

Trade Union Country Reports
THE CASE OF GHANA

by
Augustine Fritz Gockel
and
Dennis Vormawor

A Background Paper Prepared For Friedrich Ebert Stiftung
February 2004

ISBN 9988-572-86-7

**FRIEDRICH
EBERT**
STIFTUNG

A 04 - 05122



CONTENT

INTRODUCTION: STUDY OBJECTIVES AND METHOD	2
1 REVIEW OF SOCIO-ECONOMIC AND POLITICAL HISTORY	4
1.1.1 Economic Recovery Programme (ERP)	7
1.1.2 Impact of Economic Policy Reforms on Employment	9
1.1.3 Private Sector Performance and Labour Trends.	11
1.1.4 Trends in Real Wages: The Minimum Wage Approach	12
1.1.5 Impact of Labour Practices and Regulations on Labour Costs	14
1.1.6 Impact of High Cost of Labour on Casualisation of Labour	16
1.2. Political Developments: History of the Trade Union Movement in Ghana	18
2 LEGAL FRAMEWORK AND PRACTICE OF LABOUR RELATIONS	21
2.1 Labour Relations Overview and Recent Trends	21
2.1.1 The Labour Act 2003	21
2.1.2 Establishment and Functioning of Trade Unions	23
2.1.3 Wage Setting and Collective Bargaining	25
2.1.4 Determination of National Minimum Wage and its Effect on CBA Negotiations	26
2.1.5 Dispute Resolutions and The Right to Strike	29
2.1.6 Workers Participation at Shop Floor	32
2.2 Antecedent Legislations to Act 651	33
3 TRADE UNION PROFILE	36
3.1 Trade Union History	36
3.2 Membership Developments and Union Density	37
3.3 The Trade Union Structure	38
3.4 Internal Organisation and Finance	39
3.5 Services Provided	41
3.6 Government- Trade Union relations	41
3.7 The Role and Importance of International Co-operation	42
4 PROBLEMS AND PROSPECTS	43
5 ANNEX	46

Introduction: Study Objectives And Method

This section introduces the study and the method of study. To put the study in perspective, we first undertake a review of the socio-economic and political environment within which the study was carried out. While we discuss general economic issues for completeness, emphasis is placed on the Economic and Labour Market Developments and the Political Developments that tend to shape trade union activities. We further issue a caveat that while the study is to examine economic trends that have impinged on labour issues over the last decade; we have gone beyond this, to include a review of what the situation may have been at the time Ghana gained her independence. This is particularly important if we note that the prevailing policy environment be traced back to the policies that were initiated at independence. Any meaningful study of Ghana's economic history will necessarily have to examine the early independence policies and the socio-political and economic disturbances that they produced as precursors to the current structural adjustment policies. We now turn to these issues.

The study on this Trade Union Country Report is presented in four modules to enable us have a consistent framework with which to do cross country comparisons. Hence, each module answers a range of questions and provides an analysis of critical issues that are relevant to the operations of trade union activities in Ghana. Besides the general introduction of which this section is a part, the general modules and their core issues are as follows:

Review of Socio-Economic and Political Environment

- Economic And Labour Market Development
- Political Developments

Legal Framework and Practice of labour Relations

- Labour relations: overview and recent trends
- Establishment and functioning of trade unions
- Wage setting and collective bargaining
- Dispute resolution and the right to strike
- Workers participation at the shop floor level
- Trade union representation in tripartite and other consultative structures

1 Review of Socio-Economic and Political History

Ghana was the first Sub-Saharan African country to gain political independence, in 1957. At independence, the country enjoyed the highest per capita income of about £500 in the sub-region, and compared to other British colonies, Ghana's economy was in an enviable position, with key indicators surpassing those of Malaysia and Hong Kong. However, from the late 1960s, the economy went into a tailspin and by the early 1980s, while Malaysia and Hong Kong among others were on their way to becoming newly industrialised countries, Ghana's economy could aptly be described as bankrupt with per capita income at about a third of what was obtained at independence, with an inflation of over 100%.

The causes of this poor economic performance were due to both internal and external shocks, followed by political instability through military adventurism. The internal or endogenous shocks were mainly well-intentioned but allowed inappropriate domestic policies and bureaucratic mismanagement, both at the micro and macro levels. These policies included expansionary fiscal deficits financed by borrowing from the banking system, especially the Bank of Ghana, and the fixing of the exchange rate for a considerable number of years without regard to the deteriorating economic circumstances leading to a grossly overvalued exchange rate that in effect served as a subsidy on imports and a tax on exports. Other inappropriate policies were reflected in directed credit programmes referred to as financial repressive policies, commodity price and distribution controls that changed relative prices, leading to activities which, although they consumed real resources and offered pecuniary advantage, nevertheless contributed nothing to the output. Furthermore, the public bureaucracy became huge, and Government had to take on board a large public sector with inefficient state enterprises. Not surprisingly, fiscal performances were poor with huge budget deficits that had to be financed through deficit financing. Similarly, the social infrastructure deteriorated with practically all social services collapsing.

Added to these internal shocks were the external shocks, largely as a result of severe droughts in 1975-77 and 1981-83; oil shocks of the 1970s; high and increasing rates of interest on external debts following adjustments in the developed market economies to curb inflation; adverse shifts in the country's terms of trade and falling volume of exports as Ghanaian exports as a proportion of world imports declined to 0.05 percent by 1981

Trade Union Profile

- Trade union history
- Membership development and union density
- Trade union structure
- Internal organization and finance
- Services provided by Trade Union
- Government Trade Union relations
- The role and importance of international co-operation

Problems and Prospects

- Internal organizational problems and Trade Union response
- External challenges and Trade Union response
- Prospects: The Way forward

In terms of research method to provide insights into these critical issues, we used both secondary and primary data. The secondary data sources included publications by the Ghana Trades Union Congress (GTUC), Ghana National Association of Teachers (GNAT), Civil Service Association, Ghana Employers Association (GEA), Ministry of Employment and Man-power Development, and the Ghana Statistical Service.

In the case of primary data, we had focussed group discussions with identifiable groups and institutions engaged in trade union activities. Based on some tools of the Participatory Rural Appraisal (PRA) including community mapping, semi-structured interviews and preference ranking, we had work-group sessions a sample of trade union participants and policy makers selected from the hub of Ghana's industrial cities of Accra and Tema. Next, we had informant interviews with leaders of industrial, employers and workers' associations as well as public policy makers and research institutions concerning the four main modules of the research. The target for informant interviews were:

- Ghana Employers Association
- Private Enterprise Foundation
- Association of Ghana Industries
- Ghana Association of Bankers
- Ghana National Chamber of Commerce and Industry
- The Trades Union Congress of Ghana
- Ghana National Association of Teachers
- Civil Servants Association

compared to 0.15 percent in 1970. Cocoa exports particularly, which accounted for over 60 percent of foreign exchange earnings, dropped from a high of 557,000 tons in the 1964/65 crop year to 185,000 in 1980/81, representing some 67 percent reduction in total export volume - in fact, Ghana's share of world cocoa export fell from 33 to 17 percent between 1970 and 1980¹. A World Bank study (1985) reported that these exogenous shocks accounted for an annual average decline of 0.5 percent in GDP by 1983. Then came the mass influx of Ghanaians expelled from Nigeria in 1983.

Added to the economic factors are the political economy issues. The first was the disruption of the CPP Government's socialist economic policies in 1966 by the National Liberation Council (NLC). During the NLC period, attempts were made to reverse Nkrumah's Import-Substitution Industrialization policies. IMF-supported monetary reforms including devaluation and trade liberalization policies were pursued. The NLC handed over power to a pro-market oriented government (the Progress Party of Dr. K.A. Busia) in 1969, which continued the NLC's policies in conjunction with the IMF and the World Bank.

The Progress Party Government's blueprint for economic policy was outlined in a Two-Year Development Plan for mid-1968 to mid-1970 and One-Year Plan covering mid-1970 to mid-1971. Both documents explicitly emphasized the point that the Ghanaian economy was essentially a private-enterprise economy, and the Government began to privatise some of the state-owned enterprises. But whilst the Government was locked in negotiations with the IMF and World Bank about a medium-term plan, a military putsch led by Col. Acheampong overthrew the Progress Party Government on January 13th, 1972 after barely two years in power. In a directive to the policy planners at the Ministry of Finance and Economic planning, Col. Acheampong declared that,

"The political frame of reference which has guided your actions and your advice especially in the past two years, must be cast into the rubbish heap of history. This means a departure from the laissez-faire, so called free market economy and the institution of effective planning in the allocation and utilization of resources" (Acheampong, 1973 p.31 Speeches and Interviews, Chairman of the National Redemption Council)."

¹ World Bank, 1985, Ghana: Towards Structural Adjustment, Report No. 5854-GH, Washington D.C.

Not surprisingly, the Government of the National Redemption Council (NRC) of Acheampong proceeded to recreate a command economy with expanded state participation in economic activity. Whilst the Progress Party Government devalued the Cedi-Dollar exchange rate on the 27th of December, 1974 from ₵1.02=US\$1 to ₵1.82=US\$, the NRC quickly revised this measure. It re-valued the rate from ₵1.82=US\$1 to ₵1.28=US\$1 on 7 February 1972 without serious considerations of its policy implications. This, in fact, was to limit the NRC's policy options in the years 1972-78. The repercussions of this re-valuation were indeed far reaching, and among other factors culminated in a palace coup against Acheampong to enable devaluation to take place in 1978, and his eventual execution in 1979 in another bloody coup. The Acheampong government instituted a regime of the establishment by decree of the Prices and Incomes Board, NRCD 119 of 1972, with the power to determine prices for virtually all goods and services. To back the government-controlled prices, a Subversion Decree, NRCD 90 of 1972 was enacted making hoarding and other contravention of price controls punishable by a mandatory minimum sentence of 15 years imprisonment. Smuggling and theft of various goods were subject to a mandatory death penalty after trial by a military tribunal, without the right of appeal.

So bad were economic conditions that on June 4th, 1979, a military uprising occurred. This ushered in a government of the Armed Forces Revolutionary Council (AFRC) Government under Flight Lieutenant Jerry John Rawlings that began by tying three former Heads of State and other leading political figures to the stake and shooting them to death. In addition, the AFRC enacted legislation that affected both the real economy and, more negatively, the financial system, which was already faltering under the weight of inflation and other repressive policies. In fact, although the AFRC was short lived, its policies and legislation had far-reaching disastrous financial and economic consequences, that will be discussed later in the study. It handed over power to a pro-Nkrumah civilian government of Dr. Hilla Limann's Peoples National Party (PNP), in September 1979, just after four months in power.

Whether by design or accident, however, barely two years after handing over power to Limann's PNP Government, Rawlings overthrew the very civilian government it had installed, and established the Provisional National Defence Council Government on 31st December 1981. It was this Govern-

ment that initiated the Economic Recovery Programme (ERP) in 1983, but not before a period of virtual economic policy vacuum between 1st January 1981 and September 1983, during which attempts were made to enforce economic legislation enacted during the AFRC regime.

The net result of the economic and political shocks was the deterioration in all sectors of the economy, culminating in a cumulative decline of 15.6% in real GDP between 1971-83 and an inflation of 123% in 1983. Savings and investment ratios fell to their lowest levels by 1983, each hovering around 3%, with varying degrees of unemployment/underemployment. Human effort was re-oriented towards directly unproductive rent seeking activities as a result of the policy distortions, and each, feeding on the other, contributed to gross inefficiency, destroyed incentives for productive and export activities, ushering in a KALABULE market where private rents were realized at the expense of social benefits to the economy. By 1983, the economy of Ghana was in a desperate position with the real sectors of the economy exhibiting declining trends to an appalling degree as shown in Table 1.

TABLE 1 Developments In Output: 1971-1983

Sector	Cumulative %	Annual Average Growth %
Agric. Fishing & Forestry	-10.8	-0.9
Cocoa	-59.7	-7.3
Industrial Production	-47.5	-5.2
Services	12.9	1
GDP	-15.6	-1.4

Source: Gockel, A. F. (1995), The Role of Finance In Economic Development: The case of Ghana, An Unpublished Ph. D Thesis, University of Manchester, U.K.

1.1.1 Economic Recovery Programme (ERP)

It was against this background of poor economic performance that the P.N.D.C Government initiated the Economic Recovery Programme (ERP) in 1983. The main components of the ERP were IMF stabilization policies and policies of World Bank Structural Adjustment Lending and/or Sectoral Adjustment Lending (SAL/SECAL). Whilst stabilization measures are intended to realign domestic absorption with domestic supply by restoring internal and external disequilibria, structural adjustment policies are designed to promote output growth thereby moving Ghana's economic production possibility frontier outwards through the more efficient use of

resources. By this reasoning, the policy message was simply to "get the prices right" with the following core macroeconomic and structural policies:

- Fiscal austerities to increase the contribution of the public to domestic saving and improve the social return to public investment. These entailed a contraction in public sector fiscal deficits to yield budget surpluses through the following measures;
 - (a) reduction in public expenditures on social services by the removal of subsidies on utilities, and higher effective pricing of products/ services supplied by public enterprises;
 - (b) increased taxes on petroleum products
- Monetary tightness with restraint on domestic credit creation not only to public sector from the banking system, particularly the Bank of Ghana, but to the private sector as a means of curbing inflation and improving the country's balance of payments position
- Financial liberalization with a view to achieving positive real interest rates and improved efficiency of financial intermediation
- Liberalization of both domestic and foreign trade. The former entailed removal of price and distribution controls by franchise, as well as less state intervention in economic activity with policies of deregulation and divestiture of state-owned enterprises. Foreign trade liberalization entailed removal of trade barriers and easing of exchange controls
- Incomes policy to reward performance consistent with the other measures in the ERP. Policies included redeployment/retrenchment in the public sector, wage restraint, revision of subsidies and transfer payments.

Of particular importance are public sector management reform policies that focussed on improvement of government's institutional capabilities for economic policy formulation and co-ordination, strengthening of economic management functions and the improvement of civil and public services productivity. In this scheme, a redeployment/retrenchment programme, was implemented with the ultimate objectives to:

- Remove all surplus or underemployed labour from the civil and education services and keep the size of these services at economically viable levels.

- Enable government to pay improved remuneration to workers who remain in these services (from savings to be made from staff reduction) and boost morale.
- Relocate the retrenched labour force rationally within the private informal sectors of the economy.
- Afford the retrenched persons the opportunity to rediscover their potentials and develop them to the optimum through training/retraining programmes and mobilization into the agricultural sector.

Furthermore, the divestiture of State Owned Enterprises (SOEs) and redeployment/retrenchment in the public sector, intended resources to be made available for meaningful wage programmes. Once a downsizing had been made, resources would be available to pay real living wages to the remaining staff to serve as incentives for higher productivity. Ancillary to this, retrenched labour will move to the private sector where it will be absorbed. At the heart of these policies is the expectation that labour and capital resources will be priced efficiently in a competitive market where prices adjust to equate supply and demand. What is more, in a labour abundant economy like Ghana, labour intensive production techniques will emerge, especially as real wages fall sufficiently to contain employment and output in the face of a reduction in domestic absorption. Employment will increase with more meaningful incomes and consequently lead to poverty reduction.

1.1.2 Impact of Economic Policy Reforms on Employment

In spite of the improvements in GDP, the most startling finding is the relative decline in formal sector employment. For purposes of the study, we define formal sector employment as labour that has a legally enforceable contract and is a contributor to the Social Security and National Insurance Trust. By this, available statistics suggests that formal sector labour employment is yet to show any appreciable adjustment to the neo-liberal policies. Formal sector employment, which was as high as 333,000 in 1960, declined to 186,000 in 1991. This is in spite of the fact that the active labour force, which was estimated at 2.7 million in 1960 increased to 5.7 million in 1991. Using Ghana's 2000 Census Data and contributions to the Social Security and National Insurance Trust (SSNIT) as the index for formal sector employment trend, indications are that formal sector employment is relatively on the decline. Table 2 shows the trend in formal sector employment between 1997 and 2001.

TABLE 2 Trends in Population, Economically Active Population and Formal Sector Employment

Year	Population	Economically Active Population	SSNIT Active Membership	Ratio Of SSNIT's Contributors To Economically Active Population
1997	17087037	7,754,295	726,167	10.7
1998	17525042	7,953,067	767,155	10.4
1999	17980693	8,159,847	788,540	9.7
2000	18845265	8,552,200	790,778	9.3
2001	19335242	8,774,557	794,220	9.1

Source: GLSS 4 and SSNIT, 2002, Medium Term Strategic Plan: 2002- 2006, Accra, May 2002

By implication, the loss of formal sector jobs coupled with high growth rates in the economically active population tends to suggest that about 90% of Ghanaian workers are in the informal sector of the economy. The decline in formal sector employment and increasing unemployment have often been attributed to public sector retrenchment policies and employment embargo on certain categories of staff with the launching of economic reforms that include financial liberalization. Indications are that with embargo on certain types of employment in the public sector and the pursuit of right-sizing policies, formal sector employment has fallen still further. However, a careful look at the statistics indicates that the decline in the formal sector employment was even greater in the private sector than that of the public sector. In the private sector formal employment dropped from 149,000 in 1960 to a mere 31,000 in 1991. However, by 2000, with the privatisation of several state-owned enterprises, private sector formal employment was reportedly at about 15% of the total formal sector employment of 794,220. It must be emphasized that whatever increase recorded in the private sector employment was a result of privatisation and not net gains from private sector enterprise growth. With as much as 90% of the labour force in the informal sector and with Government accounting for about 85% of formal sector employment, what is described as private sector in Ghana is largely an amorphous group conveniently described as the informal sector.²

² For details see Structural Adjustment and the Informal Sector in Ghana in The Social Dimension of Structural Adjustment in Ghana. Edited By Baah, Anthony Yaw, A Ghana Trades Union Congress And International Confederation Of Free Trade Unions - Africa Regional Organization (ICFTU-AFRO) Research Project, Hallow Ads Ltd, Accra, 2001.

TABLE 3 Labour Force by Employment Category (Percentage of Total Labour Force)

Labour Category	1987/88 GLSS1	1988/89 GLSS2	1991 /92 GLSS3	1998/99 GLSS4
Wage Employees	17.3	18.1	15.4	13.2
Government Employees	8	7.9	7.8	5.9
State Enterprise Employees	1.9	2.3	1.2	0.6
Private Employees	7.4	7.9	6.4	6.7
Farmers	58.7	54.6	56.7	55.7
Non-Agricultural Self Employment	19.5	24.2	23.5	27.3
Unpaid Family labour	2.2	1.1	1.3	0.3
Unemployed Labour	2.2	1.9	3.2	3.5
Total	100	100	100	100
Labour Force Participation Ratio	0.57	0.89	0.89	0.86
Population in Millions	13.4	13.8	14.9	17.7

Source: Ghana Living Standard Surveys, GLSS 1-4

Whilst declining trend in the public formal sector is explained by outright retrenchment and downsizing policies, the decline in private sector employment is not so straightforward. Several factors account for the lack of growth of the private sector and the choice of production techniques.

1.1.3 Private Sector Performance and Labour Trends.

Interviews with key officials of Ghana Employers Association, Private Enterprises Foundation and the Association of Ghana Industries reveal that the private sector is not growing due to historical factors and the liberalized policy environment. In the case of the historical factors, informant interviews showed that because of the political economy character of Ghana's industrial policy, the private sector was largely marginalized but for a few trans-national corporations. Economic and financial policies

were largely directed towards the promotion of state owned enterprises within the framework of maximalist state-led strategy. This is an indication that the rôle played by the private sector was tangential.

Furthermore, with the frequent military interventions and the perception that successful private businesses were the product of corruption and political patronage, the State tended to appropriate and nationalize many such successful enterprises including the multinational corporations. Whilst officials of these private sector institutions have provided the researchers with several examples of government's raw deal to private entrepreneurs, two examples are worth mentioning here because of their international acknowledgment. These were the cases of TATA Brewery and International Tobacco that were confiscated by Government as punitive measures to their owners for tax-default and sold in Government's divestiture programme to British-American Tobacco and Achimota Brewery (now Ghana Brewery Ltd). Indeed, these cases, among others, are the subjects of Ghana's ongoing National Reconciliation efforts with the original owners asking for restitutions and possible re-possession. Not surprisingly, private sector initiative appeared to be very cautious even with economic reforms and financial liberalizations.

1.1.4 Trends in Real Wages: The Minimum Wage Approach

Table 4 shows the trends in nominal and real Daily Minimum Wage rates between the 1980-2003 period. Later in section 2.3.1 of the document, we argued that, in Ghana, trade union negotiations tend to use minimum wage as a benchmark.

TABLE 4 Nominal And Real Wage Rates At 1990 Prices: 1980 -2002

Year	CPI: 1990=100	Nominal Wage	Real Wage	Changes In Real Wage
1980	2.8	4	143	
1981	6.1	12	198	39
1982	7.4	12	162	-18
1983	16.5	25	151	-7
1984	23.1	35	152	0
1985	25.4	70	275	81
1986	31.7	90	284	3
1987	44.3	112	253	-11
1988	58.2	146	251	-1
1989	72.9	170	233	-7
1990	100.0	218	218	-7
1991	118.0	460	390	79
1992	129.9	460	354	-9
1993	162.3	460	283	-20
1994	202.7	790	390	38
1995	323.2	1200	371	-5
1996	473.7	1700	359	-3
1997	605.8	2000	330	-8
1998	694.4	2000	288	-13
1999	780.6	2900	372	29
2000	977.2	2900	297	-20
2001	1299.3	5500	423	43
2002	1506.6	7150	475	12
2003	*****	9200	*****	*****

**** Year CPI not available to effect calculation of real wage.

Source: Government Budget Statements And Bank Of Ghana Monthly Statistical Bulletin.

What the real minimum wage trend shows, is that for the economy as a whole, workers whose wages are indexed to the minimum wages tend to lose in real terms as wage increases are done on percentage terms across the board. For those in the higher income brackets where wage increases are done on decreasing rates, the income loss in real terms would be greater although nominal absolute incomes would have risen.

Furthermore, available evidence shows that for several years between 1980 and 2003, the minimum wage was less than one US Dollar. For instance by the second quarter of year 2000 when the exchange rate depreciated to about ₵5500 per one US\$, the minimum wage was still pegged at its 1999 level of ₵2900 or some 50 cents. However, in the year 2001, marginal gains appeared to have been made in real incomes since the revision of minimum wage from ₵2900 to ₵4200 and then to ₵5500 against a somewhat stable exchange rate regime and deceleration in inflationary pressures; minimum wage was about \$0.75, having recorded a marginal gain of 25cents on the previous rate. Then from May 2002, the minimum wage was revised to ₵7150 against the prevailing exchange rate of ₵7800 to the US Dollar or \$0.92. Although the current minimum wage of ₵9200 is an improvement on previous years wages in so far as the cedi-dollar rate is concerned, the general trend is that both inflation and exchange rates show that worker's incomes, and especially the minimum wage, have been falling in real terms over the years. The volatile character of the exchange rate series, which in December 2003 stood at ₵9250, suggests that the dollar value of the minimum wage might not be a very good indicator of real wage trends. Inflation is a more preferred adjusting mechanism because it is the faster deteriorating index of the two, and also, it encompasses the goods and services that workers typically spent their incomes on. Ironically, however, although attempts are made to index-link minimum wages to inflation, workers do not get the full benefit because of the adaptive character of inflation-indexing and the unrealistic forecasting of future inflation by the Government. Since 1992, it was only in 2001 that the Government was able to fortuitously achieve its end of year inflation target.

1.1.5 Impact of Labour Practices and Regulations on Labour Costs

Various studies have found out that while wages are generally low, labour costs are high; making Ghana one of those countries described as low-wage high cost labour economy. What labour receives as wage is low but the labour costs to employers are high due to labour practices and regulations. Informant interviews with officials of Ghana Employers Association and employees show that even though most workers receive wages above the minimum wage, because of the other legal encumbrances, the minimum wages have failed to provide the effective floor of income security. Ghana has tended to become a low wage high labour cost economy as collectiv agreements with unions come with many obligations

to the employer. These obligations do not necessarily translate into monetary rewards to the workers but invariably add to the cost of labour employment. Employers are of the opinion that it is not the minimum wage per se that is the constraint to increased employment but these other legal commitments in collective agreements, termination of labour contracts, contract and collective conflicts, and special regulations governing formal sector employments. Intriguingly, employers argued that in contrast to the flexibility and resilience exhibited by the casual workers, the functioning of the formal sector is hampered by rules and regulations, many of which emanated from the colonial administration. To the employers, several of the laws governing labour management issues are irrelevant to the paradigm shift to market-led growth. These regulations were enacted during an era in which state control over the means of production was conceived as the most efficient way to socio-economic development. Consequently, this sets the labour regulations at odds with the market forces orientation, which has been taking hold in Ghana since the launching of the Economic Reform Programme in 1983. On this theme, a former executive director of Ghana Employers Association, Mr. K. Amoasi-Andoh, has this to say:

The labour laws in Ghana are obsolete, investor unfriendly and fragmented. The supporting institutional arrangement is inefficient and sometimes hostile. Such laws are incongruent with the dictates of a liberalized economy. If Ghana is to survive the international market competitiveness she must make significant amendments to these laws (informant discussion result).

A typical labour practice that employers deplore is the official labour dispute resolution system, which is regarded, as extremely cumbersome and is lengthy, thereby making it costly for all parties. The system does not reduce the cost of resolving disputes nor does it reduce risk to employers. The threat of costly adjudication and limitations on reducing employment, favour physical capital over human talent as a means of reducing the risks of strikes or disputes. This is because firms are forced to see workers as fixed costs and relatively inflexible with respect to both market up turns and downturns. It is often perceived as easier to bring in new labour saving equipment than to hire more workers. This also shifts the mix of skills a firm needs towards workers with specialized skills. Because skilled positions can be in high demand and firms may have large training investments in skilled labour, the cost of losing a skilled worker can be high.

What Ghana's experience has shown is that, under such enterprise-distressed conditions, workers to be laid off want the full complement of their entitlements while enterprises want to pay the minimum allowable entitlement. With such maximum-impasse, enterprises are threatened with industrial actions and/or legal suits to compel them to pay the necessary entitlements, as the cases of several enterprises in Ghana have sufficiently shown. Discussions with some private enterprises have shown that instead of laying-off staff and be compelled to pay un-funded benefits, they found it more prudent to keep the employees at their posts, although their productivity is near zero. That is, labour costs have shown a tendency to become fixed costs of operation. Invariably, such labour practices tend to make labour costs very high leading to Ghana being described as a high-cost low-wage economy with reduced international competitiveness.

Available evidence suggests that irrespective of the chosen option, be it paying the benefits under distressed conditions or maintaining workers at post, the distressed companies tend to rely on the banking system, borrowing such monies to pay End of Service Benefits (ESB) or to pay salaries of those who should have been retrenched. As the enterprises were not able to repay the loans, what was a real sector crisis has managed to become a financial sector crisis. By January 1990, non-performing loans and other Government-guaranteed obligations to state-owned enterprises was ₵431.4 billion compared to the ₵421.9 billion non-performing loans to the private sector.³

1.1.6 Impact of High Cost of Labour on Casualisation of Labour

Casualisation of labour is rife in private sector enterprises across sectors and in the principal urban centres of the country namely, Accra-Tema, Kumasi and Takoradi. The phenomenon of casual labour employment is greatest in the maritime and construction industries. In fact, these establishments actually employ more casual workers than permanent staff. Firms in the maritime and construction industries cited the seasonal nature of their jobs as the reason for engaging the services of casual labour workers. With maritime services at the ports in Tema and Takoradi, the job was described as largely seasonal and the workforce had to be increased during the peak season and reduced in the lean season. Management at the ports argued that because of the irregular flow of work requirement, it would not be rational for employers to hire labour in

³ Non-Performing Assets Recovery Trust, (NPART) 1994 Annual Report and Accounts, p.6), Accra.

a category where it becomes part of fixed costs. Employers argued that some specified sections of the jobs such as security, and loading and off loading of products, depend on traffic/volume of operations at the ports, which in turn determines the number of workers to be employed. However, since management cannot forecast the flow of traffic/volume of operations at the ports, it was better to rely on casual staff. Analytically, these are sufficient justification for flexible labour policies. However, without saddling such labour with all other legal encumbrances, meaningful wages could be negotiated so that the worker gets the present value of projected future earnings. In fact, this trend was also observed amongst what manufacturing establishments refer to as contract workers. These workers were typically in the auxiliary departments of the firms i.e. they were not on the main production line of the establishments. Thus for a bottling or brewing company such workers handled sorting, packing, loading and offloading of products of these companies. Again, this ties in with attempts by the firms to maintain flexible labour practices so that labour employment would largely be determined by the amount of work available. Such a flexible labour practice should not be directed at implicit cost saving by the firm where management would not have to pay workers added benefits, entitlements, and social security. The casual worker would have to be paid all these entitlements at their present value so that they would not be worse off than their counterparts who are employed on permanent basis. We must provide a caveat here that such a worker should be educated to ensure that he can save against a rainy day.

Indications are that whereas formal sector employment was declining, both public sector and private sector employment units have resorted to casual employment to the detriment of labour. Casual labour arrangements hire same labour regularly, either on rolling short-term contracts with established periods of suspension between engagements or without a contract at all. More often than not, such labour could be employed on a permanent basis, but entrepreneurs elect to hire or employ such labour on temporary basis so that commitments are not made in respect of some defined legal obligations. The third round of the Ghana Living Standard Survey reported that 39% of formal sector workers in 1998-1999 did not have written employment contracts. Similarly, the Core Welfare Indicator Survey reported that about 2% of the total labour force or 13% of the formal sector labour force comprised casual workers.

Other evidence shows that the engagement of casual labour is a pervasive practice even in the public service. For example, it was reported in a study on casual labour that the University of Ghana's Estate Department has over 100 casual workers out of an employee force of 220. In these cases, casual labour is largely used for cleaning services and other artisan/craftsman jobs. This is not surprising when examined against the public sector retrenchment policies of the late 1980s. As noted, government pursued downsizing policies in attempts to reduce the public sector as a means to achieving fiscal balances and macroeconomic stability. In these redeployment programmes, indications are that it was the lower auxiliary staffs that were laid-off. Since adequate assessment was not made of who was to perform their duties as they were laid off, it has become necessary for them to be re-engaged as casual staff to keep the system functioning. It was further revealed that since there is a general embargo on public sector employment and since the public sector establishments have not budgeted for the posts, they use all manner of proxies to get the casual labour force employed, more or less now on a permanent basis without the accompanying benefits found in standard public sector employment programmes. The crux of this finding is that serious analysis is not made of labour requirements before some of the orthodox retrenchment policies are implemented.

1.2 Political Developments: History of the Trade Union Movement in Ghana

The Trade Union Congress (Ghana) (TUC), which is the largest labour centre in Ghana, was established on 8th September 1945. The establishment of the TUC was the culmination of efforts by the colonial Government to encourage the formation of trade unions in the colonies to avoid the experiences of the Industrial Revolution in Europe when workers' struggles against employers led to massive destruction/loss of lives and property. The Trade Union Congress initially comprised fourteen registered unions and had a total membership of 6,030. It has gone through a chequered history. At present The Trades Union Congress has seventeen affiliates with a total membership of about 259,523. These affiliates are listed in Annex 6.⁴

⁴ (Preliminary Report on Membership Survey - Trades Union Congress, June 2001)

From the politically historical perspective, the Trade Union Congress was seen as an appendage to the then ruling party Convention Peoples Party (CPP), the Government of Kwame Nkrumah. Consequently, when the Nkrumah regime was overthrown in 1966 and the Second Republican government of the Progress Party (PP) came into power, the Trade Union Congress was dissolved by Parliament under a certificate of urgency in 1971. This was done through the passage on 13th September 1971, of the Industrial Relations (Amendment) Act 1971, Act 383.

As part of its political history, barely a year after the proscription of the Trade Union Congress in 1971, the government of the Second Republic the Progress Party, was in 1972 overthrown by the National Redemption Council (NRC) Government. This paved the way for the resurrection of the Trade Union Congress by the National Redemption Council (NRC) Government led by Col. I.K Acheampong. The NRC Government repealed the Industrial Relations (Amendment) Act 1971, Act 383 through a proclamation made on the 9th of February 1972. This became the operational Industrial Relations (Amendment) Decree 1972, NRCD 22 and was to the effect that Act 383 of 1971 was *"to be deemed never to have come into force"*. As it was, the resurrection of the TUC by the military government of the NRC was regarded as a paternalistic gesture, reciprocated by the TUC in kind. As a result of this paternal action initiated by the military government, the TUC was perceived to have reciprocated by being agreeable and supportive of the National Redemption Council (NRC) and later, the Supreme Military Council as the legitimate governments that were set up to govern the country after the 1972 military take over. Indeed, the TUC was by all indications very instrumental in giving legitimacy to the 1972 military putsch.

The TUC openly became political when it sponsored a political party, the Social Democratic Front - SDF, to contest the 1979 elections that ushered in the Third Republic. The TUC-sponsored SDF won only 3 out of the 120 legislative seats in the National Assembly or Parliament.

On the 31st of December, 1981, the fortunes of the TUC changed again with the overthrow of the Third Republican Constitution by Jerry Rawlings' Provisional National Defence Council (PNDC) in a coup d'état. The aftermath of this military take over was very gruesome as many institutions became decimated, as was the Trades Union Congress hierarchy. The TUC suffered a major upheaval when a group of local union leaders (Association of Local Unions - ALU) in the capital city of Ghana, Accra,

chased out the elected leaders of the TUC from office, and took over the administration of the Labour Movement for about 10 months (April 1982 to September 1983). These local union leaders were quick to identify themselves with the military/revolutionary leadership of the PNDC and were therefore perceived to be manifesting the agenda of the coup leaders. However, as is typical with such military takeovers, the revolutionary process consumed some of the key personnel of the ALU, and the PNDC Government found it much more beneficial to allow the TUC to have a leadership structure that commands respect. Consequently, the democratic structure of the TUC and the national unions were restored in 1983 when the ALU handed over to elected officers. This move led to the restoration of democratisation within the TUC thus allowing the group to elect its officers. Therefore, it is since 1983 that the TUC has successfully held its Quadrennial Congresses to elect its officers.

A second National Centre called the Ghana Federation of Labour (GFL) was formed in 1977 by eight labour associations/unions not affiliated to the TUC. These associations comprise the Ghana National Association of Teachers (GNAT), the Civil Servants Association (CSA), Judicial Service Staff Association (JUSSAG), the Ghana Registered Nurses Association (GRNA), the Textiles, Garment and Leather Employees Union (TEGLEU)- which itself is a break away group from the TUC affiliated Industrial and Commercial Workers Union (ICU) National Lotto Receivers Union (NRLU), Co-operative Transport Association and Tailors and Dressmakers Association. The present membership of GFL is approximately 16,500.

The GNAT and CSA have subsequently withdrawn from participation at the new centre while GRNA's participation is said to be lukewarm, though they have not formally indicated their withdrawal. These labour associations can be viewed as independent labour unions that occasionally join the TUC in a Consultative Forum of Labour to uphold common interests.

At the international level, it is worthy to note that the Trades Union Congress (TUC) is affiliated to the International Confederation of Free Trade Unions (ICFTU) while the Ghana Federation of Labour (GFL) is an affiliate of the World Confederation of Labour (WCL).

2 Legal Framework and Practice of Labour Relations

2.1 Labour Relations Overview and Recent Trends

Ghana ratified 46 ILO Conventions including Conventions 87 and 98 as 2nd of December 1997.

Convention No 87, the Convention on Freedom of Association, was ratified in 1965 while Convention No. 98 on Collective Bargaining was ratified in 1959. Indeed, Freedom of Association has become so important that it was made part of the Directive Principles of State Policy in the 1992 Republican Constitution. The country has also passed a number of legislations to bring national laws in conformity with ratified ILO Conventions. Notable among these is the recently passed Labour Act, 2003 (Act 651). This Act has repealed several of the earlier labour laws.

2.1.1 The Labour Act 2003

The Labour Act, 2003, Act 651, was passed by Parliament and received Presidential Assent on the 8th of October 2003. It will become operational when the Minister responsible for Labour, by Executive Instrument, appoints its date of effect when almost all-existing labour legislation would be considered repealed. Pursuant to this, Act 651 came into force on May 1st 2004.

Act 651 consolidates previous legislation on Industrial Relations and is intended to be user friendly such that the majority of labour related regulations are now found in one enactment. It has further introduced certain new features into industrial relations law in Ghana. Key areas covered by the Act are the provisions made for the operation of private employment centres in addition to public employment centres established under NLCD 157. The Act also establishes for the first time a **National Labour Commission** with equal representation from Government, organised labour and employers with a chairman jointly nominated by both employers and organised labour. This commission has wide powers to regulate relations between workers and employers and makes provision for prompt and time-based settlement of disputes in an attempt to avoid the occurrence of strikes or lockouts. It also provides for cooling off periods before strikes or lockouts could take place.

Significantly, Act 651 outlaws strikes and lockouts in **essential services**. It also provides the maximum period of a legal strike to be seven days, after which the dispute shall be determined by Compulsory arbitration. Indeed, Act 651 explicitly defines illegal strikes/lockouts and makes provision for any party who suffers financial loss as a result of the illegal strike/ lockout to sue for damages.

The new Labour Act 651 also gives a definition for a casual worker and grants him most of the privileges of a permanent worker such as medical care and equal pay for equal work.

Further, Act 651 has given legal status to the National Tripartite Committee and gives it responsibility, among other things, to determine the national minimum wage.

Private Employment Centres have also been given legal recognition for their activities to be regulated to avoid defrauding innocent job seekers.

As is to be expected with a labour legislation that intends to introduce flexible practices into industrial relations, Act 651 introduces certain innovations that pose challenges for the unions. For instance, previous legislation required five or more persons to form unions. Previous legislation enabled unions to negotiate close shop/union shop agreements, which effectively debarred other unions from being formed in enterprises with existing unions. These have changed with the passage of Act 651. The new dispensation under Act 651 provides that any two persons could come together to form a union. Thus close shop/union shop arrangements may no longer be permitted in line with the country's constitutional provisions that guarantee freedom of association to workers. Regulations are being developed to cater for arrangements towards negotiations of collective agreements where more than one union is formed within a single enterprise. It appears therefore that the relevance of a union to a worker would depend to a large extent on the worker's assessment of benefits to be derived from membership of one union or the other.

The other challenge relates to steps that unions need to take to educate union members to be conversant with the law, especially regarding the resort to strike. As stated elsewhere, all strikes recorded in the past have been illegal since none of them complied with the provisions of the law.

Under the new provisions, every dispute resolution that end up in a deadlock must be notified to the National Labour Commission within seven days after failure to reach agreement if either party intends to employ industrial action in the form of either a strike or a lockout, rather than voluntary arbitration to resolve the dispute. Such action cannot be embarked upon until after seven clear days after the notice has been served on the Commission and the matter remains unresolved.

Act 651 requires that during this cooling off period, no party shall resort to any act that may lead to financial losses for the other party. Furthermore as stated earlier on, the Act places a limitation of seven days before any industrial action can be taken. In other words, seven days after the resort to industrial action, the Commission shall order that the matter under dispute be resolved through compulsory arbitration. The award of the arbitration is final and binding for all parties in question.

In the evolving situation, it is clear that unions cannot resort to the "arm twisting tactics" that have characterized negotiations under the existing laws, where even when negotiations are on going, unions hoist red flags and sometimes slow down on production, or threaten strike to intimidate employers to yield to their demands.

2.1.2 Establishment and Functioning of Trade Unions

The first enactment that provided the legal framework for the formation and registration of trade unions in Ghana is the Trade Unions Ordinance, 1941, Chapter (CAP 91. Trade Unions are defined in this law as:

"...any combination (not being a body the members of which are appointed by the Governor or are persons holding appointments appearing in the staff list of Senior Appointments or the time being in force) whether temporary or permanent, the principal purposes of which are the regulation of the relations between workmen and masters or between workmen and workmen, or between masters and masters whether such combination would or would not, if this Ordinance had not been enacted, have been deemed to have been an unlawful combination by reason of someone or more of its purposes being in restraint of trade"

It would appear from this rendition that only junior workers had the right to join trade unions. This limitation was removed by Section 45 of the Civil Service Interim Regulations of 1960 so that both senior and junior staff could join trade unions. The law further provides that any five or more workers could apply for registration as a trade union. Typically, however, trade unions in Ghana are organized on industrial lines and are mostly general unions. This implies that no matter the skills, trade or qualifications of a worker, he would belong to the union that operates within the enterprise in which he is employed.

CAP 91 charged the Registrar General to perform the duties of Registrar of Trade Unions. (Currently, the Chief Labour Officer of the Labour Department of Ghana performs the role of Registrar of Trade Unions). As we noted earlier, there are no legal prohibitions on the formation of trade unions in Ghana. Indeed, the Fourth Republican Constitution guarantees freedom of Association as a fundamental human right. Consequently, the Registrar of trade unions cannot refuse to register a union unless any of the stated purpose of the proposed union is deemed unlawful.

A certified trade union automatically obtains recognition as soon as it is able to organize workers within an enterprise. It would then apply to the Registrar of Trade Unions, through the TUC, giving names of its officers in the particular enterprise, for a Collective Bargaining Certificate. It must be emphasized that bi-partite negotiation for Collective Agreements is well recognised in Ghana and Government rarely interferes in the process of Collective Bargaining between employers and Unions. The issuance of the Collective Bargaining Certificate provides the framework and legal recognition to the Standing Joint Negotiation Committee between the employer and the union for the purpose of negotiating all relevant matters affecting work relations within the enterprise.

Trade Unions in Ghana have financial autonomy. The only limitation placed by law on the use of union dues relates to the use of union funds for political objectives. Where a union is desirous of engaging in matters of political nature, it may do so by establishing a political fund that may be contributed towards on a voluntary basis by union members.

Payment of union dues through check-offs is provided for within the framework of the Industrial Relations Act, 1965, Act 299. However, Unions are required to deposit copies of their annual audited accounts with the Registrar of Trade Unions.

If officials of a union, or where a union fails to appoint auditors to audit its accounts make a complaint to the Registrar regarding misuse of union dues, the Registrar has power under Cap 91 to cause an independent audit of the accounts of a union. Fees charged by the independent auditor shall be charged against the union.

2.1.3 Wage Setting and Collective Bargaining

As stated earlier, the principle of bi-partite wage negotiations is prevalent in Ghana and guaranteed by the 1965 Industrial Relations Act, Act 299. Under the provisions of Act 299, a certified union is issued a Collective Bargaining Certificate, which entitles it to establish, with the employer concerned, a Standing Joint Negotiating Committee (SJNC) to negotiate all matters connected with the employment or non-employment of its members. The certificate usually specifies the class of workers covered by it.

Upon the issuance of a Bargaining Certificate, members of the Union and Management are required to agree on a constitution and rules governing the activities of the SJNC. Typically, the constitution and operational rules cover matters such as functions, membership, quorum, minutes of meetings, etc.

The chairman of the Standing Joint Negotiating Committee is usually appointed from the side of the Management while the Vice Chairman is chosen from within the Union, usually a full time officer of the Union. With regards to proceedings and record taking at meetings, each side of the SJNC provides a secretary to take minutes at meetings; however the Management provides the official secretary to the Committee.

Section 10 of Act 299 provides that an agreement concluded through negotiations by a trade union shall be binding on all employees of the class specified in the certificate as well as all their employers.

Until the passage of the Public Service (Negotiating Committees) Law, 1992, PNDC Law 309, only certified unions had legally recognised collective bargaining rights. As a result large sections of workers, mostly employees of the Central Government, such as teachers, nurses and civil servants did not have the right to bargain with their employer – the Government. This situation has since changed and these classes of workers can now bargain collectively with their employer.

In the negotiation for wages in both cases, national economic trends, market forces and the ability of enterprises to meet wage demands are considered. When a deadlock is reached during negotiations, a conciliation officer may be appointed to reconcile the parties. In extreme cases, upon mutual consent, both parties may request the Minister responsible for Labour to appoint an arbitrator.

Provision has also been made for the Minister to order the parties into compulsory arbitration when only one of the two parties consents to refer the matter to arbitration. In each case, the award of the arbitrator is final and binding on both parties when confirmed by the Minister through gazette publication.

2.1.4 Determination of National Minimum Wage and its Effect on CBA Negotiations

The National Minimum wage, which is determined annually by the National Tripartite Committee, acts as a catalyst to CBA negotiations by the Unions. Union negotiators invariably use the minimum wage as a benchmark in their negotiations. They adopt the parameters used in the determination of the minimum wage.

Going back to the days before the introduction of Structural Adjustment in the country, Government used to be the largest single employer. The minimum wage played a very significant role in enhancing public sector incomes within this context. In fact, until the passage of the Public Service (Negotiating Committee) law, 1992, PNDC Law 309, employees of the Civil Service had no bargaining rights. The minimum wage was therefore used to adjust the rates of pay within the Civil and Public Services.

Presently, private sector unions largely use factors used in determining the national minimum wage when they use annual wage opener clauses in the collective agreements to review salaries of their members while the Public Sector unions/associations are allowed marginal increases over the minimum wage by the Government.

The process of Minimum Wage Determination in the country is in accordance with paragraph 72, sub paragraph 2 (f) of the Labour Decree, 1967, NLCD 157 that requires for the establishment, composition and functions of appropriate machinery for determining “*the minimum remuneration and other conditions of workers and for matters connected thereto*”.

In determining the national minimum wage, Government consults with the Ghana Employers Association (GEA) and organised labour groups vis-à-vis, the Trade Union Congress, the Ghana National Association of Teachers, and Civil Servants Association. This consultation is done through the Tripartite Committee on Salaries and Wages. Even though the Government reserves the right to determine the national minimum wage, efforts have always been made to reach consensus during discussions at the Tripartite Committee.

In principle, the national minimum wage covers all sectors of the economy and serves as a benchmark for collective bargaining. It also protects the vulnerable and non-unionised workers from over-exploitation. It has a national coverage and becomes legally binding upon publication of the appropriate Legislative Instrument. The last minimum wage backed by law was determined in 1999. Be thus as it may, the minimum wage applies largely only in the formal sector of the economy. Informal sector activities are not brought under the minimum wage, apparently, because workers in this sector are not unionised, and invariably use this sector as a stage post to gain formal sector employment.

Currently the process of negotiating the level of minimum wages for the public sector revolves around the concept of "living wage" in which "the inflation factor" plays a dominant role. That is, attempts are made to raise current minimum wages by such an amount that would allow the living standards measured by the purchasing power of incomes to remain the same. In fixing the daily minimum wage the Tripartite Committee usually considers the following factors:

- the projected GDP
- the GDP growth rate anticipated in the year under consideration
- the estimated total wage bill expressed as a percentage of the projected GDP in the case of government and for private enterprises, their ability to pay as reflected in their operational cost structure, and
- the estimated inflation rate for the year.

In practice however, as demonstrated earlier with regards to trends in minimum wages, even though minimum wage policy is usually based mainly on restoring real incomes, the periodic increases in minimum wage rates have not helped to protect the real incomes of workers. For example, between 1977 and 1991, while nominal minimum wages increased by over 160 times, real wages declined by 4 percentage points.

The minimum wage is fixed in nominal terms, with a lag relative to inflation; the rate of inflation used is the actual, which is ex-post in character. Moreover, although government attempts to build into current level of wages the anticipated rate of inflation, the history of inflations tend to show that since 1992 at least, Government has never been able to meet its inflation target, Workers are therefore in arrears in real terms when projected inflation rates are used as indices for minimum wages. There is also the announcement effect angle of nominal wage increases that tend to fuel inflationary pressures. The use of minimum wages to affect an across-the-board percentage increase in all salaries increases inflationary pressures and tend to trigger wage-wage and wage-price spirals in the economy. Its inflationary impact is further compounded by the fact that the process of determination creates the adverse tendency among sellers to push up prices because of the anticipated increase in aggregate demand and also because of their desire to maintain their (informal sector traders) incomes relative to that of public (formal) sector workers.

Consequently, minimum wage policy in Ghana is inherently inflationary and therefore appears inappropriate as a means for protecting workers real earnings. Indeed, both inflation and exchange rates show that worker incomes, especially minimum wages are eroded in real terms. Thus for decades, the level of wages and salaries of Ghanaian workers, both in the public and private formal sectors have been persistently low, characterised by distortions and disparities against the background of lingering erosion in real values as a result of macroeconomic instability. In an interview with the Business & Financial Times, the Secretary General of the Ghana Trades Union Congress has this to say about incomes and inflation:

"For quite some time now, there tended to be nominal increases, simply because the picture that was always presented was one of an economy which was growing so little that make real increase in minimum wage proved illusive. For instance last year we looked at inflation as it occurred the previous year and what the government projected for the coming year. We then used that to determine the new minimum wage. But we realized that the figures that came out from the deliberation of the technical committee could not be met. The reason was that the committee couldn't project well as a result of the runaway nature of inflation. Remember that at the end of 2000, inflation was about 40% and by March 2001, it rose up to 41%. So we couldn't use the product of the minimum wage formula, so we got something less than the formula

produced. This year when we got to the table and got through the process, the figures that came out were too low. Given the fact that for a long time people had to contend with low wages and in view of government's concern for low wages, we decided to push ahead on that score. ...Clearly, this is a low wage, looking at the rural areas of this country and see the kind of life that they can lead with ₵7150 a day. The standard of living you can maintain with this amount is on the low side even for an individual. So if you consider that many working people have families, then you will realize that when we are talking about incomes, we should actually be thinking about working families".

(Business & Financial Times, May 6 -11, 2002, Page 12)

What the real minimum wage trend in Ghana has shown is that, for the economy as a whole, workers whose wages are indexed to the minimum wages tend to lose in real terms as wage increases are done on percentage terms across board with inflation as the eroding agent.

2.1.5 Dispute Resolutions and The Right to Strike

Disputes may occur in two major instances. The first situation may arise during negotiations for collective agreement when the parties are unable to reach an amicable settlement on any matter under negotiation. Secondly, disputes may arise at a work place when a worker becomes aggrieved on any matter concerning his/her terms of employment.

When a dispute arises over a matter under negotiation, the Standing Joint Negotiation Committee (SJNC) may take every possible step to arrive at an amicable settlement. Meetings at the SJNC may be adjourned for behind the scenes consultations and for further discussions by both parties for revised mandates to be obtained from their constituencies/principals to move the negotiation forward. If all these fail to yield the desired result, the parties may declare a deadlock and inform the Minister responsible for Labour of the situation, giving him full details of the dispute(s).

Under Section 17 (1) of Act 299, the Minister, on receipt of this notice, shall take steps to appoint a "conciliation officer" to confer with the disputing parties. If within two weeks of the appointment of the conciliation officer the matter(s) under dispute has not been resolved, or if before the expiration of the two weeks, the conciliation officer sees no prospect of an amicable resolution of the matter(s) in dispute, he shall report to the Minister setting out the facts and stating:

- how far, if at all, agreement has been reached; and
 - what are in his opinion the issues which remain in dispute.
- Section 17 (2) of Act 299.

When the Minister receives this report from the conciliation officer and there are some matters still under dispute, the Minister may appoint either the Chief Labour Officer or some other senior officer of his ministry as an additional conciliation officer to further endeavour to resolve the dispute. The additional conciliation officer is expected to resolve the issue(s) within one week of his appointment and report to the Minister.

If the additional conciliation officer is unable to resolve the dispute(s), the Minister is empowered by Section 18 of Act 299 to either refer the matter to compulsory arbitration where only one of the parties gives his consent to the matter being thus referred, or to voluntary arbitration when both parties agree to go into arbitration.

In setting up the arbitration tribunal, the Minister may either appoint a sole arbitrator or an arbitrator assisted by an equal number of assessors nominated by the disputing parties, or he may appoint equal numbers of arbitrators nominated by both parties and an independent chairman.

Even though the award of the arbitration tribunal established under section 18 of Act 299 is final, such an award shall not take effect unless the Minister through a newspaper publication confirms it.

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

- **Step 1** – the worker takes up the grievance with his immediate supervisor
- **Step 2** – if no settlement is reached, the worker may ask either his local union secretary or a shop steward to take up his case with the supervisor
- **Step 3**- if the matter cannot be resolved with the supervisor, the local secretary/shop steward will take up the case with the Manager
- **Step 4** – if the case is still not resolved, the local secretary will report to the national union, which may ask that the SJNC convene to resolve the grievance.

- **Step 5** – if the SJNC is unable to resolve the matter, either party may report to the Minister, with a request that a conciliation officer be appointed to resolve it
- **Step 6** – if after all these efforts, the matter remains unresolved, the Minister may invoke the provisions of section 18 of Act 299 and refer the matter to arbitration.

Strikes and lockouts are not outlawed in Ghana. However, the procedure laid down by law makes it almost impossible to have a legal strike or lockout. Act 299 provides that if a deadlock is declared, either party may give four weeks notice to the Minister of its intention not to enter into arbitration but to embark on a strike or lockout. The Minister can avert this action by referring the matter in dispute to compulsory arbitration before the four weeks deadline.

There has not been a single case where the Minister has not evoked his power to order parties in dispute to compulsory arbitration to avert a strike or a lockout. Thus far, even though several strikes have taken place in Ghana, none has followed the laid down procedure. Between 1996 and 1999, 165 strikes were recorded by the Labour Department. It is pertinent to remark that no official sanctions as prescribed by law, were imposed for infraction of the law by these and other illegal strikes that have occurred.

When the new labour law, Act 651 comes into force; a stricter regime will be introduced to regulate industrial actions (strikes and lockouts) as stated earlier. Act 651 defines what constitutes legal and illegal strikes. It provides for notice of intention to embark upon industrial action to be served on the National Labour Commission within seven days of failure to agree to resolve a dispute through voluntary arbitration. Legal industrial actions can also be embarked upon seven days after the notice has been served on the Commission and the matter still remains unresolved.

It is an offence, for which a party may sue for damages, if during this cooling off period; one party embarks upon an industrial action. In addition, Act 651 provides that seven days after an industrial action has begun, if the matter in dispute is still unresolved, the Commission shall order that the dispute be settled through compulsory arbitration.

While Act 651 bars strikes in what it terms as “*essential*” services, it allows for picketing at venues not less than ten meters away from the premises of the striking workers, and also for sympathy strikes. In the case of sympathy strikes, however, the sympathizing workers shall ensure that minimum staff is kept to keep the work of their employers running.

It would appear that under Act 651, the workers right to strike could be significantly eroded. However, if the mechanism put in place for the resolution of work place disputes work efficiently and expeditiously, a higher level of industrial harmony may be achieved thereby making the need for a strike or a lockout redundant.

2.1.6 Workers Participation at Shop Floor

There is no legal provision for the operation of shop floor activists of unions. However, unions have local branches in all enterprises. The local union officers perform the role of shop floor union representatives. In large enterprises, local union leaders are elected from the various departments/ sections within the establishment. These officers play mediating roles between supervisors/managers and rank and file employees of the department.

Shop floor activities are however very vibrant within the large mining companies where employers have established offices for branch/local unions and second elected local officers to the union. Indications are that the employers find the arrangement to be mutually beneficial since it breeds a corporatist approach to problem solving. Consequently, the management or employers continue to take responsibility for the remuneration of those staff seconded to perform full time work for the local union. Whenever any of these officers lose elections, they revert to their former roles within the mine without loss of any benefits they are entitled to as employees of the mine.

On the other hand, local union officers perform their union roles on voluntary basis in all other establishments. They are represented on some committees at the work place. Notable among these is the Disciplinary Committee, the Promotion and Evaluation Committee, and sometimes In-housing Committees.

2.1 Antecedent Legislations to Act 651

- ***The Trade Unions Ordinance, 1941 (Cap 91)** was passed on the 27th of September 1941 by the colonial government to provide for the “*registration and regulation of trade unions and for other purposes connected therewith.*” This enactment defined trade unions and permitted any five workers to form a union. It also provided the procedure for the registration and certification of unions.
- ***Conspiracy and Protection of Property (Trade Disputes) Ordinance, (Cap 90)** which came into effect simultaneously with Cap 91 on the 27th of September 1941, prohibited employees of essential services like public water supply, electricity, transport or other social services from wilfully and maliciously breaking a contract of service knowing or having reasonable cause to believe that the consequences of such an action, either individually or in the company of others, will deprive the society of those amenities. In simple terms this Ordinance banned strikes in essential services.
- ***Trade Disputes (Arbitration and Inquiry) Ordinance, 1941, (Cap 93)** empowered the Minister responsible for Labour to refer industrial disputes to arbitration upon the consent of parties to the dispute. The Minister is also empowered by the Ordinance to institute a Board of Inquiry to any industrial dispute, perceived or existing.
- ***The Industrial Relations Act 1965, Act 299**, is an amendment to the Industrial Relations Act, 1958, Act 56. The provisions of this law do not depart to any large extent from the contents of the principal Act of 1958. Act 299 provides for the continuing recognition of the TUC as established under Act 56, and recognises it as a body corporate or legal person with perpetual succession and a common seal, with the power to acquire and hold property, and also act as the official mouth piece of the labour movement in Ghana. The law lays down the broad framework for collective bargaining, dispute resolution and arbitration. It also provides for the *check off system* of dues payment by union members. It recognises strike action by unions and lockouts by employers and laid down the procedure to be followed to ensure the legality of those actions. It makes room for the binding nature of concluded collective agreements. Actions by either unions or employers that may be considered as *unfair labour practice* have been spelt out in the law and provision made for sanctions through an *Unfair Labour Practices Tribunal*

(although the said tribunal has never in fact been set up). Finally the Act established a National Advisory Committee of Labour comprising representatives of unions, employers and government nominees to advise the Minister responsible for Labour on matters brought to it by the Minister.

- ***⁵The Labour Decree, 1967, NLCD 157** which was promulgated on the 14th of April 1967 is a comprehensive legislation that governs the general conditions of employment in Ghana, and for the first time provided for the establishment of National Employment Centres (in other words known as Public Employment Centres). The main features prescribed in this law cover areas of employment such as:
 - i. The national employment service
 - ii. Contracts and agreements
 - iii. Mode of termination of appointments/agreements
 - iv. Severance and redundancy payments
 - v. Employment of females, children and young persons
 - vi. Protection of remuneration
 - vii. Forced labour
 - viii. Reporting of deaths and injuries sustained in the course of employment
 - ix. Labour inspection
 - x. Hours of work, paid holidays and annual vacation

The general provisions of the Labour Decree of 1967, NLCD 157 are further enhanced by the elaborate accompanying regulations of 1969, **Labour Regulations, 1969, LI 632**. These two legislative instruments give a very comprehensive overview of the legal requirements that regulate employment relations in the country.

- **The Factories, Offices and Shops Act, 1970, Act 328⁶** which received Presidential assent and became law on the 12th of May 1970, contains provisions to regulate health and safety standards that have to be observed in work places and was designed to meet standards set in the relevant ILO Conventions on Health and Safety at the work place.

⁵ * This legislation has been repealed by the Labor Act, 2003, Act 651. All other legislation cited in this section are still in Force.

⁶ As amended by the Factories Offices and Shops (Amendment) Law 1983 PNDCL 66 and the Factories Offices and Shops (Amendment) Law 1991 PNDCL 275.

- **Workmen's Compensation Law, 1987, PNDC Law 187** was promulgated on the 12th of August 1987, and seeks to provide for compensation to be paid to employees or their dependants, for work-related injuries or death respectively. Under it, employers are enjoined to report work place injuries or death to the Labour Officer, who would in turn seek medical estimation of the extent of injury sustained by the employee.

The Labour Officer is thereafter required to calculate the cash compensation due to the employee, which must be settled by the employer. Before compensation is paid, the employee is made to sign an undertaking not to pursue any further claims in the law courts. He is however allowed to opt for civil action in the courts and refuse compensation under this law.

However, an injury may not attract compensation if it is either self inflicted or suffered under the influence of alcohol or drugs.

- ***The Public Service (Negotiating Committees) Law, 1992, PNDC Law 309** was promulgated to fill the vacuum created in the Industrial Relations Act, 1965, Act 299 to enable government employees (Public Servants) whose organisations such as the Civil Servants Associations (CSA), Ghana National Association of Teachers (GNAT), Ghana Registered National Associations (GRNA) and Judicial Services Staff Association of Ghana (JUSSAG), which are not certified unions under Act 299, and therefore could not secure collective bargaining rights under that Act, to negotiate with their employer, who in this case happens to be the Central Government.
- **The Civil Service Law, 1993, PNDC Law 327** Sections 9 & 10 have been amended by The Presidential Office Act 1993, Act 463 which was passed on the 6th of January 1993, – the eve of Ghana's return to Constitutional rule on the 7th of January 1993- contains elaborate provision on the form, functions, membership of the civil service and other regulations that govern employment relations in the Civil Service. It provided legal backing to the Office of Head of Civil Service as against the previous situation where the Secretary to the Cabinet doubled as the Head of the Civil Service thereby creating clear and independent managerial responsibility for the Civil Service.

3 Trade Union Profile

3.1 Trade Union History

The trade union movement in Ghana has for a long time been organized as one central body. However, recent developments threaten to undermine this unity. In 1993, workers in some of the textile and garment enterprises broke away from the Industrial and Commercial Workers Union of the TUC to form the Textile, Garment and Leather Employees Union (TGLEU) and were registered as the eighteenth (18th) national union by the Registrar of Trade Unions in compliance with the requirements of Cap. 91.

The TUC refused to admit the union into its membership due to a provision in its constitution that debarred breakaway factions of an existing affiliate from becoming a member of the TUC. This denial of affiliation was the added impetus that accounted for the formation of the second national centre, the Ghana Federation of Labour (GFL). As it was, TGLEU was in the forefront in the formation of GFL when it was not possible for this union to get the necessary recognition from the TUC. Indeed, it is the General Secretary of TEGLU that currently holds the position of Secretary General of the GFL.

The Ghana Federation of Labour has since its formation, spearheaded the formation of smaller unions in enterprises within the private sector which had not earlier been organized by affiliates of the TUC. GFL now has as its affiliates, the following five new unions with many more in their formative stages:

- Food and Allied Workers Union,
- General Metal and Metal Fabrication Workers Union
- National Union of Professional Drivers
- Financial and Business Services Employees Union and
- Media and Printing Industry Union.

The year 2003 has seen yet another breakaway from the Industrial and Commercial Union (ICU) of the TUC. This time it is employees of some major financial institutions that have broken away to form the Union of Industry, Commerce and Finance (UNICOF). UNICOF received its certificate of registration as the twenty-fourth (24th) union from the Registrar of Trade Unions on 6th October 2003. Originally, employees of 16 enterprises formed UNICOF where the ICU had its membership.

These are Beverage Investments (Ghana) Ltd., Silver Star Auto Ltd., Ghana Commercial Bank, Merchant Bank (Ghana) Ltd., State Insurance Company Ltd., Pens and Plastics Ltd., Ghana National Procurement Agency, Reiss and Company Ltd., Standard Chartered Bank, Agricultural Development Bank and Senior Staff Union of Pioneer Food Cannery Ltd. There are indications that employees from other enterprises are on the verge of joining UNICOF. It would be interesting to see how the TUC treats this current break away union because unlike the TGLEU which has a relatively smaller membership (2,500), UNICOF on the other hand, has a larger membership (4,000) with substantial financial resources. This is a critical challenge that the TUC faces.

3.2 Membership Developments and Union Density

Trade unions in Ghana are organized on industrial lines. They operate almost entirely within the formal sectors of the economy. However, a few unions are trying hard to organize workers in the informal sectors of the economy. Recent survey carried on by the TUC has shown that about 70% of all unionized employment can be found in the public sector. The survey also shows that the unions are generally small and are predominant within the public sector (55.39%).

The four largest unions out of the seventeen affiliated to the TUC represent 50.44% of the entire membership of the TUC. The Industrial and Commercial Workers Union, which operates largely within the private sector commands 16.79 per cent of the membership of the TUC. Four other unions operating in the private sector are the Ghana Private Road Transport Union (10.74%), Timber and Wood workers Union (9.08%), Construction and building Materials Workers Union (4.66%), and Ghana Mine Workers Union (3.34%).

As indicated earlier on, unions operating in Ghana are largely industrial unions. They have managed to secure closed/union shop agreements in establishments where they have members. By virtue of this, membership development has been tied to employment growth within the various establishments.

Structural adjustment has led to substantial job losses and therefore loss of union membership. It must however be added that some sectors like telecommunications, hospitality (i.e. hotels facilities) have seen some rapid growth and therefore increased union membership in the growth sectors, there exist potential membership that the union could organize to increase membership.

With the outsourcing of non-core activities by business establishments, several security companies have suddenly appeared on the scene with large recruitment possibilities. However, for circumstances that are hard to explain, the unions have so far not been able to enroll staff of these agencies. Others such as fuel station attendants and employees of private educational institutions are potential members whose organization into unions has also not been possible.

3.3 The Trade Union Structure

As stated earlier, there are twenty-four certified unions in the country. Seven-teen of these are affiliated to the main centre, the TUC. These are all industrial unions. They are independent of political parties and religious bodies. In fact, the TUC constitution forbids union leaders from publicly identifying with any of the political parties in the country.

In addition to these, there are four major labour associations/unions. These are mostly associations of various employees of central Government. These are the Ghana National Association of Teachers (GNAT), which without doubt is the largest single workers' organisation in the country with approximately 150,000 members, the Civil Servants Association (CSA) (76,000), the Ghana Registered Nurses Association (GRNA) (9,000), and the Judicial Service Staff Association (JUSSAG) (6,000). In terms of autonomy or independence, GNAT and CSA are not affiliated to any of the centres, while the GRNA and JUSSAG are affiliates of Ghana Federation of Labour.

Each of the affiliates of the TUC has both financial and administrative autonomy. The TUC does not exercise control over them since they have their own governing/decision making bodies. On the other hand, the unions have much influence over the TUC as its governing/decision making bodies are composed of leaders and members of the affiliated unions. By this, the Executive Board of the TUC, which is responsible for making policy decisions in between congresses, is composed of top leadership of the national unions while the finance committee of the TUC, which is responsible for its budget and finances, are elected from among the rank and file union members at the quadrennial delegates congress of the TUC.

Unionised workers contribute 1% of their monthly salary as union dues, and employers through check off deduct this at the source. The TUC is entitled to 30% of this amount. This is its main source of income and is

paid directly to it by employers. TUC has no other opportunity to raise additional resources directly from workers. On the other hand, the respective unions are able to levy their members for specific programmes and/or projects. Most of these unions exact an additional 1% contribution from workers which is either designated as educational or is a development levy. The TUC does not benefit from this or any other levies that unions impose on their members.

3.4 Internal Organisation and Finance

The TUC and its affiliates have similar structures. Annex 6 shows the Organisational Structure of the TUC and its affiliates. At the top of the organizational chart of either the TUC or any of its affiliates is the quadrennial delegates' congress of conference. This conference (congress in the case of the TUC) is the highest decision making body charged with responsibility to decide on major policy issues, examine and adopt audited accounts for the previous four years and elect officers. The next in the governing body hierarchy is the Executive Board in the case of the TUC and National Executive Council for the unions.

Since the TUC adopted a gender sensitive agenda in the late 1980s, the various constitutions have been amended to give some level of affirmative action in this direction. Hence, the TUC and its affiliates, by affirmative action, have created second Vice Chairperson positions specifically reserved for female trade union activists. This is to encourage and support female unionists to get involved in decision making at the highest possible level in the unions. Generally we can say that internal democracy is vibrant within the unions. Elections are democratic and transparent.

The day-to-day running of the TUC and the unions is the responsibility of the Secretary General and the General Secretaries respectively and their Deputies, who are all elected at the various quadrennial conferences. The conferences also elect the chairmen and their deputies as well as members of the finance committees. Generally, internal democracy is vibrant within the TUC and the unions. Elections are democratic and fair with no interference from outside the movement.

These elected officials are supported by a host of other appointed officers who are full time workers to ensure the proper running of the various organizations. Most of these employees are highly capable organizers. In particular, the TUC has recognized that gone are the days when brawn rules union activities. Consequently, the TUC has embarked on recruitment

of graduates at various levels to boost its analytical capacity. Nevertheless, the TUC is faced with a dearth of personnel with adequate knowledge and skills in economic, financial and other analytical disciplines. The few that are engaged sometimes leave for other more rewarding employment, as remuneration in the union movement is not exactly attractive.

Furthermore, the trade union movement encourages a lot of internal capacity building for the existing staff through in service training, seminars and workshops. In the same vein, the TUC, in collaboration with the Cape Coast University has mounted a two year sandwich programmes for Diploma in Labour Studies since August 1999. This programme provides additional opportunity to many union activists to acquire higher training in the field of Labour Studies.

Additionally, on need basis, the TUC engages the services of Consultants to help it in its advocacy work. Since 1992, the TUC has employed a full time liaison officer (lobbyist) who relates its activities to Parliamentarians. The union movement has been able to influence the passage of certain laws in Parliament through these means.

With regard to finance, as we noted earlier, the main source of revenue for the TUC and its affiliates is the membership subscription in the form of monthly dues which now is 1% of the union member's monthly salary deducted through check off. The TUC receives 30% of the 1% union dues. No subvention is received from central government. It was estimated that income from dues accounted for 95.51% of total revenue to the TUC in 2001. The other 4.59% represented interest on investments. On a cautionary note, with the continuing decline in union membership as a result of job losses, the TUC and its affiliates may have to explore other means of generating revenue to sustain the movement.

Union finances, to a very large extent, are transparently managed. There is an annual audit by external auditors in addition to the supervisory roles played by the finance committees. Union Cheques are signed by three persons, one of whom is normally the Secretary General in the case of the TUC or General Secretary in the case of national unions, one member of the finance committee and the chairman of the union/TUC.

3.5 Services Provided

The major services that unions in Ghana provide for their membership can be summarized as follows:

- Collective bargaining
- Grievance Handling
- Workers Education
- Advocacy to influence public policy. For instance, the TUC has been very instrumental in shaping some of the laws passed in Parliament. A classic example was the influence brought to bear on the final law that introduced the Industrial Free Zones in Ghana. In this law, trade union rights have been recognised as against the general principle that Free Zones abhor unionization of their employees.
- Protection of Human Rights. For instance the TUC took issue with the previous Government at the Commission on Human Rights and Administrative Justice in connection with four lives that were lost during a public demonstration as a result of the interference of certain pseudo party cadres. The matter is still pending in the Supreme Court.

3.6 Government- Trade Union relations

Since the country returned to constitutional rule in 1992, government labour relations have improved considerably. Even though the relations cannot be described as very cordial, it is not adversarial. The trade union movement is invited to serve on several major policy making bodies.

Some of the very important ones are:

- The National Tripartite Committee on Salaries and Wages Guidelines
- The National Advisory Committee on Labour
- The National Media Commission
- The Public Utilities Regulatory Commission
- Divestiture Implementation Committee
- The Board of Social Security and National Insurance Trust
- National Population Council
- Narcotics Board
- National Institutional Renewal Programme

The above represent formal relations that enable the trade union movement to bring its influence to bear on national/developmental issues. There exist also informal structures like Parliamentary Caucuses and other informal avenues for union leaders to interact with Government Officials.

The main bone of contention between the unions and government is in regard to the latter's handling of economic affairs, especially in the face of harsh economic measures the unions perceive to be the cause of the impoverishment of the vulnerable and poor in the society.

3.7 The Role and Importance of International Co-operation

Project/donor funding represents a very substantial part of the training programmes of the trade unions. Donor funding continue to enable the trade unions to engage in capacity building for full time staff as well as membership education. Donor funding has helped the unions to acquire equipment, vehicles and other logistics to enhance their work.

Donors have also awarded scholarships for trade union officials to undertake advanced study in institutions of higher learning.

Most of union interventions in national policy issues are made after consultants have been engaged to study such policy proposals and their impact on workers. These studies, which are normally followed by round table discussions, workshops, are normally funded by donor organisations.

The unions prepare their own requests for donor support. It cannot therefore be said that donor institutions influence internal/organizational issues within the unions.

The continuing relevance of the union movement in the present environment will be determined by the extent to which they engage the authorities on policy issues. This would require union leaders to keep abreast with global economic, environmental as well as political issues.

With the dwindling fortunes of the trade union movement as a result of formal sector job losses and growing size of the informal economy, donor support is critical for the survival and relevance of the trade unions.

The negative aspect of donor support to the movement may be that union leaders have developed inertia and are probably not taking adequate steps to develop financial strategies that would enable unions to wholly finance their educational/developmental projects.

4 Problems and Prospects

One major problem which unions are confronted with is the decreasing role of formal sector economic activity. Over two decades of structural adjustment and economic reforms have not improved the formal sector in any way. As we pointed out earlier, trade union activities in Ghana are predominantly centred on formal sector economic activity. What poses a veritable threat to the unions is the dwindling formal job market. Indeed, anything that adversely affects the development of the formal sector is a threat to trade unionism. Alternatively, trade unionists may have to face the challenge of increasing informal economic activity and devise to new ways that will encourage informal sector workers to get involved in union activities. This is a real challenge that is not impossible to surmount. After all, the Ghana Private Road Transport Union (GPRTU) has come out of informal activity to form one of the strongest unions of the Ghana Trades Union Congress (GTUC). Indeed, the GPRTU has managed to solicit financial support in several ways to enable its membership to expand their road transport activities. The leadership of the GTUC can take some leaf from the GPRTU to organize other informal economic activities for the sake of workers and the economy in general.

It is in this regard that the activities of the Labour Enterprises Trust are noteworthy. The Trade Union Congress, in an attempt to confront the loss of membership that have resulted from the implementation of the Structural Adjustment Programme (SAP), took a bold decision at its Delegates Congress in 1996 to set up a Holding Company to be known as Labour Enterprises Trust (LET).

LET was formally incorporated in February 1997 to engage in the development/establishment of enterprises that would create jobs in the country. Its share capital of ₵5.8 billion cedis (\$2.4 million in 1998), was subscribed to by 99,000 out of an estimated 500,000 workers who are members of the Unions affiliated to the TUC.

Since its incorporation, LET has established an Insurance Company known as Unique Insurance Company. It holds 20% shares in a \$5 million automated Car Park situated in the Business District of Accra. LET also operates metered taxis with a fleet of nineteen and four Water Tankers. All in all, LET created by 2003, 280 jobs.

The other problem confronting trade union activities is weak financial position. As stated earlier, the unions are generally small and workers incomes are generally very low. Consequently, unions tend to be financially weak, having to depend on contributions of workers as the major source of income. This is another major organizational challenge facing the unions, how to overcome their financial weakness.

A possible way of dealing with the problem is to take cognisance of the current global developments within the business sector where mergers have become commonplace. As it is, the issue of mergers has been on the agenda of the trade unions for quite some time but the courage to engage the issue frontally has been lacking. It appears the main hindrance to this desired objective is the fear of job losses that may occasion any mergers. Yet, without mergers, indications are that the enterprises in Ghana as they exist are too small to compete effectively using economies of scope and scale advantages.

Furthermore, the trade union movement is likely to face great challenges in the near future, especially as a result of the passage of Act 651. This Act comes with flexible conditions that may threaten the unity of workers if union leaders do not open up and be proactive. Typically, Act 651 provides that any two or more workers can form a union. It also permits two or more unions within one enterprise as against the current situation where all employees of an enterprise belong to one and the same union. While this freedom is welcome, it is a recipe for complicated transactions for management who would have to deal with the different unions in an establishment if the various workers decide to exercise their freedom and form odd unions.

Presently, journalists in the state media have long complained that even though they form the core of the various media houses, the other supportive staff outnumber them and have therefore taken over the unions to their detriment. Journalists have therefore advocated their own craft union. Even though these have been contained so far, it cannot be guaranteed that the status quo will remain with the new law.

A further concern is the threat of globalisation and WTO rules for free trade coupled with the uncompetitiveness of local industries on the international market. As more and more local industries become uncompetitive because of increasing globalisation, additional threats point to further deterioration in the local formal sector job market. Germane, union

members' apathy towards matters outside bread and butter issues have the effect of limiting union militancy and the capacity of the union movement to make the required impact on national policy. What may be required to forestall the future is for the trade union centre to vigorously pursue the merger agenda. The centre could probably provide job guarantees within its structures for officers who may have to vacate their current positions as a result of the mergers. Furthermore, without sounding egocentric, and pursuing inward looking policies, government would have to take measures to reasonably protect local industries, as is the case of industrially advanced economies.

In so far as globalisation is marginalizing workers, especially those in the developing economies, it may be necessary to strengthen unions to provide second best solutions for the failure of market conditions. The invisible hand may work but it may do so by strangulating the workforce. A visible hand is needed to restrain the invisible hand of the globalise market forces from decimating workers in developing countries.

5 Annex

Annex 1 - Summary of Labour Legislation

Trade Unions Ordinance, 1941, Cap 91 – this was the first law passed to regulate the formation and registration of trade unions. It appointed the Registrar General as the Registrar of Trade Unions.

Conspiracy and Protection of Property (Trade Disputes) ordinance, 1941, Cap 90 – this law prohibited strikes in the essential services.

Trade Disputes (Arbitration and Inquiry) Ordinance, 1941, Cap 93 – this law empowered the Minister responsible for labour to order parties to an industrial dispute to arbitration. It also empowered him to set up Boards of Inquiry into perceived or existing industrial disputes.

The Industrial Relations Act, 1965, Act 299 – this is the principal law that regulates relations between unions and employers. It provided for check off as a means of payment of union dues by members. Grievance handling, i.e. conciliation and arbitration procedures are well enumerated in the law. It granted collective bargaining rights to certify unions registered under Cap. 91.

The Labour Decree, 1967, NLCD 157 – this law provided for the establishment of public employment centres. It also provided the main features to be covered by contracts of employment, reporting of industrial injuries as well as labour inspection.

Labour Regulation, 1969, LI 632 – this instrument provides for the detailed regulations to ensure the implementation of provisions of NLCD 157.

Factories, Offices and Shops Act, 1970, Act 328 – this law regulates various safety standards that should be provided at the work place by the employer.

Workmen's Compensation Law, 1987, PNDC Law 187 – the law laid down regulations to be complied with in case of work place injuries and the formula for the payment of compensation.

Public Service (Negotiating Committees) Law 1992, PNDC Law 309 – this law granted central government employees collective bargaining rights.

Civil Service Law, 1993, PNDC Law 327 – this law revised regulations governing the Civil Service and gave legal backing for the Office of the Head of the Civil Service as the independent administrative, managerial head of civil servants.

The Labour Act, 2003, Act 651 – this law consolidates almost all laws related to industrial relations practice in the country. It permits the operation of private employment centres in addition to the public employment centres established under NLCD 157.

The law also establishes for the first time a National Labour Commission with equal representation from government, organized labour and employers with a chairman jointly nominated by employers and organized labour.

The National Tripartite Committee had been given legal recognition under this new law.

The law with its novelty is yet to become operational even though it received Presidential assent on 8th October 2003.⁸

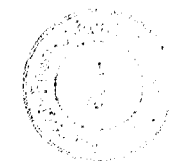
Except for the Civil service Law, 1993, PNDC Law 327, all the labour laws discussed in this write up have been repealed by the passage of Act 651.

Annex 2 - Socio-Economic Data: Facts And Figures

Land Size Of Ghana	238,537 sq.km
Population (2001) in '000	18885
Population Growth Rate	2.7%
Life Expectancy	57.7 Years
Gross Domestic Product In US\$ (2002)	6150805639
Per Capita GDP In US\$ (2002)	318
Economically Active Population (2001)	8774557
Formal Sector Employment (2001)	794220
Public Sector Employment (2001)	675087
Formal Private Sector Employment (2001)**	119133
Informal Sector Employment Estimate	Over 90% of active labour force of 8,774,557
Main Economic Activities	Agriculture, Mining, Commerce/Trading
Main Exports	Cocoa, Gold, Diamond and Timber
Non-Traditional Exports (NTEs)	Yam, Pineapple, Arts and Craft
Main Import	Crude Oil

** Private Sector Employment is high as a result of privatisation of SOEs

⁸ Editors Note; Act 651 came into force on May 1st 2004.



Annex 3 - Trade Unionism in figures

Unionization Rate (% of formal sector employees)	73.8%
Collective bargaining coverage (Unionized Workers Only)	100%
Number of Union Members (GFL)	16500
Number of Independent Association/Union Members	239009
Number of National Labour Centres in 2003	2
Number of Certified Unions	24
Number of trade union members in 2001 (Trades Union Congress affiliates only)	259,523
Number of female Unionised employees (20.4%)	51,426
Number of certified trade unions in 2003	19
Number of certified Unions affiliated to TUC	17
Number of Certified Unions affiliated to GFL	6
Number of independent Certified Union	1
Number of Major Labour Associations Not Registered as trade union	4
Strikes recorded by Labour Department between January and November 2003	33
Approximate man hour losses arising from reported strikes	15,000

Annex 4 - National Trade Union Centres

Name	Trades Union Congress (Ghana) -TUC
No. of affiliates in 2003	17
Membership in 2001	259,523
Political Orientation	Neutral
International Trade Union affiliation	International Confederation of Free Trade Unions
Regional and sub regional affiliations	Organisation of Trade Unions of West Africa (OTUWA), Organisation of African Trade Union Unity (OATUU)
Name of President	Alex Bonney
Name of Secretary General	Kwasi Adu Amankwa

Name	Ghana Federation of Labour- GFL
Number of affiliates in 2003	6
Membership in 2003	10,500
Political Orientation	Neutral
International trade Union affiliation	World Confederation of Labour (WCL)
Regional and sub regional affiliation	Democratic Organisation of African Workers Trade Unions (DOWATU)
Name of President	Joseph Essilful Ansah
Name of Secretary General	Abraham Koomson

**Annex 5 - Fairly Large Unions
(Affiliated to National Centres Or Independent)**

Name (acronym)	Sectors organized	Member-ship	National affiliation	International affiliation
Industrial and Commercial Workers union (ICU)	Private	42,070 (2001)	TUC	Union Network International
Teachers and Educational Workers Union (TEWU)	Public/ Private (Educ)	30,246 (2001)	TUC	Education International, Public Services International
Public Services Workers Union (PSWU)	Public	27,084 (2001)	TUC	Public Services International
Ghana Private Road Transport Union (GPRTU)	Private	26,901 (2001)	TUC	International Transport Federation
Timber and Woodworkers Union (TWU)	Private	22,758 (2001)	TUC	International Federation of Building and Woodworkers
Public Utility Workers Union (PUWU)	Public	17,111 (2001)	TUC	Public Services International
Health Services Workers Union (HSWU)	Public/ Private	16,647 (2001)	TUC	Public Services International
General Agricultural Workers Union (GAWU)	Public	14,710 (2001)	TUC	International Federation of Building and Woodworker

TUC = Trade Union Congress

**Annex 5 - Fairly Large Unions (continued)
(Affiliated to National Centres Or Independent)**

Name (acronym)	Sectors organized	Member-ship	National affiliation	International affiliation
Ghana National Association of Teachers (GNAT)	Public	150,000 (2003)	IND	Education International
Civil Servants Association (CSA)	Public	76,000 (2003)	IND	
GhanaRegistered Nurses Association (GRNA)	Public	9,000 (2003)	IND	International Council of Nurses

TUC = Trade Union Congress

IND = Independent

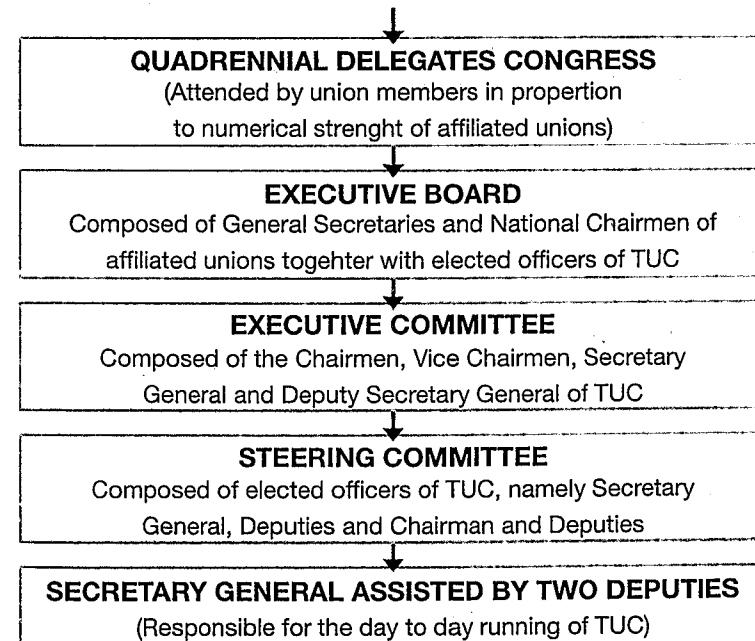
Annex 6 - The Seventeen Affiliates of The Ghana Trade Union Congress

1. Maritime & Dock Workers Union (MDU)
2. Railway Workers Union (RWU)
3. Railway Enginemen's Union (REU)
4. Local Government Workers Union (LGWU)
5. General Transport Petroleum & Chemical Workers Union (GTPCWU)
6. Communications Workers Union (CWU)
7. Construction & Building Materials Workers Union (CBMWU)
8. Ghana Mineworkers Union (GMWU)
9. National Union of Seamen (NUS)
10. Industrial and Commercial Workers Union (ICU)
11. Teachers and Educational Workers Union (TEWU)
12. Public Services Workers Union (PSWU)
13. Ghana Private Road Transport Union (GPRTU)
14. Timber and Woodworkers Union (TWU)
15. Public Utility Workers Union (PUWU)
16. Health Services Workers Union (HSWU)
17. General Agricultural Workers Union (GAWU)

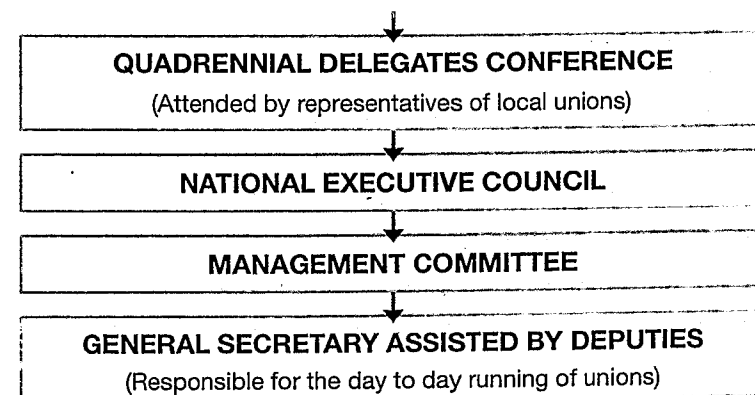
Annex 7 - Internal Organizational Structure Of The Trade Union Congress And its Affiliates

The structure of the TUC and its affiliate unions are similar. We produce below the hierarchical structure of the TUC and its affiliated unions.

STRUCTURE OF THE TRADES UNION CONGRESS



STRUCTURE OF A NATIONAL UNION



6 References

Arthiabah, Blay Peter and Mbiah, Harry Tham, 1995 – Half a Century of Toil, Trouble and Progress – History of the Trades Union Congress of Ghana, Gold-Type Publications Ltd.

Baah, A. Y., 2001, Structural Adjustment and the Informal Sector in Ghana. @ In *The Social Dimension of Structural Adjustment in Ghana*. Edited By Baah, Anthony Yaw, a Ghana Trades Union Congress and International Confederation of Free Trade Unions - Africa Regional Organization (ICFTU-AFRO) Research Project, Hallow Ads Ltd, Accra, 2001.

Bank Of Ghana Monthly Statistical Bulletin

Ghana (1994). Towards Sustainable Employment Generation in Ghana. Technical Papers. Ministry of Employment, Accra.

Ghana Living Standard Surveys, GLSS 1-4

Gockel, A. F. and S. K. Akoena, 2003 *Financial Sector Liberalization and the Labour Market in Ghana*, Final Report of a Research Funded By ILO/ Netherlands Government on Impact of Financial Sector Liberalization on the Poor (IFLIP)

Government Budget Statements

Opanin Obeng Fosu, Patrick, (1999), Industrial Relations In Ghana, Ghana University Press

Social Security And national Insurance Trust, 2002, Medium Term Strategic Plan: 2002 -2006, Accra, May 2002

Trades Union Congress – Executive Board Report on Activities June 1966-June 2000.

Trades Union Congress – Secretary General's Report on Activities for second half of the year 2000

Trades Union Congress – Report on Activities of the Trades Union Congress for the first half of the year 2003 presented to the Executive Board

Trades Union Congress – Membership Survey, Preliminary Report, (2002)

Various Acts of Parliament and Government Decrees

World Bank, 1985, Ghana: Towards Structural Adjustment, Report No. 5854-GH, Washington D.C