



PETROLEUM COMMISSION, GHANA
Regulating, Managing & Coordinating Upstream Petroleum Activities



LOCAL CONTENT AND THE CONTINENTAL FREE TRADE AGREEMENT: *HOW LOCAL BUSINESSES CAN FULLY PARTICIPATE*

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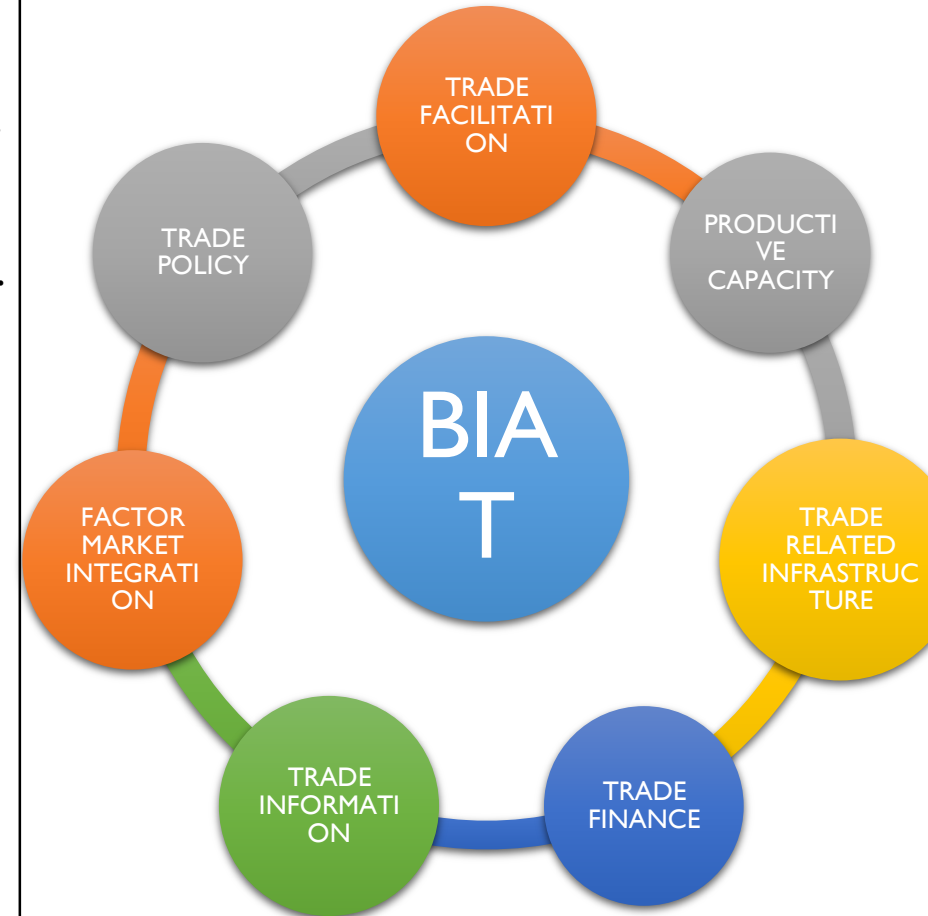


INTRODUCTION

- ❑ Many African countries in recent times has sparked wide interest and discussions to create synergies and accelerate development particularly in the oil and gas industry in their respective countries economies. African governments are looking for more than just economic rent from the exploitation of petroleum resources.
- ❑ Thus developing local economies, stimulating industrial development, increasing local capability, building a skilled workforce and creating a competitive supplier base is a key agenda for most African oil producing countries.
- ❑ However, the diverse culture, the lack of systems and bottlenecks in institutional frameworks in individual countries has impeded the integration of African economies to obtain sustained development. The African Continental Free Trade Agreement seeks to harmonise these policies, systems and frameworks to facilitate trade, provide access and allocate resources efficiently.
- ❑ In Ghana, we believe that the local content should last beyond the oil and gas discovery and have a transformative impact on the economy creating backward and forward linkages and building competitive domestic businesses in the industry.
- ❑ Ghana as a country has missed the opportunity of enhancing local content in the mining, telecommunication and downstream petroleum sectors.
- ❑ These strategic sectors are fully taken over by foreign entities though we have equally capable Ghanaians who could have ventured into those sectors and raised capital from within to manage similar entities given the opportunity.
- ❑ However, there is still opportunity in the upstream petroleum sector to accelerate growth and make a difference.

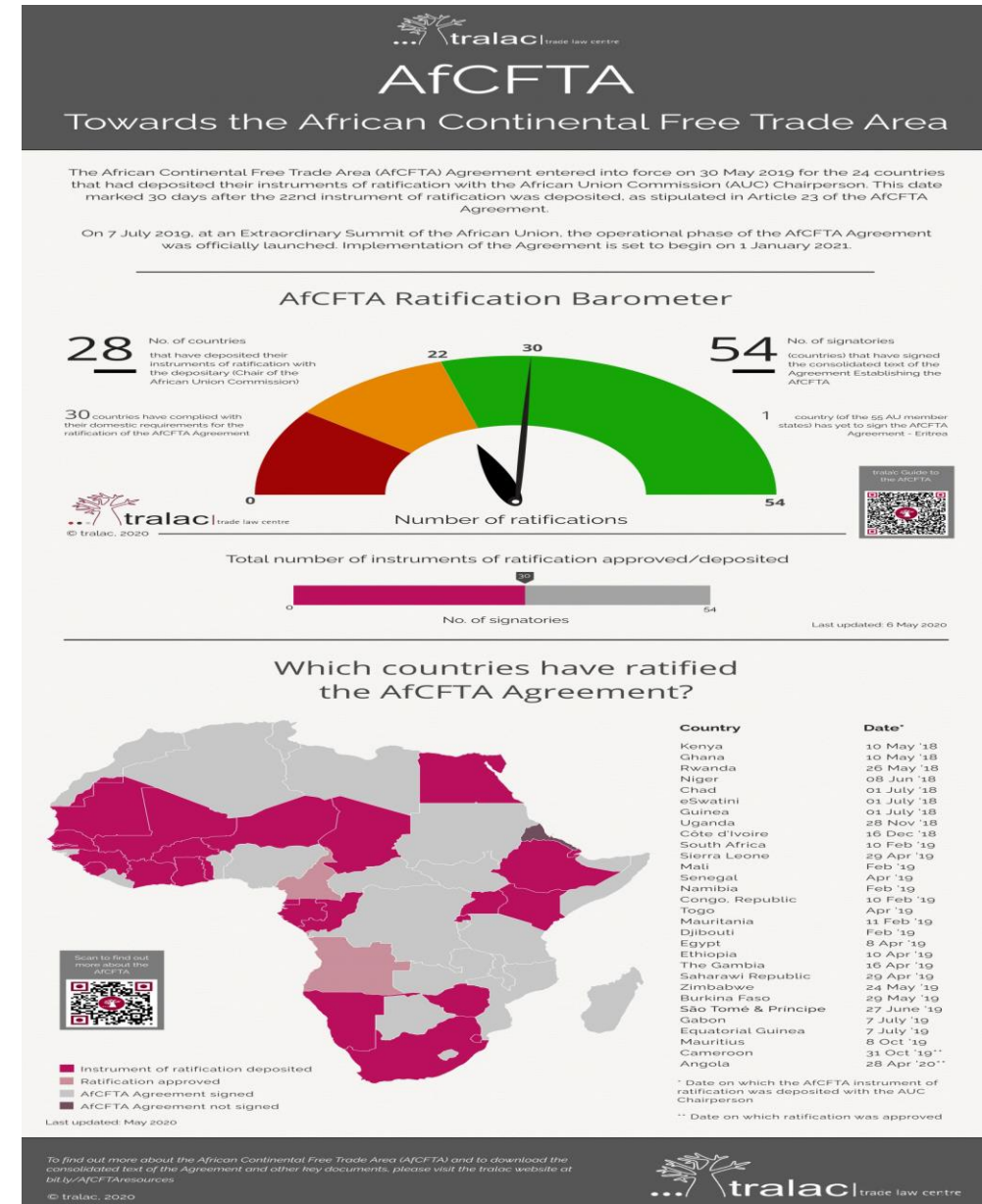
AfCFTA - BACKGROUND

- ❑ The idea of free trade agreement was birth in the 18th Ordinary session of the assembly of Heads of State and Government of the African Union(AU) in January 2012 in Addis Ababa, Egypt.
- ❑ At the same summit, the members endorsed the Action Plan on Boosting Intra-Africa Trade (BIAT) which identified 7 priority action clusters to achieve it.
- ❑ AfCFTA came into force on May 30, 2020 with 30 countries ratifying the agreement. The last country to ratify the agreement was Angola in April 2020.
- ❑ It is expected that all the 55 African countries with a population of over one billion and a combined GDP of over US \$3.4 trillion will ratify the agreement to increase intra-African trade.
- ❑ The agreement is expected to expand intra-Africa trade and enhance competitiveness at the industry and enterprise level through exploitation of opportunities for scale production, market access and better reallocation of resources.
- ❑ World Bank estimates that over 100M Africans could be lifted out of poverty with full implementation of AfCFTA
- ❑ The Economic Commission estimates that AfCFTA has the potential to boost intra-African trade by 52.3%
- ❑ Trading under the AfCFTA Agreement was due to commence on 1 July 2020, but as a result of the COVID-19 global pandemic, this date has been postponed. It has been indicated that the new date for operationalisation is 1 January 2021.



AfCFTA - BACKGROUND

- ❑ The operational phase was launched during the 12th Extraordinary Session of the Assembly in July 2019
- ❑ The secretariat was recently commissioned in Accra and the office is expected to carry out administrative support for the implementation of the AfCFTA agreement.
- ❑ The AfCFTA is governed by five pillars:
 - Rules of Origin
 - Monitoring and elimination of non-tariff barriers
 - Digital payments system
 - Online negotiation forum
 - African Trade Observatory



AfCFTA - OBJECTIVE

1

Create a single continental market for goods and services, with free movement of business, persons and investments

2

Expand intra-African trade through better harmonization and coordination of trade policies

3

Enhance competitiveness at the industry and enterprise level

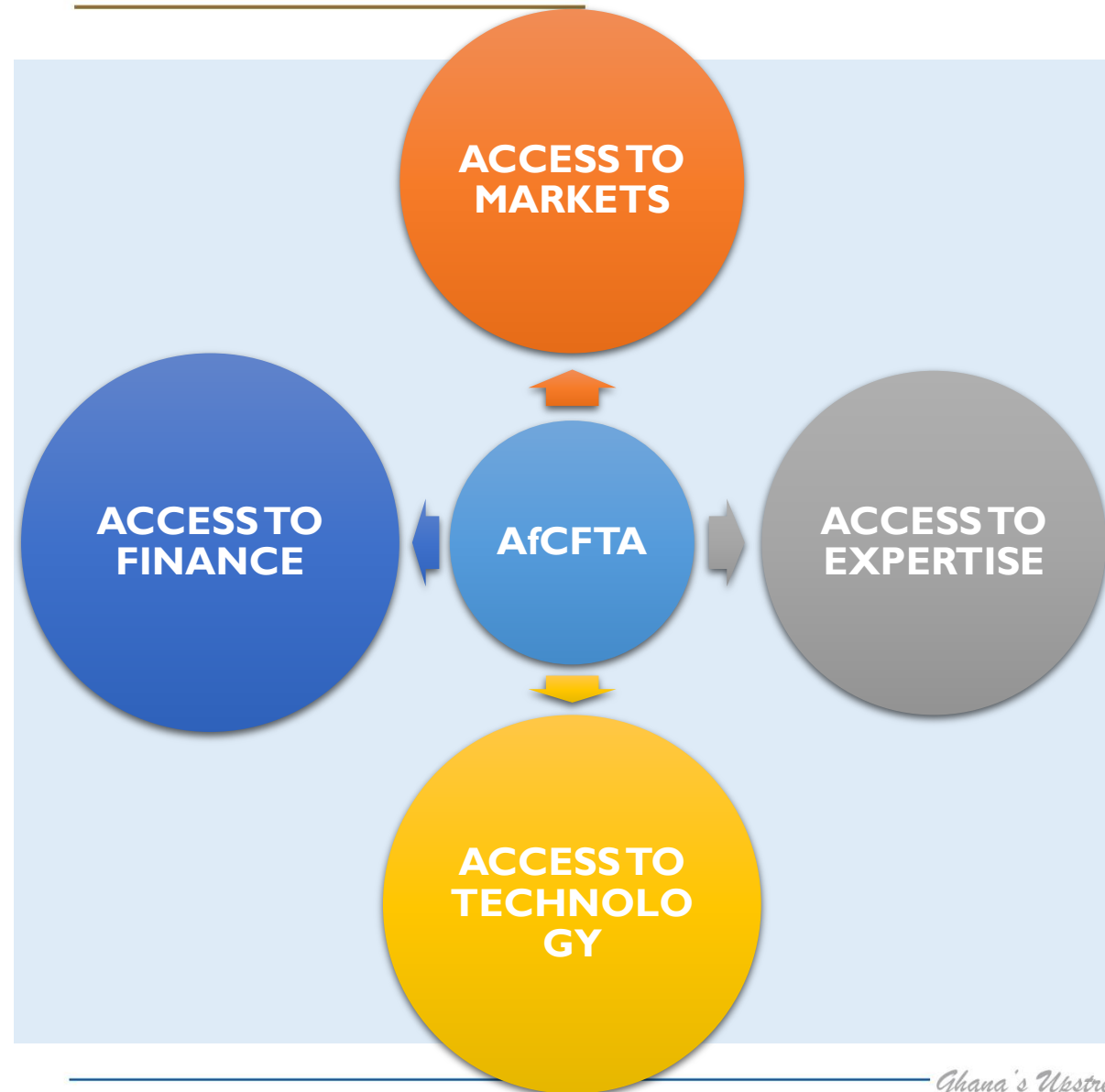
4

Resolve the challenges of multiple and overlapping memberships and expedite the regional and continental integration processes.



POTENTIAL BENEFITS AND IMPACTS

WHAT DOES AfCFTA BRINGS



- ❑ Mobility of labour will ensure increase in employment and availability of skilled labour
- ❑ Lower import prices due to free movement of goods and services
- ❑ Trade liberalization will lead to competition, production efficiencies and possible economies of scale thus reducing cost of business
- ❑ Access to cheaper raw materials and inputs
- ❑ catalyse the transformation of African economies towards technological advancement and specialization
- ❑ Increase in trade leading to growth in most economies
- ❑ Facilitate both intra-African and external direct capital flows to African countries
- ❑ Strengthen the manufacturing and industrial sectors in the region
- ❑ Increased foreign direct investment to the region since Ghana has the Secretariat

AfCFTA – *POTENTIAL IMPLICATIONS*

- ❑ Substantial investment in infrastructure – African Development Bank in 2018 estimated an infrastructural deficit of SD\$108 billion
- ❑ Regulatory reforms to remove bottlenecks in member countries
- ❑ Supply chain strengthening to take advantage of the opportunities in the free trade zones
- ❑ Local SMEs which are weak will be eliminated by stronger competition
- ❑ Government may in the short-term loose revenue due to cut in tariffs
- ❑ Some sectors of the economy may loose jobs





LOCAL CONTENT AND LOCAL PARTICIPATION REGULATIONS

LOCAL CONTENT REGULATIONS

The Local Content and local Participation Regulation (L.I.2204) was passed by Parliament in **November 2013** and came into effect on **February 19th, 2014.**



The law seeks to :

- **Maximize Patronage of Ghanaian Goods and Services** - (in-country spend);
- **Increase Employment of Ghanaian Professionals** - (Employment);
- **Facilitate Technology and Skills Transfer** - (R&D and Training);
- **Local Participation** - (equity holding & management participation)
- **Develop local capacities and increase capabilities and competitiveness of local businesses**
- **Develop Linkages with other sectors of the economy**

LOCAL CONTENT REGULATIONS

INTEREST OF A CITIZEN

- The regulation gives preference to indigenous companies in petroleum activities:
 - At least 5% equity participation of an indigenous Ghanaian company other than GNPC
 - Non-indigenous companies to enter into joint venture agreements (at least 10% equity participation) with an indigenous Ghanaian company in the provision of goods and services.

FIRST CONSIDERATION

- First consideration would be given to
 - service provided within the country
 - goods manufactured in Ghana where the goods meet industry standards specifications of the industry
 - Qualified Ghanaians (employment)



LOCAL CONTENT REGULATIONS

PROCUREMENT PROCESS

The bidding process must be established and implemented to give preference to indigenous Ghanaian Companies



BASIS OF BID EVALAUTION

- Contracts not awarded solely on the basis of the lowest bidder – Reverse Principle
- Indigenous Ghanaian company would not be disqualified exclusively on the basis that it is not the lowest bidder
- Preference is given to an indigenous Ghanaian company where the total value of bids of the indigenous Ghanaian company does not exceed ten percent (10%) of the lowest bid
- Selection of Company with the highest Local Content **where** evaluated bids are adjudged equal

HOW DOES AfCFTA IMPACTS ON LOCAL CONTENT REGULATIONS

AfCFTA VS LOCAL CONTENT REGULATIONS

AfCFTA

- ☐ Supports liberalisation – free movement of people, goods and services
- ☐ Non-discrimination Provisions:
 - Article 4) Most-Favoured-Nation Treatment: State Parties shall accord Most-Favoured-Nation Treatment to one another in accordance with Article 18 of the Agreement
 - National Treatment (Article 5): A State Party shall accord to products imported from other State parties treatment no less favourable than that accorded to like domestic products of national origin...
- ☐ Requires that there is equal opportunity for all businesses
- ☐ No barrier to entry or exit
 - Except for the purposes of protecting infant industries which have strategic importance at the national level
 - Such measures shall be applied on a non-discriminatory basis and for a specified period of time
- ☐ Ensures the transfer of expertise and technology from less competitive advantageous countries to competitive advantageous countries – reallocate resources

L.I.2204

- ☐ Supports protectionism and infant industry argument
- ☐ Requires that preference is given to Ghanaians and indigenous Ghanaian Companies
- ☐ Provides restrictions to participation of foreign companies without joint ventures
- ☐ Award contracts with price advantage to IGCs
- ☐ Ensures the capacities and capabilities of local businesses are built through the transfer of technology, skills, know-how
- ☐ Preference to goods manufactured in-country and services in Ghana provided by IGCs
- ☐ Preference for professional services provided by Ghanaian companies and IGCs – financial, legal and insurance

AfCFTA VS LOCAL CONTENT REGULATIONS – IMPACT

- ❑ The industry will face strict competition from matured countries such as South Africa, Nigeria, Angola, etc. when AfCFTA is fully implemented.
- ❑ Poorly structured local companies would be eliminated
- ❑ AfCFTA may erode local content gains made in the industry
- ❑ Nullify some provisions in the Local Content Regulations
 - Regulations 1 – purpose of the Regulations
 - Regulations 4 (2) and (6) – joint venture formation
 - Regulations 12 and 15 – price advantage to IGCs during contract award
 - Regulations 19 – employment of Ghanaians in middle and junior level positions
 - Regulations 27, 29 and 31 – use of professional services – insurance, legal and financial services



GENERAL EXCERPTIONS: Article 15

State Party may implement measures:

- ☐ necessary to protect public morals or to maintain public
- ☐ necessary to protect human, animal or plant life or health;
- ☐ necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of the Protocol

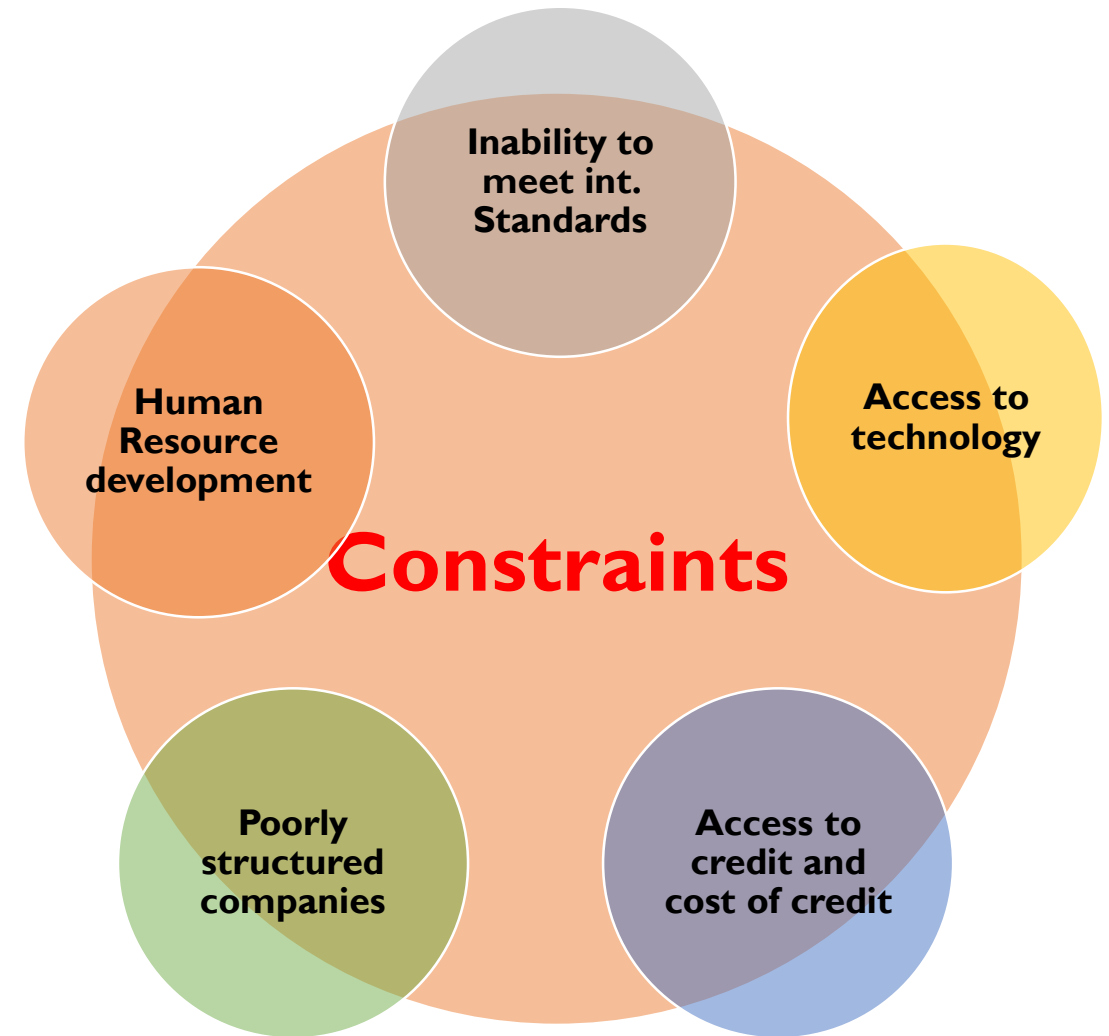
Safeguard Measures & Waiver Obligations

- ❑ Infant Industry Protection
- ❑ Preferential Safeguards – Sudden Surge of Product Imports
- ❑ Anti-dumping and Countervailing Safeguard Measures
- ❑ Council of Ministers may waive an obligation imposed on a State Party to this Agreement

**HOW CAN LOCAL COMPANIES
FULLY PARTICIPATE**

WHAT MUST BE DONE: OVERCOME THE CONSTRAINTS

- ❑ Since the passage of the Regulations there has been an increase in the participation of Ghanaian Indigenous companies (IGCs) in the industry.
- ❑ The industry has seen over \$1b goods and services awarded to IGCs with 10% minimum local participation in all contracts executed.
- ❑ The Commission has further reserved over 25 goods and services for IGCs and the number increases as IGCs build their capacities.
- ❑ Local businesses have invested in various facilities and technologies to ensure they participate in the industry – workshops, fabrication yards, chemical facilities, etc.
- ❑ However, there still remains low levels of participation in the high-value capital and technological intensive sectors due to varied factors impeding their competitiveness in the industry.



- ❑ Source for cheaper raw materials in the region to provide competitive prices in the oil and gas industry
- ❑ Provide services in the 'low hanging fruits' to countries with low capacities – Zeal Environmental, Rigworld, OMA, etc. are currently working in other countries in the region
- ❑ Develop personnel and export to countries with skill shortage
- ❑ Form joint ventures, alliances and partnerships with companies with similar or complementary lines of business to obtain the requisite technology, skills and know-how to increase capacities and capabilities
- ❑ Strengthen the local supply chain, manufacturing and industrial sectors to obtain competitive advantage in the region
- ❑ Identify key infrastructural gaps to take advantage

WHAT MUST BE DONE – IGCs

ACCESS TO MARKET

- Knowledge of procurement opportunity in the region
- Access to market through partnerships, consortia, JV's, alliances
- Product range and volume
- Price, schedule competitiveness
- Capability for vendor registration and pre-qualification

MANAGEMENT AND SKILLS

- Capability in business strategic planning
- Management skills and efficient organization
- Invest in skilled workforce and workforce productivity



ACCESS TO FINANCE

- Preparation of 'bankable' proposals
- Sufficient collateral/ security
- Access to right mix of finance, debt, equity, guarantees

TECH & BUSINESS PROCESSES

- Investment in production technology & infrastructure
- Effective HSE performance management, QA/QC, IT systems
- Effective bidding & contract management systems

WHAT MUST BE DONE – GOVERNMENT

- ❑ The Local Content Regulations may require to be amended to factor the nuances of the AfCFTA
- ❑ The need for a regional local content policy to streamline the requirements and standards and services expected to be provided in the region
- ❑ Provide for requisite infrastructure and investment to make Ghana become competitive in the region.
- ❑ Take advantage of Safeguard Measures & General Excerptions in the Agreement
- ❑ Government should advance the infant industry argument to support key services identified in the petroleum sector as strategic and develop such services or companies



CONCLUSION

- ❑ The African Continental Free Trade Agreement will create the largest free trade area in the world with 55 countries expected to ratify the agreement
- ❑ The agreement proffers various opportunities for local businesses to become competitive locally and operate in the region
- ❑ However, the agreement could derail the local content gains achieved in the development of local businesses in the petroleum industry.
- ❑ The Regulations and the agreement would have to be streamlined to obtain the required benefits
- ❑ Local companies must position themselves to compete and take advantage of huge African market





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