed by the Board for such period or periods as it thinks fit, not exceeding one year at any time, and any such license shall be deemed to have been renewed from time to time for periods of one year, unless specifically revoked. Every person to whom a license is granted under this section shall, if and whenever required by the Board so to do, submit a sample for examination or testing or submit any information as the Board may require.

4.9.2 Weights and Measures Decree, 1975 (N.R.C.D. 326)

The Weights and Measures Decree stipulates that any person who uses in trade or industry, any weight, measure or instrument for weighing or measuring which is false or unjust or which is not authorized to be used or which is not marked or certified; or which is not verified, stamped, certified or authenticated; or in respect of which a certificate of verification is not in force, shall be guilty of an offence. The law requires that any person who sells goods which are packaged or put into containers or are similarly prepared for exhibition or sale shall cause both the gross and the net weights or measures to be declared on the package or container. Failure or neglect to comply with this requirement constitutes an offence with a penalty of a fine or imprisonment or both.

The Decree further states that a person shall be guilty of an offence if he:

1. Makes, sells or uses, or knowingly causes to be made, sold or used, any unjust weight, measure, or instrument for weighing or measuring; or
2. Forges or counterfeits or knowingly assists in forging or counterfeiting, any stamp or mark used for stamping or marking any weight, measure or instrument for weighing or measuring; or
3. Knowingly sells, disposes of or exposes for sale any weight, measure or instrument for weighing or measuring with any forged or counterfeit stamp or mark thereon; or
4. With intent to defraud, alters any weight, measure or instrument for weighing or measuring stamped or marked in accordance with this Decree; or
5. Commits any fraud in the use for trade or industry of any weight, measure or instrument for weighing or measuring.

It is clear that the legislation on standards and on weights and measures are meant to ensure that corporations and persons engaged in commerce for profit making do not do so to the detriment of the consumer.

4.9.3 Protection Against Unfair Competition Act, 2000 (Act 589)

By Section 1 of this law any act or practice, in the course of industrial or commercial activities, that causes, or is likely to cause, confusion with respect to another person's enterprise or its activities, in particular, the products or services offered by that enterprise, constitutes an act of unfair competition. Confusion may, in particular, be caused with respect of the following:

1. A trademark, whether registered or not;
2. A trade name;
3. A business identifier other than a trademark or trade name;
4. The presentation of a product or service; or
5. A celebrity or well-known fictional character.

Also any act or practice in the course of industrial or commercial activities, that damages or is likely to damage the goodwill or reputation of another person's enterprise or its activities constitutes an act of unfair competition, whether or not the act or practice causes confusion.\(^{89}\) Damaging another person's goodwill or reputation may, in particular, result from the dilution of the goodwill or reputation attached to.

By Section 3 any act or practice in the course of industrial or commercial activities, that misleads or is likely to mislead the public, with respect to an enterprise or its activities, in particular, the products or services offered by that enterprise, constitutes an act of unfair competition. Misleading may arise out of advertising or promotion and may, in particular, occur with respect to:

1. The manufacturing process of a product;
2. The suitability of a product or service for a particular purpose;
3. The quality or quantity or other characteristics of a product or service;
4. The geographical origin of a product or service;
5. The conditions on which a product or service is offered or provided; or
6. The price of a product or service or the manner in which the price is calculated.

Again under the law, any false or unjustifiable allegation in the course of industrial or commercial activities that discredits or is likely to discredit another person's enterprise or its activities, in particular, the products or services offered by that enterprise, constitutes an act of

\(^{89}\) Section 2.
unfair competition. Discrediting may arise out of advertising or promotion and may, in particular, occur with respect to:

1. The manufacturing process or a product;
2. The suitability of a product or service for a particular purpose;
3. The quality or quantity or other characteristics of a product or service;
4. The conditions on which a product or service is offered or provided; or
5. The price of a product or service or the manner in which the price is calculated.

The law also provides for unfair competition in respect of secret information. By Section 5, any act or practice in the course of industrial or commercial activities that result in the disclosure acquisition or use by another person of secret information without the consent of the rightful owner of that information and in a manner contrary to honest commercial practices constitutes an act of unfair competition. Disclosure, acquisition or use of secret information by another person without the consent of the rightful owner may, in particular, result from:

1. Industrial or commercial espionage;
2. Breach of contract;
3. Breach of confidence;
4. Inducement to commit any of the acts referred to in paragraphs (a) to (c);
5. Acquisition of secret information by a third party who knew or was grossly negligent in failing to know, that an act referred to in paragraphs (a) to (d) was involved in the acquisition.

The remedies available for unfair competition are contained in Section 8 of the Act. It provides that a person who is damaged or considers that he is likely to be damaged by an act of unfair competition may bring an action for the following remedies:

1. An order of injunction to prevent the act or further acts of unfair competition;
2. A provisional order to prevent unlawful acts or to preserve relevant evidence;
3. The award of damages as compensation;
4. Institute an action for the enforcement of a person’s intellectual property rights under any other enactment; and
5. Any other remedy as the court may consider fit to order.

4.9.4 Trade Marks Act, 2004 (Act 664)

This law requires the registration of trade marks, and confers an exclusive right to the use of the trade mark on the person who registered it. Trade mark is defined by the law to include any sign or combination of signs capable of distinguishing the goods or services of one undertaking from the goods or services of other undertakings including words such as personal name, letters, and numerals and figurative elements.

This act improves Consumer Protection because the public is easily able to identify products they wish to consume without easily getting confused as between various products.


The Ghanaian Sale of Goods Act, 1962 (Act 137) goes to great lengths to ensure that the legitimate expectation of every purchaser to receive goods of assured quality is guaranteed. The Sale of Goods Act, 1962 (Act 137) creates a number of duties which are statutorily imposed on

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90 Section 4.
91 Section 3.
92 Section 1.
a seller under every contract of sale and in specific cases prohibits or restricts the use of exclusion clauses to avoid those implied terms.

The right of the buyer to receive goods of assured quality is guaranteed by the innovative provision in Section 13 of Act 137. Section 13 of the Sale of Goods Act, 1962 (Act 137) states that there is an implied condition that the goods are free from defects which are not declared or known to the buyer before or at the time when the contract is made. The provision further states that where the goods are of a description which are supplied by the seller in the course of his business and the buyer expressly or by implication makes known the purpose for which the goods are required there is an implied condition that the goods are reasonably fit for the purpose. The section also imposes on every seller of goods the duty to ensure that the goods are free from any defects unknown to the buyer; and further to ensure that the goods are reasonably fit for the purpose for which they are required. Sections 11 and 12 of the Act also require that in contracts for the sale of goods by sample and/or by description, it is the duty of the seller to ensure that the goods delivered correspond exactly with the sample or description by which they are sold.

To prevent sellers from avoiding the liability imposed by Section 13 of the Act, the Act limits the power of the seller to exclude these implied terms by any exclusion or exemption clause, even though the limitation is not absolute. According to Section 13(2) of Act 137, a trader or dealer in goods of a particular description cannot effectively exclude liability for the poor quality of goods supplied unless "he proves that before the contract was made the exclusion clause was brought to the notice of the buyer and its effect made clear to him."

The broad effect of Section 13 of Act 137 applied in this context is thus to clearly discourage the rampant use of contractual clauses to exclude liability for poor quality goods by insisting on explicit explanations of such clauses to customers.

4.9.6 Hire Purchase Decree, 1972 (N.R.C.D. 292)

Legislative control measures have also been applied quite extensively to credit transactions including hire-purchase agreements because of the inherently unequal bargaining positions of the parties. The Hire Purchase Decree, 1972 (N.R.C.D. 292) imposes a number of obligations on the hirer or owner of goods which are let under a hire-purchase agreement to ensure that the goods are of merchantable quality, free from undeclared defects and correspond exactly to the sample or description by which they were sold.93

The Hire Purchase Decree, 1974 (N.R.C.D. 292), prescribes detailed rules aimed at ensuring the existence and quality of the hirer's consent to the terms and conditions of the agreement. The Decree imposes a number of rigid, formalistic rules to govern the formation of the hire-purchase contract and prescribes mandatory terms which must be incorporated into the contract if it is to be valid, placing the entire burden of compliance on the owner of the goods, that is the person or corporation that hires out the goods.94

The Hire Purchase Decree identifies a number of contractual provisions commonly included in hire-purchase contracts which are deemed to be unconscionable and oppressive and prohibits their inclusion in any hire-purchase agreement.95 These provisions of the Decree leave the owner

93 Section 14 of N.R.C.D. 292.
94 According to section 1(1) of NRCD 292, in case of non-compliance with any of the formal requirements for the formation of the contract, the entire agreement would be unenforceable by the owner against the hirer, but enforceable by the hirer against the owner. See, Yayo v Nyinase [1975] 1 GLR 422, CA.
95 N.R.C.D. 292, section 4.
of the goods with very little opportunity to rely on his own protective clauses, thus ensuring maximum protection for the hirer who is often in a much weaker bargaining position.

A number of provisions expressly limiting the use of exclusion clauses can also be found in NRCD 292, which implies terms into every hire-purchase agreement with regard to the quality of the goods, and their fitness and correspondence with the description or sample by which they were sold. Section 14 of the Decree restricts the use of exclusion clauses to avoid these statutorily implied terms. Any clause in the agreement purporting to exclude liability for breach of the implied terms as to merchantable quality shall not be effective unless it is proved that before the agreement was made the exclusion clause was brought to the notice of the hirer or buyer and its effect made clear to him. Where the exclusion clause is in relation to any defect, it must be proved that the owner brought that defect to the actual notice of the hirer or buyer.

This formidable array of protective measures introduced by the Hire Purchase Decree empowers hirers to enforce their rights under the hire-purchase agreement in court, a process which is facilitated by the fact that such agreements were required by statute to be reduced into writing, unlike sale transactions.

4.9.7 Finance Lease Law, 1993 (P.N.D.C.L 331)

The Finance Lease Law contains a catalogue of protective provisions aimed at ensuring that the rights and interests of the lessee are preserved. These include the following:

The lessee shall have and enjoy quiet possession of the leased asset during the entire period of the lease as provided in the agreement.

The lessee shall pay the rentals as stipulated in the lease agreement, and unless otherwise stipulated in the lease agreement, the lessee shall not be liable for all payments set out in the agreement if the leased asset is fully or partly destroyed or damaged by accident not of the lessee's making or force majeure.

As long as the lessee performs his obligations in accordance with the terms of the lease agreement, the agreement shall not be terminated unilaterally by the lessor, even if the lessor is declared bankrupt.

Without prejudice to the lessor's rights as against those of the lessee or the supplier, the lessee shall have the right to take direct action against the supplier in order to hold the supplier to the satisfactory performance of the supplier's contractual obligations and to obtain from the supplier compensation for damages resulting from his default.

In order to protect the interests of clients of Finance Leasing companies, the law empowers the Bank of Ghana, the regulatory body to exercise extensive powers of supervision and monitoring of the financial position and activities of such companies. For the purpose of regulating the credit system of the country, the Bank of Ghana may require Finance Lease companies to furnish the Bank information or particulars relating to the business of the finance lease companies as may be specified by the Bank; give to finance lease companies directions relating to the conduct of their

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96 NRCD 292, sections 13-15.
97 PNDCL 331, Section 3(1).
98 PNDCL 331, Section 3(5).
99 PNDCL 331, Section 3(6).
100 PNDCL 331, Section 3(8).
business; and lay down suitable guidelines for proper supervision and control of the exercise of the power to accept deposits from the public.

Thus, it is the duty of every finance lease company to furnish the statements, information or particulars called for and to comply with any direction given to it by the Bank of Ghana.\textsuperscript{101} The Bank of Ghana may, at any time cause an inspection to be made by one or more of its officers or employees or other persons, of any finance lease company for the purpose of verifying the correctness or completeness of any statement, information or particulars furnished to the Bank of Ghana.\textsuperscript{102}

\section*{4.9.8 Accommodation and Catering Enterprises Regulations, 1979 (L.I. 1205)}
These regulations enjoin all persons operating an accommodation or catering enterprise to register with the Ghana Tourist Board and to obtain the requisite valid license for its operations. The Board is enjoined to keep a register of accommodation and catering enterprises in which it shall enter the particulars of every accommodation and catering enterprise required to be registered under the Regulations. A license granted under this regulation shall be valid for one year and shall be renewable on the 1st January of each year. No license shall be granted by the Board unless it is satisfied as to the suitability of the enterprise. Any person who contrives the license requirement shall be guilty of an offence.

In order to facilitate monitoring, supervision and investigation, the Regulations give the Board the power to appoint inspectors who are mandated to enter, inspect and examine an accommodation or catering enterprise; require the production of any register, license or documents kept in pursuance of these Regulations and to inspect, examine and copy any of them; make or cause to be made such examination and inquiry as may be necessary to ascertain whether the provisions of the Regulations and of the ones in force relating to public health are complied with so far as they relate to an accommodation or catering enterprise and any persons employed therein.

The law gives the public the right of complaint to the board. When such a complaint is made the Board shall cause investigations to be conducted and where the Board is satisfied that the enterprise is being operated in contravention of the law, it may require the operator to remedy the defect.

Where the holder of an accommodation or catering enterprise license under these Regulations contravenes any of the conditions for the grant of the license the Board may revoke or suspend the license.

Regulation 11 provides for the minimum requirements for any premises used for the purpose of an accommodation enterprise to include good drinking water, lighting, ventilation, stairways and other passages, drainage, toilet facilities, and fire fighting facilities.

\section*{4.10 LABOUR SECTOR}

The observance of good and approved labour standards is another means for assessing the CSR of corporations to their shareholders, employees, creditors and the community. CSR in the Labour Sector includes safety at work and good working conditions, an ascertainable profit sharing system, retirement benefits, employee involvement in decision making, and respect for workers unions.

\begin{footnotes}
\item[101] PNDCL 331, Section 14(1).
\item[102] PNDCL 331, Section 14(4).
\end{footnotes}
Specific CSR employment policies and practices include: equality of opportunity through the application of a policy of non discrimination; respect and support for the Human Rights of employees; flexibility in working time, wherever practicable, to reflect changing family circumstances; support and help for employees who become disabled during their working life; structured approach to personal and career development through appraisal and the provision of training programmes; employee participation in the performance and growth of the Company through performance and profit related bonuses, employee share schemes and long-term share-based incentive schemes; and adherence to high standards of ethical conduct and professional business conduct. A CSR friendly company must attach high importance to its reputation for honesty, integrity and high professional and ethical standards. The company must generally ensure that employees share in its success and have the opportunity to share their views and provide feedback on issues that are important to them.

The International body that deals with issues of labour is the ILO. The ILO was created by the Treaty of Versailles in 1919 and is unique among the United Nation's specialized agencies in the sense that it is older than the UN itself. When the ILO was set up in 1919 its prime function, as laid down in its constitution, was to establish international standards across the wide range of issues related to labour. The standards that it has set over the years are collectively called the International Labour Code, and consist mainly of Conventions and Recommendations adopted by its annual general conference. Some of the conventions that constitute the Code are listed below and are very useful standards for CSR in the Labour Sector.

1. Unemployment Convention, 1919 (No. 2)
2. Night Work of Young Persons (Industry) Convention, 1919 (No. 6)
3. Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8)
4. Placing of Seamen Convention, 1920 (No. 9)
5. Right of Association (Agriculture) Convention, 1921 (No. 11)
6. Workmen's Compensation (Agriculture) Convention, 1921 (No. 12)
7. White Lead (Painting) Convention, 1921 (No. 13)
8. Weekly Rest (Industry) Convention, 1921 (No. 14)
9. Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16)
10. Workmen's Compensation (Accidents) Convention, 1925 (No. 17)
11. Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18)
12. Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)
13. Seamen's Articles of Agreement Convention, 1926 (No. 22)
14. Repatriation of Seamen Convention, 1926 (No. 23)
15. Sickness Insurance (Industry) Convention, 1927 (No. 24)
16. Sickness Insurance (Agriculture) Convention, 1927 (No. 25)
17. Marking of Weight (Packages Transported by Vessels) Convention, 1929 (No. 27)
18. Forced Labour Convention, 1930 (No. 29)
19. Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35)
20. Old-Age Insurance (Agriculture) Convention, 1933 (No. 36)
21. Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37)
22. Invalidity Insurance (Agriculture) Convention, 1933 (No. 38)
23. Survivors' Insurance (Industry, etc.) Convention, 1933 (No. 39)
24. Survivors' Insurance (Agriculture) Convention, 1933 (No. 40)
25. Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42)
27. Safety Provisions (Building) Convention, 1937 (No. 62)
28. Food and Catering (Ships' Crews) Convention, 1946 (No. 68)
29. Certification of Ships' Cooks Convention, 1946 (No. 69)
30. Social Security (Seafarers) Convention, 1946 (No. 70) (Convention not in force)
31. Medical Examination (Seafarers) Convention, 1946 (No. 73)
32. Certification of Able Seamen Convention, 1946 (No. 74)
33. Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77)
34. Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78)
35. Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79)
36. Final Articles Revision Convention, 1946 (No. 80)
37. Labour Inspection Convention, 1947 (No. 81)
38. Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)
40. Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91)
41. Accommodation of Crews Convention (Revised), 1949 (No. 92)
42. Protection of Wages Convention, 1949 (No. 95)
43. Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96)
44. Right to Organize and Collective Bargaining Convention, 1949 (No. 98)
45. Right to Organize and Collective Bargaining Convention, 1949 (No. 98)
46. Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99)
47. Equal Remuneration Convention, 1951 (No. 100)
48. Holidays with Pay (Agriculture) Convention, 1952 (No. 101)
49. Social Security (Minimum Standards) Convention, 1952 (No. 102)
50. Maternity Protection Convention (Revised), 1952 (No. 103)
51. Abolition of Forced Labour Convention, 1957 (No. 105)
52. Seafarers' Identity Documents Convention, 1958 (No. 108)
53. Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
54. Medical Examination (Fishermen) Convention, 1959 (No. 113)
55. Radiation Protection Convention, 1960 (No. 115)
56. Final Articles Revision Convention, 1961 (No. 116)
57. Guarding of Machinery Convention, 1963 (No. 119)
58. Hygiene (Commerce and Offices) Convention, 1964 (No. 120)
59. Employment Policy Convention, 1964 (No. 122)
60. Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124)
61. Maximum Weight Convention, 1967 (No. 127)
62. Labour Inspection (Agriculture) Convention, 1969 (No. 129)
63. Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133)
64. Prevention of Accidents (Seafarers) Convention, 1970 (No. 134)
65. Workers' Representatives Convention, 1971 (No. 135)
66. Dock Work Convention, 1973 (No. 137)
67. Minimum Age Convention, 1973 (No. 138)
68. Paid Educational Leave Convention, 1974 (No. 140)
69. Rural Workers' Organizations Convention, 1975 (No. 141)
70. Human Resources Development Convention, 1975 (No. 142)
71. Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)
72. Continuity of Employment (Seafarers) Convention, 1976 (No. 145)
73. Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)
74. Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148)
75. Nursing Personnel Convention, 1977 (No. 149)
76. Labour Relations (Public Service) Convention, 1978 (No. 151)
77. Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)
78. Labour Statistics Convention, 1985 (No. 160)
79. Occupational Health Services Convention, 1985 (No. 161)
80. Chemicals Convention, 1990 (No. 170)
81. Safety and Health in Mines Convention, 1995 (No. 176)
82. Labour Inspection (Seafarers) Convention, 1996 (No. 178)
83. Worst Forms of Child Labour Convention, 1999 (No. 182)

Of all the international instruments, conventions and guidelines referred to above, Ghana has ratified only seven. These include the following:

1. Forced Labour Convention, 1930;
2. Abolition of Forced Labour Convention, 1957;
3. Freedom of Association and Protection of the Right to Organize Convention, 1948;
4. Right to Organize and Collective Bargaining Convention, 1949;
5. Equal Remuneration Convention, 1951;
6. Discrimination (Employment and Occupation) Convention, 1958; and

The relevant domestic legislation on labour matters include the following:

1. The Labour Act, 2003 (Act 651);
2. Factories, Offices and Shops Act, 1970 (Act 238) as amended by PNDC L 66 and PNDCL 275;
3. Children’s Act, 1998 (Act 560);
4. Pensions Ordinance (Cap 30), as Amended By PNDCL 109;
5. Workmen’s Compensation Law, 1987 (PNDCL 187);

4.10.1 Labour Act, 2003(Act 651)

Under this law, there is established a National Labour Commission (NLC) to regulate labour matters in Ghana. The Mission of the NLC is to develop and sustain a peaceful and harmonious industrial relations environment through the use of effective dispute resolution practices, promotion of co-operation among the labour market players and mutual respect for their rights and responsibilities.

In particular, the NLC is to:

1. To facilitate the settlement of industrial disputes;
2. To settle industrial disputes;
3. To investigate labour related complaints, in particular unfair labour practices and take such steps as it considers necessary to prevent labour disputes;
4. To maintain a data base of qualified persons to serve as mediators and arbitrators;
5. To promote effective labour co-operation between labour and management; and
6. To perform any other function conferred on it under its constitutive Act or any other enactment.
To discharge its functions efficiently, the Commission has also been given the following powers:\textsuperscript{103}:

1. To receive complaints from workers, trade unions, and employers, or employers organization on industrial disagreement and allegation of infringement of any requirements of the law;
2. To require an employer to furnish information and statistics concerning the employment of its workers and the terms and conditions of their employment in a form and manner the Commission considers necessary; and
3. Require a trade union or any workers organization to provide such information as the Commission considers necessary.

The Commission also has the power to notify employers and employers’ organizations or workers and trade unions in cases of contravention of the Labour Act and Regulations made there under and direct them to rectify any default or irregularities.

In settling an industrial dispute, the Commission has also been empowered to exercise the powers of the High Court in respect of enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise; compelling the production of documents; and the issue of a commission or request to examine witness abroad.

In the exercise of its adjudicating and dispute settlement function the Commission is not subject to the control or direction of any person or authority.\textsuperscript{104}

Section 9 of the Act imposes the following duties on employers:

1. Provide work and appropriate raw materials, machinery, equipment and tools;
2. Pay the agreed remuneration at the time and place agreed on in the contract of employment or collective agreement or by custom without any deduction except deduction permitted by law or agreed between the employer and the worker;
3. Take all practicable steps to ensure that the worker is free from risk of personal injury or damage to his or her health during and in the course of the worker's employment or while lawfully on the employer's premises;
4. Develop the human resources by way of training and retraining of the workers;
5. Provide and ensure the operation of an adequate procedure for discipline of the workers;
6. Furnish the worker with a copy of the worker's contract of employment;
7. Keep open the channels of communication with the workers; and
8. Protect the interests of the workers.

Flowing from the above and under Section 10 of the Act, every worker has the right to:

1. Work under satisfactory, safe and healthy conditions;
2. Receive equal pay for equal work without distinction of any kind;
3. Have rest, leisure and reasonable limitation of working hours and period of holidays with pay as well as remuneration for public holidays;
4. Form or join a trade union;
5. Be trained and retrained for the development of his or her skills; and
6. Receive information relevant to his or her work.

The NLC is obviously a key regulatory body when it comes to ensuring CSR in Ghana.

\textsuperscript{103} Section 139.
\textsuperscript{104} Section 138(2).
4.10.2 Social Security Law, 1991 (PNDCL 247)

The social security and national insurance trust ("the trust") is established by the social security law as a body corporate. The law gives the trust the mandate to operate the Social Security Pensions Scheme ("the Scheme").

The main object for the establishment of the trust as stated in Section 2 of the law is to provide social protection for the working population for various contingencies such as old age, invalidity, and such other contingencies as may be specified by law. The Scheme has a Fund into which shall be paid all contributions and other moneys, as may be required under this Law.

The law applies to every employer of an establishment and to every worker employed therein; and all self-employed persons, who opt to join the Scheme. Where a member has ceased to be employed he may continue to pay his monthly contribution at the rate being paid by a self-employed person. An exemption is created for officers and men of the Armed Forces and such other officers as are expressly exempted by Law.

The law expressly provides in Section 21 that the existence of a private or company pension, provident fund, superannuation scheme or gratuity scheme in respect of workers to whom this Law applies shall not exempt the employer of such worker or such workers from the provisions of this Law and such employer shall be responsible for deducting contributions from the remuneration of such workers and paying them along with his own contributions to the Fund at the rates laid down in the provisions of the Law.

Every employer of an establishment is obliged by the law to deduct from the pay of every worker in such establishment immediately at the end of the month, a worker's contribution of an amount equal to five per centum of such worker's pay for such period, irrespective of whether or not such pay is actually paid to the worker. In addition every employer of an establishment is obliged to pay for each month in respect of each worker, an employer's contribution of an amount equal to twelve and half per centum of such worker's pay during such month. These contributions are supposed to be remitted to the Trust at least 14 days at the end of each month. Self-employed persons are required to contribute seventeen and half per centum of their income for the month from their profession, vocation, business or occupation.

It is within the parameters of good CSR for corporations to diligently pay their workers Social Security benefits under this law in order to secure for them a good pension.

4.10.3 Factories, Offices and Shops Act, 1970 (328)

Every person who occupies a factory, office or shop is obliged to apply for it to be registered. Section 1 of this law mandates the Chief Inspector to keep a register of factories in which he shall cause to be entered such particulars in relation to every factory required to be registered under this Act as he may consider necessary or desirable. Upon registration the occupier is supposed to be issued a certificate of registration. At least not less than one month before a person begins to occupy or use premises as a factory he is supposed to apply to have it registered. It is an offence to contravene the registration requirements of the law.

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105 Section 1.
106 Section 1(5).
107 Section 21.
108 Ibid.
109 Section 3.
110 Section 5.
The Act requires that notice be given to the Chief Inspector in case of an accident in any factory, office or shop which causes the death or disability of a person employed therein. Notification must also be given of every dangerous occurrence in any factory, office or shop. A dangerous occurrence includes the following:

1. All cases of explosion, fire and collapse of buildings;
2. Accidents to machinery or plant likely to cause risk of serious bodily injury to persons employed;
3. Collapse, overturning or failure of a crane, derrick, winch, hoist or other appliance used in raising or lowering persons or goods;
4. Bursting of a revolving vessel, wheel, grindstone or grinding wheel moved by mechanical power.

Every case of industrial disease occurring in a factory or shop shall also be noticed to the Chief Inspector or the Inspector for the district. The law requires notification to the appropriate officer whenever an industrial disease such as lead, phosphorus, manganese, arsenical and mercurial poisoning; or toxic anaemia, toxic jaundice, anthrax, ulceration and any other prescribed illness or disease occurs.111

To promote the health and welfare of workers, section 13 provides that every factory, office and shop and all furniture, furnishing and fittings therein shall be kept in a clean state. Accumulations of dirt and refuse are to be removed daily from the floors and benches of workrooms, and from staircases and passages. The floor of every office, shop and workroom are to be cleaned at least once a week by washing, sweeping or some other suitable and effective method.

No room comprised in or constituting a factory, office or shop shall, while work is carried on therein, be so overcrowded as to cause risk of injury to the health of persons working therein. Section 15 requires effective and suitable provision to be made in all factories, offices and shops to secure and maintain in each workroom the circulation of fresh air or adequate ventilation.

To make life comfortable for workers, the law requires the provision of adequate washing facilities; sufficient and suitable lighting system, effective means of drainage, sanitary conveniences, and adequate supply of wholesome drinking water. Other areas covered by the law are the provision of accommodation for clothing, sitting facilities, removal of dust and fume, provision of a safety place for taking of meals; and the provision of protective clothing and appliances for workers. Section 25 specifically provides that where in a factory or shop workers are employed in any process involving excessive exposure to wet or to any injurious or offensive substance, suitable protective clothing and appliances, including, where necessary, suitable gloves, footwear, goggles and head coverings, shall be provided and maintained for their use.

The law also requires reduction in noise and vibrations as far as possible using appropriate and practicable measures where they are likely to affect the health of persons employed in any factory, office or shop.112

In every factory, office and shop there shall be provided and maintained appropriate means for fighting fire, which shall be so placed as to be readily available for use.113 Also within every

111 Section 12.
112 Section 26.
113 Section 32.
factory, office and shop there should be adequate means of escape in case of fire for the persons employed therein as may be reasonably required in the circumstances of each case.\textsuperscript{114}

Section 51 empowers the minister to come out with legislative instrument providing safety Regulations in respect of the following:

1. Providing for the supervision of persons employed;
2. Prescribing particular means for fighting fire in respect of any class or description of premises to which this act applies;
3. Providing for the testing and examination of any means provided for fighting fire, and for the recording of particulars of the tests and examinations and of any defects found and action taken to remedy the defects;
4. Prescribing the means of escape in case of fire to be provided in premises to which this act applies;
5. Providing for the fencing of and safety requirements to be observed in relation to any particular machinery;
6. Prescribing conditions to be observed in the examination, lubrication or operation of any dangerous part of any machinery;
7. Prescribing matters not to be taken into account in determining whether any part of machinery is as safe as it would be if securely fenced;
8. Prohibiting the sale or hire of any machinery or plant which does not comply with any safety requirements specified in the regulations;
9. Providing for the regular examination, testing and repair of hoists and lifts, and prescribing safety measures to be observed in relation to hoists and lifts;
10. Providing in respect of all kinds of chains, ropes and lifting tackle for tables of safe working loads, testing, examination and annealing;
11. Providing for the regular examination, testing and repair of all lifting machines, and prescribing safety measures to be observed in relation to lifting machines;
12. Prescribing safety measures to be observed when work has to be done inside any confined space in which dangerous fumes are likely to be present;
13. Providing for the examination and testing of steam boilers and steam receivers and all their fittings and attachments;
14. Providing for the cleaning, examination and testing of air receivers;
15. Prescribing standards of construction, specifications, safety requirements and safety measures to be observed in relation to steam boilers, receivers and containers and air containers;
16. Prescribing the conditions under which steam boilers and steam receivers, whether new or previously used, may be taken into use;
17. Prohibiting the employment of, or modifying or limiting the hours of employment of, all persons or any class of persons in connection with any manufacture, machinery, plant, equipment, appliance, process or description of manual labour which in his opinion is of such a nature as to cause risk of bodily injury or to be offensive to any persons employed in a factory, office or shop;
18. Prohibiting, limiting or controlling the use of any material or process in any factory, office or shop, in the interest of the welfare or persons employed therein, or where in his opinion the use of such material or process may cause risk of bodily injury or be offensive to any persons employed therein;
19. Modifying or extending with respect to any class of factory, office or shop any provision of the act imposing safety requirements, where he is satisfied that such modification or extension is necessary to prevent risk of bodily injury to persons employed therein:

\textsuperscript{114} Section 33.
The responsible Ministry has over the years made various Regulations to govern some of the above. These include: **Factories (General Registers) Regulations 1971** (LI 693); **Factories (Prescribed Abstract) Regulations 1970** (LI 654); **Factories, Offices and Shops (First Aid) Regulations 1970**, (LI 655).

Any occupier or owner who contravenes or fails to comply with any requirement of the Act or any regulation made thereunder is guilty of an offence.\(^\text{115}\) If any person is killed or dies or suffers bodily injury in consequence of an occupier or owner having contravened any provision of the law or any regulation made thereunder, the occupier or owner shall be liable to a fine or to a term of imprisonment not exceeding six months, or to both.

The strict and detailed regulation of Factories, Offices, and Shops is very important to CSR since corporations operate out of such premises.

**4.10.4 Children's Act, 1998 (Act 560)**

This Act consolidates the law relating to children and to regulate child labour and apprenticeships. “Child” is defined as a person below the age of 18.\(^\text{116}\) The Act prohibits all forms of discrimination against children. By Section 10 no person shall treat a disabled child in an undignified manner. A disabled child has a right to special care, education and training wherever possible to develop his maximum potential and be self-reliant.

The law prohibits the engagement of children in exploitative labour.\(^\text{117}\) Labour is exploitative of a child if it deprives the child of its health, education or development.\(^\text{118}\) Engaging a child to do any night work under any circumstance is also prohibited. Night work constitutes work between the hours of eight o'clock in the evening and six o'clock in the morning. The Minimum age for admission of a child to employment is fifteen years, and thirteen years for light work. Light work constitutes work which is not likely to be harmful to the health or development of the child and does not affect the child’s attendance at school or the capacity of the child to benefit from school work. On the other hand the minimum age for the engagement of a person in hazardous work is eighteen years.\(^\text{119}\) Work is hazardous when it poses a danger to the health, safety or morals of a person. Hazardous work includes: going to sea; mining and quarrying; porterage of heavy loads; work in manufacturing industries where chemicals are produced or used; work in places where machines are used; and work in places such as bars, hotels and places of entertainment where a person may be exposed to immoral behaviour.

An employer in an industrial undertaking shall keep a register of the children and young persons employed by him and of the dates of their births if known or of their apparent ages if their dates of birth are not known.\(^\text{120}\) An industrial undertaking is an undertaking other than one in commerce or agriculture and includes: mines, quarries and other works for the extraction of minerals from the earth; undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adopted for sale, broken up or demolished, or in which materials are transformed including undertakings engaged in ship building or in the generation, transformation or transmission of electricity or motive power of any kind; undertakings engaged

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\(^{115}\) Section 60.  
\(^{116}\) Section 1.  
\(^{117}\) Sections 12 and 87.  
\(^{118}\) Section 87(2).  
\(^{119}\) Section 91.  
\(^{120}\) Section 93.
in the transport of passengers or goods by road or rail including the handling of goods at docks, quays, wharves, warehouses and airports.

There are also the Children’s Rights Regulations, 2002 (LI 1705) which provide some more details on the regulation of child labor and various enforcement mechanisms.

Any person who contravenes the provisions of this law commits an offence and is liable on summary conviction to a fine or to a term not exceeding two years or to both.

CSR obviously involves regard for the Child Labour laws of Ghana as contained in the Children’s Act and the Child Rights Regulations.

4.10.5 Treatment of Disabled Persons

Disabled people around the world - and their families, friends and allies - are increasingly visible as employees, customers, partners, members of the community. Their voice is increasingly heard as they and their allies advocate for recognition of their civil and human rights. The global trend is towards legislation which responds to these concerns.

In Ghana, it is wrong to discriminate against a person with disabilities. Article 17 of the 1992 Constitution is against all forms of discrimination. Article 37(2)(b) also provides that “the State shall enact laws to assure the protection and promotions of all basic human rights and freedoms, including the rights of the disabled, the aged, children and other vulnerable groups…”.

Article 29 of the 1992 Constitution guarantees the rights of disabled persons. It provides that disabled persons have the right to live with their families or with foster parents and to participate in social, creative or recreational activities. It prohibits any act that seeks to subject disabled persons to differential treatment in respect of residence other than that required by his condition or by the improvement which he may derive from the treatment.

If the stay of a disabled person in a specialize establishment is indispensable, the Constitution requires the environment and living conditions of that establishment to be as close as possible to those of the normal life of a person of his or her age.

The constitution also protects disabled persons against all forms of exploitation, and all treatment of a discriminatory, abusive or degrading nature. The most interesting provision is Article 29 further provides that as far as practicable, every place to which the public have access shall have appropriate facilities for disabled persons.

The constitution requires special incentives to be provided for disabled persons engaged in business and to business organizations that employ disabled persons in significant numbers. The constitution in Article 29(8) mandates Parliament to enact a law to give effect to the provisions of the constitution. This mandate finds expression in the current Persons With Disability Bill that has been passed by Parliament and is awaiting assent.

The Labour Act provides for registration of persons with disability and special incentives are provided for employers who employ persons with disability. For persons with disability engaged in any business or enterprise the law requires that they be given special incentives.121

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121 Section 46.
A contract of employment with a person with disability must include the particulars of the job or post, the working hours, amount of remuneration, transport facilities, and any special privileges which that person shall be accorded by virtue of the employment. The employment of a person, who suffers disability after the employment, shall not cease if his or her residual capacity for work is such that he or she can be found employment in the same or some other corresponding job in the same undertaking, but if no such corresponding job can be found, the employment may be terminated by notice.

The Persons With Disability Bill was laid in parliament on the 24th day of February 2006 and referred to the Committee on Manpower, Youth and Employment for consideration and report. The Bill was passed by Parliament on the 23rd day of June 2006 and is currently awaiting presidential assent. The object of this Bill as indicated in the Memorandum to the Bill is to provide legislation to ensure the enforcement of the rights of persons with disability.

This Bill seeks to fulfill the constitutional provision as well as the UN Universal Declaration of Human Rights. Thus it provides for non-discrimination and equal opportunity for all persons with disability. It also provides for special social and economic opportunities for persons with disability to include special educational facilities and economic opportunities.

The Bill provides for the establishment of a National Council on Persons with Disability to propose, evolve and implement policies and strategies to enable person with disability enter and participate in the mainstream of the national development process.

### 4.11 CSR AND THE DISCHARGE OF TAX OBLIGATIONS

The principal enactment relating to direct taxes in Ghana is the Internal Revenue Act 2000, (Act 592). This Act is structured as a Code and consolidates all taxation laws administered by the IRS. The Act currently covers Income Tax, Gift Tax and Capital Gains Tax.

Ghana law contains a maze of tax incentives to include:

1. Tax Holidays.
2. Generous Capital Allowance Regimes.
3. Location Incentives (Tax Rebate).
5. Exemption from Income Tax payable.
7. Exemption from the minimum chargeable income tax of 5% of turnover during first five years.
8. Capital Expenditure in respect of Research and Development by an approved manufacturing company is fully deductible.

Under the Ghana Free Zones Scheme, which is an integrated programme to promote the manufacture and processing of goods and the development of commercial and service activities at the sea and air port areas of the country, Ghana is accessible to potential investors who seek to use the free zone as a focal point to produce goods and services for foreign markets. The programme is private sector driven with the government acting only as a facilitator, regulator,
and monitor. The free zone scheme offers investors extensive and generous incentives. These include:

1. Total exemption from the payment of direct and indirect duties and levies on all imports for production and export from the free zones;
2. No import licensing requirements;
3. Total exemption from income tax on profits for the first 10 years and Income tax rates after 10 years is not to exceed 8%;
4. Total exemption from the payment of withholding taxes on dividends arising out of free zone investments;
5. Relief from double taxation for foreign investors and employees.

Aside the tax and related incentives, all for profit corporations are required to pay taxes at the rates prescribed. And corporations have a social responsibility to pay taxes.

4.12 CORPORATE SOCIAL RESPONSIBILITY IN GHANA: JUDICIAL REVIEW

Most of this section contains CSR principles as stated in Acts of Parliament and Regulations. The normative framework in Ghana, however, includes the Common Law which comprises in the main, decisions of Ghanaian and other similar courts of law and customary law.

In this sub-section, we examine some pronouncements made by various courts in Ghana as they relate to CSR issues.

In Aboagye V. Kumasi Brewery Ltd, the plaintiff brought an action against the defendant corporation claiming damages for the injury suffered by him as a result of taking a bottle of beer negligently bottled by the defendant company. The plaintiff, who was drinking beer with some friends found a rotten palm nut in the beer bottle after he had consumed about three-quarters of the contents of the bottle. He had a funny feeling after seeing the rotten nut and felt like vomiting. During the night he vomited and had frequent stools. The following morning he was seen by a doctor, who after examining him stated that the vomiting and diarrhea resulted from food poisoning. The plaintiff brought this action claiming damages for the injury suffered by him as a result of taking the bottle of beer negligently bottled by the defendants. The defendants denied that the beer contained any nut and also that they were negligent in bottling the beer. They claimed to have a fool-proof system. The Ghana High Court held that the fact that the nut was found in the bottle raised the legal maxim of res ipsa loquitur and presumed the negligence of the manufacturers in the preparation of the beer. But this prima facie case of negligence was rebuttable if the defendants could show that they were not negligent. According to the court there was no doubt that the defendants had the best possible plant and adopted a fool-proof process under proper supervision in the manufacture of their beer, but the fact that this was operated by human beings, showed that in this particular case someone had failed to exercise the proper care. The corporation was therefore found liable to the plaintiff.

In Overseas Breweries Ltd. v. Acheampong, the court applied the concept of negligence in product liability in a manner which suggests that liability is strict. The plaintiff sued the defendant corporation for injury he suffered by reason of the fact that a bottle of beer he drank and which was manufactured and bottled by the appellants contained kerosene. It was found as a

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125 Some of these cases are also discussed in, Christine Dowuona-Hammond and Raymond Atuguba, The Policy and Legal Framework for Consumer Protection in Ghana, A Report Prepared for the Friederich Ebert Foundation-Ghana, June 2006.
126 [1964] GLR 242 – 247 HC.
fact by the trial judge that the system adopted by the manufacturers was thorough and carefully devised. Nevertheless it was held that the appellants, as manufacturers of the beer, owed a duty of care to the respondent to ensure that the beer sold to him was not contaminated with kerosene and awarded the respondent general damages for the appellants' negligence.

It was argued for the appellants on appeal that once the learned trial judge had found their manufacturing process and system of supervision to be of a very high standard, the appellants had negated any charge that they had been negligent, and therefore the trial judge was wrong in concluding that notwithstanding the efficient system in the factory the appellants were negligent.

The appellate court dismissed the appeal and held that the respondent, having established that there was kerosene in the bottled beer, had discharged the burden of proving negligence on the part of the appellant corporation. The appellants could not rely on their fool-proof system alone to escape responsibility because there was no evidence before the court below as to how the kerosene got or might have got into the bottled beer. It was not the duty of the respondent to prove how it got into the beer. It was rather the responsibility of the appellant corporation to explain that the kerosene might have gotten into the beer without any negligence on their part. This they failed to do and negligence could be found as a matter of inference.

In the case of Hasnem Enterprise Ltd v. Electricity Corporation of Ghana,129 a case decided by the High Court in Cape Coast, the defendant-corporation was a supplier of electricity to consumers under contract. The plaintiffs, a limited liability company, were customers of the defendants. On 21 March 1981 when power was switched on in the premises of the plaintiffs some of the company's electronic gadgets and appliances got damaged. Subsequently employees of the defendants in tracing the problem found out that the underground cable supplying power to the plaintiffs' premises had cut into two as a result of a fault on the line. The plaintiffs, claiming that the fault on the cable was caused by the negligence of the defendants in installing faulty and inappropriate fuses, in failing to maintain and service the cables properly and improperly regulating the power load on the cable, brought an action against the defendants for special and general damages.

The value of the items damaged was put in as at the time of the incident. Alternatively, the plaintiffs founded their claim on res ipsa loquitur. Although the defendants admitted that the broken cable was a fault on their service line, they denied that the fault was caused by any negligence on their part. They contended that the underground cable could neither be maintained nor serviced. No evidence was led by the plaintiffs at the trial in proof of the particulars of negligence they had pleaded.

The court held that the Electricity Corporation of Ghana Decree, 1967 (N.L.C.D. 125) imposed a duty on the defendants to supply electricity to customers who had such contracts with them. The defendants were therefore required to take such steps as were reasonable to ensure safe supply of electricity. Breach of that duty would give the customer a cause of action and might also afford evidence of negligence. In the instant case, the defendants owed a duty to their customers to ensure that the cable was capable of serving and actually serving all the places for which it was intended to serve. However, the risk that the cable would get damaged and cause damage to property would certainly not be apparent.

Accordingly, the test would be whether it would be reasonably foreseeable. Since the defendants were aware of and were actually reading the plaintiffs' meter and billing them, it was reasonably foreseeable that a default on their part in respect of the cable would cause damage to the persons

they were serving, i.e. the plaintiffs. However the plaintiffs did not lead any evidence to establish fault on the part of the defendants. And since the cables were underground and could neither be serviced nor maintained and there was no evidence that the cable was inadequate to service the area, the defendants were not proved to have been negligent. Accordingly, they were not liable to the plaintiffs.

Another significant decision on consumer protection relates to the banking sector. In the High Court case of *Tsegah v. Standard Chartered Bank (Ghana) Ltd*, the plaintiff joined the Automated Teller Machine (ATM) fast cash withdrawal system in 1997 and was issued with a Personal Identification Number (PIN) and a money link card. He obeyed the instructions accompanying the PIN. He made a few withdrawals with the card and never revealed the PIN to anyone and never parted with his card. In 1999 the plaintiff wrote a number of cheques which were not honoured by the defendant bank. He subsequently requested for his statement of account and was shocked to realize that various ATM withdrawals had been debited to his account.

It was the plaintiff’s case that during the period the unauthorized ATM withdrawals were made, construction work on the new car park close to the High Street branch of the bank had rendered parking in the area very hazardous and he had therefore ceased going to the bank to make ATM withdrawals and rather made withdrawals by cheque. Within that same period too, he was hospitalized for a while.

The defendant bank argued that the withdrawals in question were made with the Plaintiff’s ATM card and personal identification number and that the withdrawals could not have been made without the Plaintiff’s card. The bank further argued that the Plaintiff had compromised his card and therefore the amount debited to his account was genuine and not fraudulent. Defense Counsel also argued that the Plaintiff’s claim could only be founded in the law of contract and by the terms of that contract that came into effect between the parties when the plaintiff joined the ATM scheme, the Plaintiff agreed to accept full responsibility for all transaction processed from the use of the ATM card.

In its decision, the court noted that electronic banking is a relatively new scheme in this country and that there were no local judicial precedents involving electronic banking. The Court therefore relied on the common law approach to the issue and made references to decisions from other common law jurisdictions. The court also noted, as the defendant bank had admitted, that ATM machines are not foolproof. The plaintiff’s integrity was also not in doubt. The court rejected the argument by the Defendant bank that by the terms of the contract existing between the Plaintiff and Defendant it was absolved of all liability on the grounds that no evidence was adduced on the existence of any such contract.

The court further noted that in those developed countries were the scheme has been operating for a while, legislation have been passed to regulate the relationship between the bank and the customer because of the peculiar legal problems posed by the use of ATM machines. The court made reference to provisions in the UK Unfair Contract Terms Act of 1977 that seek to regulate contractual terms that banks may seek to impose on customers in relation to electronic banking services. His Lordship the Judge expressed the need for similar legislation to be passed in Ghana to protect both the customer and the bank in the provision of electronic banking services. The court added that if the banking sector wished to be abreast with the times in electronic banking, then care must be taken to introduce the safety measures that go with these electronic devices.

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130 Unreported, High Court, Accra Suit No. C.602/99.
The Court found that the contractual terms in the document tendered by the Defendant bank as binding on all its ATM users, was unreasonable and unfair in this era of electronic fraud. It was held by the court that as an international bank, the Defendant was aware of the hazards that go with electronic banking all over the world and therefore to neglect to introduce safety measures that go with ATM machines and yet continue to operate the system in the face of numerous reported instances of fraudulent withdrawals was very irresponsible on the part of the bank.

In the case of *Agbenyega (An Infant) v. Ghana National Construction Corporation*. The plaintiff, a school boy aged thirteen, was ferried across the Volta River by the defendant’s corporation. He sustained serious injuries when his right foot was trapped as a result of the launch moving backwards suddenly while he disembarked. He sued the defendant corporation for damages for personal injuries caused by their negligence. It was held that since the presence of the plaintiff was known to the servants and agents (operator and coxswain) of the defendant corporation, those servants did impliedly undertake to perform a contract of carriage by ferrying him across the river and landing him safely on the other bank, notwithstanding that the ferrying was being done gratuitously. They therefore owed the plaintiff a duty of care and were liable for the damage to the plaintiff.

Another case on CSR is *Apenteng and Others V. Bank of West Africa Ltd. and Others* the plaintiffs were the only shareholders in a trading company, Mpotimma Ltd. As a result of financial advice given negligently by the first defendant corporation, the trading company lost heavy sums of money and was subsequently wound up. It was held among other things that a company is a distinct personality having an existence separate from its shareholders. The shareholders cannot sue in respect of a wrong done to the company, unless it can be shown that the wrong is against the individual rights of the shareholders as distinct from the corporate rights of the company. The corollary of this holding is that a corporation may sue at common law on account of losses occasion by the negligence of another corporation.

*Asafo V. Catholic Hospital of Apam* is a very interesting if sad case. In this case it was decided that by accepting a child into their custody for treatment the defendant corporation became duty bound to ensure her safe custody and to deliver her back to the plaintiff whether dead or alive. A breach of that duty would entitle the parents of the child to institute action against the defendants for damages provided negligence and the subsequent loss of the child could be proved. The case involved the disappearance of a baby from the defendant hospital.

In *Ekem V. Wiseway Cleaners Ltd*, it was held that a rotating basket moving at high velocity on electrical power was a dangerous piece of machinery. By the provisions of the Factories Offices and Shops Act, 1970 (Act 328), a burden was imposed on management of the corporation to instruct an employee in the use of dangerous machinery. Furthermore, the also enjoined management to securely fence dangerous machinery. The common law also required that an employer must provide for his employee proper and safe equipment and a safe system of work.

The respondent corporation used an electrically-powered machine called a hydro-extractor in their laundry business. When power was switched on the extractor revolved at high velocity. It was stopped by stepping on a foot-brake which combined with an interlocking device to bring the extractor to rest. An employee of the corporation sustained fatal injuries whilst operating the

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131 [1968]GLR 969 – 985 HC.
132 [1961]1 GLR 196 – 205 HC.
133 [1971]1 GLR 282 – 289 HC.
machine. The plaintiff, the administrator of the estate of the deceased brought an action for damages for negligence against the company. He contended, inter alia, that the machine was faulty; was not adequately supervised; and the deceased was not warned of the inherent dangers of operating the machine. The company disputed liability on the ground that the deceased sustained his fatal injuries by using unorthodox and unauthorized means to stop the machine. The only eye-witness to the accident, the electrical supervisor of the company, in his testimony for the defense said that he sustained his fatal injuries when he tried to stop the extractor with a sack after his efforts to do so by stepping on the brake paddle and switching off the electric power had failed. An independent factory inspector who had examined the machine after the accident testified that he had found both the braking and interlocking devices defective but the respondent company denied knowledge of the defect. Although the trial judge found that the machine was defective yet he dismissed the plaintiff's action on the ground, inter alia, that since he was not able to produce an eye-witness to the accident to testify for him, he had not proved his case. The plaintiff appealed. It was held that the defendant corporation was liability to pay damages to the plaintiff.

In *Fodwoo V. Law Chambers & Co*\(^{135}\) it decided that legal practitioners, in undertaking their client's business, guarantee the existence and due employment of skill and diligence on their part. Where an injury was sustained by a client in consequence of the absence of either, the delinquent legal practitioner is responsible to his client for the injury.

These cases establish one basic principle: corporations are liable at Common Law for negligence actions. The cases do not make any direct pronounce on CSR but clearly hold corporations accountable to the society in which they operate in respect of their dealings.

There are indeed a number of recent cases that directly touch on CSR. These are cases litigated by the Centre for Public Interest Law, an Accra based NGO. One such case is *Nana Kofi Karikari & 44 Others V Ghanaian Australian Goldfields Limited*.\(^{136}\) In this case the Plaintiffs, all residents and owners of buildings/houses in a village called Nkwantakrom near Tarkwa in the Western Region of the Republic of Ghana sued the defendant, a mining corporation incorporated under the laws of Ghana and granted a mining concession in Tarkwa including the area occupied by the Plaintiffs, for demolishing the buildings/houses belonging to the plaintiffs in Nkwantakrom. The demolition exercise was carried out without resettling the Plaintiffs or paying them compensation for their demolished buildings. The Defendant Corporation argued that the Plaintiffs put up those buildings in their concession area with the intension of attracting compensation from the defendant. This case is still pending in the courts.

In *Builsa Kakraba & 20 Others V. Goldfields Ghana Limited*,\(^{137}\) the Plaintiffs, all residents and owners of buildings/houses in a village called Kobeda near Tarkwa in the Western Region of Ghana sued the defendant corporation, a South African mining subsidiary incorporated under the laws of Ghana and granted a mining concession in Tarkwa including the area occupied by the Plaintiffs, for demolishing the buildings/houses belonging to the plaintiffs in Kobeda. The company paid compensation to some residents whose houses were demolished but has refused to pay compensation to the plaintiffs for the demolition of the buildings/houses. This case is also still pending in the court.

*Center for Public Interest Law (CEPIL) & Another V Environmental Protection Agency & Others*\(^{138}\) involved a mining corporation, Bonte Gold Mines Ltd., a Canadian owned corporation

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\(^{135}\) [1965] GLR 363 – 375 SC.


\(^{137}\) Ibid.

\(^{138}\) Ibid.
which has been operating in Ghana for well over 10 years. The corporation closed its operations along river Bonte at Bonteso in the Ashanti Region. It took just about one week for the company to complete its liquidation process without following the due processes for mine decommissioning, such as posting of bonds for the reclamation of lands destroyed as a result of the company’s operations. The company also failed to give the workers notice of its intention to liquidate. The result was that the company’s workers have not been paid their wages. Farmers whose lands were affected by the operations of the company also received no compensation. The company closed down with debts of about US$18 million owed to various state institutions and private companies. It is the view of CEPIL that the citizens of the country are entitled to a clean healthy and well protected environment. Also the Law Enforcement Agencies should be accountable for their inaction in not ensuring that Bonte Goldmine Ltd did the right thing. CEPIL has therefore brought this action against the relevant state agencies to remedy the situation.

It appears that with the activities of organizations such as CEPIL, CSR will be given a new boost, even if a strictly legal boost.

4.13 THE SPECIAL CASE OF NGOs AND CSR

As noted in the section on corporate forms, NGOs strictly speaking are corporations. They are, however, not-for-profit corporations. Most NGOs are registered as corporations limited by guarantee under the Companies Code of Ghana. Again, the very existence of NGOs is for the social benefit and they are therefore presumed to be socially responsible. This is, however, not often the case. The recent issues concerning some NGOs that received funding from the Ghana Aids Commission and misapplied same is evidence that NGOs are not always socially responsible.

The Ghana Association of Private Voluntary Organizations in Development (GAPVOD) is supposed to be the umbrella body for NGOs in Ghana and has a loose process of registration of NGOs. The government is also currently drafting a Trust Bill for the regulation of Trusts, Foundations and NGOs. GAPVOD and its membership have protested the conflation of NGOs with Trust arrangements and have noticed to government to exclude NGOs from the purview of the Trust Bill and enact a different law exclusively on NGOs with the active participation of NGOs.

In another development Pan-African Organization for Sustainable Development (POSDEV) is leading an effort to develop a certification process for NGOs in Ghana. The procedure for certification will be voluntarily pursued by NGOs. The project is called the “Ghana NGO/CSO Standards for Excellence”. The Ghana NGO/CSO Standards Project seeks to enhance the image of NGOs/CSO. The project will demonstrate that as a community, the NGO/CSO sector is able and disposed to voluntary self-regulation in order to ensure transparency, accountability and good governance in the operations. The project will also assist NGOO/CSO to operate under their constituent documents.

The initiative is being spearheaded by a group of international and local NGOs and USAID working as the Ghana Country team of the African Liaison Programme Initiative.

It is proposed that an NGO/CSO that wishes to obtain certification will receive an application form and attend clinics/courses where the organization is provided with assessment tool kits and a list of available peer reviewers and is able to select its peer reviewer and dates for the review to be conducted. The Standards secretariat contacts selected peers and nominates two other peer organizations to conduct the review. Peer review teams conduct reviews (using assessment tools) and submit written reports. The Standards Quality Commission meets to award the Certification
seal based on the review reports. The Secretariat then prepares a quality seal report for each qualifying organization and posts same on the web and in the print media.

Criteria used in the assessment include: integrity and accountability; legal due diligence; governance; independence; human resources; gender issues; quality of activities; partnerships and collaborations; conflict of interest issues; financial accountability; and resource mobilization.

It is clear that a number of initiatives exist aimed at ensuring CSR for the NGO sector.

5 RECOMMENDATIONS

5.1 CLARIFYING THE CONCEPT OF CSR

In Ghana, issues of CSR are not well understood, and are regarded as ‘philanthropic add-on’. Some see CSR as a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis. However, this view which limits the CSR agenda to market driven “voluntary” action beyond minimum legal requirements has the potential to constrict the exact purview and parameters of CSR.

Again, there is conflation of the concepts of Corporate Governance with CSR. The latter is clearly a subset of the former, and so it is easy for it to be subsumed and easily eclipsed by the broader concept of Corporate Governance and thereby become a mere footnote. This is how CSR was treated in the recent APRM report.

It is recommended to clarify the concept of CSR in Ghana and make efforts to bring the full import of the concept to all stakeholders especially government, corporations, communities and CSOs.

5.2 LEGAL REGULATION OF CSR

Many laws exist in Ghana for the regulation of corporations. It is part of the CSR of corporations to obey the law, and so it is arguable that obeying these laws means that corporations are engaged in CSR. However, these laws hardly contain any progressive provisions on CSR, except perhaps the laws that regulate the Forestry Sector and which make provision for SRAs in Timber Utilization Contracts. There are hardly any laws that directly require businesses to be socially responsible. Government, however, encourages CSR by providing tax deductions for corporate sponsorship of charities, sports development and promotion, educational scholarships, and rural and urban community development projects. CSR reporting is not a requirement for listed companies.

The key CSR issues dealt with by our laws include: matters relating to the formation of a company, governance, raising capital and voluntary liquidation; the fiduciary responsibility of directors and their duty to promote the interests of all stakeholders; proper accounting and auditing practices; equality of shareholders of the same class; redress for violation of stakeholders’ rights; rights of employees; safety products; tax obligations and the environmental impact of corporate activities.

The existing policies in Ghana on CSR vary from one sector to the other. For some sectors, such as the Forestry Sector, there is a comprehensive legal regime tailor-made to deal with issues of CSR and corporate governance. In other sectors such as banking, insurance, and the stock market
the focus is on broad issues of Corporate Governance almost to the exclusion of CSR which is a critical component of Corporate Governance.

*It is recommended that a CSR policy be developed for Ghana and that the laws that regulate the various sectors of the economy (and aspects of social life) in Ghana be amended to include specific CSR provisions. The relevant precedent could be the laws on the Forestry Sector and business and professional codes of ethics in Ghana. The various international instruments on CSR are also very useful standards that can be adopted and/or adapted to Ghana. It is particularly important that a detailed and enforceable CSR policy for Ghana be prepared by stakeholders and adopted by Cabinet. Ghana already has such Policy documents in various key sectors. Examples are the National Land Policy, the National Youth Policy and the National Aids Policy. It is particularly important that the CSR principles stated in laws and in the Policy be made directly enforceable even if they are stated in aspirational or programmatic terms.*

### 5.3 ENFORCEMENT OF BUSINESS AND PROFESSIONAL CODES OF ETHICS ON CSR

Flowing from the above, many business and professional associations (like the Ghana Chamber of Mines, the Ghana Medical Association and the Ghana Bar Association) have adopted codes of conduct and codes of business ethics that are very CSR friendly. These are, however, purely voluntary and hardly enforceable by external stakeholders. Thus, where such codes exist, enforcement mechanisms are not well laid out. Disciplinary actions where they are taken are not publicized, giving the impression that there are no sanctions. Meanwhile most of the associations are limited in capacity and resources to effectively monitor the activities of their members and to organize refresher courses on current issues and business ethics for members as would be desirable. To demand high ethical standards from businesses, the Consumer Association of Ghana (CAG) has been formed. The Association is however plagued by inadequate capacity and financial constraints, which has affected their effectiveness. The formation of a Shareholders’ Association is also under consideration.

*It is recommended that modalities be put in place to ensure some measure of enforcement of business and professional codes of ethics by external stakeholders in order to improve CSR in the country. This is because most CSR principles are contained in these codes that are held close to the chests of the business and professional associations.*

### 5.4 ENFORCEMENT OF CSR

CSR in Ghana appears to consist in the main of legal regulation of various sectors that corporations are involved in. Usually, a regulatory body is set-up and the body is expected to enforce the relevant regulatory laws. Thus, many regulatory bodies exist to keep corporations and professional bodies within the law, even if the laws hardly contain any progressive provisions on CSR. However, most regulatory and enforcement agencies need strengthening in human capacity and institutional terms to be able to effectively execute their mandate. This is because human, institutional and resource problems hinder the effective implementation of the mandate of these regulatory institutions.

*It is recommended that legislative reforms and the development of a CSR Policy for Ghana be speeded up so that regulatory bodies will have a framework to guide them in their effort to keep corporations socially responsible. It is further recommended that innovative mechanisms for*
providing resources—human and material—to ensure effective CSR policing be developed in the context of the CSR policy.

5.5 ADVOCACY FOR CSR

All over the world, legal codes and policies on CSR are supported by huge advocacy efforts. This must be the case for Ghana. To take one little example, the criteria for determining Ghana Club 100\textsuperscript{139} must include, explicitly, a detailed section on CSR.

It is recommended that regulatory institutions include in their regulatory efforts, definitive efforts at facilitating the formation and supporting the activities of CSR advocacy groups. These advocacy groups should undertake and advocate for:

1. The establishment and periodic review of a comprehensive policy, legal and regulatory framework for CSR;
2. CSR reporting for corporations;
3. Sensitisation of communities, civil society and corporations about CSR issues;
4. Encourage corporations to support community and social programmes; and
5. Motivate corporations to engage in sustainable CSR initiatives such as training, apprenticeships and skills development in the communities they work in.

6 CONCLUSION

Corporate Social Responsibility (CSR) is a helpful conceptual framework for exploring the corporate attitude of companies towards stakeholders\textsuperscript{140}. It is about balancing the corporate need to make profit with the diverse demands of communities and nations to engage in sustainable development. For a longtime, corporations had free reign and very limited commitments to external stakeholders. Today, corporations must recognise the needs and demands of many stakeholders including communities, governments, CSOs, and newly empowered stakeholders (such as indigenous peoples). They must identify the interests, concerns and objectives of all these stakeholders and decide whether and how to address them.\textsuperscript{141} The concept of CSR is a means by which companies can frame their attitudes and strategies towards, and relationships with, stakeholders within a popular and acceptable concept.

The dominant research perspective on why corporations engage in social and environmental reporting is legitimacy theory. Legitimacy theory relies upon the notion of a social contract between corporations and society or a community, and on the maintained assumption that corporations will adopt strategies, including disclosure strategies, that show society that the organisation is attempting to comply with their expectations.\textsuperscript{142}

Corporations play an important part in the economies of most countries and in international economic relations. Through international direct investment and other means corporations can bring substantial benefits to home and host countries by contributing to the more efficient utilization of capital, technology and labour. Within the framework of development policies established by governments, they can also make an important contribution to the promotion of

\textsuperscript{139} This is the Ghanaian equivalent of Fortune 500 in the United States of America.

\textsuperscript{140} www.brass.cf.ac.uk/projects/Corporate_Social_Responsibility_and_Corporate_Governance--CSR_and_Mining.html.

\textsuperscript{141} Guerra, 2002(WWW.doi.wiley.com/10.1002/csr.50).

\textsuperscript{142} Heledd Jenkins, Corporate social responsibility and the mining industry: conflicts and constructs, (John Wiley & Sons, Ltd. and ERP Environment, 2004) Vol. 11 page 23-34.
economic and social welfare; to the improvement of living standards and the satisfaction of basic needs; to the creation of employment opportunities, both directly and indirectly; and to the enjoyment of basic human rights, including freedom of association, throughout the world. On the other hand, the advances made by corporations in organizing their operations beyond the national framework may lead to abuse of concentrations of economic power and to conflicts with national policy objectives and with the interest of the workers. In addition, the complexity of multinational enterprises and the difficulty of clearly perceiving their diverse structures, operations and policies sometimes give rise to concern either in the home or in the host countries, or in both.

Ghana cannot sit by in the face of all these developments that directly impact her. From the 20th to the 24th of November this year, participants from all over the world will meet in Accra, Ghana, to learn about challenges of implementing the Global Compact principles and partnerships for development. As discussed in the second section of this report, the Global Compact contains extensive CSR principles and is the latest of the international CSR efforts.

The Meeting is organized by the Global Compact office in partnership with the Centre for Corporate Citizenship of the University of South Africa and UNDP Ghana. The meeting targets managers and other experts from business and civil society that are working on corporate citizenship, sustainability and partnership issues. It will give managers of the Global Compact and participants world wide the opportunity to share their experience and to explore their existing challenges and dilemmas in implementing the Global Compact. The meeting also aims to contribute to the empowerment of these managers in their role as internal change agent for corporate citizenship within their companies and organizations. Finally the meeting seeks to contribute to building an international network of experts and practitioners who are the driving force for the implementation of the Global Compact and its principles throughout the world. The meeting is learning-oriented and will focus on the following themes:

2. Business and Conflict.
3. Business and Community Relations.
4. Collective action against corruption.
5. Partnerships for economic development and environmental sustainability.

While case studies and sharing of experiences will be a common thread throughout the meeting, participants will also be offered the opportunity to discuss their questions and to explore amongst each other some potential solutions and approaches.

This is a great opportunity for the Government of Ghana, corporations and the CSOs interested in CSR issues to develop the nucleus of stakeholders who will together initiate the process for developing a CSR Policy for Ghana.

We conclude this report with the words of the New Partnership for African Development (NEPAD), an integrated program for the socio-economic development of Africa. A background paper for the Africa Economic Summit held in Durban in 2002 summarizing the links between CSR and NEPAD states:

“Good corporate citizenship will be absolutely central to the success of [NEPAD] and its goals of encouraging economic growth and reducing poverty. African governments must

143 learningforum@globalcompact-africa.org.
play the key leadership role in setting the appropriate framework,” in order that the private sector itself can contribute to these goals.\textsuperscript{144}

\textsuperscript{144} Source: World Economic Forum (2002); see also www.nepad.org.
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