

N.R.C.D. 139

TIMBER OPERATIONS (GOVERNMENT PARTICIPATION) ACT, 1972

ARRANGEMENT OF SECTIONS

SECTION

1. Government's majority share holding.
2. Payment of fair compensation.
3. Government to facilitate transfer of moneys.
4. Management of company.
5. Transitional arrangement for marketing.
6. Condition of services.
7. Commissioner to take action to implement Act.
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SCHEDULE

N.R.C.D. 139

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AN ACT to provide for the Government's participation in certain companies and for related matters.

1. Government's majority share holding

(1) With effect from the 1st day of October, 1972, the equity capital in each of the following timber companies, namely,

(a) the Gliksten (West Africa) Limited,

(b) the Takoradi Veneer and Lumber Co. Limited (including the Timber Division of R. T. Briscoe (Ghana) Limited), and

I. The Act was issued as the Timber Operations (Government Participation) Decree, 1972 (N.R.C.D. 139) made on the 28th day of December, 1972 and notified in the *Gazette* on 29th December, 1972. The Decree provided for the Preamble as follows:

"WHEREAS it is in the interest of national development and of the well being of the people of Ghana, and it is in furtherance of the general economic policy of the National Redemption Council of promoting self-reliance, that the State assume a controlling interest in the ownership of the productive facilities employed in the development of the natural resources of Ghana, while at the same time encouraging private participation in such development whether Ghanaian or foreign:

AND WHEREAS it is in the interest of the people of Ghana that the State secure a controlling equity participation in operating timber companies in Ghana:"

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(c) the African Timber and Plywood (Ghana) Limited, shall be held fifty-five percent by the Government and forty-five percent by the minority shareholder of each company respectively.

(2) The Minister may, by executive instrument, apply subsection (1) to any other timber company, and in the case of a company to which subsection (1) is applied under this subsection, the application shall take effect from the date prescribed in the executive instrument made in relation to that company.

(3) Each of the companies shall respectively have a governing board comprising eight members, five of whom shall be appointed by the Government and three by the minority shareholder of each company respectively, and the chairman of the board shall be appointed by the Government.

(4) Each company shall have a managing director who shall be appointed by the President on the recommendation of the Minister responsible for Lands and who shall hold office on the terms and conditions determined by the President.²

2. Payment of fair compensation

(1) The Government shall, in accordance with this section, pay to the minority shareholder of each of the companies referred to in section 1 respectively fair compensation in respect of the equity capital held by the Government by virtue of this Act.

(2) In respect of each company the Government shall pay in cedis to the minority shareholder of that company, a sum equal to fifty-five percent of the total value of assets described in subsection (3) of this section over a period of not less than five years from the commencement of this Act or from the date of commencement of application to that company of subsection (1) of section 1 and at an interest rate not exceeding two and a half percent per annum.

(3) For the purposes of this section, the value of the total assets of each company shall be their net book value, that is to say,

- (a) the fixed assets shall be valued at their original cost less reasonable depreciation up to the date of commencement of this Act or the date of application to the company in question of subsection (1) of section 1; and
- (b) the current assets shall be valued at their book value less provision for bad and doubtful debts up to the commencement of this Act or the date of application to the company in question of subsection (1) of section 1.

(4) Goodwill and any other assets not represented in tangible form shall have nil value.

3. Government to facilitate transfer of moneys

The Government shall employ its good offices to ensure that the moneys paid by it under section 2 in respect of shares acquired by it are transferred as soon as practicable out of Ghana if the persons to whom the moneys are payable are not citizens and they request that the moneys should be so transferred.

2. Amended by the Amending Decree, 1974 (N.R.C.D. 294) and further amended by the Timber Operations (Government Participation) (Amendment) Decree, 1976 (S.M.C.D. 9).

4. Management of company

The Board of each of the companies mentioned in the Schedule shall have general control of the management of each company. 3

5. Transitional arrangement for marketing

(1) Where before the commencement of this Act any of the companies to which subsection (I) of section I applies is the owner of a trademark in respect of a timber product, that company shall, for a period of five years from the commencement of this Act or from the commencement of the application to that company of subsection (I) of section I, be entitled to export and market the timber product through its own marketing agents subject to the overall control and direction of the Ghana Timber Marketing Board.

(2) A new trademark in respect of a timber product shall not be acquired without the prior approval of the Ghana Timber Marketing Board.

6. Condition of services

The persons employed by each of the companies in the Republic in respect of their operations in Ghana shall enjoy terms and conditions of service which are not less favorable than those applicable to them immediately before the commencement of this Act or the application to the company in question of subsection (I) of section I.

7. Commissioner to take action to implement Act

- (1) The Minister responsible for Lands shall take the measures that are expedient for ensuring that this Act is given full effect.

(2) Without prejudice to the generality of subsection (I), the Minister may give directions that are necessary for giving full effect to this Act and all persons shall comply with the directions.

(3) The Minister may in writing, request from a person an information necessary for the purposes of this Act, and a person requested to do so shall produce the information within the time prescribed by the Minister.

8. Offences

- (1) A person commits an offence if that person
 - (a) obstructs directly or indirectly the implementation of a provision of this Act, or
 - (b) fails to comply with a direction or condition given or imposed by the Minister under section 7 or 9, or

3. Substituted by section (b) of the Timber Operations (Government Participation) (Amendment) Decree, 1976 (S.M.C.D. 9). The Decree also provides in section 2 that "Any agreement entered into before the commencement of this Decree in pursuance of section 4 of the principal enactment between the Government and the minority shareholder of any of the said companies in the terms and conditions of management is hereby cancelled. "The Decree also provided that it shall be deemed to have come into force on the 1st day of January, 1976.

(c) fails to produce an information requested by the Minister under section 7 or 9, or produces an information in response to the request which is false or which that person does not have a reason to believe to be true, or

(d) destroys, falsifies or mutilates a record or book of account relating to a matter affected by this Act.

(2) A person convicted of an offence under subsection (1) is liable to a fine of not less than one thousand five hundred penalty units or to a term of imprisonment not exceeding seven years or to both the fine and the imprisonment, and in the case of a continuing offence to a further fine not exceeding one hundred penalty units in respect of each day during which the offence continues.

(3) Where an offence under this section is committed by a body of persons

(a) in the case of a body corporate other than a partnership, every director, secretary or any other officer of that body shall be deemed to have committed that offence, and

(b) in the case of a partnership, every partner shall be deemed to have committed that offence.

(4) A person shall not be convicted of an offence by virtue of subsection (3) if it is proved that the offence was committed without the knowledge or consent of that person, and that the necessary steps were taken, having regard to the circumstances, to prevent the commission of the offence.

9. Companies to institute training schemes

(I) Each of the companies shall institute training schemes for citizens which are designed to equip them with the skills required for the operation and management of those companies within the shortest possible time.

(2) For the purposes of subsection (I), the Minister responsible for Lands may request information and impose conditions which the Minister considers necessary and reasonable, and a person concerned shall comply with the request and conditions.

10. Interpretation

In this Act, unless the context otherwise requires,

"**citizen**" means a citizen of Ghana;

"**minority shareholder**" means the persons who were shareholders of each of the companies to which subsection (I) of section 1 applies immediately before the commencement of this Act or the date of application of that subsection to that company.

11. Commencement

*Spent*⁴

4. The section provided that the Decree shall be deemed to have enactment from the 1st day of October, 1972.

SCHEDULE

[Section 4]

1. The Gliksten (West Africa) Limited;
2. The Takoradi Veneer and Lumber Company Limited (including the Timber Division & R. T. Briscoe (Ghana) Limited);
3. The African Timber and Plywood (Ghana) Limited; and
4. The Main Timber Company Limited.