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FORWARD

The past decade, in particular, has been a period of exponential growth of Non-Governmental Organisations (NGO) in Ghana. NGOs have grown in both numbers and range of activities and in positive response to the challenges and opportunities of reducing poverty, promoting human development and strengthening democratic governance in the country. Across the broad spectrum of life, NGOs have initiated projects in aid of marginal and deprived groups in rural and urban communities and participated in other programmes aimed at promoting social change and development at community, districts, regional, national and international levels.

These evolving roles and activities have endeared NGOs to individuals, groups and communities, as well as to government agencies and international organisation. They have strengthened national and global recognition of NGOs as significant agents of human development and democracy. In the specific context of Ghana, NGOs are working to enhance our national development assets as they mobilise financial, material and human resources at local and external levels in support of social and economic development that adequately includes the needs of grass root communities -urban and rural.

In pursuit of its mandate and responsibilities for national development, the Government of Ghana will promote "durable partnerships" with civil society organisations so that their enormous potential as agents of social change and development will be fully realised. This **National Policy on Strategic Partnerships with NGOs** has, accordingly, been formulated to create an enabling environment for building "co-operative relationships" and, possibly, "durable partnerships" between NGOs and the Government of Ghana.

Between November 1999 and October 2000, a National Consultative Group constituted by the representatives of Government and NGOs worked together to develop the proposals for this policy. They supervised the preparation of a common document in which issues of policy and proposals for their resolution were presented. Thereafter, extensive consultations were held on the document with stakeholders at local and national levels in the months of August and October 2000. Through these consultations broad-based support was mobilised for the proposals as alternative proposals were canvassed. The consultative workshops then adopted resolutions that invariably expressed support for the process and outcomes of the consultation on national NGO policy. Copies of the resolutions are presented as appendix B of this document. Appendix A presents the background to this policy initiative, highlighting the issues and attempts at resolving them in the past. The policy, as presented below, defines (a) the vision, principles, and objectives of the desired relationship, and (b) delineate the strategies needed to attain the objectives in the long term. The proposals were endorsed after thorough deliberations at a national conference held on 25-26 October 2000.

This "joint-action" consultation process might in the long term be of even greater value than the physical end result in the form of this paper. The broad-based consultative and participatory approach used in producing this draft policy document has undoubtedly helped in improving relations between the Government and NGOs since the two actors disagreed in 1995 on the nature of national policy required for regulating their relations. The disagreement marred relations between Government and NGOs for almost half a decade making it difficult for dialogue to progress to the point of negotiating and making compromises to resolve the regulatory issues. The inclusive, participatory and democratic nature of the consultation process indeed facilitated true dialogue creating a constructive environment for resolving the "critical issues" of disagreement in the past and, thereby, opened a fresh chapter in the relations between the Government and NGOs.

All those who contributed to making this remarkable process successful deserve to be commended. Notable among the contributors are Hon. Alhaji Muhammad Mumuni, Member of Parliament and ex-Minister of Employment and Social Welfare, and members of the National Consultative Group (NCG) that worked voluntarily and tirelessly mediated conflicting opinions and bringing this process to a good end. The other contributors are IDEG as the consulting organisation that provided several draft versions of the discussion papers and also facilitated the various consultation workshops, and the participants from the Government and NGO sides who with great devotion defended not only their own but above all their mutual interests.

We would also like to express our gratitude to the various organisations and institutions that generously sponsored the consultation process. These include the:

Ministry of Employment and Social Welfare SNV/Netherlands Development Organisation World Bank UNDP/NIRP Royal Netherlands Embassy Action Aid CARE International DFID Plan International CAF West Africa

We hope that the spirit of the consensus, goodwill and partnership that is evolving between NGOs and the Government of Ghana will flourish to the benefit of our national development efforts and in strengthening democracy and good governance in Ghana.

We urge the Government of Ghana to adopt and effectively implement the proposals contained in the draft policy document so that relations of co-operation and strategic partnerships between Government MDAs, NGOs, local communities and donors would become a solid reality beneficial to all stakeholders.

Mr. George Ahadzie NCG Chairman Mrs Bridget Katsriku Government Representative Mr Kofi Adu NCG Secretary

1.0 Executive Summary

The Government of Ghana seeks to forge a *strategic partnership* with NGOs and other stakeholders operating in the 'non-profit sector' so that its long-term development goals would be pursued more vigorously and achieved with the effective support of all parties. The partnership would be strategic insofar as it is developed in a manner that consciously takes advantage of the unique capabilities of NGOs to accelerate and sustain social and economic development and strengthen democratic governance in the long term in Ghana.

Against the backdrop of a situational analysis of the evolution of Government-NGO relations in the past decade or more, key issues that have so far impeded co-operative and partnership relations between the two actors are identified. Among the issues discussed in the background section of this document (Appendix B), the need to clarify the goals and objectives of national policy and formulate good strategies for their effective attainment is emphasised. Drawing on published and unpublished sources, including the national development policy framework, the Constitution of the Fourth Republic of Ghana (1992), and NGO documents, the vision, principles and objectives of the co-operative and partnership relationship to which the Government and NGOs and other stakeholders aspire are defined.

Thereafter, issues of establishing an appropriate framework for the practical pursuit and attainment of the goals and principles are addressed. This involves specifying the non-profit sector as the public domain of the strategic partnership together with the principles, rights and duties of the actors involved using Chapters 5 and 6 of the 1992 Constitution.

Special attention is given to designing an appropriate legal and institutional framework that is informed by the limitations of the existing setting for NGO operations and seeks to improve upon them. An argument is made for the creation of a more coherent framework that links national and local spheres of operations and promotes relations of co-operation and partnership between Government MDAs and NGOs as well as communities. The proposals made cover the definition, classification, registration and taxation as well as the funding and accountability of NGOs.

In addition to the legal framework, the institutional framework has also been duly considered. The establishment of an independent and financially autonomous National Commission on NGOs (NCNGO) that would enable the operations of NGOs in the non-profit sector to be jointly steered by the Government and NGOs together with other stakeholders is recommended. The mode of constituting the membership of the NCNGO is specified with its functions, secretariat and funding.

The document further discusses the nature of governance relations that should exist among and between the stakeholders. It looks at how relations among NGOs and state institutions and with District Assemblies and donors can be developed to reflect the letter and spirit of co-operation and partnership. Finally, the policy deals with the undertakings required of each stakeholder in the strategic partnership.

The range of issues addressed by this draft national policy is broad enough to accommodate the concerns of the multiplicity of stakeholders who are not only interested in promoting sustainable and equitable national development but also strengthening participatory democratic governance in Ghana. In that regard, the policy makes an important contribution to the creation of a more coherent institutional framework and enabling environment within which the Government and NGOs can improve their relations and strengthen collaboration and partnership between them.

The proposals upon which this policy is derived were discussed and refined by representatives of the major stakeholders who deliberated upon the text and content of earlier drafts of this document that were presented to the zonal and national workshops where they were unanimously endorsed. In order to shed more light on the policy recommendations, the situational analysis that provides a background to the proposals is presented in Appendix B of this document.

2.0 Policy rationale: Strategic Partnership

The Government of Ghana seeks to forge a *strategic partnership* with NGOs and other stakeholders operating in the 'non-profit sector' in order to achieve its long-term development goals. The fund-raising skills of local and international NGOs including their ability to mobilise people and technical resources in support of community development provide them a comparative advantage in articulating and responding to the needs of the grassroots with relative speed and flexibility. In working to meet the welfare and developmental needs of the poor and voiceless, while promoting social integration, equality and democracy, NGOs would be encouraged to draw on their capabilities to *accelerate and sustain the social and economic transformation of Ghana* into a middle-income *just and free society*.

Partnership with the NGOs will be *strategic* in two senses. Firstly, it will draw on the relative capabilities of each party to advance democracy, good governance and national development in a manner that is both complementary and mutually beneficial to both parties. Secondly, the relationship is strategic because of its long-term orientation. Creating opportunities and enabling conditions for transforming the conditions that perpetuate poverty and deprivation, powerlessness, ignorance and exclusion in Ghana is an important task that will be better attained in the long, rather than the short term. Systematic steps will be taken to improve relations and strengthen the foundations for future strategic partnerships.

2.1 Goals of the policy

In promoting the strategic partnership, Government would work together with NGOs to pursue and attain the objectives of national development policies, programmes and projects. The goals to be attained by year 2020 are:

- Higher rates of investment, employment and growth
- Reduction of poverty and ultimate elimination of hard core poverty
- Equitable distribution of the benefit of development
- Sustainable human development through improvement in the management of the environment
- Good democratic governance

These goals would be pursued in a manner that enhances the building of a *free and just society* as envisioned in the Constitution of Ghana (1992).

2.2 Objectives of the policy

The national policy would have as its objectives the:

- Recognition of NGOs as strategic partners in national development and democratisation
- Creation of an enabling legal, institutional and democratic environment for NGOs to operate and contribute effectively to national development
- Establishment of a framework for consultations on issues that affect the effective governance of NGO activities in the non-profit sector and how to resolve them
- Promotion of collaboration between Government, NGOs and other stakeholders to improve relations and enhance the pursuit and attainment of individual and collective national development goals

2.3 Policy strategies

The strategy for pursuing the above goals and objectives in the long term shall involve the:

- Clear definition of the framework of partnership including the domain, principles and rights of the strategic partners
- Recognition of NGOs as legally registered entities that play legitimate roles in national development and democratisation and can sue and be sued

- Creation of a coherent, legal, and institutional framework for effective operation of NGOs at national, regional, district and community levels
- Formulation of standard and simplified rules, regulations and procedures for registration and joint regulation of operations of NGOs
- Facilitation of the development of NGO networks to enhance co-ordination of their participation in the implementation of the policy and evaluation of its outcomes monitoring and co-ordination of their activities, and improve transparency and accountability practices

2.4 Framework of partnership

The framework of partnership shall comprise the following:

2.4.1 Domain of the strategic partnership

The domain of partnership between Government and the NGOs would be broadly defined as the nonprofit sector. This is an emerging field of activity located within the multiple sectors of the public arena where goods and services, including training, research, advocacy and lobbying are delivered primarily for social and humanitarian purposes, rather than for individual or group profit. In contrast to the private sector, the non-profit sector is organised on the following principles:

- Services are rendered or goods delivered in the interest of the general public, or a significant section of it, including the membership of the organisation
- Revenue generated in the production and delivery of services or related public goods as net of salaries and operational costs will not be distributed as 'profit', 'dividends' or 'excess compensation' to individual founders, trustees or members of the management board of the organisation
- Transaction costs of non-profit operations may be covered partly through immunities and privileges granted by the State in the form of specified tax exemptions and subventions or as grants and donations from corporate firms or individual philanthropists

The non-profit sector has become a prime area of 'donor investment' in social goods, equal opportunity and poverty reduction programmes, offering employment opportunities to several thousands of people. Although the lack of data makes outright determination of the exact size of the sector difficult, it is widely perceived to be contributing to economic growth and social development. NGOs are prominent actors in the not-for-profit sector, joining other civil society organisations and groups, donors, corporate firms and state institutions to promote sustainable national development. National policy would seek to facilitate the effective operations of NGOs and other civil society organisations in the public not-for-profit sector.

2.4.2 Principles of partnership

Strategic partnership between the Government of Ghana and NGOs will be guided by a set of principles that should be upheld at all levels of work in the development process. The principles on which the relationship will be based are:

- Mutual recognition and respect for their different and complementary roles, values and objectives in the collective task of building a free and just society
- Collaboration in the mobilisation of internal and external resources to promote common goals and mutually beneficial outcomes
- Parity in openness and trust towards each other in dialogue and consensus building
- Pool resources together and share responsibilities for outcomes while observing distinct accountability, reciprocal obligations and learning from each other

2.4.3 Rights and duties of the strategic partners

The rights and duties of the strategic partnership derive from the Constitution of the Republic of Ghana (1992), specifically Article 21 (1)(a-e) of Chapters 5 and Article 37 (1), (2)(a)(b), and (3) of Chapter 6.

Article 21 stipulates that:

(1) "All persons shall have the right to

(a) Freedom of speech and expression, which shall include freedom of the press and other media

- Freedom of thought, conscience and belief, which shall include academic freedom
- Freedom to practise any religion and to manifest such practice
- Freedom of assembly including freedom to take part in processions and demonstrations
- Freedom of association, which shall include freedom to form or join trade unions or other associations, national and international, for the protection of their interests
- Information, subject to such qualifications and laws as are necessary in a democratic society;
- Freedom of movement which means the right to move freely in Ghana, the right to leave and to enter Ghana and immunity from expulsion from Ghana

Article 37 stipulates that:

"(1) The State shall:

- Endeavour to secure and protect a social order founded on the ideals and principles of freedom, equality, justice, probity and accountability as enshrined in Chapter 5 of [the] Constitution; and
- In particular direct its policy towards ensuring that every citizen has equality of rights, obligations and opportunities before the law

(2) The State shall enact appropriate laws to assure -

- The enjoyment of rights of effective participation in development processes including rights of
 people to form their own associations free from state interference and to use them to promote and
 protect their interests in relation to development processes; rights of access to agencies and
 officials of the State necessary in order to realise effective participation in development processes;
 freedom to form organisations to engage in self-help and income-generating projects; and freedom
 to raise funds to support those activities;
- The protection and promotion of all other basic human rights and freedoms, including the rights of the disabled, the aged, children and other vulnerable groups in development processes

(3) In the discharge of the obligations stated in clause (2) of this article, the State shall be guided by international human rights instruments which recognise and apply particular categories of basic human rights to development processes"

These rights also subsume duties of citizenship and participation as stipulated in the 1992 Constitution.

2.4.4. Legal framework

The legal framework defines NGOs and their range of activities and stipulates the conditions for their registration as legal entities and attendant privileges under the law.

2.4.4.1 Definition of NGOs and their activities

NGOs in Ghana are defined as civil society organisations that are formed independently of the State but register voluntarily under specified laws in order to gain official recognition to pursue purposes that are not self-serving but oriented towards public benefit. Such registration qualifies NGOs to access public development funds, be it from external donors or Government MDAs, and/or benefit from tax exemptions and account for their usage in their operations in the non-profit sector. NGOs in Ghana may be national as well as international; secular as well as faith-based; and membership or nonmembership based. They operate in fields such as health, education, rural and urban development, environment, population and social welfare.

NGOs are also involved in employment creation, micro-credit/financing, economic development, skills training, gender awareness and action, peace and human rights, informal economic activity, anticorruption, poverty reduction and advocacy on policy reforms. They may operate across sectors, regions and at the centre in their service to the community, the deprived and underprivileged as well as the general public. NGOs are not homogeneous actors. They differ in activities, structure, organisation, resources, leadership, membership, ideology and aspirations. An appropriate system of classification shall be designed to enhance the identification of NGOs and their core activities. Such a system would also facilitate professional monitoring of their operations and related trends.

2.4.4.2 Registration

Civil society organisations seeking to be recognised as NGOs and operate as such shall first register with the officially designated body mandated to perform this function, i.e. the National Commission on NGOs (NCNGO). Registration will be decentralised to the district level where local organisations including community-based organisations (CBO) will register. Registration at the district level will be effectively co-ordinated at the national level by the NCNGO. National and international NGOs shall register at the national level but will be required to inform the district authorities of their operations including programmes and projects at the local level. International NGOs shall register with the Commission under country agreements that specify the nature of the relationship including programmes and resources between the applicant organisation and the people of Ghana.

Renewal of registration shall be routine and linked to the submission of annual reports and payment of prescribed fees. Existing laws, procedures, rules and regulations shall be reviewed, simplified, harmonised and standardised to facilitate registration. NGOs shall ultimately be liable to de-registration after acts of misconduct or non-compliance with the law, rules, and regulations had been fairly and impartially investigated and all other means of effecting corrective measures have proved futile. At all times, adequate provision shall be made to protect the rights of NGOs to operate effectively and to encourage accountability and transparency in relation to their partners and stakeholders.

2.4.4.3 Taxation and exemption

Registered NGOs would be recognised as non-profit sharing organisations operating in the non-profit sector of the economy and society. This may qualify them for privileges such as tax relief and customs duties exemption. Such privileges may be granted by the State as indirect funding aimed at lowering the transaction costs of NGOs.

Taxes shall be paid on:

- Incomes of NGO employees
- Substantial profits generated from commercial activities undertaken by NGOs

Tax exemption would be granted under an appropriate Act of Parliament. Qualifications and criteria for exemption will be jointly developed by the sector Ministry, i.e. the Ministry of Manpower Development and Employment and the national commission for NGOs in consultation with the appropriate agencies of state responsible for tax collection. Applications for exemption shall be made to the national commission for NGOs whose recommendations to the tax collection authorities will be channelled through the sector Ministry. The Commission will be responsible for recommending to the appropriate state agencies approval for the following:

- Work permits and visas
- Income tax exemption for expatriate employees of international NGOs including customs duties on the personal effects brought into the country
- Exoneration from customs duties and related taxes on basic goods imported by NGOs to facilitate their operations including humanitarian services

2.4.4.4 Funding and accountability

Government shall support philanthropy, fund-raising and grants by international donors to sustain effective and efficient operations of NGOs in the long term. Individuals, groups, and corporate firms that contribute to this cause shall be granted tax relief. These privileges would be granted under conditions of strict accountability. An appropriate criteria and system of financial accountability and transparency will be developed to enhance effective management of the tax regime for NGOs. NGOs shall be transparent and accountable in their utilisation of public funds deriving under the privileges granted them as non-profit sharing organisations. They shall use all available opportunities to inform the public about their work and hold themselves accountable to their sponsors –local and foreign- and target beneficiaries.

2.5 Institutional Framework

A coherent institutional framework would be created to enhance the operations of NGOs at the district and national levels and improve the monitoring and co-ordination of their participation of NGOs in national development. The institutions would comprise:

2.5.1 National Commission for NGOs (NCNGO)

A National Commission for Non-Governmental Organisations (NCNGO) shall be established as an independent and autonomous body responsible for the implementation of the national policy on strategic partnership with NGOs. The financial and political autonomy of the Commission shall be respected and protected by all stakeholders. The Commission shall elect its Chairman from among its membership. Membership shall be representative of all major stakeholders -Government, NGOs, private corporate firms, and beneficiary communities- but will be weighted in favour of NGOs to reflect their majority status. The donor community would be given an observer status on the Commission.

The NCNGO shall perform the following policy-related and administrative functions.

Policy-related Functions: It shall

- Promote effective working relationships in support of activities of NGOs in the non-profit sector.
- Ensure compliance with equal opportunities and other employment policies of government by NGOs
- Oversee the implementation of the national NGO policy ensuring that NGOs operating at national, regional and district levels comply fully with the policy.
- Promote the development of a code of conduct for NGOs by the NGOs themselves to strengthen self-regulation.
- Ensure that non-profit organisations fulfil their accountability obligations with respect to the law. E.g. reporting periodically on activities and finances.
- Review the implementation of national policy periodically through quarterly and/or bi-annual meetings with stakeholders including officials of Government and NGOs and representatives of communities and donors institutions. The reviews will also aim at assessing the impact of national policy on the effectiveness of operations of NGOs
- Support the strengthening of partnership through advocacy and other methods

Administrative Functions: the NCNGO shall

- Combine and perform the functions of registration, monitoring and co-ordination that were hitherto
 performed separately by the Registrar-General's Department of the Ministry of Justice and the then
 Ministry of Employment and Social Welfare (MESW)
- Publish rules, regulations, forms and procedures stating the requirements for registration as well as the rights, obligations, benefits, and immunities of NGOs
- Register all NGOs and issue certificates of registration
- Use existing local structures such as NGO Desks in District Assemblies and NGO networks to facilitate registration, monitoring and co-ordination functions at the local level
- Develop a database on the development activities of NGOs and provide access to appropriate bodies and stakeholders
- Endorse applications by NGOs for tax-related exemptions by the State's tax collection agencies
- Design a system for monitoring the performance of NGOs and ensure their effective compliance with existing laws and regulations on their operations in the country
- Establish an appropriate conflict resolution mechanism for resolving disputes between NGOs and other stakeholders in the non-profit sector

Funding

The NCNGO would be funded through statutory budget grants, registration and related fees paid by NGOs, grants from donors and donations by other stakeholders.

Secretariat of the NCNGO

The NCNGO would set up a secretariat headed by an Executive Director appointed by the Commission and assisted by qualified personnel recruited in an open competitive system and in compliance with the

employment laws of the country and the skills and competence required for the efficient operations of the Commission.

NCNGO and the Ministry of Manpower Development and Employment¹

In the performance of its policy and developmental functions the NCNGO shall work closely with the Ministry of Manpower Development and Employment -the sector Ministry responsible for NGOs. It shall submit periodic reports to the Ministry on its policy-related and administrative activities including the review of the implementation of national policy and assessment of its impact on the operational framework for NGOs. The Ministry shall provide a link between the NCNGO and the Cabinet and Parliament and perform functions that are supportive of NCNGO by:

- Facilitating the creation of the National Commission for NGOs (NCNGO) to oversee the implementation of the national policy
- Initiating and promoting the enactment of legislation to facilitate the effective functioning of the NCNGO
- Mobilising complementary donor funding for the NCNGO
- Collaborating with the Ministry of Finance and the State's revenue collection agencies to ensure smooth implementation of taxation and funding policies applicable to NGOs

3.0 Governance relations

In pursuing the long-term vision of building strategic partnership relations with NGOs in the non-profit sector, Government recognises the role of other stakeholders, notably donors including corporate business firms, in the sector. Accordingly, relations between the different stakeholders are covered in this policy.

3.1 Relations among NGOs

The state would encourage peak NGOs and/or NGO networks to strengthen their representation in national policymaking by:

- Developing effective working relationships with the NCNGO
- Framing a code of conduct and quality standards to enhance self-regulation by NGOs
- Building their organisational and technical capacity to influence national development policymaking and implementation
- Strengthening dialogue and regular interactions between NGOs and other stakeholders at all levels of national and local governance
- Creating a national forum for NGOs to articulate, debate and promote their collective views on national development policies
- Developing a database on activities and achievements of NGOs that would be accessible to the public

3.2 <u>Relations with State institutions and agencies</u>

Relations between NGOs and state institutions/agencies are evolving into mutually beneficial collaboration, both in technical and financial terms. Sector-wide networks are being organised and representation in sector-level policymaking is being strengthened. In compliance with this policy, line ministries would be encouraged to build upon the progress made and ensure that their relations with NGOs would at all times be conducted in a manner that advances the goals and objectives of the national policy. Line ministries would also be encouraged to work closely with the NCNGO to promote effective monitoring and co-ordination of programmes aimed at strengthening the strategic partnership between Government and NGOs and other stakeholders,

3.3 Relations with District Assemblies

Strategic partnership between NGOs and Government necessarily includes the District Assemblies. Under the Government's decentralisation and local government policy, District Assemblies have been

¹ The **Ministry of Manpower Development and Employment** was until January 2001 known as the Ministry of Employment and Social Welfare

assigned the critical function of formulating and executing development plans, programmes and strategies for the effective mobilisation of resources necessary for the overall development of the district. Furthermore, District Assemblies are empowered to levy and collect taxes, rates, duties and fees (1992 Constitution Art. 245 and Local Government Act 462, 1993). These functions underscore the need for NGOs and District Assemblies to build constructive relations and improve service delivery to poor and deprived communities by avoiding duplication of development projects, poor maintenance of NGO projects, and lack of co-ordination in development resource allocation and utilisation at the district level. District Assemblies and NGOs will be encouraged to:

- Inform each other about their respective development plans, projects and strategies
- Co-operate to facilitate the effective decentralisation of NGO registration. NGOs will be required to
 register in any district in which they work. Such registration would be administrative and shall not be
 encumbered by undue financial or other constraints. If registration is denied, an NGO can seek
 redress through the NCNGO.
- Promote institutional representation of each other in the various committees and sub-committees that plan and execute development programmes and strategies
- Forge strong links with NGO desk officers so that links between NGOs and relevant government departments at the district level will be strengthened
- Provide mutual support including funding and technical assistance to each other
- Create a forum for regular dialogue on issues affecting operational relation and to seek ways of resolving them through consensus

3.4 Relations with donors

Government will encourage donors to continue assisting and supporting the activities of NGOs in conformity with the national policy. Donors will be encouraged to:

- Promote funding policies and practices that can strengthen and sustain partnership with NGOs in the long term.
- Contribute to the funding of the organisational and institutional development of NGOs and the nonprofit sector.
- Co-ordinate funding policies and practices to minimise duplication and enhance efficiency in development resource use
- Promote the development of a standard and simplified framework for effective financial accountability of NGOs
- Provide financial support to facilitate the operation of the NCNGO.

4.0 Policy Development and Consultations

In pursuit of the objectives and goals of the strategic partnership, major stakeholders would be encouraged to make the following undertakings.

Government undertakes to:

- Inform NGOs of new policies and procedures, particularly at the developmental stage and their implications for the non-profit sector through the NCNGO and the national organisation of NGOs
- Consult NGOs on issues that are likely to affect the non-profit sector allowing reasonable time periods for response and taking into account the need for organisations to consult their stakeholders
- Take account positively of the specific needs or interests, and contributions of those parts of the non-profit sector representing women, disabled persons, and other minority groups
- Respect information provided by NGOs in the non-profit sector (within the constraints of confidentiality, the law, and proper performance of public duties)

• Provide easy access to information, which NGOs need to use in their day-to-day activities.

NGOs undertake to:

- Inform communities, groups and clients about activities and policy positions being presented to Government
- Communicate accurately the views put to NGOs in the course of representations to Government

- Respect the confidentiality of sensitive Government information, when so required, in the process of consultations
- Develop a code of good practice covering consultation, implementation and appraisal of policy.

Donors undertake to:

- Inform NGOs of new policies and procedures, particularly at the developmental stage, that are likely to impact on their effectiveness of their operations
- Respect the right of NGOs to initiate development projects and programmes within the framework of national development policies and programmes
- Consult NGOs on the formulation or reform of funding policies that bear directly on their operations and affect the development of the non-profit sector
- Encourage NGOs to comment on donor development policies and to advocate changes, irrespective of any funding relationship that might exist between them and the donors.

RESOLUTION OF THE NATIONAL CONFERENCE ON DRAFT POLICY ON NGO POLICY AND PARTNERSHIP FRAMEWORK HELD AT ELMINA BEACH RESORT, OCTOBER 25-26, 2000

We, the representatives of NGOs, government Ministries, Departments and Agencies and Donors participating in the National Conference on the Draft NGO Policy and Partnership Framework have after Two Days of intensive deliberations resolved as follows:

- 1. We endorse the proposals contained in the Draft Policy on NGOs and Partnership Framework as amended by the workshop and in particular agree on the following:
 - a. The establishment of an autonomous and independent National Commission on NGOs (NCNGO).
 - b. The Multi-stakeholder membership of the Commission.
 - c. The election of the chairperson of the Commission from among its membership.
 - d. The desire to have a higher proportional representation of NGOs compare to other stakeholders.
 - e. We also endorse the policy and administrative functions of the NCNGO with the inclusion of Advocacy Role.
- 2. We further endorse the granting of tax exemption to NGOs who qualify under the law.
- 3. We agree that in coming to force of the NGO policy, all NGOs will be required to re-register with the NCNGO and renew their registration periodically as will be determined.
- 4. Participants also resolved that NGOs should register and collaborate with District Assemblies in pursuance of the strategy of sustainable social, economic and political development. We further agree that District Assemblies should facilitate the work of NGOs without placing undue financial and political impediments in their way.
- 5. We resolve to have a multi-purpose source of funding from NGOs, Government of Ghana, the donor community and other stakeholders.
- 6. We agree that the Ministry of Employment and Social Welfare should have ministerial responsibility to represent the Commission at Cabinet meetings and in parliament.
- After all amendments to the Draft Policy have been made the National Consultative Group is hereby authorised to submit the Draft Proposal to the Hon. Minister of Employment and social Welfare for his consideration and onward submission to Cabinet.
- 8. We humbly request that action be taken on the Draft Policy Proposals at all levels of Government to ensure that by the end of June 2001, Government / NGO relationship shall be managed within a new framework.
- 9. We all acknowledge this unique opportunity and process of dialogue after intensive consultation between NGOs, Government and other stakeholders from the grassroots to the glass-top.

10. Finally, we mandate the National Consultative Group to convey on our behalf, our sincere gratitude and appreciation to the Government of Ghana, the Ministry of Employment and Social Welfare, Action Aid, CAF, NIRP/UNDP, SNV, Plan International, Care International, The World Bank, The Royal Netherlands Embassy, DfID, GAPVOD, the International NGO Forum and IDEG for their generous funding and support for the Process of consultation up to this stage.

APPENDIX B

BACKGROUND TO THE NATIONAL POLICY

1.0 Need for coherent policy framework

In the decade between the mid-1980s and the end of the 1990s, government policy on relations with NGOs has evolved piecemeal. Sector policies and attendant legislation have individually assigned various roles to NGOs in the development process. This is evident in the laws on national and district development planning, and in the reform programmes of sectors such as education, health, water, rural development and environment. These policies and laws connote an expansion of public policy arenas to admit NGOs and other civil society groups. But they do not necessarily strengthen the civic engagement of NGOs and other civil society groups and their relations with the state. Relations between Government and NGOs in the country vary across sectors, regions and districts as they do across the organs of the state. A coherent or standard policy framework is needed to reinforce "cooperative relationships" and "durable partnerships" between NGOs and the State so that the objectives of reducing poverty, promoting human development and strengthening good democratic governance would be attained at all levels.

2.0 Situation Analysis

2.1 Evolution of Government-NGO relations

Government-NGO relations, like the activities of NGOs, have evolved from limited interaction and discord to greater engagement and accommodation within the past decade. At the district, regional and national levels of governance, Government officials and NGO leaders and activists are interacting more and more, acknowledging the complementary nature of their separate but related roles. Through this interaction both actors have come to understand their separate concerns and anxieties, appreciate the importance of their separate roles, shared aspirations and commitment to poverty reduction, human development and good democratic governance in the country. Growing awareness of the need for government and NGOs to work together has not diminished the determination of each actor to protect and promote civil, political, economic, social and cultural rights, and perform duties fundamental to *"the establishment of a just and free society"*.

2.2 Factors undermining relations

To realise the full potential of the evolving relations between the Government and NGOs, a number of issues and controversies that have impeded relations in the past and present and could stall progress in the future should be addressed. The concerns of each actor is summarised below

2.2.1 Government concerns include the following:

- Some NGOs operate without proper registration, making it difficult to monitor their operations as non-profit organisations
- NGOs have the tendency of executing projects without prior consultations with district and regional development planning authorities. Apart from problems of duplication, these practices divert attention from official development priorities and makes for inefficient allocation and utilisation of limited development resources
- Rivalry and competition among NGOs fuels the proliferation of NGOs and makes them 'ungovernable' and difficult to represent in high-level policy-making.
- Allegations of fraudulent practices and violation of rules of non-profit operations questions the identity and credibility of some NGOs
- Poor discharge of the duty of NGOs to submit reports on their operations to the appropriate authorities raise questions about their transparency and local accountability
- General lack of information on the scope of NGO activities in the non-profit sector that would facilitate measurement of their contributions to economic growth and development.

- Government officials tend to make statements that question their:
- "Status" as autonomous civil society organisations
- "Identity" as credible actors in the non-profit sector
- "*Right*" to participate in the formulation of social and economic policies, not merely in the implementation of government programmes, and to advocate change
- Government takes more interest in regulating them in a manner that controls their operations and undermines their autonomy than promote their self-regulation and growth
- Lack of prior consultation with NGOs on the making of policies or decisions that affect their operations
- MDAs have not kept proper documentation of NGO activity reports and have no mechanism of disseminating information on NGOs to the public and appropriate authorities
- Government overlooks the problem of inadequate financial support for NGOs and the need to assist them to build their operational capacities and provide information to facilitate development planning.
- Tax exemption policies are inconsistent and tends to make charitable activities infeasible

2.3 Policy and organisational responses to the issues

In response to these concerns, the Government and NGOs acted on their concerns separately.

2.3.1 Government's measures included

- Introduction of legislation to regulate NGOs. An NGO Bill (1993) was drafted but not enacted into law as NGOs protested, in 1995, to sections that violated their constitutional rights
- Customs duty exemption for NGOs² was suspended in May 1997 as government officials alleged that the facility was being abused
- Cabinet directive was issued in 1998 authorising the establishment of NGO Desks in all relevant MDAs. Desk officers were expected to function as liaison between Government and NGOs and as points of contact where data on NGOs can also be compiled. NGO desks were subsequently established in several sector ministries but not all MDAs including district assemblies.
- Directives for NGOs to clear their programmes with line Ministries and District Assemblies before they are issued with certificate of recognition. This measure addresses the problem of duplication of projects by NGOs and Government MDAs and its attendant conflicts.

2.3.2 NGOs responded to the concerns by

- Campaigning in 1995 for the withdrawal of the draft bill (1993)
- Initiating several capacity building programmes for their members
- Exploring avenues for increasing interaction and dialogue with government authorities
- Forming diverse networks to improve operations at different operational layers -sector, district, regional and national- and promote self-regulation. The networks have grown in number and promoted collaboration and information sharing among NGOs, but hardly transformed themselves into governance institutions. They have been split on the issue of recognition of GAPVOD as the national organisation of all NGOs in the country.

2.4 Review of the legal framework

The framework of Government-NGO relations is defined broadly by the Companies Code/Act 179 (1963), the Trustees (Incorporation) (Amendment) Law (1962/1993), the Constitution of the Republic of Ghana (1992) and Cabinet directives. The limitations of each of these components are summarised below:

2.4.1 Companies Code, 1963

The Code incorporates NGOs as 'companies limited by guarantee' and prescribes requirements for their registration. Besides, it defines a set of operational and accountability rules and regulations for registered organisations³. NGOs maintain that in compliance with the Code, they file annual reports with Government offices such as Registrar-General's Department as well as their donors. However, they

² The MOF said that it did not have the mandate to waive taxes since Article 174 (1-3) of the 1992 Constitution vest the power or Authority to waive tax or grant tax relief in the Legislature/Parliament.

³ For example registered NGOs are required to file annual activity reports and audited accounts, with the Registrar General or appropriate agency of Government.

allege that their reports are not properly documented by the receiving agencies and information provided is often not disseminated to the appropriate authorities. Government officials, on the other hand, argue that the Companies Code was formulated in circumstances that were different from those within which NGOs have recently emerged as a major social force⁴. For example, it was enacted under the 1960 Constitution of Ghana that defined an ideology and a framework of laws and institutions that were somewhat different from those of the 1992 Constitution. Government officials maintain that NGOs have not been complying fully with the Code.

2.4.2 Trustees (Incorporation) (Amendment) Law, 1993

This law was enacted in 1993 to restore the Trustees (Incorporation) Act (106), 1962, and to repeal the Religious Bodies (Registration) Law, 1998 (PNDCL 221). Unincorporated voluntary associations established for "any religious, educational, literary, scientific, sports, social, or charitable manner" are granted certificate of registration under this law. Although NGOs do not directly operate under this law, the law is nevertheless important since other voluntary civil society groups operate under it.

2.4.3 Constitution of the Republic of Ghana, 1992

The Chapters 5 (21) and 6 (37 (1) (2) (3)) guarantee rights of association and organisation of individuals to participate in development process. Chapter 6 defines a set of directive principles to guide the making and implementation of "any policy decisions for the establishment of a *just and free society*". The social objective of *the Directive Principles of State policy (Chapter 6,* Article 37(2)(a) of the 1992 Constitution) enjoins the State, among other things, to enact appropriate laws to:

- Assure the enjoyment of effective participation in development processes including:
- Rights of people to form their own associations free from state interference and to use them to promote and protect their interests in relation to development processes
- Rights of access to agencies and officials of the State necessary for effective participation in development processes
- Freedom to form organisations to engage in self-help and income generating projects, and
- Freedom to raise funds to support those activities".

These principles have guided the enactment of recent laws on local government and national development planning, among others. Also, administrative rules and regulations have occasionally been formulated in compliance with these principles. The laws connote a piecemeal approach to redefining the legal framework for the civic engagement of civil society organisations including NGOs with state institutions at the sector levels. Since such recently enacted laws are applicable to specific sectors rather than the whole system of governance involving NGOs, they do not appear to create a coherent legal and institutional framework for the civic engagement of NGOs throughout the system. The draft NGO Bill (1993) did not seek to provide such a coherent system; neither is the Companies Code (1963) enacted under the 1960 Constitution doing so nor reflecting the Directive Principles of State Policy in the 1992 Constitution.

2.4.4 Cabinet directives

Government directives have periodically been issued to address specific problems of regulating the operations of NGOs. Notable among the directives are those dealing with registration of NGOs with the Ministry of Employment and Social Welfare (MESW), clearance of NGO programmes with line Ministries and District Assemblies and the establishment of NGO Desks in all MDAs. Although well intentioned, these directives have not effectively addressed the problems they were targeted at. For example, NGOs find the directive on registration with the MESW rather confusion over 'recognition as NGO' deriving from registration with the MESW, on the one hand, and recognition as a legal entity, i.e. a 'company limited by guarantee', deriving from registration under the Companies Code. This palpable confusion has created a situation in which some NGOs register either with the Registrar-General's Department but not the MESW, or with both the Registrar-General's Department and the MESW, or with none of the two institutions. As a result the, problem of registration has become rather complicated. Both Government officials and NGOs are calling for clarification of the situation regarding registration.

⁴ Interview with an official of Ministry of Foreign Affairs, January 11 2000.

2.5 Review of the institutional framework

The formal institutional framework of NGO operations separates official responsibility for registration of NGOs as legal entities from formal responsibility for monitoring and co-ordination of their activities and locates them to different agencies of the State. The Registrar-General's Department in the Ministry of Justice is responsible for registration whilst the Ministry of Employment and Social Welfare (MESW)⁵ has responsibility for monitoring and co-ordination. Both ministries are considered to be less effective in performing their respective tasks. Hence, the concern that whilst some NGOs operate without proper registration, there is limited awareness within the machinery of government about their effectiveness and actual contributions to economic growth and development. The scope of inter-ministerial co-operation and co-ordination between the two Ministries is unclear. There is limited exchange of information including the updating of records on NGOs between the two Ministries. This problem is rather pervasive within the machinery of government as other sector Ministries dealing with NGOs do not exchange information or report to the MESW -the officially designated ministry for NGOs- either voluntarily or as an obligation.

Whilst the separation of responsibilities encumbers the monitoring and co-ordination of the operations of NGOs within the machinery of government, co-ordination among NGOs is equally weak. Although the NGO networks and/or coalitions promote interaction and facilitate the sharing of information among their members, they stop short of performing co-ordination functions. NGOs advocate self-regulation as an alternative to state regulation⁶. But, like the sector Ministries, they have limited capacity to do so. To improve the registration, monitoring and co-ordination of NGOs at national, sector and district domains of operation, the separation of responsibilities ought to be reviewed. The two responsibilities should be merged and the institutional capacities for effectively discharging them should also be built up over time. Both NGOs and the MDAs, including District Assemblies, need to build their capacities to regulate operations separately within their respective domains of work, and jointly in those spheres where they operate together.

3.0 DIALOGUE AS STRATEGY FOR RESOLVING THE ISSUES

Prior to 1999, several attempts to promote dialogue between the government and the NGOs on policy issues were largely unsuccessful. In 1999, both the Government and NGOs launched separate initiatives on dialogue.

3.1 Government's initiative

In February 1999, the Ministry of Employment and social welfare advocated the formulation of a "comprehensive policy" that will not only solve the immediate problems of working with NGOs but also assist in the development of the NGO sector"⁷. Such a policy should address the following⁸:

- What framework should guide 'national' co-ordination, reporting and information on NGO operations in Ghana?
- What type of self-regulatory mechanism would meet mounting pressure for local accountability?

⁵ Under the Code NGOs are obliged to file reports with the Department. NGOs, in this regard, seem to perceive the filing of reports to the requisite Ministries essentially as an administrative duty rather than a legal obligation

⁶ The GAPVOD-CAF 'Beyond Aid' project aims to develop a code of conduct and quality standards for NGOs. Following the Government's suspension of further work on the draft Bill, the NGOs formed diverse networks to improve co-ordination, reporting and information on NGOs. The various networks have been actively used to promote interaction and dialogue among NGOs, yet, they are far from serving as institutions for effective selfregulation of NGOs. Peak NGOs like GAPVOD, ECASARD among others have the potential to develop into institutions for self-regulation of NGOs. However, they are currently constrained by the fragmentation of the NGO movement and front.

In the absence of a single national forum of NGOs, GAPVOD draws on a large membership that gives it a national stature and organisational presence across the administrative regions of the country.

⁷Ministry of Employment and Social Welfare, 'Ghana National Policy on Non-Governmental Organisations (NGO)", Accra, February 1999.

⁸ "Address" by the Hon. Minister of Employment and Social Welfare, Alhaji Mohammed Mumuni, at the "Beyond Aid" Conference, April 1999.

- What structure (institutional) would be appropriate for maintaining the necessary linkages between government, NGOs and other actors?
- What criteria should guide access to government's financial and other support to NGOs?

The Ministry declared that the resolution of these "policy issues will be crucial to developing appropriate strategies for solving problems pertaining to:

- Fund raising activities of NGOs
- The role of the private sector in the evolving development partnership
- Maximisation of government contributions to NGO activities
- Harmonisation of the work of different institutions and
- Establishment of standards for the NGO community

Consequently, it invited NGOs to join the Ministry to address these issues.

3.2 NGOs initiative

In early 1999, GAPVOD and the Charities Aid Foundation (UK) launched a joint 'Beyond Aid' project to provide training for NGOs in financial sustainability strategies, promote mergers and strategic alliances, develop a common code of conduct and quality standards, and *strengthen partnerships with government*¹. At a national conference held in April 1999 on the project, a broad representation of NGOs in the country resolved to consult their membership on the policy issues and make recommendations for their resolution to the government. Thereafter, both the sector Ministry and leaders of NGOs decided to hold joint consultations on the policy issues and their resolution.

3.3 Joint consultation process

The process began with the production of a discussion paper that was commissioned by the National Consultative Group (NCG) appointed in November 1999 to oversee the formulation of national NGO policy. The NCG had a total membership of 19 comprising 14 representatives of NGO networks in the country and 5 Government Ministries. The NCG appointed a task force of experts to review the draft discussion document produced by the Institute for Democratic Governance (IDEG).

In August 2000, the NCG organised consultation workshops in the 10 regions of Ghana grouped into 5 zones to enable stakeholders at the district and regional levels to input into the policy formulation process. A total of 300 representatives of NGOs and Government MDAs participated in the workshops. Their collective views, suggestions, recommendations and resolutions inform the review of the draft proposals that were tabled for deliberations at the national conference held on October 25-26, 2000. The broad acceptance of the proposals is evident in the resolution presented in appendix A.

APPENDIX C

National Policy and Framework for Partnership with NGOs NGO/GOG Joint National Conference Elmina Beach Resort24-27 October 2000

List of participants

Name	Organisation	Contact address/tel. #
1. Bridget Katsriku	MESW	
2. Kofi Adu	GAPVOD	Box A 17 La Accra
3. Paul Van Hoof	SNV	Box 3248, Accra; 775240
4. Emmanuel Akwetey (Dr)	IDEG	Box CT 5767, Cantonments Accra 021-7011762
5. Kwesi Jonah	IDEG	Box CT 5767, Cantonments Accra 021-7011762
6. Kofi Awity	CAF West Africa	Box OS 2956, Osu Accra 021-771953
7. Kofi Marrah	World Bank	Box M 27, Accra, 021-29681
8. S. O. B. Quaye	CEPS Headquarters	668279/ 024-320323
9. Afa Amukuma	Community Action	Box 308, Ho; 091-26945
10. Kofi Gbedemah	VORANGO	Box MA 279, Ho; 091-28360
11. Mary Imelda Amady	Department of Social Welfare	Box M 230, Accra; 021- 684563/665636
12. Issahaku Jesiwuni	Northern Ghana Network	Box 1736 Tamale
13. David Yaro	Regional Coordinating Council	Box 50, Bolgatanga
		072-22433
14. Donald Amuah	POSCOM	Box 207, Bolgatanga
15. S.K. Awunyo -Akaba	REHOCONSULT/ HO District Assembly	Box MA 132, Ho; 091-27087
16. Ken Bentsi-Enchill	VAT Service	Box GP 17177; 021-661525/6
17. E.K. Nyamordey	Internal Revenue Service	Box 2202 Accra; 021-763848
18. Wilbert Tengey	African Centre for Human Development	Box OS 273, Osu Accra; 021-
19. John K. Owusu	Mid Ghana NGO Network	Box AS 32, Asawasi-Kumasi 051-29950/027-883637
20. Lambert Okrah	Institute for Cultural Affairs- Ghana	Box OS 2060, Osu-Accra 021-224167/231650
21. B.K. Obeng-Asare	Social Welfare	Box 152 Sunyani; 061-23380
22. Joyce Boateng	ELFRIENDS Of Ghana	Box 172, UST-Kumasi; 024- 238773
23. Olivia Opoku-Adomah	Regional Coordinating Council-Western Region	Box 304, Sekondi; 031-46141
24. Georgina Opoku	Trades Union Congress	Box 6017, Kumasi; 051- 27866/33586
25. Billy Abimbilla	Action Aid-Ghana	Box 19083, Accra 021-764931
26. Godson Amekuedi	GAPVOD	Box A 17 La, Accra
27. Susan Sabaa	Ghana National Coalition on the Rights Of the Child	C/o SCF, Box C 976, Accra 021-768551
28. Sam V. Dodoo	Ministry of Local Government	Box M 50 Ministries Accra 021-682025
29. Yaw Okyere-Nyarko	Ministry of Finance	Box M 40 Accra
30. Stephen Amoako	ADRA	Box OS 1435, Accra
31. Vida Affum Duti	Social Investment Fund	Box CT 3919 Accra ;021- 778921
32. Andrew Krefft	USAID	US Embassy

33. D. A. Mevuta	Friends of the Nation	Box MC 11, Takoradi 031-
34. Rick Nidel	Catholic Relief Services	Box 6333, Accra North
35. King-David Amoah	ECASARD	Box MD 772, Madina Accra
36. Greg Ramm	Save the Children Fund	Box C 976 Accra
37. Ernest Nyagbe	Ketu District Assembly	Box 88 Denu; 0962-348
38. Paul Opoku Mensah	NTNU- Norway	
39. Joan Awunyo – Akaba	FUGI	Box MA 132, Ho
40. Laura Hayman	Technoserve	Box 135 Accra
41. Famari Barro	Plan International	PMB, Osu Post Office, Accra
42. Cecilia A. Edu	ANCER	Box K 22 Cape Coast
43. Nana Amba Eyaiba	Ogua Traditional Council	Box 76 Cape Coast 042- 34363
44. Kate Abbam	ASAWA	Box 5737, Accra-North
45. Agnes Beecham	WAGTEC/GAPVOD	021-502801
46. Sam Wallace	National Security Council	
47. Alhaji Alhassan Abduali	Islamic Council for	021-223518
	Development and	
	Humanitarian Services	
48. A. A Ankomah	Regional House of Chiefs	Box 34,Koforidua, 081- 24376
49. E. Y. G. Kumodzie	Catholic Relief Services	Box 6333, Accra-North; 021- 776188
50. S. Quarcoopome	Tamale Municipal Assembly	Box 4, Tamale; 071-22950
51. Rudith King (Dr)	CEDEP	Kumasi, 024-463333
52. Kobina Kyere	National Development	Flag Staff House 021-
	Planning Commission	773083/9
53. Niyi Alabi (Dr)	GCHPR	Box GP 13115, Accra
54. Marian A Kyei	IDEG	Box CT 5767, Cantonments
		Accra 021-7011762
55. Martin K. Opoku-Mensah	IDEG	Box CT 5767, Cantonments
		Accra 021-7011762
56. Yvonne B. Addow	GAPVOD	
57. Angela Gadzekpo	GAPVOD/	
58. Nathaniel Ofori	CAF West Africa	Box OS 2956, Osu Accra

APPENDIX D

MEMBERS OF THE NATIONAL CONSULTATIVE GROUP (NCG)

1. Mr. George Ahadzie 2. Mrs. Bridget Katsriku 3. Mr. Kofi Adu 4. Mr. Kofi Awity 5. Mr. Paul Van Hoof (SNV) 6. Mr. Bishop Akolgo /C. Abugre 7. Mrs. Dorcas Coker-Appiah 8. Mr. Nicholas Halm 9. Dr. King David Amoah 10. Ms. May Kissiedu 11. Mr. John Kwadwo Owusu 12. Mr. Yaw Okyere Nyarko 13. Mr. Michael Asiedu/Ansah 14. Mr. Ebenezer Appreku 15. Dr. Cecilia Bentsi 16. Mr. Sam V. Dodoo 17. Mr. J. Awuku-Apaw 18. Ms. Susan Sabaa & Ms. Diana Ansah Agyei 19. Mr. Donald Amuah & Mr. Issahaku Jesiwuni 20. Mr. Kofi Gbedemah

Chairman/GAPVOD. Chief Director (MESW) Executive Secretary (GAPVOD) Charities Aid Foundation. International NGO Forum. ISODEC/GAPVOD Gender and Documentation Centre Federation of Disabled Association (FODA) ECASARD Christian Health Association (CHAG) Mid-Ghana Network Ministry of Finance Christian Council of Ghana & Catholic Secretariat Ministry of Foreign Affairs Ministry of Health Ministry of Local Government NUENGO NGO Coalition on the Rights of the Child Northern Ghana Network of NGOs for development/BADECC VORANGO

APPENDIX E

IDEG Consulting Team

NAME

- 1. Dr Emmanuel Akwetey, Lead Consultant
- 2. Kwesi Jonah, Rapporteur-General
- 3. Marian A. Kyei, Rapporteur
- 4. Martin K. Opoku-Mensah, Rapporteur

APPENDIX F PROGRAMME

National Policy and Partnership Framework with NGOs

NGO/GOG JOINT NATIONAL CONFERENCE

24 – 27 October 2000 Venue: Elmina Beach Resort, Elmina, Central Region

Tuesday 24 th October, 2000-	6:00 p.m. – Arrival	
Wednesday, 25 October 2000		
Part 1.		
08:15 - 09:00 09:05 - 09:15 09:15 - 09:20	Registration of Participants Participants & Invited Guest Seated Arrival of Reg. Minister & Minister for Employment & Social Welfare	
09:20 – 09:25 09:25 – 09:35 09:05 – 09:20	Introduction of Chairperson Opening Remarks- Chairperson Welcome Address – Hon. Jacob Arthur Central Regional Minister Introductory Remarks by Mr. Kofi Adu – Executive Secretary of GAPVOD	
09:20 – 10:00	<u>Brief Remarks by</u> : GAPVOD CAF The World Bank UNDP SNV	
10:00 – 10:20	Keynote Address by Hon. Mohammed Mumuni Minister for Employment & Social Welfare	
10:20 – 10:30	Chairperson's Closing Remarks Vote of Thanks	
10:30 – 10:45	Refreshment	
Part 2		
10:45 – 12:00	Plenary Presentation by the Consultant on the Believ Prepagale	
12:05 – 13:00	Presentation by the Consultant on the Policy Proposals Syndicate Group discussion (One) Introduction of Facilitators & Participants Provide format and Structure for group discussions	
13:00 – 14:00	LUNCH	
14:15 – 16:00	Syndicate (continues) Main Discussions on Draft Policy Document	
16:00 – 16:15 16:15 – 17:30	Tea/Coffee Break Discussions (Cont.)	
19:00 - 21:00	Dinner	

Part 3

Thursday, 26 October 2000

08::00 - 08:30	Rapporteurs, Facilitators & Rapporteur-General's Meeting
08:45 – 11:00	Plenary Presentation (summaries of syndicate reports Rapporteur-General's report – highlights of Agreements & Disagreements)
11:00 – 11:20	Tea/Coffee Break
11:25 – 13:00	Syndicate Cross Consultations on reports (NGOs/CSOs Review Government's position and vice versa)
13:00 – 14:00	LUNCH
14:15 – 17:00	Plenary Discussion & resolution
17:00 – 17:20 17:30 – 18:00 Closing	Tea/Coffee Break
Friday, 27 October 2000	Departure