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RENEWABLE ENERGY DEVELOPMENT POST-COVID - THE ROLE OF THE PRIVATE SECTOR¹

Private participation has been a major driving force of Renewable Energy (RE) in Ghana. This being thanks to policy reforms in the 1980s which gradually removed barriers and created a level playing field for the participation of independent power producers in the energy sector, prior to, monopolized by public participants.²

The RE sector has since seen significant growth, notably between 2005 and 2015. Within this period, solar Photo Voltaic ("PV") capacity increased from 3.1 GW to 227 GW³, a feat that may arguably have been driven by the hydropower crisis of 2015.

Energy Statistics (2020), a report by the Energy Commission shows that 85% of the Ghanaian population have access to electricity. This implies that the remaining 15% do not have access.

Along with the comparative example between Ghana and Germany shown below, this report demonstrates a clear case for renewable energy development, an ever-urgent need for Ghana's industrialization drive and the growing national demand for electricity, especially in remote communities.

Table 1 - Comparative Example Between Ghana and Germany

	Ghana	Germany
Annual Sunlight	2,377 hours	1,625 hours
Land Area	238,533 km ²	349,360 km ²
Population	30.4 million	83.1 million
Total Power Generation Capacity	4,399 MW	210.2 GW
RE Generation Capacity (excluding hydropower)	22.5 MW (0.5% of total generation capacity)	117.7 GW (56% of total generation capacity; solar comprising 50% of RE and 23% of total generation capacity.)

¹ Our Feature Article this quarter, is based on our Managing Partner's presentation at the 2020 Ghana Renewable Energy Fair held last week in Accra.

² <https://www.energymin.gov.gh/sector-overview>

³ <http://www.energycom.gov.gh/files/Renewable-Energy-Masterplan-February-2019.pdf>

The above comparison reveals that from a population perspective and given the availability of sunlight and potential infrastructural sites, Ghana has grossly underutilized leverage to permeate full access to energy in homes and workplaces throughout the country.

B & P Associates conducted an anonymous survey to ascertain the impact of the COVID-19 pandemic on the local private sector, and strategies which RE players have adopted post-pandemic.

The findings of the survey show that the current RE private sector climate relies mainly on investor funding, as access to credit is limited. The pandemic has further limited access to financing as well as impacted the cost of production of renewable energy solutions. Other COVID-19 effects on RE businesses include: reduction in operational expenses; waned investor confidence due to liquidity crunch, and as a positive effect, increased customer interest and commitment to renewable energy.

Despite these effects, there continues to be an immense opportunity and case for

renewable energy development in Ghana. The survey brought to bear major strategies private players in the RE industry have adopted to ensure development.

During the heightened periods of the pandemic lockdown in Ghana, some RE sector players provided support to customers with lease-free periods, similar to the Government's strategy on power cost cutting for select customers. Post-lockdown, there are other business model strategies to promote affordability and sustainability, for example, the PEG Africa (Ghana) 'Pay-As-You-Go' model for rural communities. Collaboration instead of competition has also become a primary focal point; more relevant in the wake of the Africa Continental Free Trade Area and the objective of cross border investment. Furthermore, as funding is a vital necessity for renewable energy projects, the market intends to explore impact investing as it is an attractive funding tool amongst developers and credible investors. International development partnerships may also support in sustaining and growing Ghana RE investment, with the pointed benefit of comparative learning and knowledge transfer. At present, Ghana and

Germany have signed a €100 million Partnership for Renewable Energy Expansion project to enhance private investment and vocational training in the sector.

Finally, as a male-dominated sector, RE companies must embark on gender diversification if it hopes to raise profitability. Suka Ghana is one leader in this effort, leveraging its 'Power Sister' project to train women with all-round knowledge on solar power and the business sense behind it.

AGYAPA IN BRIEF



GOLD is the number one export commodity in Ghana, accounting for more than one-third of the country's export revenue. Mining companies in Ghana pay royalties of 5 per cent of gross revenue from operations. The Government, as a way to raise non-debt capital free from repayment obligations or interest payments, set out to float gold royalty on the London and Ghana stock exchanges. A Special Purpose Vehicle (SPV) it intends to use is Agyapa Royalty Limited ("Agyapa"). Agyapa, to be incorporated in Jersey, will receive almost 76 per cent of royalties from 12 gold mines and 4 development sites. The income will be used to buy royalty streams across Africa and pay

dividends. The Government seeks to raise USD 500m from the sale of 49% of Agyapa on the London and Ghana stock exchanges. The Government's Agyapa plans have been opposed on the basis that the gold revenues have been grossly undervalued by at least 60 per cent. The listing is currently on hold until the Special Prosecutor has completed a thorough review of the deal aimed at mitigating any corruption loopholes.

If the deal goes through, it will be the biggest natural resources share sale in London since Russian aluminum-to-hydropower group En+ raised USD 1.5bn in 2017.

BUSINESS UPDATE



SEC Sets New Standards

The Securities and Exchange Commission (SEC) of Ghana is set to increase the minimum capital requirement for fund management companies from GHS 100,000 to GHS 2 million in furtherance of the amended Securities and Exchange Commission Regulation, 2003 (L.I. 1728). Other reforms include the SEC Guidelines, issued on 8th October 2020, which constitute the standard against which the corporate governance of regulated persons will be benchmarked,

with respect to management and control, relationship with shareholders and financial statements and controls. Listed companies are required to comply with the Guidelines by 7th October 2021.

Extended Deadline for Payment Services Providers

The Bank of Ghana has officially extended the deadline for meeting the new minimum capital requirements by all existing Payment Service Providers, Electronic Money Issuers, banks and specialized deposit-taking institutions, from June 30, 2020 to December 31, 2020.

Lands Commission to Adopt Auto Maps

The Lands Commission is set to have auto photo maps whereby the entire country will be mapped to serve as a basis for the digitization of the lands in the country. Already, all maps in Greater Accra have been scanned and are undergoing digitization. This forms part of efforts to address the long-standing issues associated with acquiring and owning land in Ghana.



Credit for SMEs

The USD 2 billion-dollar Ghana Care Guarantee Scheme has been launched for Small and Medium Enterprises (SMEs) in Accra. The new scheme adds to a number of programs being rolled out by Government like the GHS 1 billion Coronavirus Alleviation Programme Business Support Scheme, to help Micro, Small and Medium-Scale businesses access funds in order to cope and even thrive in the era of the pandemic.

Trains – The Alternative Means of Transport

Parliament has approved a USD243-million-Supplier-Contract agreement between the Government of Ghana and Dongfang Electric Corporation for the procurement of Standard Gauge rolling stock (trains) for the rail sector. The contract will be implemented

in two phases. The first phase will be completed in two batches within 12 months and 18 months respectively from the date of contract commencement.

6-month Amnesty for Data Controllers

The Ministry of Communications has granted amnesty, from October 2020 to March 2021, to allow data controllers in Ghana register with the Data Protection Commission (DPC). The Data Protection Act, 2012 (Act 843) provides that all entities within the space duly register with the Commission and pay the required fees. This forms part of efforts to regulate the cyber protection space and effectively monitor all stakeholders in the space.

The New Central Beneficial Ownership Register

In furtherance of the new Company's Act 2019 (Act 992), a new Central Beneficial Ownership Register has been deployed for all companies operating in Ghana. Effective October 2020, companies registered to operate in the extractives industry are required to provide data on their beneficial owners.

LEGAL UPDATE

Accident Investigation & Prevention Bureau Bill passed.

Parliament has passed the Accident Investigation and Prevention Bureau Bill, 2020. The Bill seeks to among other things, establish an autonomous Aircraft Accident Investigation and Prevention Bureau. The setting up of the Bureau is also in readiness for Ghana's upcoming International Civil Aviation Organisation (ICAO) audit in 2021. The Bill is yet to be assented to by the President.

Parliament passes Criminal Offences (Amendment) Bill to make corruption felony

Parliament has passed the Criminal Offences (Amendment) Bill 2020, categorising the offence of corruption as a felony. The move is to introduce stiffer punishment to deter public officers from engaging in corrupt practices. Following the amendment, subject to presidential assent, a person found guilty of engaging in any form of corrupt act could go to jail for not less than 12 years and not more than 25 years.

FIRM'S NEWS



Our Managing Partner, Adelaide Benneh Prempeh, has been featured as a 'Woman to Watch' by IAWL – Institute of African Women in Law. Read her story here: <https://www.africanwomeninlaw.com/ama-ndla-womentowatch/adelaide-benneh-prempeh>

Ngozi Okonja- Iweala

WHO'S WHO?

Ms. Okonja-Iweala is a former Nigeria Finance Minister with experience as a World Bank Managing Director. She is the Board Chair of Gavi, a public-private alliance to develop vaccines for low income countries. She has attracted widespread support to become the next Director-General of the World Trade Organisation (WTO). Ms. Okonja-Iweala is one of the final two in the race for the role, after several candidates were eliminated in previous rounds.

B & P ASSOCIATES

About B & P ASSOCIATES

B & P ASSOCIATES is a Corporate and Commercial legal practice and consultancy, with an excellent reputation, based in heart of Accra. The Team is highly regarded for its cross-border legal expertise, responsiveness and commitment. We provide business-oriented legal advice across a range of sectors, to both local and international clients. For more information see www.bpaghana.com to learn more about what we do.

This publication may provide a summary of legal issues but is not intended to give specific legal advice. If you require legal advice, please speak to a qualified lawyer, which may include a qualified member of our legal team at B & P ASSOCIATES.