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GHANA - Volta River Project - Volta and Ghana Documents

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Volta and Ghana documents



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Ghana - Volta River Project - Volta and Ghana documents

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Volta Exchange Control
Discussions

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

OFFICE MEMORANDUM

TO: Mr. A. David Knox
DATE: January 6, 1967
FROM: E.A. Minnig and A.A. Raizen
SUBJECT: GHANA - Loan No. 310-GH
Volta River Authority - Volta River Project
Project Supervision - Full Report

Date of Loan Agreement:	February 8, 1962
Amount of Loan:	US\$47,000,000
Amount Withdrawn as of December 31, 1966:	US\$45,262,000 ^{1/}
Undisbursed Balance:	US\$1,738,000 ^{2/}
Closing Date:	June 25, 1967
Currency Equivalents:	US\$1 = £G0.36 £G1 = US\$2.80 £G1 = 2.4 Cedis ^{2/}

This report is based on information obtained during a project supervision visit made by Messrs. Minnig and Raizen in October 1966.

SUMMARY

The Volta power station (589 MW) and dam apart from minor items are now complete. The transmission ring operating at 165 kv and about 500 miles long is complete and in service, supplying the main towns of Accra, Tema, Takoradi-Sekondi and Kumasi, a number of smaller towns and villages and the mines at Tarkwa, Dunkwa, Obuasi and Akwatia.

- ^{1/} Amount withdrawn does not include \$240,000 reserved under a guarantee of a confirmed letter of credit. Allowing for this guarantee, the undisbursed balance would be \$1,498,000, of which \$1,400,000 is applicable to interest during construction. The draw-down for interest on the next payment date, February 15, 1967, will be about \$1,300,000.
- ^{2/} The £G has been replaced as the unit of currency in Ghana by the cedi, with each cedi worth 100 old pence or 0.417 of a £G. However, a new cedi worth 120 pence, or one-half of a £G, will be issued in February 1967, and for simplicity most currency references in this report are to the old £G.

Reg. P. Pinto
What's supposed to happen? Will we be making a new loan letter?

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The present estimated total cost of the project is £G 58 million (US\$139.2 million) or £G 10 million below the original estimate. However, this does not include expenditures for non-project items (principally re-settlement costs in excess of the £G 3.5 million included in the project cost) estimated at £G 9.5 million.

The present loads being supplied to the Electricity Division and the mines are 55 MW and 26 MW, respectively. While sales to the mines are higher than expected when the project was appraised, sales to the Electricity Division are substantially lower. The Valco aluminum smelter is expected to begin operations in February 1967, two months ahead of schedule, and the smelter demand should increase from 20 MW in February to 155 MW in August 1967 and reach 205 MW by mid-1968. Thus, smelter sales through 1968 will be higher than originally foreseen.

Total revenues will be materially less than forecast in the appraisal report, reflecting the lower sales to the Division and a lower tariff which was fixed by contract through 1970, on the basis of a study which the Bank accepted made before the recent slow down in the Ghanaian economy and when a much higher level of sales was expected. Cash generation through 1971 will be just about sufficient to cover debt service requirements, and there will be no surplus for financing the costs of the fifth and sixth generating units (147 MW each) at Akosombo, if needed before 1973.

Discussions with the neighboring country of Togo for the supply of Volta power have not yet been scheduled but it is hoped that definite indications of the intentions of Togo will be received in the near future.

The staff is adequate for operational purposes of the plant and transmission line but recruitment of two experienced and competent senior engineers will be needed to fill gaps in the head office staff. Reduction is possible in other engineering staff at headquarters and the Akosombo town operational and maintenance staff. The accounting staff is adequate.

RECOMMENDATIONS

Based on present tariff schedules and the conservative load growth now foreseen, the return on Ghana's investment is likely to be substantially less than the 8% required by 1974 under the Loan Agreement. VRA also agreed that prior to 1974 it would cover all its expenses and debt service requirements and provide for all expenditures required to satisfy growth in demand to the extent they cannot be financed from other sources. It is recommended that the Bank send a letter to VRA and the Government of Ghana to emphasize the importance of making every effort to increase VRA sales to the Electricity Division and other new customers, and to economize on expenses, and thus minimize any increase in tariffs which may be necessary when present contracts with the Electricity Division and the mines expire in 1970.

The offer made by VRA to supply power to Togo was at price 20% higher than the grid rate charged the mines and the Electricity Division, and results in only a small saving in cost of power to Togo as compared with diesel generation. The Bank may not wish to interfere with the current

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negotiations unless requested. However, in view of the possible mutual advantages to Togo and Ghana from an interconnection, which might be the nucleus of an eventual West African power pool, the mission believes that the Bank should encourage this development. Accordingly, it is recommended that the Bank suggest to VRA that it make its offer more attractive by agreeing to supply power at a price no higher than paid by the Electricity Division, subject to the proposed minimum charge which covers the cost of constructing the transmission line to the Togo border.

Since the Electricity Division and VRA are both Government entities and since the present VRA tariff to the Division was based on too optimistic sales forecasts, the possibility of renegotiating the tariff to the Division prior to 1970 should also be considered. The Electricity Division's return on net fixed assets is quite high, so that it could probably afford to pay higher tariffs to VRA without any detrimental effect on its ability to finance its construction program, assuming that the increase in power costs would be offset by additional loan funds. Accordingly, the Bank should suggest that VRA make a new tariff study based on today's sales forecasts, including the potential sales to Togo, to determine a possible revised tariff schedule for the Division which would provide the funds to finance the fifth and sixth units at Akosombo when needed.

The mission was informed that the Government had decided to incorporate the Electricity Division as a separate autonomous body, rather than merge it with VRA. No confirmation has yet been received that this has been done. A letter should be sent by the Bank urging prompt action and reiterating the Bank's previously expressed view that a merger would be preferable because of the economies and efficiency in use of manpower it would make possible.

VRA had not planned to include depreciation on resettlement costs and expenditures during construction for health and sanitation at the dam and lakeside, on the theory that depreciation should be provided only for items of recurring costs. It is now reconsidering this decision, and it is recommended that the Bank formally suggest that all such costs should be treated as part of the cost of building the dam and reservoir, subject to depreciation over the project's useful life.

VRA is apparently considering plans to develop lake transport and to use the lake for irrigation and water supply purposes. The Bank should urge VRA not to commit itself to such activities at this time, since it would strain its limited resources.

Description of the Project

The project consists of a main earth and rock fill dam on the Volta River fifty miles north of Accra; a spillway on the left bank of the river adjacent to the main dam; and an earth and rock fill saddle dam in a valley near the spillway; a power station, adjacent to the right abutment, in which four hydro electric units with a capacity of 147 MW each are installed and two additional units of 147 MW can be installed at a future date; and a 500 mile long 165 kv transmission grid serving the major load centers in the southern part of Ghana.

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Status of Volta Construction and Operations

The Volta power station and dam were visited on Tuesday, October 11, 1966 and the transmission line inspected October 7-9, 1966. The general appearance of all works is extremely good and in all respects speaks highly of the performance of both the main contractor Impreglio and its sub-contractor Sadelmi.

The station is now fully operated by Ghanaians who have been trained by a team from Ontario Hydro, who speak highly of the capacity of the Ghanaians and are satisfied with their ability. The Ghanaians however still show a certain reluctance to act on their own initiative, a reluctance which may disappear once the full responsibility rests with them.

Civil Works

All civil works are complete. The work in progress carried out by VRA staff consists of clearing the construction site, soil conservation measures and minor works.

Generating Units

All four generating units are installed and in operation. Due to the present low loading of the units slight cavitation is being experienced which however should disappear once the Valco smelter comes into operation and the units can be fully loaded.

Transmission

The 165 kv transmission grid is completed and in operation. The substations on this grid were commissioned as follows:

Achimota (Accra), Obuasi, Tema, Dunkwa in September 1965
Winneba, Cape Coast, Takoradi, Kumasi, Nkawkaw in October 1965
Tafo in November 1965
Prestea in December 1965
Valco construction power, Tema in February 1966
Akwatia and Akosombo Township in April 1966
Tarkwa in June 1966

The line was constructed by Power Lines of Ghana (SAE, Italy) and the substations erected by Sadelmi. From inspection and also the opinion of the Canadians from Ontario Hydro who are temporarily employed by VRA, the work has been satisfactorily carried out. Some difficulties are being experienced with the carrier current supervisory equipment supplied by TEMCO (Westinghouse) and their staff are due to undertake necessary modifications to insure satisfactory performance.

The mines express satisfaction with the quality and continuity of supply since it was made available and the general manager of the largest mine at Ashanti Goldfield stated that they had to date saved about £G 300,000 (US\$840,000.-) in diesel fuel alone since supply had commenced.

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Inspection of line voltage and performance charts confirmed that since being placed in operation the line had operated extremely well. Voltage regulation has been very good and only two outages resulting from lightning had been experienced. With closed ring operation supply to consumers had not been lost.

Costs

The project cost estimate of £G 58.0 million (US\$139.2 million) remains unchanged since the most recent revision of the List of Goods agreed to on June 2, 1966. This is about £G 10 million less than estimated in the appraisal report, but covers only the approved project costs which, pursuant to Section 2.02 of the Loan Agreement are to be shared 50% by the lending agencies and 50% by the Government of Ghana. In addition, expenditures for non-project features are estimated at £G 9.5 million, to be financed exclusively by the Government of Ghana. Actual expenditures to September 30, 1966, for each of these categories, respectively, were £G 56.3 million and £G 6.9 million.

A comparison of the breakdown of the project costs as originally estimated at about £G 68 million, and as now estimated at £G 58 million, is shown in Annex 1. As there indicated, savings have been realized in the costs of power plant equipment, the transmission system, and interest during construction.

The principal non-project item of expenditure is the cost of resettlement in excess of the £G 3.5 million included in the approved project costs. The Government authorized VRA to spend up to an additional £G 6.5 million to implement its pledge that none of the 80,000 people displaced by the Volta Lake and to be resettled in new towns and farms would be worse off than before. The largest expenditures, in this connection, are for construction costs of £G 7.8 million, and with other costs for administration, surveys, evacuation, compensation, etc. total resettlement costs to September 30, 1966 were £G 9.4 million, or £G 5.9 million more than the £G 3.5 million included in project costs.

In addition to the excess resettlement costs, the principal non-project items of expenditure incurred by VRA up to September 30, 1966 were as follows:

	<u>Thousands of Ghana £</u>
Administrative Assets - Offices, residential property, furniture and equipment	402
Multipurpose Development of Volta Basin -	
Passenger and general cargo transportation system	157
Irrigation and water scheme	226
Headpond clearing	72
Fishing industry	130
	<u>987</u>

Virtually all of the costs listed above for multipurpose development were spent prior to December 31, 1965 for preliminary surveys and studies.

Generation and Sales

The present loads being supplied to the Electricity Division and the mines are 55.4 MW and 25.9 MW respectively, or 81.3 MW total. Due to the limited capacity of the Accra tie with VRA, the Electricity Division is still utilizing the diesel generation station for peaking purposes. This situation will continue until the work now in progress to improve and expand the distribution system in Accra has been completed within about two years.

Total units sold to the Electricity Division and the mines amounted to 378.6 million kwh for the 12 month period September 1965 - August 1966 of which 285.0 million kwh were purchased by the Electricity Division and 93.6 million kwh were purchased by the mines.

The load presently being supplied to the mines is double that forecast when the appraisal report was made in 1961. By 1971, VRA estimates that the mining load will have increased to 29.4 MW, or 50% more than the appraisal forecast. This increase is largely due to the confidence of the mines in the continuity of supply from VRA having been gained earlier than expected.

However, reflecting the recent slow-down in rate of growth of the Ghanaian economy, sales to the Electricity Division, both at present and as forecast for 1967-1971, are substantially lower than the appraisal forecast. The load to be supplied to the Division by 1970-1971 is now estimated to be only about 80-90 MW as compared with 115-130 MW in the appraisal report.

It is expected that the Valco aluminum smelter at Tema will come into operation 2 months ahead of schedule in February 1967 and the plant containing four pot lines will be completed by June 1967. The smelter demand will increase from 20 MW in February to 155 MW in August 1967, reach 205 MW by mid 1968 and remain at this level through 1971. As a result, smelter sales through 1968 will be substantially higher than estimated in the appraisal report. In addition, if Valco should decide to continue construction of the fifth and sixth pot lines without interruption, the demand would increase to 315 MW by 1969.

Financial Position

VRA was in the process of preparing its budget for 1967 and its forecast for the next several years when the mission visited Ghana. Since then it has mailed an income and cash forecast for 1967-1971, which is set forth in Annex 2. Although we have some questions about the forecast which need to be clarified, the information is sufficient to give the following general picture about VRA's prospects.

Revenues

VRA fixed its tariffs to the mines and the Division on the basis of the Bainbridge study made in 1964 which estimated sales at a much higher level than has proved to be the case. The proposed tariffs were accepted by the Bank since, on the basis of the sales forecasts made at the time, they would provide revenues which would satisfy the terms of the Loan Agreement.

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Under the contracts entered into for the five year period 1966-1970, and taking into account the respective load factors, the average tariff per kwh which will be paid during this period will be the equivalent of about US 9.7 mills for the mines and 10.1 mills for the Division, as compared with 10 and 15 mills respectively, assumed in the appraisal report. In view of the much lower tariff and sales to the Division, which are only partially offset by higher sales to the mines (in each year) and to the smelter (in 1967 and 1968), revenues will be materially less than forecast in the appraisal report.

Expenses and Debt Service

VRA now forecasts operating expenses at £G 1,083,000 per year, as compared with the appraisal estimate, based on the consultant's report, of £G 820,000. When Bainbridge made his rate study, he had more recent estimates made by VRA's Director of Operations, which indicated operating expenses would be only £G 580,000, and to be conservative Bainbridge used an average figure of £G 700,000. This, with the possible overstaffing noted below (pages 9 -10), suggest that economies in the present level of expenses should be obtainable.

Estimated depreciation of about £G 1,400,000 per year, is about £G 200,000 per year lower than forecast in the appraisal report. This reflects the savings in construction costs. Also, since all the loan funds were not utilized, total debt service is somewhat lower at about £G 2,500,000 per year, as compared to £G 2,800,000 estimated in the appraisal.

Cash Generation

Cash generation will be just about sufficient to cover debt service requirements through 1971, and there will be no surplus for financing the costs of the next two generating units at Akosombo. If the build-up in smelter or other demand is such that one or both of these units will be required before 1973, outside financing will have to be arranged.

Prospects after 1971

Debt service coverage will improve substantially as sales and revenues continue to grow after 1971, and internal cash generation should provide the funds needed for the fifth and sixth units if these installations can be delayed until 1973 and 1975. However, based on present tariff schedules and the conservative load growth now foreseen, the return on Ghana's investment is likely to be substantially less than the 8% required by 1974 in accordance with the loan agreement. Thus, every effort should be made to try to increase sales to the Electricity Division and other new customers, and to economize on expenses. An increase in VRA's tariffs may also be necessary when the present contracts expire in 1970, and since both VRA and the Division are Government entities, it would be desirable to consider the feasibility of renegotiating the present contract prior to 1970.

Transmission Line and Sale of Energy to Togo

Since the first approach by Togo in June 1966 and the proposal made by VRA in July 1966 no further contact on the technical level has taken place.

January 6, 1967

It is expected that contacts will be renewed shortly and that a decision can be reached in the near future.

The estimated cost of an 85 mile 165 kv single circuit transmission line from Akosombo to the Togo border was estimated at CF 1,800,000 or US\$2,100,000. Based on repayment of invested capital in 12 years at 7% interest rate, there would be an annual charge of CF 280,000 or US\$330,000. Thus VRA informed Togo it would expect to receive a minimum annual payment of this amount and that the minimum contract period would be 12 years. It further proposed a tariff 20% higher than the tariff being charged the Electricity Division as follows:

	<u>Electricity Division</u>	<u>Togo</u>
Annual demand charge per kw	\$G 15 or CF 36 (US\$42.00)	CF 44 (US\$51.50)
Energy charge per kwh	CF 0.002 (2.3 mills)	CF 0.0024 (2.8 mills)

Under the tariff proposed to Togo by VRA and at a conservative load factor of 40%, the charge per kwh (once the break-even demand - about 7 MW - in relation to the minimum charge had been reached) would be 17.5 mills to which must be added about 2.5 mills for the cost of transmission to the load center within Togo, or a total cost of 20 mills. Alternative diesel generation by Togo would cost about 23 mills. Taking into account the political implications for Togo in being dependent on another country for power supply, this differential in cost may not be wide enough to interest Togo. On the other hand, if VRA charged Togo the same rate as the Electricity Division and the mines, the cost of power at the load center in Togo could be reduced to 16.9 mills, a much more attractive proposition.

Building the line to Togo would facilitate formation of a West African Power Pool by extending the Togo transmission line to Dahomey and interconnecting with the Nigerian system. This would offer the advantage of reducing the amount of standby capacity needed in Ghana and Nigeria and postponing required investment in new plant for both countries. In view of this possibility, consideration should be given to the transmission voltage. The Nigerian system has a transmission voltage of 320 kv. A single circuit 165 kv line to Togo and Dahomey would be limited to a capacity of 50-75 MW.

The Bank may not wish to project itself into the negotiations unless requested. The mission, however, believes that it would be advisable to suggest to VRA that it revise its proposal to Togo so that it will offer to supply power at the same tariff as applied to the Electricity Division, subject to the minimum annual charge of CF 280,000.

Transmission Line to Tamale for the Electricity Division

The construction of this line was previously considered in 1962, when it was decided that it would not be prudent for the Government to proceed with this line until firm agreements are concluded to provide for a sizeable part of the proposed demand.

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Diesel generating costs at Tamale are however very high, and provided a load of about 9 MW could be assured at Tamale there would be justification for the provision of a transmission line from the VRA even though tariffs would be necessarily higher than presently charged to the Electricity Division.

Staff

The staff situation is being reviewed at present. It is hoped, now that the construction phase is over, that reductions in staff will be possible, particularly in the engineering staff at the Head Office in Accra and the very large staff at Akosombo where 785 employees are engaged in operating and maintaining the town services, waterworks, sewer, streets, health, hospital, community center, swimming pool, etc..

While it is evident that reductions in staff are desirable, it is also true that there are shortages in senior engineering staff which will be particularly evident when the contract with the Canadian team from Ontario Hydro expires. Thus no qualified Ghanaian engineers are available to fill the following positions.

Director of Engineering (Position filled by Canadian)

Deputy Director of Engineering (Position held by Ghanaian who is expected to retire due to ill health)

As previously noted, the staff for the operation and maintenance of the power plant and transmission line is well trained and should be adequate, assuming that the Ghanaian (E.A. Mensah) who will succeed the Canadian now serving as Operating Superintendent learns to assume responsibility.

The accounting staff has been reorganized for operational rather than construction activities. The staff is larger than would be required in the U.S. or Canada, but is needed under Ghanaian conditions in the opinion of L.F. Larsen, an employee of Ontario Hydro who has been serving VRA as Chief Accountant during construction of the Project and now as Financial Adviser. While he excused the relatively large size of the accounting staff, Larsen also stated that there was some unnecessary detailed work and overheads.

The new Chief Accountant is James Quagraine, a Ghanaian who is a qualified accountant. He is working out reasonably well, but Larsen is not sure he has sufficient drive and initiative to anticipate problems and organize and push the staff. At present, Quagraine does some detailed work which it would be preferable to delegate to others, but no one sufficiently qualified is available for this work. This problem will be alleviated when four young accountants, now completing their education and training in the U.K. at VRA's expense, come back within about a year to fill the gap which presently exists in the senior accounting staff. Unfilled positions include the following: Treasury Officer, Financial Accounting Officer, Plant Accounting Officer and Budget Officer.

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Under VRA's new organizational set-up, the Chief Accountant is subordinate to the Director of Finance. This post is held by E.A.K. Kalitsi, who was formerly resettlement officer. While his accounting background is weak, Kalitsi has a good mind and expresses himself well. His educational background, principally as an economist, includes training at the Harvard Business School.

An internal audit department is to be established with assistance from Cooper Brothers. This should help provide proper financial management for VRA. The forms and procedures for preparing monthly operational and accounting statements are also being worked on; it is planned to have such reports available within 30 days after the end of each month.

Larsen presently plans to leave VRA about mid-1967. The decision will depend on the nature of the assignment he is offered upon return to Ontario Hydro, and he indicated that he might decide to remain with VRA for a longer period.

In general, VRA's engineering, accounting and administrative staff and organization appear more elaborate than needed for running its present generating and distribution system and such long-term financial and developmental planning as now required. This suggests that VRA should give more attention to the possibility of reducing its staff. It also indicates the advantage of a merger between VRA and the Electricity Division, since the necessary head office functions and certain transmission operations could be performed much more economically and efficiently by combining the two existing staffs and making better use of the limited number of experienced personnel available to each. The Bank has previously indicated to the Ghanaians its view that a merger would be advantageous, but the mission was informed that the Government had decided to proceed to establish the Division as a separate corporation. We have not yet had confirmation that this step was taken, and another letter should be sent urging prompt action and reiterating the Bank's opinion that a merger would be desirable.

Depreciation and Interest Expenses

In the Bank's Appraisal Report, it was assumed that 1966 would be the first year of operations but that depreciation would not be charged until 1967, when the aluminum smelter would begin operating and an appreciable portion of VRA's generating capacity would be utilized. Consistent with this approach, no interest or depreciation expense has yet been charged to operations, except for minor amounts of depreciation on administrative assets in Accra and on vehicles and miscellaneous equipment purchased specifically for operations. Beginning January 1, 1967, VRA intends to make provision for depreciation on all of its operating assets as an operating expense. Similarly, all interest will be charged to operations from the same date, except for about \$425,000 of interest on the Bank loan, representing interest for approximately the first two months of 1967, which will be drawn down as the final disbursements under the Bank loan for interest during construction.

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VRA has not yet allocated to specific plant accounts various indirect construction costs, such as administration, housing costs, and interest charges. For the time being, in order to estimate the approximate depreciation charges, these costs are being allocated on the basis of direct costs, about 75% to generation and 25% to transmission. Straightline depreciation rates of 2% for generation and 3% for transmission will be used. Other classes of property, such as buildings, vehicles, and furniture will be depreciated at rates based on their respective service lives.

Larsen explained that the costs incurred in resettling those flooded out by the building of the dam and reservoir and in providing health and sanitation facilities under the Lakeside Health Plan during the construction period would not be allocated because VRA did not intend to provide depreciation on these amounts. This was in accord with the Bainbridge study made a few years ago, on the basis of which VRA had fixed its initial tariffs which the Bank had accepted. Bainbridge recognized that the portion of resettlement costs and the Lakeside Health Plan chargeable to power users should be capitalized and that revenues should be sufficient to provide a return on these as well as the other capitalized costs. In estimating VRA's annual operating expenses, however, Bainbridge made no allowance for depreciation of these items, because they are non-recurring costs and in his opinion it is only necessary to provide depreciation on capital which must be replaced at the end of its useful life.

The mission pointed out to Larsen that under generally accepted accounting principles, depreciation charges are not limited, as Bainbridge suggested, to assets which must be replaced, but should be sufficient to distribute the costs of all fixed assets, less estimated salvage value, over their useful life. Larsen agreed and stated that VRA's auditors (Cooper Brothers) had the same opinion. Larsen explained that VRA proposed to follow the Bainbridge approach because it understood that it was in accord with the Bank's views. As a result of the discussion, Larsen indicated he would recommend that this matter be reconsidered. He suggested that instead of allocating the resettlement costs to specific asset accounts on which depreciation is provided, it might be simpler to treat them as intangible costs to be amortized at the rate of 1% a year (i.e. a 100 year life). The mission indicated that the Bank would probably not object to this.

L.G. Burlington, Director of Engineering for VRA, defended the Bainbridge approach and took issue with the proposal to provide depreciation or amortization for the cost of resettlement and the Lakeside Health Plan. Burlington obviously was concerned about the effect which this additional expense would have on VRA's tariffs. It was pointed out, however, that the additional expense involved would be relatively small. Based on the resettlement costs of £G 3.5 million and the Lakeside Health Plan costs of £G 1.24 million which may be included in the project costs for purposes of the Loan Agreement, the additional depreciation or amortization at a 1% rate would be only about £G 47,000 per year. If the £G 6.5 million of additional resettlement costs is included, the extra depreciation would total £G 107,000 per year, or about 3% of annual operating revenue in the next several years.

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It might be argued that the additional £G 6.5 million of resettlement costs are due to the Government's requiring a higher standard of resettlement than VRA expected, and that they should be borne as a Government budget expense rather than be passed on to VRA. It is recommended, however, that rather than attempt to make a distribution between certain resettlement costs as necessary costs to be borne by power users and other resettlement costs as extra costs to be borne by the general tax-paying public, all of the resettlement costs should be treated as part of the cost of building the dam and reservoir and included in the total cost of the project subject to depreciation and as part of Ghana's investment in the project on which a reasonable return is to be earned.

Other Activities

VRA is still involved in the program for resettlement of people displaced by the formation of Lake Volta. Specifically, the actual evacuation of families to new villages is still in process, since about 3,000 families out of a total of 15,000 remained to be evacuated at September 30, 1966. As of the same date, about £G 60,000 of cash compensation to settlers for houses and crops destroyed by the Lake had been paid, and an estimated further £G 300,000 remained to be paid. VRA is in the process of transferring to the appropriate government ministries responsibility for any continuing activities which may be required in connection with the resettlement program.

The mission was informed that VRA are considering plans for lake transport on Volta Lake and may take an interest in the irrigation and water supply problems of the territory near the Lake. Whilst the Loan Agreement is not specific on this point, such activities would strain the resources of the Authority. It is recommended that the Bank suggest to VRA it would be unwise to commit itself to such ancillary activities at this time.

EAMinnig:AARaizen:jr
IBRD

cc: Messrs: Aldewereld
Chadenet
Ripman
Bell
Lipkowitz
Spottswood
Piccagli
Lithgow

General Vogel
Messrs: Lutolf (5) ✓
Pinto
Povey
Rovani
Division Files
Project Supervision Files
Operational Files

VOLTA RIVER AUTHORITY
PROJECT COST ESTIMATES

Nature of Expenditure	Original Estimated Costs (& millions)			Revisions to 30th Sept 1966 (& millions)			Present Estimated Costs (& millions)		
	Foreign Exchange	Local Currency	Total	Foreign Exchange	Local Currency	Total	Foreign Exchange	Local Currency	Total
Outline design, site preparation, township, access roads, resettlement and administrative expenses	-	10.20	10.20	4.69	(3.02)	1.67	4.69	7.18	11.87
Main and saddle dams, intake structure, construction of power house, supply and installation of cranes, penstocks, gates and installation of electrical equipment	13.10	8.70	21.80	5.16	(3.06)	2.10	18.26	5.64	23.90
Supply of turbines, governors, transformers and major electrical equipment	6.60	1.30	7.90	(3.90)	(1.29)	(5.19)	2.70	.01	2.71
Transmission lines and substations	8.50	3.20	11.70	(1.97)	(.70)	(2.67)	6.53	2.50	9.03
Consulting engineering and detailed design work	2.00	1.40	3.40	(1.16)	4.50	3.34	0.84	5.90	6.74
Contingencies	4.00	2.40	6.40	(4.00)	(2.40)	(6.40)	-	-	-
Working Capital	-	.50	.50	-	(.50)	(.50)	-	-	-
Interest during construction	5.90	-	5.90	(2.20)	-	(2.20)	3.70	-	3.70
	<u>40.10</u>	<u>27.70</u>	<u>67.80</u>	<u>(3.38)</u>	<u>(6.47)</u>	<u>(9.85)</u>	<u>36.72</u>	<u>21.23</u>	<u>57.95</u>

January 6, 1967

VOLTA RIVER PROJECT

Estimated Summary Income Statements and Cash Flows, Years Ending December 31, 1966-1971

(In Thousands of Ghana Pounds, except as otherwise indicated)

	<u>1966</u>	<u>1967</u>	<u>1968</u>	<u>1969</u>	<u>1970</u>	<u>1971</u>
Sales (millions of kwh)						
Smelter	8	824	1,385	1,660	1,752	1,752
Electricity Division	300	310	332	366	400	440
Mines	130	154	157	159	164	167
Total	<u>438</u>	<u>1,288</u>	<u>1,874</u>	<u>2,185</u>	<u>2,316</u>	<u>2,359</u>
Average Revenue per kwh sold in U.S. mills	9.8	5.5	4.7	4.5	4.5	4.7
Operating Revenues						
Smelter (0.225d or 2.625 mills per kwh)	10	773	1,298	1,556	1,642	1,642
Electricity Division (about 0.864d or 10.1 mills per kwh)	1,080	1,103	1,193	1,316	1,440	1,590
Mines (about 0.833d or 9.7 mills per kwh)	450	533	540	553	568	580
Miscellaneous	-	107	110	110	110	110
Total	<u>1,540</u>	<u>2,516</u>	<u>3,141</u>	<u>3,535</u>	<u>3,760</u>	<u>3,922</u>
Operating Expenses						
Cost of Operation	760	1,083	1,083	1,083	1,083	1,083
Depreciation	10	1,386	1,405	1,409	1,415	1,418
Total	<u>770</u>	<u>2,469</u>	<u>2,488</u>	<u>2,492</u>	<u>2,498</u>	<u>2,501</u>
Net Operating Income	770	47	653	1,043	1,262	1,421
Interest Expense	-	1,020	1,465	1,413	1,356	1,292
Net Income (Loss)	<u>770</u>	<u>(973)</u>	<u>(812)</u>	<u>(370)</u>	<u>(94)</u>	<u>129</u>
<u>Sources of Funds</u>						
Net Operating Income	770	47	653	1,043	1,262	1,421
Depreciation	10	1,386	1,405	1,409	1,415	1,418
Total Internal Cash Generation	780	1,433	2,058	2,452	2,677	2,839
Borrowings (Final Loan Disbursements)	*	600	-	-	-	-
Total Sources	*	<u>2,033</u>	<u>2,058</u>	<u>2,452</u>	<u>2,677</u>	<u>2,839</u>
<u>Applications of Funds</u>						
Debt Service	*	1,246	2,387	2,455	2,520	2,492
Additions to Plant	*	625	100	100	100	100
Sundry Payables	*	177	-	-	-	-
Total Applications	*	<u>2,048</u>	<u>2,487</u>	<u>2,555</u>	<u>2,620</u>	<u>2,592</u>
Cash Surplus (Deficit)	*	(15)	(429)	(103)	57	247
Cumulative Cash Surplus (Deficit)	1,347	1,332	903	800	857	1,104
Net Operating Income as % of Net Fixed Assets in Operation	-	-	1.0%	1.7%	2.1%	2.4%
Net Income as % of Ghana's Investment	-	-	-	-	-	0.4%
Times Debt Service Covered by Internal Cash Generation	-	1.2	0.9	1.0	1.1	1.1

* Details of Sources and Applications of funds for 1966 are not available, except for estimated cash surplus at end of year.

January 6, 1967

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WBG ARCHIVES

BANK OF GHANA

PRIVATE POST BAG

ACCRA 26th Oct. 19 60.

GHANA

CONFIDENTIAL

No. _____

Mr. D.R. Nurick,
Ambassador Hotel,
Accra.

Dear Mr. Nurick,

Referring to our discussion with yourself and Mr. Brash on the 22nd instant, I realize that it would be important for you, when asked by the representatives of Valco on your return to the United States, to explain the position regarding the Ghana Exchange Control regulations.

In the enclosed note I will, on your request, give you my line of thought for your information which may serve as a basis for further discussions. You will realize that this has to be discussed in further detail with the Government before final approval can be given.

Yours sincerely,

Encl.

N O T E

apple A. While, owing to the importance of Valco in connection with the Volta River Project, I feel Ghana would be prepared to make certain concessions to Valco as an inducement for them to become established, I pointed out at the discussion with representatives of the I.B.R.D. certain exemptions from Exchange Control regulations particularly the question of allowing Valco to retain alumina export proceeds abroad, amounting to granting immunity from the Ghana Exchange Control regulations, would raise a number of questions, as for instance:

- (a) If an all-round exemption would be granted it may deprive Ghana of a substantial amount of foreign exchange accruing from the development of our natural resources. Our foreign exchange earning capacity would be reduced to the extent of Valco accumulating foreign exchange abroad; our ability to meet our foreign exchange commitments would be reduced to an extent which may not be bearable to Ghana's foreign exchange position.

- (b) A more important consideration would be that such an exemption would constitute an undesirable precedent. Other comers may point to exchange control concessions to Valco and claim similar facilities which would unduly restrict Ghana's freedom of action.

- (c) It would be necessary to clear our position -
 - (i) on the legal aspect of an exemption from Exchange Control regulations;
 - (ii) possibly with the Sterling Area on issues involved.

copy
B. The Bank's view on this is to do everything possible to convince Valco that their request in regard to the desired exemption is not acceptable to Ghana. On the other hand, Ghana should guarantee that Valco's normal requirements of foreign exchange would be met, apart from the normal guarantee for the transfer of funds in servicing the loans which Valco has to take up in connection with the investments in Ghana. Ghana may propose to permit Valco to maintain an appropriate and adequate working balance of foreign exchange outside Ghana, the volume to be agreed to by Ghana.

copy
C. As Valco naturally wish to have a qualification what a guarantee, to be given by the Ghana Government, would imply, I would suggest to formulate:

- (a) The Government of Ghana undertakes to make available and to transfer the normal requirements of foreign exchange to the best of her ability; or, alternatively
- (b) will set aside from the export proceeds of Valco adequate funds to meet the normal requirements of Valco.

copy
D. On the question of acceptable currencies, it can be said: As it is unpredictable to-day which currencies may be acceptable at various times during the duration of this agreement, it would be difficult to mention to-day currencies which may be acceptable in future, say in 20 or 40 years time. In the Bank's view it should be feasible for both parties to agree to ^athe formula ^{to accept} any foreign currencies derived from alumina exports acceptable to Ghana.

26th October, 1960.

Rec'd from Rail-Jour
10/27

no str of currencies involved here

V.R.P. SECRETARIAT DRAFT

26th. October, 1960

Article 43. Bearing in mind that the operations of Valco will provide foreign exchange for Ghana, and in order to enable Valco to obtain the foreign investment necessary for the construction of its aluminium production facilities and to enable it to operate those facilities, Ghana agrees that while all foreign currency obtained by Valco whether held abroad or not shall be made available to Ghana in accordance with Ghana's exchange control law and jurisdiction Valco shall have consent and authority under that law to enable it to receive and hold foreign currency in accounts outside Ghana and to operate such accounts. Further Valco shall have the right detailed below to call on Ghana for foreign exchange from its reserves, always provided that should Ghana's reserves fall short of the amounts necessary to meet Ghana's foreign exchange obligations Ghana shall have a call on any ~~such~~ foreign currency held in Valco's said foreign bank accounts: accordingly, subject to that proviso, Ghana shall automatically on application by Valco in form prescribed give to Valco exchange control consent for the use or purchase of such currency as Valco may need for the purposes of meeting its obligations to its lenders, its obligations to its suppliers for materials supplied and its obligations to its shareholders in respect of dividends declared being obligations arising out of its operation of its aluminium production facilities. The said exchange control consent shall extend to allowing Valco to make in its books such credits and set-offs in respect of any person's liability and expected liability to pay tolling charges and that person's rights and expected rights to receive dividends as may be reasonable in accordance with good accounting practice.

However, Valco shall not accept or oblige itself to receive any foreign currency other than the following currencies
i.e.: except that it may accept in payment of its tolling charge or conversion fee for processing any quantity of imported alumina into aluminium metal an amount of any other currency if that amount of that currency can at the date of such acceptance be readily exchanged for an amount of Ghanaian pounds equivalent to the tolling charge or conversion fee chargeable under Article 24 of this Agreement for processing that quantity of alumina into aluminium metal; allowing for no greater cost of effecting the exchange than would have been incurred if the payment had been made in one of the currencies listed in this sentence.

what about pay to Acct. under para 4. This sum should be Valco's funds.
or discussed already for an amount paid to Valco to be permitted to the Authority. This could be by way of both sides on a pari passu basis.

By whom
steel for Ghana (probably recycled)

Tallying (say, ballway) would be to fold or to not to pay the same amount minus cost of loan & processing: profits would

NOTES ON
V.R.P. SECRETARIAT DRAFT OF 26TH OCTOBER, 1960

- (i) Retaining foreign currency abroad might be regarded as attracting payment to the Bank of Ghana in lieu of exchange charges.
- (ii) Obligations of Valco in respect of which exchange control consent is to be automatically given. Besides those stated in the draft Valco have asked for licence charges, fees, royalties, salaries, capital invested by Valco as opposed to its shareholders. If (I do not know) it is intended that Valco might pay salaries to personnel in America, the contracts providing for them might not be entered into at arms' length; licence charges, fees, royalties are subject to a similar objection; as to Valco's own investments, does that mean profits it ploughs back, or something else? - These matters could affect Valco's profits and thus Ghana's tax return and need to be discussed.
- (iii) Obligations to suppliers for materials supplied. The word "supplied" prevents demands for foreign exchange to pay in advance for materials, which demands might possibly stretch the concession in this article.
- (iv) Some provision as to rate of exchange of the listed currencies is necessary, but cannot be inserted without further advice than is available to me today.
- (v) The second part of the second paragraph is drawn in the way it is in an attempt to avoid the difficulties inherent in defining convertibility. Since Valco's only operating receipts are to be its tolling charges, it may be that this proposal is satisfactory.

Valco
 If Ghana rec'd metal
 acct for pounds, can
 Valco convert sterling
 into dollars, i.e. get
 externally convertible Ghana credits.

Rec'd from
 Rouse - Jones
 10/21/60

43 In order to facilitate its financial transactions Valco shall have authority to receive and hold its funds in accounts outside Ghana and to operate such accounts; but foreign currency obtained by Valco whether inside or outside Ghana shall be made available to Ghana in accordance with Ghana's exchange control law and jurisdiction. Valco shall not accept or oblige itself to receive any foreign currency other than the following currencies, i.e. or any currency which is at the time of acceptance readily convertible

[NOTE: some definition of "convertible" is necessary] into one of those currencies. Ghana shall automatically on application by Valco in form prescribed give to Valco exchange control authorization for the use or purchase of such currency as Valco needs for the purposes of meeting its obligations to its lenders, suppliers and shareholders arising out of its operation of its aluminium production facilities, and Ghana shall make available out of its resources, or out of resources available to Ghana, such currencies as Valco shall need to purchase for meeting its said obligations.

note
 re: section

~~is it a~~
 included as
 included?
 re: what
 currencies
 included
 is it a
 dollar

is it a
 steel
 exchange
 at about
 annual
 on pay +
 admin. expenses
 to pay +
 credit to
 customers +
 overpay +
 loans

Is Authority covered; if they do will
 Panick have to provide for payment in
 foreign currencies, or are we protected
 if pay is in Gh. pounds, if OK, Panick
 would be expensed as payable in Gh. pounds

see this I would be
 included in dollar

think
 this is OK
 but
 check
 with
 B.K.)

R.D. says Authority not covered because it
 is a Ghana company & would not pay in
 foreign currency; they would be coupled
 with assurance from Govt to Ghana
 Authority necessary foreign currency.

on pay
 to customers

(I would call
 this)

Lullivan Draft
10/21

CURRENCY - GHANA PROPOSAL

The currency received by Valco in respect of its tolling charge shall all fall within the jurisdiction of Ghana's exchange control. Valco shall only be permitted to accept certain specified currencies for its tolling charges.

Valco shall be permitted to retain in bank accounts outside of Ghana (but subject to the exchange control jurisdiction of Ghana) such amounts of its receipts as are necessary to meet its foreign obligations. (Not clear whether this includes debt service only or also foreign purchases of materials). The remainder of Valco's foreign exchange would be turned over to Ghana but Ghana would grant assurance of automatic approval for foreign exchange with respect to any amounts Valco wanted to remit abroad as earnings, profits, capital, license charges, etc.

Ghana would have a call on Valco's foreign bank accounts should Ghana's own reserves fall short of the amounts necessary to meet Ghana's foreign exchange obligations. However, Valco would also have a right to call on Ghana for foreign exchange other than furnished to Ghana.

Chama Tax & Statutes
Bank papers

Income Tax (Amendment) (No. 2) Bill

ARRANGEMENT OF CLAUSES

Clause

1. Short title and Application.
2. Section 9 of the principal Ordinance amended.
3. Section 11 of the principal Ordinance amended.
4. Section 18 of the principal Ordinance amended.
5. Subsection (2) of Section 27 of the principal Ordinance replaced.
6. Paragraph 2 of the Third Schedule amended.
7. Amendment of Third Schedule by insertion of new paragraph 7A.
8. Paragraph 10 of Third Schedule replaced.
9. Amendment of Third Schedule by insertion of new paragraph 22A.
10. Date of Operation.

Passed in law without amendment.

A
B I L L

INTITULED

AN ACT further to amend the Income Tax Ordinance.

[]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the National Assembly of Ghana in this present Parliament assembled, and by the authority of the same as follows:—

- 1 **1.** This Act may be cited as the Income Tax (Amendment) (No. 2) Act, 1959, and shall be read as one with the Income Tax Ordinance 1943, hereinafter referred to as the Principal Ordinance. Short title and Application. No. 27 of 1943.
- 5 **2.** There shall be inserted immediately after paragraph (r) of subsection (1) of Section 9 of the principal Ordinance a new paragraph (s) as follows:— Section 9 of the principal Ordinance amended.
- 10 (s) The dividend of a pioneer company in the hands of its shareholders when paid to them for any period, in so far as such dividend when added to any previous dividend does not exceed either the pioneer qualifying expenditure under the Third Schedule or the income from all periods relieved from tax under the Fourth Schedule to this Ordinance.
- 15 **3.** Section 11 of the principal Ordinance is hereby amended by repealing paragraph (i) thereof; and by substituting the brackets and letter “(i)” for the brackets and letter “(j)” in the first line of paragraph (j) thereof. Section 11 of the principal Ordinance amended.

Section 18
of the
principal
Ordinance
amended.

4. Section 18 of the principal Ordinance is hereby amended by inserting immediately after subsection (9) a new subsection (10) as follows:—

(10) A trade or business carried on by a company not incorporated in Ghana, whether alone or in partnership, shall not be treated as having ceased, nor a new trade as having been set up and commenced, by reason of its being assigned or transferred to a company incorporated under Ghana Law primarily for the purpose of taking over and continuing said trade or business.

Subsection
(2) of
Section 27
of the
principal
Ordinance
replaced.
No. of
1959.

5. For subsection (2) of Section 27 of the principal Ordinance there is substituted the following new subsection:—

(2) This section shall not apply to any pioneer company certified as such under the provisions of the Pioneer Industries and Companies Act, 1959.

Paragraph
2 of the
Third
Schedule
amended.

6. Paragraph 2 of the Third Schedule to the principal Ordinance is hereby amended by adding at the end thereof the following new definitions:—

“pioneer company” means a company certified to be a pioneer company under the provisions of the Pioneer Industries and Companies Act, 1959.

No. of
1959.

“pioneer qualifying expenditure” means qualifying expenditure incurred by a pioneer company within twelve months from its production day as defined by section 2 of the Pioneer Industries and Companies Act, 1959.

No. of
1959.

Amendment
of Third
Schedule
by insertion
of new
paragraph
7A.

7. After paragraph 7 of the Third Schedule to the principal Ordinance there is hereby inserted the following new paragraph (7A):

Pioneer
allowance.

7A. Where in its basis period for a year of assessment a pioneer company incurs pioneer qualifying expenditure there shall be made to the said company a pioneer allowance equal to the amount of the pioneer qualifying expenditure so incurred.

Provided however that the said pioneer qualifying expenditure shall not qualify for any allowance under this Schedule other than that granted under the provisions of this paragraph.

Paragraph
10 of Third
Schedule
replaced.

8. For paragraph 10 of the Third Schedule to the principal Ordinance there is hereby substituted the following new paragraph:

Balancing
Charges.

10. Subject to the provisions of this Schedule where in his basis period for a year of assessment the owner of an asset disposes of that asset a charge (hereinafter called “a balancing charge”) shall be made on that person for that year:

- 1 (a) Where qualifying expenditure in respect of
the said asset has been incurred by the said
owner, the said charge shall be an amount
5 equal to the excess of the value of the said
asset at the date of its disposal over and above
the residue of the said expenditure at that
date. Provided that a balancing charge shall
only be made in respect of such asset if imme-
10 diately prior to its disposal it was in use by
such owner in the trade or business for the
purposes of which such qualifying expenditure
was incurred, and shall not exceed the total of
- (i) any allowances made under the provi-
15 sions of this Schedule, in respect of such
asset; and
 - (ii) in respect of cases to which the provisions
of paragraph 18 of this Schedule apply,
any deductions made under the provisions
20 of section 10 of this Ordinance in respect
of the capital cost of such asset.
- (b) Where pioneer qualifying expenditure in
respect of the said asset has been incurred by
the said owner, the said charge shall be the
value of the said asset at the date of its disposal.
25 Provided that the said charge shall not exceed
the pioneer qualifying expenditure in respect
of the said asset.

9. After paragraph 22 of the Third Schedule to the principal
Ordinance there is hereby substituted the following new paragraph
30 (22A):

Presump-
tions on
transfer of
business to
Ghana
Company
under
Section 18
(10) of the
principal
Ordinance.

22A. Where a company not incorporated in
Ghana, being the owner of an asset in respect of
which qualifying expenditure has been incurred,
assigns or transfers the said asset to a company
incorporated in Ghana in such circumstances that
the said asset continues to be used in a trade or
business which, by virtue of the provisions of Section
18 (10) of this Ordinance, is treated as not having
ceased, the following provisions shall apply—

- (a) the company not incorporated in Ghana shall
be deemed to have sold the said asset at a
price equal to the residue of the said
qualifying expenditure at the date of the
assignment or transfer of the said asset to
the company incorporated in Ghana; and
- (b) the company incorporated in Ghana shall be
deemed to have bought the said asset imme-
diately after the said assignment or transfer
and at a price equal to the residue of such
qualifying expenditure: and

Amendment
of Third
Schedule by
insertion
of new
paragraph
22A.

(c) for the purposes of this Schedule the company incorporated in Ghana shall be deemed to have incurred the qualifying expenditure in respect of such asset incurred by the company not incorporated in Ghana and to have received all capital allowances in respect of such asset made to the company not incorporated in Ghana.

1

5

Date of Operation.

10. This Act shall be deemed to have come into operation and to have had effect as from the 1st day of April, 1959.

10

INCOME TAX (AMENDMENT)(NO.2) BILL

MEMORANDUM

The object of this Bill is to assist the development of existing businesses and to encourage the formation of new companies:-

- (a) by repealing paragraph (1) of Section II of the Principal Ordinance to decrease the cost of overseas borrowing.
- (b) by providing legislation similar to United Kingdom legislation to prevent any unrelieved tax being imposed on an overseas company when a Ghana Company takes over its business. This is effected by the inclusion of two sections:-
 - (1) Section 18(10) of the Principal Ordinance provides for the assessment of a trade in a continuing basis before and after change of ownership from a Company not incorporated in Ghana to a company incorporated in Ghana.
 - (11) Paragraph 22A of the Third Schedule provides that where there is a change of ownership under Section 18(10), the assets taken over shall be valued for the purposes of the Third Schedule as if there had been no change of ownership.
- (c) by providing in the case of Pioneer Companies that the qualifying expenditure incurred in the first twelve months of the date of production is deducted from taxable profits.


MINISTER RESPONSIBLE FOR FINANCE.

October, 1959.

INCOME TAX (AMENDMENT)(NO.2) BILL

I beg to move that the Income Tax (Amendment) (No.2) Bill be read a Second Time. This Bill seeks to give effect to the proposals I made in my Budget Speech of July 2nd 1959, relating to the taxation of pioneer and other companies in Ghana. As I said in that speech, Industrialisation forms a very ^{important} ~~import~~ part of the Second Five Year Development Plan, and the object of this Bill is to promote industrialisation by encouraging investment and the formation of Companies in Ghana.

2. As the law stands now, pioneer companies can enjoy a maximum tax-free period of five years. It is proposed that this should be changed, and under the Amendment now before the House, such companies will not be granted tax relief for any specific period; rather they will enjoy tax relief until such time as they shall have recovered their initial capital investment in full. Hon. Members will agree that since an investor's main concern is to recover at least what he invests initially, this Amendment will attract more investment.

3. The Bill before the House seeks to repeal paragraph (i) of Section 11 of the Income Tax Ordinance, 1943. Under this no company is allowed a deduction for interest paid by any person outside Ghana to another person outside Ghana unless Ghanaian ~~tax~~ has been withheld by the paying person. The effect of such treatment of interest is approximately to double the cost of borrowing by Ghana companies in overseas markets. Clearly such a situation is undesirable especially as we are competing with other countries in ^{attracting} ~~attracting~~ investment capital.

4. The next point concerns overseas firms which desire to re-organise their business to become Ghana Companies. At

present

present overseas firms are discouraged from re-organising their businesses and forming Ghana companies because the cessation of their business may cause tax to be imposed that is not relieved under Double Taxation Arrangement. To encourage the formation of Ghana companies I am treating such businesses for tax purposes as not having ceased nor new ones commenced. The Ghana company will be considered as taking over the assets of the company at the income tax valuation and will be responsible for any balancing charges that may arise when those assets are sold. In this way the formation of Ghana companies can be encouraged without loss of revenue.

These measures will I believe greatly encourage investment and the formation of companies in this country and help our industrialisation programme.

I beg to move.

Rec'd from office
24th. 8. 10/24

NOTES ON PIONEER COMPANIES RELIEF IN GHANA

the Ministry
Bearing in mind that the object of the relief is to encourage the setting up of an industry or industries on a scale adequate to the economic needs of Ghana, and especially to encourage non-resident concerns to invest capital in Ghana in special enterprises, it is for ~~us~~ to offer the Government such advice as will enable it to decide whether it can attract outside investment by limiting its offered tax relief for pioneer companies.

2. So far the methods of relief have been as follows:-

- (a) A Tax Holiday to the industry for a number of years (e.g. five years as per the old 4th schedule of the Income Tax Ordinance 1943 (as amended) - up to 31st March, 1959) *set*
- (b) Accelerated Capital Allowances called Pioneer Qualifying Allowances (as per Section 7A of the Income Tax (Amendment) No.2 Act of 1959 - from 1st April, 1959). *get*

This form of relief which in effect results in a rapid amortization of facilities since it provides that the total initial expenditure made within 12 months of the production date is to be considered a deduction against income tax has proved not to be a sufficient incentive to foreign investment, and hence the new bill provides for a five year Tax Holiday with a possible extension for a further period not exceeding five years.

- (c) Also a relief to shareholders in respect of dividends paid to them out of the tax free profits, under Section 27 of the Ordinance.

In addition there are benefits as regards capital expenditure and losses allowable from the time the industry or concern becomes liable to taxation.

3. It appears therefore that a happy mean should be struck between the requirements of Ghana as regards tax, and the need to encourage foreign investments in Ghana. The case of the Pioneer Tobacco Company Limited is one which shows from the profits made during the tax holiday period how a considerable amount of tax has been lost to Ghana. Surely this company would have continued to trade and make profits without the generous tax concessions granted to it. On the other hand there are concerns which could not have been started, but for Pioneer Relief. It therefore seems desirable that each case should be considered on its merits, and every case reviewed on its accounts every two years of the Tax Holiday period to see what tax is being lost under the concession of the Tax Relief, and whether it is worth while to Ghana to give up this tax.

4. The view that the Pioneer Relief given in Ghana is too costly and generous has been held by other visiting financial experts to Ghana. Hence Mr. J. Harvey Perry who was appointed by the United Nations Technical Assistance Administration to prepare a Technical Assistance Programme for the Government of Ghana, suggested that the relief should take the form of an acceleration of capital allowances, in the hope that it would

meet the frequently expressed point of view of the businessmen which favours the early recovery of the capital investment. Hence the relief provided in the Income Tax (Amendment) (No.2) Act, 1959. This change however brought forth considerable protests from Industrialists, as they pointed out that it only gave accelerated capital allowances and was not attractive to encourage capital investment into Ghana on a long term basis. Of all the suggestions made for improving Pioneer Relief, the Tax Holiday Scheme seems to be the most popular as an incentive on a long term basis. However it is for the Government of Ghana to decide to what extent the Tax Holiday should be allowed, and to what extent capital allowances should be given on capital expenditure during the Tax Holiday period.

5. Comments on the main features of the proposed relief are as follows:-

(a) Tax Holiday Period

The draft Amendment Bill now before the Cabinet will be duly amended to make it absolutely clear, that the intention of the Government is to grant a five year tax holiday in the first instance, and at the end of which period, the Minister of Finance may at the request of the pioneer company grant an extension of the holiday for a further period not exceeding 5 years, so that the total tax holiday will not exceed 10 years.

It is pertinent to mention that in Mexico, Puerto Rico and Chile the tax holiday period 10 years, also in the Dominican Republic it is up to 20 years, and in Panama 25 years.

In Nigeria where there is a five year holiday, pioneer companies get an extra full year of tax holiday for each year of loss in the tax holiday period; so that where a pioneer company makes a loss in each of the 5 years, it would be given an additional five year tax holiday, thus it would enjoy a ten year tax holiday. In addition, in the years following the ten year total tax holiday the losses incurred in individual years may then be deducted from chargeable income. In Ghana the position is, that losses of individual years of the tax holiday period are set aside and deducted from profits of years subsequent to the holiday period.

to call

(b) Capital Allowances

An important feature of the relief is the postponement of all deductions for capital allowances during the tax holiday; and this scheme of giving initial and annual capital allowances, after the Tax Holiday period, on all capital expenditure incurred during the holiday period (as per paragraph 6 of the Old Fourth Schedule) does seem to be very generous and costly as regards future tax from the Pioneer Company; and some consideration might be given to restricting the capital allowances due after the Tax Holiday period; or as suggested the buildings, plant and machinery of the Pioneer Company should be depreciated during the holiday period at the appropriate rates of capital allowances, so that after the Tax Holiday period the appropriate initial and annual allowances

will be granted on the residuary value only. Probably there will be great opposition to this suggestion; and if it becomes necessary to retain this provision in order to attract companies, I suggest that some ploughing back into the industry of the Tax Holiday profits might be insisted upon or the investment of a proportion of these profits in Ghana. (Vide the Minister's last Budget Speech re Ghana Insurance Companies). This would to some extent be helpful to the general economy of the country, and make up for the tax lost in the holiday period. Another alternative would be to limit the period of a tax free holiday by having a rising graduated rate of tax for every year after the first three years of the Tax Holiday, starting in the fourth year at 2/- per £G and rising to 8/- per £G after the 10th year, if a ten year Tax Holiday was granted.

e.g.	Rate per £G
1st year	Nil
2nd "	Nil
3rd "	Nil
4th "	2/-
5th "	3/-
6th "	4/-
7th "	5/-
8th "	6/-
9th " & 10th year	7/-
After 10th "	8/-

Further some provisions on the lines of Section 26 as regards issued capital and chargeable income might also be considered to restrict the loss of tax.

(c) Tax Free Dividends

The purpose of this provision is to encourage investors, by the prospect of a free-of-tax dividend, to put their money into the Pioneer Company. It has been contended that a shareholder benefits from the relief granted to the company and is not entitled to an additional relief. This has been illustrated as follows:-

Where a company makes a profit of say	£G50,000
It will pay tax @ 8/- in the £G i.e.	<u>20,000</u>
Therefore the profits available for distribution to shareholders will be	£G 30,000

Hence if there are 10 shareholders each will get £G3,000. But if the company is a pioneer company it will be exempt from tax during the holiday.

Therefore the profits available for distribution to shareholders will be £G50,000. And each shareholder will get £G5,000. The view is that exemption from company tax is of no consequence under Ghana's system if dividends distributed out of the earnings that have been exempted are not also exempt from tax, as may be seen from the following illustration:-

(a) A non-pioneer company

Gross Profits	£G50,000
Less tax @ 8/- in the £G	<u>20,000</u>
Profits available for distribution to shareholders	£G30,000

Each of 10 shareholders gets a voucher as follows :-

Gross	£G5,000
Less Tax	<u>2,000</u>
Net	<u>£G3,000</u>

He is assessed to Ghana Tax on

Gross	£G5,000
-------	---------

If his average rate of tax is 4/- in the £G, he will suffer tax of £G1,000

But since he has suffered tax of £G2,000

He will be due for set off of £G1,000

Therefore his net receipt will be £G4,000

(b) Where a pioneer company enjoys Tax Holiday, but dividends paid to shareholders not free of Tax.

Gross Profits	£G50,000
Tax	<u>Nil</u>
Profits available for distribution to shareholders	<u>£G50,000</u>
Each of 10 shareholders gets	£G 5,000
Less Tax (at say average rate of 4/- in the £G)	<u>£G 1,000</u>
Net receipt	<u>£G4, 000</u>

Note. The net receipt in (a) is the same as in (b).

(c) Case of a Pioneer Company enjoying a Tax Holiday and tax free dividends paid to shareholders

Gross Profits	£G50,000
Tax	<u>Nil</u>
Profits available for distribution to shareholders	<u>£G50,000</u>
Each of 10 shareholders get	£G 5,000
Tax	<u>Nil</u>
Net receipt	<u>£G 5,000</u>

Note. In (c) the shareholder gets £G1,000 more than he would get in either (a) or (b), and this is the incentive for investing his money in the Pioneer Company.

In deciding to make an investment, a business takes into account the general features of income tax; and a view has been expressed that the exclusion of this generous provision may render Ghana's prospects of attracting foreign investment very gloomy. In trying to evolve a system which will restrict the loss of revenue, it must not be forgotten that the whole question of Pioneer Relief is related to the attraction it offers to long term investments, and that what the country may lose in tax may be made up in other ways owing to increased economic activity. As regards the fears expressed about the "tricks" which may be played with the tax free dividends, it should be mentioned that the Pioneer Tobacco Company have not declared dividends, but have capitalised a proportion of the Tax Holiday profits into additional shares. Further the investor is usually a very wide-awake person and would only pay prices which were related to the tax position, for any shares after the Tax Holiday period. The suggested unloading of shares after the Tax Holiday period would not be a successful operation as the purchaser would not pay a high price for stock which would produce a lower return than during the tax holiday period. In any case it would be difficult to legislate to protect the investor who does not take the necessary precaution to safeguard his own interest.

1st General meeting on Oct 24

Basic Principle ^{part} Relief until net earnings = invested funds
(paid up share capital)

Net earnings defined in the accounts,
minus, deducting straight-line depreciation
during tax holiday

Tax Holiday - Five years, with a second row
for an additional five years,
but maximum return of funds.

(Admin) Assurance - to be certified by Govt Finance
and law must be met

(I said Bank was disregarded: x
will return)

Rec'd Oct 25

D R A F T O F A B I L L

ENTITLED

THE INCOME TAX (AMENDMENT) ACT, 1960

AN ACT to amend the Income Tax Ordinance, 1943.

BE IT ENACTED by The President and the National Assembly in this present Parliament assembled, as follows:-

Amendments relating to Pioneer Companies

Amendments to Ordinance.

1. (1) The Income Tax Ordinance, 1943 (No.27), as subsequently amended, is hereby amended -

(a) by the repeal of sections 9 (1) (s) and 27 thereof and the Fourth Schedule thereto.

(b) by the repeal of the definitions of "pioneer company" and "pioneer qualifying expenditure" and paragraphs 7 and 10 () of the Third Schedule.

(2) Notwithstanding the repeal hereby made by the preceding subsection a pioneer company granted relief under the provisions of the Fourth Schedule at the date of publication of this Act shall continue to enjoy the relief thereby granted.

Amendments to Pioneer Industries and Companies Act, 1959.

2. The Pioneer Industries and Companies Act, 1959 (No. 63) is hereby amended:-

(a) by the substitution for section 7 thereof of the following:-

"7. Every company while a pioneer company for the purposes of this Act shall be entitled to such relief from income tax under any Act to the extent and in the manner provided for in the Schedule to this Act."

(b) by the addition of the following Schedule:-
"Schedule

1. For the purposes of this Schedule, unless the context otherwise requires -

"tax holiday period" means a period of five years commencing on the date when a pioneer company commences its pioneer business or on its production day whichever is the earlier, or such longer period, not exceeding ten years, as the Minister may direct.

"pioneer business" means the trade or business carried on by a pioneer company, in relation to the industry and products or services for which it has been certified to be a pioneer company.

2. (1) A pioneer company shall be entitled to relief from tax equal to the tax chargeable on the income in respect of its pioneer business, or such lesser relief as may be granted by the President in an Order made under the provisions of Section 3 of this Act.

(2) Any relief granted under this Act shall be set forth in an Order made under the provisions of Section 3 of this Act.

(3) Where a pioneer company pays any dividend to its shareholders for any period, such dividend shall, to the extent that when added to any previous dividend it does not exceed the divisible profits of the tax holiday period, be exempt from tax in the hands of such shareholders.

(4) The Commissioner may direct that, in ascertaining the income of a pioneer company, any expenses incurred by such company:-

- (a) in its tax holiday period which may reasonably and properly be expected to have been incurred in the normal course of business after the end of that period shall be deemed to have been incurred on such date after the end of that period as the Commissioner may deem fit; and
- (b) within one year after the end of the tax holiday period, which may reasonably and properly be expected to have been incurred, in the normal course of business, during the tax holiday period, shall be deemed to have been incurred during the tax holiday period!

Amendments relating to Income Tax

Amendments to Ordinance.

3. The Income Tax Ordinance, 1943 (No. 27) as subsequently amended is hereby amended:-

(A) in section 20 by the substitution for the provisos to subsections 2 (a) and 4 (a) in each case of the following -

"Provided that no deduction shall be made unless it is claimed in writing within twelve months after the end of the year of assessment or, where the Commissioner is satisfied that owing to some reasonable cause the person making the claim was prevented from doing so within such period, within such extended period as he may deem reasonable."

(B) by the substitution for sections 25 and 26 thereof of the following:-

"Rates of income tax on companies. 25. Tax shall be levied and paid for each year of assessment on the chargeable income of any company:

- (a) which is not resident in Ghana at the rate set forth in Table 1 of the Second Schedule to this Ordinance and, for such part of its income chargeable under section 7 (a) that is not retained in Ghana at the rate set forth, in Table 2 of the Second Schedule to this Ordinance.

(b) which is resident in Ghana and which subject to the provisions of paragraph (c) of this section:

(i) has an issued share capital of not more than ten thousand pounds and a chargeable income of not more than five thousand pounds at the rates set forth in Table 3 of the Second Schedule to this Ordinance, or

(ii) has an issued share capital of more than ten thousand pounds and a chargeable income not of more than five thousand pounds at the rate set forth in Table 4 of the Second Schedule to this Ordinance, or

(iii) has a chargeable income of more than five thousand pounds but not more than ten thousand pounds at the rates set forth in Table 5 of the Second Schedule to this Ordinance.

(c) which is resident in Ghana at the rate set forth in Table 1 of the Second Schedule to this Ordinance where:

(i) the total sum of its chargeable income for any year of assessment together with such directors' emoluments as are allowed under section 10 of this Ordinance in computing such chargeable income exceeds or has exceeded ten thousand pounds, or

(ii) the company was formed to ~~acquire~~ acquire the whole or any part of a trade or business previously carried on by another company, or

(iii) the beneficial interest in a majority, in paid up value, of all shares and stock of such company at any time during the period in which the income arose was held by individuals resident outside Ghana.

Provided that where any such company proves to the satisfaction of the Commissioner that any dividends have been paid out of such chargeable income an amount equal to such dividends may be charged at a lower rate or not charged with any tax as the Commissioner shall determine."

(C) In the First Schedule by the substitution for the figure "£600" of the words "seven hundred and fifty pounds".

- (D) In the Second Schedule by deleting the expressions "Part I" and "Part II (Section 26)" and re-designating Tables A,B and C thereof as Tables 3, 4 and 5 of the Second Schedule respectively.

Miscellaneous

4. This Act shall be deemed to have come into operation on the 1st day of April, 1960. Commencement.

INCOME TAX AMENDMENTS (PRIMARY PRODUCERS) ACT
1960

GHANA

NO. _____ of _____ 1960

AN ACT to amend the Income Tax Ordinance so as to make provision for the encouragement of primary producers and for the establishment of a stabilized fiscal regime in connection with taxes on profits and all other fiscal charges levied in Ghana

Date of
commencement

BE IT ENACTED by the National Assembly of Ghana in this present Parliament assembled, and by the authority of the same as follows:-

1. This Act may be cited as the Income Tax Amendment (Primary Producers) Act 1960 and shall be read as one with the Income Tax Ordinance 1943, hereinafter referred to as the Principal Ordinance.

2. After Section 27 of the Principal Ordinance there is hereby inserted the following new Section (27 A):

27 A. A company incorporated in Ghana for the purpose of establishing a primary producing industry shall be entitled to relief from tax and the stabilization of tax payable by it to the extent and in the manner provided for in the Schedule to this Ordinance.

3. After the Fourth Schedule of the Principal Ordinance there is hereby inserted the following new Schedule (5th):

FIFTH SCHEDULE

Primary Producers Relief and Stabilization

PART I - PRELIMINARY

1. In this Schedule unless the context requires otherwise

"accounting period" means -

(a) where accounts in respect of primary production are made up for a period of twelve months, such period; or

(b) where accounts in respect of primary production -

(i) are made up for a period greater or less than twelve months; or

(ii) have not been made up;

such period, not exceeding twelve months, as the Commissioner may determine;

"chargeable profits" means profits ascertained in accordance with the provisions of paragraph 7 of this Schedule

"concession" has the same meaning as in the Concessions Ordinance;

Cap. 136.

"fiscal charge" means any tax, customs duty, excise, income tax, profits tax, mineral duty, dividend tax, sales tax, property tax or other financial burden, whether existing now or created in the future, the economic burden of which is imposed upon a person engaged in primary metal production;

"minister" means the Minister responsible for finance;

"person" includes a company, a partnership and a body of persons;

"person engaged in primary production" means any person certified under this Act as being engaged in primary production;

"primary products" means metals and their ores (including intermediate products), minerals, oil and any other commodities which the Minister may certify under the provisions of paragraph 2(1) of this Schedule as primary products;

"primary production" means the production in Ghana of one or more primary products to a marketable condition at the rate set forth in a certificate issued by the Minister under paragraph 2(2) of this Schedule and includes all the processes required in such production and the sale or tolling arrangements entered into for the disposition of such primary products;

"production day" means the estimated date of commencement of production of primary metals as stated in the certification of a person as being engaged in primary metals production or any other day substituted under the provisions of this Schedule;

"quarterly period" means in relation to any primary production the period of three months immediately following the termination of the last accounting period relating to such production and each of the successive periods of three months thereafter within the same accounting period, or, where a person commences primary production after the day of 1960, the first period of three months from the commencement of such primary production and each of the successive periods of three months thereafter;

Provided that if an accounting period is, by reason of a determination by the Commissioner of the length of any accounting

period, a period other than one of three months or a multiple of three months, the only or final quarterly period, as the case may be, in that accounting period shall be the period less than three months from the termination of the immediately preceding quarterly period to the end of such accounting period;

"resident in Ghana" when applied to a company engaged in primary production shall include any such company incorporated in Ghana even if the control and management of such company shall be exercised outside Ghana;

"royalties" means sums payable in consideration of the grant of a concession permitting primary production and computed by reference to the value or quantity of primary products won or produced Provided that where a concession agreement is made conditioned to be subject to any prior rights vested in another person, any sums paid to that other person, in consideration of the waiver or assignment of such prior rights, shall also be deemed to be royalties.

PART II - CERTIFICATION

2. (1) Subject to the provisions of Sub-paragraphs (2) of this paragraph, the Minister, if he is satisfied that it is in the public interest so to do, may by Order declare any product to be a primary product .

(2) An Order made under the provisions of Sub-paragraph (1) of this paragraph shall contain provisions that a product certified as a primary product shall only be deemed to be a primary product if produced at not less than a given annual rate of production.

3. (1) Any person resident in Ghana and desirous of being certified as being engaged in primary production may apply in writing to the Minister in such form as the Minister may from time to time prescribe. If the Minister having regard to the production or anticipated production from all sources in Ghana of such primary product, is satisfied it is in the public interest, he may certify that person as being engaged in primary production for the purposes of this section, and a copy of the certificate shall be published in the Gazette.

Power to
certify
person as
being en-
gaged in
primary
production.

(2) Every application under the provisions of subsection (1) of this section shall state, -

- (a) particulars of the primary production to be carried on by the person;
- (b) the locality or localities in which it is proposed to carry on the primary production;
- (c) the date when the person expects to produce in marketable quantities the primary product;

- (d) the estimated rate of production of primary product, which it is expected will be attained on or before a specified day which such person shall request the Minister to designate as the production day;
- (e) particulars of the cost and size of any capital works to be undertaken by the person; and
- (f) any other information the Minister may from time to time require.

4. (1) A person engaged in primary production shall, not more than thirty days after its production day, or within such extended time as the Minister may allow, deliver to the Minister a statement showing at the production day the rate of production of primary products; and where the results are below the estimate given as prescribed by this Act, the person shall explain to the Minister in writing the reasons for the shortage or other deficiency.

Duties,
etc. of
person en-
gaged in
primary
production.

(2) Where the Minister is not satisfied with the reasons for the shortage or other deficiency of the operations of a person engaged in primary production under this Act, he may by notice in writing require such person engaged in primary production, within thirty days from the date of service upon it of the notice, to remedy the shortage or other deficiency or if the shortage or other deficiency was due to some cause beyond the control of such person to establish to his satisfaction that there is a reasonable prospect of the shortage or other deficiency being remedied by a date to be specified by such person. If the person engaged in primary production complies with the requirements of a notice under this subsection, the Minister may substitute for the production day such other day as he thinks fit.

5. (1) If a person engaged in primary production fails to comply with any of the requirements of this Part, the Minister may with the prior approval of the President, revoke the certificate of the person as being engaged in primary production or amend it as he thinks fit.

Power to
disqualify
person en-
gaged in
primary
production.

(2) Any revocation under the provisions of this section may be expressed to have retrospective effect and accordingly, -

- (a) where the revocation is retrospective a person heretofore certified as being engaged in primary production and entitled to the benefit of this Act shall cease to be entitled to the privileges, rights, reliefs, exemptions and allowances under this Act from the effective date of the revocation; and
- (b) where the effect is not retrospective the benefit of this Act shall cease on the date specified in the revocation.

6. The Minister may make regulations to further delineate the procedures to be followed

Regulations.

under the provisions of paragraphs 2, 3, 4 and 5.

PART III - IMPOSITION OF TAX AND ASCERTAINMENT OF CHARGEABLE PROFITS

7. (1) For each accounting period income tax shall be levied upon and paid by every person engaged in primary production in Ghana on the chargeable profits, assessed as hereinafter provided, arising from such operations during such period whether such profits are received in Ghana or not, provided, however, that the tax imposed by this Act shall be subject to relief under the provisions of The Pioneer Industries and Companies Act, 1959, as amended.

Tax to be charged upon profits arising from primary production.

(2) For each quarterly period there may be levied upon every person engaged in primary production a provisional tax, on account of the tax referred to in subsection (1) of this section, on the amount estimated by the Commissioner as the chargeable profits resulting from such operations during such quarterly period; and every person upon whom such provisional tax is levied shall pay such tax.

8. The chargeable profits of any accounting period of any person engaged in primary production shall be the remainder of the proceeds of all primary products sold by, and of all income incidental to those operations of, that person during that period, after the deductions allowed by this part have been made:

Ascertainment of chargeable profits.

Provided that in the case of disposition of primary products under tolling arrangements providing for the processing of foreign produced primary products in Ghana, the chargeable profits of any accounting period of any person engaged in primary production shall be the remainder of the proceeds of the tolling charges, and of all income incidental to those operations of that person during that period, after deductions allowed by Section 10 of the Ordinance and paragraph 9 of this Schedule have been made;

Provided further that all primary products disposed of otherwise than by sale or tolling arrangements shall be deemed to have been sold at a price determined by the Commissioner by reference to the market price of such primary products in a location outside Ghana where such products are normally traded, less freight to such location and selling expense.

9. (1) There shall be deducted in computing the chargeable profits of any person engaged in primary production of any accounting period in addition to the deductions allowed under Section 10 of the Ordinance -

- (a) any rents or royalties payable under concession agreements or leases in respect of land on which primary production is in progress;
- (b) sums allowable as deductions in respect of capital expenditure

in accordance with the provisions of the Schedule to this Ordinance;

- (c) such other deductions as may be prescribed by any rule made under the provisions of sub-paragraph (3) of this paragraph.

(2) There shall be deducted in computing the chargeable profits of any person of any accounting period the amount of any loss incurred by that person during any previous accounting period which if it had been a profit would have been a chargeable profit for the purposes of paragraph 8 of this Schedule;

Provided that no such deduction shall be made unless it is claimed in writing within two years after the end of the accounting period during which such loss was incurred:

Provided further that -

- (i) a deduction under this paragraph shall be made so far as possible in computing the amount, if any, of the chargeable profits of the first accounting period after that in which the loss was incurred, and, so far as it cannot be so made, then in computing the chargeable profits of the next succeeding accounting period and so on; and
- (ii) in no circumstances shall the aggregate deduction from the chargeable profits in respect of any such loss exceed the amount of such loss; and
- (iii) no deduction under the provisions of this paragraph shall be made in respect of any loss incurred prior to the coming into force of this Schedule.

(3) The Minister may by rules prescribed the method of calculating or estimating the deductions allowed or prescribed under this section.

10. Subject to the express provisions of this Act, for the purpose of ascertaining the chargeable profits arising from the primary production of any person no deduction shall be allowed in respect of -

- (a) those deductions detailed in Section 11 Subsections (a) to (f) and Subsection (j) of this Ordinance;
- (b) any fiscal charge which may have been paid or incurred during the relative accounting period for the purposes of the primary production whether such fiscal charge shall have been paid directly by the person engaged in such primary production or shall have been paid

Deduct-
ions not
allowed
in ascer-
tainment
of charge-
able pro-
fits.

indirectly by the purchase of articles on which such fiscal charge has already been paid by some other person.

PART IV - RATE OF TAX, RELIEF, EXEMPTIONS

11. The rate of income tax to be levied and paid in accordance with paragraph 7 of this Schedule for each year of assessment upon the chargeable profits of each person engaged in primary production shall be the rate of income tax payable by limited companies in force on January 1st of the year of certification of such person as a person engaged in primary production as such rate is specified in the Second Schedule to this Ordinance. The amount of tax determined by applying the rate of tax to the chargeable profits is hereinafter also referred to as "chargeable tax."

Rate of tax.

12. Where a person engaged in primary production is a company incorporated and resident in Ghana and certified to be a pioneer company under the Pioneer Industries and Companies Act, 1959, as amended, it shall be entitled to relief from income tax to the extent and in the manner as prescribed and allowed under the Pioneer Industries and Companies Act, 1959, as amended.

Pioneer companies relief.

13. Where a person engaged in primary production is a company and pays any dividend to its shareholders for any period, such dividend shall be exempt from tax in the hands of such shareholders to the extent it is derived from earnings and profits of or **incidental** to primary production.

Exemption from dividend tax.

14. The chargeable tax levied in accordance with paragraph 7 of this Schedule on the chargeable profits of a person engaged in primary production shall be the sole fiscal charge other than that set out in paragraph 14 of this Schedule to be paid by such person with respect to the activities comprised in such primary production. If, however, any other fiscal charge shall be paid by a person engaged in primary production whether the same shall have been paid directly by such person or shall have been paid indirectly by the purchase of articles on which a fiscal charge has already been paid by some other person the amount of the fiscal charge so paid shall be deemed to be a payment on account of the chargeable tax.

Sole fiscal charge.

15. Notwithstanding the provisions of paragraph 14 of this Schedule persons engaged in primary production shall pay the same Stamp duties specified in the Stamps Ordinance as are generally applicable to all other persons.

PART V - STABILIZATION OF FISCAL CHARGES

16. The Minister, upon certification of a person as a person engaged in primary production, shall be empowered to guarantee the stability of the rate of tax levied and paid in accordance with paragraph 7 of this Schedule and the exemption from all other fiscal charges, as provided in paragraph 14 of this Schedule for a period not

Stabilization and period.

to exceed twenty-five years from the production day of such person.

PART VI - GENERAL

17. (1) The Minister may make regulations generally for the better carrying out of the provisions of this Act.

Power to make regulations and prescribe forms.

(2) The Commissioner may from time to time specify the form of returns, claims, statements and notices to be made or given under this Act.

18. There shall be no duty imposed or levied under the Minerals Duty Ordinance, 1952, in respect of any primary products won by any person upon whom a tax is levied and paid under the provisions of paragraph 7 of this Schedule.

Exemption from duty under No. 20 of 1952.

19. There shall be no import or export duties levied under the Customs Ordinance, Cap. 167, in respect of any imports into Ghana with respect to primary production or primary products exported from Ghana by a person engaged in primary production nor shall import duties be levied on the importation of machinery, equipment, mechanical apparatus and containers and their accessories, fuel, lubricants and other items imported for use or consumption in primary production by a person engaged in primary production or for the construction of facilities to be used for primary production.

Exemption from duty under Customs Ordinance.

20. There shall be no excises levied under the Excise Ordinance, 1953 on primary products production by a person engaged in primary production.

Exemption from Excise Ordinance.

PIONEER INDUSTRIES AND COMPANIES BILL

MEMORANDUM

The object of this Bill is to provide machinery for the declaration of pioneer industries, and where companies are to operate such industries, for their regulation generally.

2. Clause 4 confers the power in special circumstances to certify companies, and when certified, a company shall be entitled to sundry privileges and reliefs as prescribed or allowed under any Act, and be subject to the disabilities as prescribed herein.


MINISTER RESPONSIBLE FOR FINANCE.

OCTOBER, 1959.

HMI.

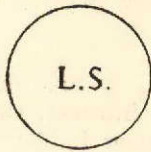
Pioneer Industries and Companies Act, 1959

ARRANGEMENT OF SECTIONS

No. 63 of
1959.

Section

1. Short title, etc.
2. Interpretation.
3. Power to provide for pioneer industry.
4. Power to certify pioneer company.
5. Duties, etc. of pioneer company.
6. Power to disqualify a pioneer company.
7. Privileges.
8. Regulations.



GHANA

No. 63 OF 1959.

Assented to in Her Majesty's Name and on Her Majesty's behalf this 24th day of November, 1959.

LISTOWEL
Governor-General.

AN ACT to make provision for certain industries and companies as pioneer industries or pioneer companies as the case may be and for other purposes connected therewith.

[28th November, 1959.] Date of commencement.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the National Assembly of Ghana in this present Parliament assembled, and by the authority of the same as follows:—

1. (1) This Act may be cited as the Pioneer Industries and Companies Act, 1959. Short title, etc.

(2) This Act shall be deemed to have come into operation on the 1st day of April, 1959.

2. In this Act, unless the context otherwise requires,— Interpretation.

“the Minister” means the Minister responsible for Finance;

“pioneer company” means a company certified under this Act as established for the purpose of producing a pioneer product or pioneer service;

“pioneer industry” means an industry not being carried on in Ghana on a scale adequate to the economic needs of Ghana and for the purposes of this Act deemed to have favourable prospects for further development;

“pioneer product” means any specified product of a pioneer industry under this Act;

“pioneer service” means any specified service performed by a pioneer industry under this Act;

“ production day ” means the day stated in the application for a certificate as a pioneer company, or any other day substituted under the provisions of this Act.

Power to provide for pioneer industry.

3. (1) Subject to the provisions of this section, where the Governor-General is satisfied that it is in the public interest, the Governor-General may by Order declare to be a pioneer industry any industry which is not being carried on in Ghana on a scale adequate to the economic needs of Ghana and for which favourable prospects exist for further development; and by the same or any other Order may declare any specified product or service of the industry to be a pioneer product, or a pioneer service as the case may be. Any Order made under this section may restrict or limit the operation of the industry as a pioneer industry to an area specified in the Order.

(2) Before making any Order under this section, the Minister shall cause a notice to be published in two consecutive ordinary issues of the *Gazette*, setting out a draft of the Order which it is proposed to make. The notice shall invite any person who objects to the making of the Order to give notice in writing to the Minister of his objection, and the grounds for his objection, not later than the day specified in the notice, and the Governor-General shall consider any objection lodged under this subsection.

(3) Any Order under this section may at any time be revoked, but the revocation of the Order shall not affect the operation of any certificate given or made in respect of a pioneer company under any other of the provisions of this Act.

Power to certify pioneer company.

4. (1) Any company incorporated and resident in Ghana and desirous of establishing a pioneer industry may apply in writing to the Minister in such form as the Minister may from time to time prescribe. If the Minister having regard to the production or anticipated production from all sources in Ghana of any product of the company or of the service or anticipated service of the pioneer industry, is satisfied it is in the public interest, he may with the approval of the Governor-General, certify the company to be a pioneer company for the purposes of this section, and a copy of the certificate shall be published in the *Gazette*. Any certificate may at any time be amended in the same manner as it was made or given by the addition of any other pioneer industry.

(2) Every application under the provisions of subsection (1) of this section shall state,—

- (a) particulars of the pioneer industry to be carried on by the company and the pioneer product to be produced, or the pioneer service to be rendered;
- (b) the locality or localities in which it is proposed to carry on the pioneer industry;
- (c) the date when the company expects to produce in marketable quantities the pioneer product, or to render the pioneer service;

- (d) the estimated rate of production of any specified pioneer product, or the extent of any specified pioneer service, which it is expected will be attained on or before the production day;
- (e) particulars of the cost and size of any capital works to be undertaken by the company; and
- (f) any other information the Minister may from time to time require.

5. (1) A pioneer company shall, not more than thirty days after its production day, or within such extended time as the Minister may allow, deliver to the Minister a statement showing at the production day the rate of production of its pioneer product or the extent of the pioneer service rendered; and where the results are below the estimate given as prescribed by this Act, the company shall explain to the Minister in writing the reasons for the shortage or other deficiency.

Duties, etc.
of pioneer
company.

(2) Where the Minister is not satisfied with the operations of the company as a pioneer company under this Act, he may by notice in writing require the pioneer company, within thirty days from the date of service upon it of the notice, to remedy the failure or if the failure was due to some cause beyond the control of the company to establish to his satisfaction that there is a reasonable prospect of the failure being remedied by a date to be specified by the company. If the pioneer company complies with the requirements of a notice under this subsection, the Minister may substitute for the production day such other day as he thinks fit.

6. (1) If a pioneer company fails to comply with any of the requirements of this Act, the Minister may with the prior approval of the Governor-General, revoke the certificate of the pioneer company or amend it as he thinks fit.

Power to
disqualify
a pioneer
company.

(2) Any revocation under the provisions of this section may be expressed to have retrospective effect and accordingly,—

- (a) where the revocation is retrospective the benefit of this Act shall cease to apply and the company shall cease to be entitled to the privileges, rights, reliefs and allowances under this Act from the effective date of the revocation; and
- (b) where the effect is not retrospective the benefit of this Act shall cease on the date specified in the revocation.

7. Every company while a pioneer company for the purposes of this Act shall be entitled to such privileges, rights, reliefs and allowances as may from time to time be prescribed or allowed under any Act.

Privileges.

8. The Governor-General may make regulations generally for all or any of the purposes of this Act.

Regulations.

This printed impression has been carefully compared by me with the Bill which has passed the National Assembly, and found by me to be a true and correctly printed copy of the said Bill.

K B. AYENSU
Clerk of the National Assembly.



Record Removal Notice

File Title Ghana - Volta River Project - Volta and Ghana documents		Barcode No. 30297685		
Document Date January 3, 1960	Document Type Letter			
Correspondents / Participants To: R. Skillings, International Finance Corporation From: L. Bevan, Economic Adviser, Board of Trade, Ghana				
Subject / Title [Tax relief for pioneer industries and companies]				
Exception(s) Information Provided by Member Countries or Third Parties in Confidence				
Additional Comments		The item(s) identified above has/have been removed in accordance with The World Bank Policy on Access to Information or other disclosure policies of the World Bank Group.		
		<table border="1"><tr><td>Withdrawn by Kim Brenner-Delp</td><td>Date August 11, 2023</td></tr></table>	Withdrawn by Kim Brenner-Delp	Date August 11, 2023
Withdrawn by Kim Brenner-Delp	Date August 11, 2023			



The effect of Potential U.K. Investment of
recent changes in Ghana's Pioneer Industries
and Companies Legislation

It has long been recognised by the Governments of countries wishing to encourage industrial investment that many companies derive but little benefit from the customary five year tax holiday because, of their very nature as manufacturing enterprises, they do not make much in the way of profits in the early years of their operation.

2. In his budget speech on 2nd April, 1959, the Finance Minister said that having carefully studied the recommendations of a United Nations expert, the Ghana Government had:

"decided to change the system of granting relief to pioneer companies altogether. In future such companies would not be granted tax relief for any specific period; instead they would be granted tax relief until such time, whenever that may be, as they will have recovered their initial investment in full."

The proposed change was effected by the enactment in November, 1959, of the Pioneer Industries & Companies Act, 1959 and the Income Tax (Amendment) (No.2) Act, 1959. In moving the Second Reading of the latter the Finance Minister said that the new system would "meet the frequently expressed point of view of business men which favours the early recovery of their capital investment".

3. It is, with respect, suggested that, in the case of potential United Kingdom investors at any rate, the benefit of early recovery of the initial investment in fixed assets under the new system is more apparent than real and that, save in the case of a pioneer company which fails to make any profit at all in the first five years of its productive life, is less advantageous than the benefit granted under the old system.

4. The essential difference between the old and the new systems is

- a) that, so far as company tax is concerned, there is no longer a tax holiday as such; instead, capital allowances are "telescoped" so that no tax is payable until the pioneer company has recovered its initial expenditure on fixed assets;
- b) that, so far as the liability of shareholders to income tax on distributed profits is concerned, the exemption now granted is an amount equal to the company's initial expenditure on fixed capital assets instead of an amount equal to the profits made in the first five years of operation.

So far as United Kingdom investment in Ghana is concerned, (b) is irrelevant since exemption from Ghana income tax does not preclude payment of tax in the United Kingdom and the rate of tax in the United Kingdom is higher than in Ghana. What follows, therefore, is only concerned with the change under (a) above.



5. Clearly a pioneer company which makes any profit at all during the tax holiday would in the long run pay less company tax under the old system than under the new one. Under the old system it obtained:

- a) exemption from tax on all profits earned in the first 5 years of its operational life and thereafter, over a period of years;
- b) capital allowances equal to the amount of its expenditure on fixed capital assets.

Under the new system it gets only the benefit of (b).

6. On the other hand a company which makes no profit during the first five years of its operations would recover its investment in fixed assets earlier under the new than the old system and in so doing would, in effect, obtain an "interest free" loan from the Revenue Department "which might be used to advantage in the business". But since:

- a) the ordinary initial capital allowance on plant is 40% and the annual allowance is something between 12½% and 33%, and
- b) both initial and annual capital allowances can be claimed on the cost price of the plant in the first year of assessment (i.e. under the old system the first year after the end of the tax holiday)

the benefit of accelerated capital allowances under the new system is not as great as might at first appear. In fact, by and large, the size and duration of the "loans" obtainable under the new system are such as to be outweighed, even in the short term, by the benefit obtainable under the old system from even a very small profit earned during the tax holiday period. This is clearly shown by the following example:

Assume a company with a capital of £100,000 of which £50,000 is in plant (Initial capital allowance 40% - annual 12½%) and £10,000 is in buildings (initial and annual allowances 10%)

	A			B			C		
	<u>Earnings</u>	<u>Profits Retained</u>		<u>Earnings</u>	<u>Profits Retained</u>		<u>Earnings</u>	<u>Profits Retained</u>	
		<u>Old</u>	<u>New</u>		<u>Old</u>	<u>New</u>		<u>Old</u>	<u>New</u>
1	-	-	-	-	-	-	-	-	-
2	-	-	-	-	-	-	-	-	-
3	-	-	-	-	-	-	-	-	-
4	10	10	10	-	-	-	-	-	-
5	20	20	20	10	10	10	-	-	-
6	30	28.5	30+	20	20	20	10	10	10
7	30	19.5+	18+	30	22.1	30+	20	20	20
8	30	19.3	18	30	19.3+	18+	30	19.7	30+
9	30	19.1	18	30	19.0	18	30	19.1+	18+
10	30	19.0	18	30	18.9	18	30	19.0	18
11	30	18.9	18	30	18.8	18	30	18.9	18
12	30	18.8	18	30	18.7	18	30	18.8	18

+ Initial investment in fixed assets recovered.



In case A, the benefit, under the old system, of tax relief on £30,000 clearly outweighs the benefit under the new system of an interest free loan of £15,000 for one year only.

In case B, the benefit under the old system, of tax relief on £10,000 is again more advantageous than the "loan" of £7,900 under the new system, even though in this case "repayment" may be spread over some 20 years.

In case C, where no benefit is derived from the tax holiday the pioneer company gets, under the new system, a "loan" of £10,300 "repayable in diminishing installments" over something like 25 years.

7. It will be clear, therefore, that the benefit of "early recovery" claimed for the new system is virtually restricted to those cases in which the pioneer company makes no profit at all in the first 5 years of its operations. Since, in normal circumstances, one would not expect an entrepreneur to start a business which is not likely to pay before the 6th year of operation, it would seem reasonable to suppose that a potential investor would find the old system with its prospect of additional tax relief more attractive than the new system despite the "safeguard" of slightly quicker returns in the event of his hopes not being realised.

8. This being so, it is suggested that the change that has now been made in the system of granting tax reliefs to pioneer companies puts Ghana at a disadvantage generally compared with those countries (such as Malaya and Nigeria) which are in competition with her for the United Kingdom's limited investment resources and which still offer the prospect of what might be termed the "windfall" profits of the tax holiday system.

9. Further it is suggested that many other foreign potential investors may suffer the same disadvantage as U.K. potential investors and that in this connection it may be progressively more difficult, for instance, for the I.D.C. to obtain foreign partners with technical and managerial expertise for their joint ventures.



Note

Pioneer Industries and
Companies.

1. The Pioneer Industries & Companies Act, 1959 and the Income Tax (Amendment) (No.2) Act, 1959 received the Royal Assent on 25th November, 1959. Prior to the date of commencement of these Acts viz. 28th November, 1959 all action in respect of relief from income tax for pioneer companies was taken under Section 27 and Schedule 4 of the Income Tax Ordinance, 1943, as amended, and companies designated as pioneer companies under these provisions will continue to be bound by them. All subsequent designations as pioneer companies are to be made in accordance with the provisions of the Pioneer Industries & Companies Act, 1959. Such designations may be made retrospective to 1st April, 1959 or later where appropriate.

2. The Previous Arrangements. A company declared to be a pioneer company under paragraph 3 of the 4th Schedule to the Income Tax Ordinance, 1943 as amended was:

- 1) granted under paragraph 4 of the 4th Schedule (subject to the provisions of the Order designating the industry as a pioneer industry) a five year tax holiday from the date that its trade or business commenced or its production day, whichever was the earlier;
- 2) permitted under paragraph 6(c) of the 4th Schedule to charge expenditure on capital items incurred during the tax holiday against income earned in the post-holiday period at the usual capital allowance rates.

(These rates are in the case of buildings, 10% initial and 10% annual, and in the case of plant and equipment 40% initial and various annual rates depending on the expected life of the particular asset. Over a period of years, the total of these allowances would, of course, equal the total expenditure on the said capital investment.)

- 3) permitted, under paragraph 6(c) of the 4th Schedule to carry forward into the post-holiday period net losses incurred during the holiday period. (This in fact only extended to pioneer companies the privileges granted to all companies under Section 20 of the Income Tax Ordinance to carry forward losses over a period of 15 years).

In addition, formerly under Section 27(2) and now under Section 9(1)(S) of the Income Tax Ordinance, dividends paid by a pioneer company up to an amount equal to the total income earned during the tax holiday period were free of tax in the hands of the shareholders.

3. The Present arrangements. A company declared to be a pioneer company under Section 4(1) of the Pioneer Industries and Companies Act, 1959 is:

- 1) permitted under paragraphs 2 and 7A of the 3rd Schedule to the Income Tax Ordinance 1943 as amended, to charge against income 'pioneer allowances' equal to its "qualifying expenditure" (i.e. its expenditure on fixed capital items) during the period ending 12 months after the date on which it commenced "to produce the pioneer product in marketable quantities or render the pioneer service";

(Having taken advantage of this concession, however, the pioneer



company is explicitly excluded under paragraph 7A of the 3rd Schedule from claiming any further capital expenditure in the period mentioned);

- 2) entitled as are all companies under section 20 of the Ordinance to carry forward its losses for 13 years.

In addition:

- i) under Section 9(1)(S) of the Income Tax Ordinance, dividends paid by a pioneer company up to an annual equal to its total qualifying expenditure are tax free in the hands of shareholders;
- ii) under other legislation not yet formulated they may be granted specific relief in such matters as customs and excise duties etc. which at present can only be granted to importers and producers generally whether or not they are designated as pioneer industries.

Principles of Agree-
ment (Dec. 16, 1959)



Record Removal Notice

File Title Ghana - Volta River Project - Volta and Ghana documents		Barcode No. 30297685		
Document Date December 16, 1959	Document Type Agreement			
Correspondents / Participants Volta Aluminum Company				
Subject / Title Agreement between the Government of Ghana and Volta Aluminum Company (in formation)				
Exception(s) Information Provided by Member Countries or Third Parties in Confidence				
Additional Comments		The item(s) identified above has/have been removed in accordance with The World Bank Policy on Access to Information or other disclosure policies of the World Bank Group.		
		<table border="1"><tr><td>Withdrawn by Kim Brenner-Delp</td><td>Date August 11, 2023</td></tr></table>	Withdrawn by Kim Brenner-Delp	Date August 11, 2023
Withdrawn by Kim Brenner-Delp	Date August 11, 2023			

Authority Memo on Power
Contract (Sept. 16, '60)

*As presented to Mr. Edgar Kariakoo and his
colleagues at 5 pm on Friday 16th. Sept. 1960.*

MEMORANDUM

VOLTA RIVER PROJECT: THE POWER CONTRACT

The Government of Ghana is grateful for VALCO's efforts to meet Ghana's needs, and is fully aware of the difficulties which Mr. Calhoun and Mr. Rhoades may face in making recommendations to VALCO; the Government does not wish to press for terms which are in any way unreasonable. However, the fact must be faced that if, as is essential, funds for the Project have to be borrowed, those organisations which will be lending the money must be satisfied that

- (a) the Project will earn a reasonable return on the money invested in it in order to enable Ghana to meet its commitments on the Project without difficulty and
- (b) the conditions under which the Project will operate for many years are not such as can lead, either now or in the future, to dissatisfaction on the part of the Government which may be in power in Ghana.

2. It is necessary here to make a distinction between "the Government" on the one hand, and the Project itself on the other. It has always been the intention that the Project should be managed by a Statutory Board, and that this Board should have the maximum feasible control over the Project's operations. The Government will, in effect, be investing equity capital in the Volta River Authority, which will have the task of servicing loans and providing a return to the Ghana Government on its investment, as well as paying for its own operating expenses and building up funds with which to finance the future power expansion which Ghana's development will demand.

3. As has already been explained, it has been found essential, in order to meet the criteria imposed by the stark facts of the cost of the Project, the cost of borrowing money, and the need to provide a return on Ghana's equity capital which is reasonable both to Ghana and to the Authority, that the total revenue from the sale of power (and not from taxation, or payments for services rendered such as port dues etc.) should cover the following:-

- (i) the running costs of the Authority
- (ii) the payment of interest and amortisation on foreign loans
- (iii) the payment to the Ghana Government as soon as possible of a reasonable return on its equity
- (iv) the accumulation of cash surpluses sufficient to cover future power development (This will obviously not start for some years after the Project starts operating.).

4. To achieve these objectives, it is necessary to build up revenue from power from the earliest possible moment and to charge rates to the Ghana Electricity Department and to VALCO which will cover, on an equitable basis, each consumer's share of (i) to (iv) of paragraph 3 above

5. The offer to VALCO of power on a demand basis of approximately 300,000 Kw. at Akosombo at a cost of \$7,500,000 was based on the most careful calculation of essential outgoings from the Authority, initial losses being offset by deferring any return on Ghana's equity, and the loans, loan terms, and interest rates which the Ghana Government had been led to expect would be likely to be made available. The power

rate payable to the Authority by the Ghana Electricity Department would be in the region of 16 to 20 mills in the early years, to which would have to be added distribution costs etc., so that the Ghana consumer would be receiving little benefit of cheaper power.

6. Unfortunately, first hopes of the type and extent of the 1 loans which Ghana might receive have been disappointed, and it is probable that only a comparatively small proportion of the total money required will be on the more attractive Development Loan Fund terms.

7. Based upon these considerations, the following paragraphs set out the Ghana Government's position:

(1) Size of the Smelter

An initial plant of four to six pot lines of 75,000 to 50,000 Kw. each, such that the total consumption on a demand basis would be approximately 300,000 Kw., would be acceptable to Ghana.

(2) Rate of build up of the Smelter.

It is highly desirable, from the point of view of the financial feasibility of the Project, that the Smelter should build up to full capacity by the third year. Delay in reaching full capacity cannot but cause loss to the Project.

(3) Payment for Power in the first two years.

Payment for power should be on a demand basis, 50% of the total of 300,000 Kw. being paid for during the first year, and 75% of the total during the second year. In this regard, please see paragraph (5) (1) below.

(4) Long Term Payment for Power.

The implication of the suggestion put to Ghana that the net payment for power over a long period should be split into two parts, of which the second part should be regarded as a tax credit and, later, be offset against company tax, is that the actual power rate would not exceed \$20 per Kw.Year. The rate of \$7,500,00 for 300,000 Kw. demand proposed by Ghana was a long-term rate for power; while it may prove possible to make an adjustment in the rate at which any additional power, over and above the 300,000 Kw. demand, is sold to VALCO as a result of possible expansion of the smelter, the initial figure cannot be reduced, nor can part of it be set off against taxation, without serious jeopardy to the whole Project's viability. While, therefore, the suggestion to recommend that the minimum initial payments for power should not be less than \$7,500,000 per annum, of which \$1,500,000 should later be recoverable, is much appreciated, the proposal to regard any part of the sum as a tax credit cannot be accepted, in view of its long term implications. It should be borne in mind that the power rate will be payable to the Authority, which any taxes payable (which will, of course, depend on profits actually made, less any reliefs agreed) will be paid to the Government.

(5) Ghana's Proposals.

The Ghana Government therefore proposes the following alternative method of paying for power:

(1) A basic demand charge of \$23 per annum per Kw.Year delivered at Tema for a minimum of

150,000 Kw. average demand for the first year

225,000 Kw. average demand for the second year
300,000 Kw. average demand for the third year
300,000 Kw. demand thereafter,

would be payable.

The actual consumption in Kw.Hours would be measured during the first and second years, and calculated as a pro rata charge. The difference between the pro rata charge and the amount paid on a demand basis would stand as a power credit, and would be available to VALCO to offset in terms of Kw. Hours any power in excess of the maximum demand of 300,000 Kw. required by VALCO and agreed by the Authority, during the first ten years.

In addition,

- (ii) a Supplemental Development Charge of \$2 per Kw. Year delivered at Tema, would be payable on the same basis as in (i) above.
- (iii) No part of either the basic or the Supplemental Development Charge shall be regarded as a credit, except the difference between the demand payment and the actual consumption in Kw. Hours during the first two years, which will be available as described in (i) above.
- (iv) After the tenth year, the Supplemental Development Charge shall be reduced by \$1 per Kw. Year in the eleventh and thirteenth years, so that by the beginning of the fourteenth year it is extinguished. Thereafter, only the basic demand charge of \$23 per Kw. Year would be payable.
- (v) When power is available and VALCO wishes to expand the smelter, the demand power to be made available, and the demand charge per Kw. Year, shall be the subject of negotiation between VALCO and the Authority; but the charge shall not exceed \$ 23 per Kw. Year.
- (vi) No regard to load factor shall be taken into account in calculating the demand charge payable, it being understood that VALCO will have the right to take power up to the maximum demand of 300,000 Kw. at 100% load factor if VALCO so desires; if VALCO operates at less than 100% load factor, no reduction in the Charge will result therefrom.
- (vii) All payments for power shall be in United States dollars, or, with the concurrence of the Authority, which shall not unreasonably be withheld, within any regulations which the Government may operate, in Ghana currency at the then prevailing rate of exchange.
- (viii) Six months' notice will be given to VALCO by the Authority of the date on which the power agreement will commence. The present intention is that first power, ~~sufficient~~ sufficient to meet an initial demand of 75,000 Kw., should be made available to VALCO on 1st. January 1966 which date, if achieved, would be the commencement date.

As regards the other matters upon which agreement will be necessary with VALCO, and on the assumption that paragraph 7 (5) above is accepted, the views of the Government of Ghana are set out in the following sub-paragraphs

(6) Fiscal Regime

During discussions in Accra on the subject of the fiscal regime, it was indicated that VALCO would wish to consider the basis on which plant depreciation should be calculated, and it was agreed between Sir Robert Jackson and Mr. Chad Calhoun that VALCO would provide for the Government proposals on how it was considered that the fiscal regime could be established so that

- (i) some return in the form of taxation would accrue to the Ghana Government from the beginning, and
- (ii) VALCO would receive the benefits in the form of double taxation relief and depreciation allowances which were desired.

It was recognised that (i) above might result in an extension of the time during which the agreed equity holding would be withdrawn under relief conditions.

As an alternative to the above, the Government proposes the following special arrangement; while not so attractive in the first few years, it is believed that the long term benefits to VALCO would be considerable:

- (a) VALCO should be regarded, not as a "pioneer company" in terms of pioneer company relief legislation as at present drafted, but as a special organisation whose long term encouragement is desired by the Government. To this end, special arrangements would be made whereby VALCO would, for the duration of the fiscal regime, be granted income tax relief amounting to 6% of the total company tax which would, but for such relief, be payable.
- (b) If, during the period of the fiscal regime, the statutory rate of company tax should change from the rate in force at the commencement date, then the figure of 6% relief mentioned in (a) above shall be adjusted so that the percentage rate of tax payable by VALCO shall remain the same as that payable at the commencement date.
- (c) The special rate of tax would be payable on the profits of VALCO (after taking into account normal statutory reliefs on depreciation, as adjusted for the particular circumstances in this case), which would be calculated on the basis of a tolling charge of an agreed percentage of the New York price of aluminium ingot receivable by VALCO as revenue, less the actual cost of tolling.
- (d) The fiscal regime should be for a period of thirty years.
- (e) The fiscal regime would not include harbour dues and charges, municipal rates, water charges, employees' personal income tax, rent, or royalties on bauxite or other minerals mined in Ghana.
- (f) At the end of the fiscal regime period, the normal taxation payable by any other industrial organisation in Ghana would apply, as appropriate, to VALCO.
- (g) During the currency of the fiscal regime, no import or export duties would be levied on plant or equipment required for the construction or maintenance of the aluminium smelter and alumina plant or on aluminium ingot. In the light of

the Government's desire that Ghanaian bauxite should be utilised in or (if required) processed into alumina for use in the smelter, and that ancillary industries to supply the needs of the smelter and related plant should be created, for the first ten years of the fiscal regime no import duty would be levied on imported alumina or on any other materials required for the manufacture of alumina or aluminium ingot. In the ninth year after the commencement date VALCO and the Government will reconsider the question of duty on imported alumina and other materials in the light of progress by then achieved in the Government's plans; arising from such reconsideration the Government and VALCO shall agree either to the continuation of the duty-free period for specified periods of not less than three years each, or to the imposition of customs duty on the importation of alumina or any other materials required for manufacturing alumina or aluminium ingot, with due notice, together with an agreement regarding the mining, transportation and use of Ghanaian bauxite, in such proportion to the total requirements of the smelter as shall be agreed. Failing agreement, normal duties would become payable, but the Government undertakes that these shall not be discriminatory against VALCO, and shall be related to the suitability, availability in sufficient quantities, and price of any materials manufactured in Ghana, and that, where no materials or products required by the smelter or alumina plant are available from Ghanaian sources, no duties shall be levied on their importation.

(h) During the construction of the smelter and, later, of the alumina plant, VALCO will use its best endeavours to utilise wherever practicable Ghanaian materials and manufactures, and Ghana appreciates that the criterion in this regard will be that in quality, availability and price the Ghanaian products should be comparable with the landed cost of imported products.

(i) All foreign currency earned by VALCO shall be regarded as falling within the normal currency legislation of Ghana. The Government undertakes to impose no unreasonable restrictions on the provision of foreign currency required by VALCO for its operations or for conveying VALCO'S profits to its shareholders.

(7) Options to renew power contract.

The "principles of agreement" provide for a power contract of 20 years renewable on VALCO's option. The Government proposes that the initial power contract shall be for 30 (thirty) years and that any extensions to this should be by negotiation and mutual agreement not later than the 25th year, so that at least 5 years' notice of any change would be known; and the Government shall not unreasonably withhold consent to renewal on reasonable terms.

(8) Increase in plant size.

As has been explained, the Government desires that the smelter should start at a size requiring approx. 300 Mw. power on a demand basis. The Government envisages that there is unlikely to be any difficulty in providing additional power up to 375 Mw. It is necessary before the Government enters into any firm commitment for additional power, to be sure that Volta water entering Ghana from neighbouring territories either can not or will not be diverted for other purposes. Once this assurance can be obtained, the question of further expansion of the smelter can be finalised.

(9) I.C.A. Guarantees.

It is understood that this is a matter which VALCO will be arranging direct; if the Government can give any assistance in this matter, this will gladly be given.

(10) Pioneer Industry Status.

In this connection, see para. (6) above. If the suggestion in (b) is adopted, the question of pioneer industry status as such would not arise. It is suggested that this, and (b) above, should be the subject of discussion.

(11) Kibi Bauxite.

The position regarding Kibi bauxite has already been discussed. It is understood that negotiations about these deposits are now being conducted. It is therefore only possible for the Government to indicate that it desires the utilisation of Ghanaian bauxite in the industry, rather than its export, and therefore that it may confidently be anticipated that Ghana will facilitate this in every reasonable way.

(12) Tax Treaty with U.S.A.

It is not anticipated that there will be any delay in finalising the terms of this treaty. The question whether it will be approved by the U.S. Legislature is not, of course, a matter on which it would be possible for Ghana to give any opinion.

(13) Charges for water, port dues etc.

While it is not possible to define precisely at this stage what will be the exact rates payable for water, port etc. charges, the Government is in a position to say at this stage that there will be no discriminatory charges to VALCO and that these charges will be calculated on a reasonable cost basis once it is known precisely what services are required by VALCO (e.g. to what depth the alumina berth should be dredged, how many gallons of water a day are required, etc.). While the Government has been working on the basis of the reports submitted by Kaiser Engineer and Constructors, Inc., it is understood that these do not in fact represent VALCO's firm requirements and may be modified by VALCO.

(14) Term of Power Contract.

The Government proposes that the power contract shall be for 30 years, (see (7.) above) in the first instance, and that renewals or extensions should be negotiation in the 25th year.

As will be seen from the details set out above, the Ghana Government has made very real concessions in the offer contained in this memorandum, as against the limited and temporary concessions contained in the VALCO recommendation, and the Government will have real difficulty in persuading the World Bank and other lenders that to make such an offer would not be to Ghana's long-term disadvantage to such an extent that they would not feel justified in providing the loan finance without which the Scheme could not proceed.

September, 1960

A I D E M E M O I R E

GHANA GOVERNMENT NEGOTIATIONS WITH V.A.L.C.O.

1. Progress of Negotiations.

Negotiations started with V.A.L.C.O. in July; within the first two days it became apparent that the major point of difference would be the Power Rate. A secondary point of difference was the rate at which the smelter should build up to full output. The Ghana Government's opening offer was for a power rate of 4.5 mills, which was the next day reduced to 3.5 mills provided that the build-up of the smelter to at least 120,000 tons was achieved within 3 years.

VALCO's opening offer was a power rate of 2.25 mills and a smelter build-up of six to seven years.

2. Negotiations continued in Washington in August, during the period when the Hon. K.A. Gbedemah was also seeking World Bank, D.L.F. and U.S. Government assistance. During these negotiations the Government made an offer of power of approximately 300,000 Kw. on a demand basis, provided that the smelter load (or payment for it) was built up at the rate of 50% the first year, 75% the second year, and 100% the third year, (This build up emanated from a suggestion by Mr. Rhoades.) at a price of not less than \$7½ million. VALCO replied by an offer to pay for power in two parts: a basic charge of \$20 per Kw.Year (or approximately 2.25 mills), and a supplemental charge of \$5 KwY. This supplemental charge was to be credited to VALCO and used later to offset tax payments, but not to an extent to reduce taxation to less than \$1.5 million, over a period. This in effect meant that while the Project would initially receive the \$7.5 million it required, \$1½ million would later have to be repaid. The Ghana Government replied that this offer was unacceptable.

3. Negotiations re-opened (after the President had personally sought Mr. Edgar Kaiser's intervention) on ~~Thursday~~ Wednesday 14th. September, with personal discussions by the Ghana Delegation leader, H.E. Ayeh Kumi, followed by a meeting that evening with Messrs. Rhoades and Knight. On Thursday 15th. September VALCO held a meeting of members of the consortium, and on Friday, 16th. September, ~~am~~ a meeting was held all day with VALCO. At this meeting an attempt was made to reach unanimity on the basic facts, loan terms, and annual outgoings, load growth, and non-smelter revenue, of the project. Much time was spent discussing the desirability of including the whole transmission net, but this was subsequently dropped (VALCO continuing to feel that its installation was vital). Agreed tables were prepared, and at VALCO's suggestion these were completed on a basis of \$20, \$22.50, and \$22.50 for the first 200,000 Kw. and \$20 for the next 100,000. The rate at which VALCO was prepared to build up the smelter was conveyed to the Ghana delegation, as being:

1st. Year	start up 2 50Mw.pot lines; 66,000 Kw.Y.
2nd. Year	start up 2 50Mw.pot lines: 167,000 Kw.Y
3rd. Year	4 pot-lines in full operation:200 Mw.Y
4th. Year	4 pot-lines: 200,000 Kw.
5th. Year	4 pot-lines: 200,000 Kw.
6th. Year	start up 2 pot-lines. 270,000 Kw.Y
7th. Year	6 pot-lines: 300,000 Kw.Y

These figures were used in the calculations which followed.

4. On Saturday the VALCO group made the following firm offer for power, and indicated most emphatically that this was the limit beyond which they would not go. This was in reply to a memorandum in which the Ghana delegation set out an offer amounting, in brief, to a basic charge of \$23 Kw.Y and a supplementary charge of \$2 Kw.Y which was to be extinguished in

the thirteenth year, so that by the fourteenth year only the basic charge would be payable. When this proposal was rejected by VALCO, and arising from the different rates of smelter build-up, Ghana asked for a commitment charge to be levied on the difference between the power taken and the amounts which would have been taken under the Ghana proposals; this charge to be \$2 Kw.

5. VALCO's offer.

In their latest offer, VALCO undertakes to pay for power of 300,000 Kw.Y. against a peak load of 315,000 Kw. delivered Tema at a rate of \$21.90 Kw.Year; during the build up years, VALCO will pay a commitment charge of \$3 per Kw. on the difference between the 150,000, 225,000 and 300,000 Kw. build-up required by Ghana and the 66,000, 167,000, 200,000, 200,000, 200,000, 270,000 Kw. annual build-up which VALCO wishes. This payment would start on 1st. January 1967 + or - one month. Payment for power would be, in effect, at the rate of 2.5 mills. After load has been built up, payment of a commitment charge of \$3 Kw. for the difference between actual consumption and the peak load of 315,000 Kw. would continue to be paid.

6. The minimum charges payable therefore would be:

1967	66,000 x 8760 x 2.5 mills + \$3 x 85,000
1968	167,000 x 8760 x 2.5 mills + \$3 x 58,000
1969	200,000 x 8760 x 2.5 mills + 100,000 x \$3
1970	200,000 x 8760 x 2.5 mills + 100,000 x \$3
1971	200,000 x 8760 x 2.5 mills + 100,000 x \$3
1972	270,000 x 8760 x 2.5 mills + 30,000 x \$3
1973	300,000 x 8760 x 2.5 mills + 15,000 x \$3

onwards.

7. Attempts were made to obtain VALCO's concurrence to increasing the basic charge of 2.5 mills or \$21.90 to the \$22.50 mentioned by VALCO in their own calculations, but without success.
8. On Sunday meetings were held all day to discuss other aspects of the agreement with VALCO, and to calculate the revenue and cash surplus/deficit position which would occur on the basis of this offer, and these are attached at Appx."A". On Sunday evening a final attempt to improve the position was made, without success.
9. It was accordingly agreed to place the present position before the I.B.R.D.; the offer set out above is the best which it appears possible to achieve in present circumstances. It is for consideration whether the return to Ghana arising from such an offer would be regarded as a reasonable one. It will be seen from Appendix "A" that while the cash deficits in the first years are smaller than those in the I.B.R.D.'s Report copied in Appendix "A", by the end of 10 years the total cash surpluses are £G 2.5 million approx. lower; at the end of 20 years £7 million approx. lower, and at the end of 30 years approx. £16 million lower. (The cost of additional generators and of Kpong have not been included).
10. VALCO, and particularly Mr. Edgar Kaiser and Mr. George Gerdes, feel very strongly that the introduction of the full transmission net would very materially improve the cash generation position, and will no doubt wish to discuss this. Ghana's view is that the introduction of the net will result in the full Akosombo/Kpong capacity being reached by about 1981, and thereafter expensive thermal installations will be required again to meet the load growth; if only Tema/Accra are installed, existing diesel units can be dispersed to rural areas, at far less short and long term cost to the Project.
11. The points to be discussed, therefore, are:
- (a) Does I.B.R.D. consider the VALCO offer reasonable? It is not considered that VALCO can improve on it.
- (b) What are the Bank's views on the full transmission system?

Valco Memo on Power
Contract, etc. (9/21/60)

VALCO NOTE

Rec'd from 121
Wagon 4/1/60
9/21/60

I. Power Contract

At the present stage, discussions between Valco and the Ghana representatives concern power rates of \$20 per kilowatt year, \$22.50 per kilowatt year, and a ~~conversion~~ ^{combination} of these two rates.

Valco has suggested a load build-up to 300,000 KW which would be accomplished in two stages. The first of these steps would be four lines of 50,000 KW each, each coming in at intervals of six months beginning January 1, 1967. The second stage would consist of two more lines of 50,000 KW each which would be brought in in six-month intervals beginning not later than January 1, 1972. The Ghana representatives have proposed a faster load build-up which would consist of an average demand of 150,000 KW for the first year, 225,000 KW for the second year, and 300,000 KW thereafter. There is no provision for load factor (In previous discussions Valco had proposed an ultimate load factor of 90%).

In an effort to resolve the differences between these two proposals on the build-up, it was suggested by the Ghana representatives at the previous meeting that a \$2 commitment fee per kilowatt year be paid for the demand which was not used by Valco. There was no suggestion made by the Ghana representatives as to whether this \$2 commitment fee could be placed in a minimum charge stabilization account as provided in the draft contract submitted by Valco, and their memorandum contained a provision that no regard to load factor would be taken into account.

It is suggested that an acceptable compromise could be made by Valco's agreeing to a commitment to take a minimum amount of kilowatt years at a 95% load factor with the commitment during the first two years at the expected rate of build-up. This would result in a commitment of power at the following amounts of kilowatt years:
1967 -- 66, 1968 -- 160, 1969 -- 190, 1970 -- 190, 1971 -- 190,
1972 -- 256, 1973 -- 285.

Additionally, Ghana would make available to Valco a demand as previously offered, i.e., 150,000 KW in 1967, 225,000 KW in 1968, 300,000 KW thereafter. Valco would be able to take this available demand at the contract price. However, should Valco not take this available power, it will pay a commitment fee of \$2 per kilowatt year for power not taken. In return, Valco will be given the right to credit

any amounts paid by way of commitment fee or by way of power charges for power over its commitment against deficits in taking its required commitment beginning with some specified date in the future probably at least five years after power is first made available.

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II. Payment for Power

It is provided in the memorandum submitted by the Ghana representatives that payments for power shall be in United States dollars. Although we are in agreement that the power rate be calculated in dollars so as to provide an acceptable index to the true worth of the power, it is impossible for Valco to guaranty payment for power in dollars. This impossibility arises because of the fact that the metal produced by Valco will in large measure be sold in countries other than the United States. For instance, it is expected that a large amount of metal will be sold in England where Valco can certainly give no guarantee that the British Government will continue to make available dollars in payment of metal produced in the sterling bloc. As a compromise proposal Valco could agree to pay for power in foreign currency provided there are acceptable procedures set up for determining the equivalent values of this currency.

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III. A Notice of Power Availability

The memorandum provides that only six months notice will be given to Valco as to the date on which the power agreement will commence, i. e., as to when power will be made available. Since it will take approximately two years to construct the smelter, this amount of notice is insufficient. It certainly would not be acceptable to Valco to build its facilities a year ahead of power availability and suffer the interest costs of maintaining a \$170,000,000 facility idle for a period of twelve months. From Valco's viewpoint, thirty months would be a proper notice period.

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IV. Fiscal Regime

The memorandum pointed out that Valco might be willing to pay some amount of tax currently during the tax holiday. It should be brought out that this suggestion was made in connection with a \$20 power rate and a tax holiday until the equity investment in Valco was earned. Since the discussions on this power rate have changed, this suggestion is no longer valid.

9/20 -

Ghana has suggested that Valco should be regarded not as a "pioneer company" but as a special organization receiving particular arrangements which would constitute income tax relief amounting to 6% of the total company tax (not 6% of earnings). From the political point of view, we do not consider it prudent either for Valco or Ghana to single out one company for special consideration. Moreover, it is highly doubtful that we would be able to obtain such tax relief under the tax treaty. The reason for our concern as to whether such relief would be available under the tax treaty arises because the United States Treasury has agreed with the Senate that it will only propose relief under such tax treaties which are generally available throughout the country. The treaty as now drafted provides for relief for tax spared under the Pioneer Act. We believe that this is the only acceptable method.

It should also be pointed out that inclusion in the tax treaty of relief which would be available only to one single company whose participants are major American industrial companies would be politically unacceptable in the United States and might cause extreme difficulty in obtaining Senate ratification of the treaty. Since the change in the power rate to be paid by Valco, we feel that Valco should be given a tax holiday for a period of ten years after completion of the first four lines in Step 1 and a tax holiday of ten years from completion of the two lines in the second step for income attributable to such step. Also, a tax holiday should be available for future expansions or construction of alumina or bauxite operations.

v. 10 years - 14 years on $\frac{1}{3}$ equity

The memorandum calls for payment of the tolling charge based on the New York price of aluminum. It should be pointed out that Valco's production will be sold on the world market and the New York price contains a provision for duty. The tolling charge should therefore be based on the London price or the ~~New York~~ price after deduction of duty, whichever is lower.

→ LONDON

VI.

It is provided that the fiscal regime would not include municipal rates. We feel that these should be an exception only in so far as they are payment for actual services, such as garbage collection, etc., and that the fiscal regime should include municipal charges as they are calculated on property values, income, sales, amount of employees, etc. Harbor



charges, harbor duties, and other items would be subject to definitive agreements, although not necessarily include within the fiscal regime. Although at the end of the fiscal regime period the normal rate of taxation would be payment by Valco, there should be agreement that there would be no discrimination against Valco at this time.

Alumina -- There should be no commitment to build an alumina plant; however, it would seem acceptable to agree that if construction of an aluminum plant is not commenced by the tenth year, the tolling charge should be increased from 55% to 60% beginning of the eleventh year and continuing as long as alumina is imported. The amount of taxation acquired produced by such revenue to Valco would approximate any duty imposed on alumina. From the standpoint of the shareholders in Valco the increased income tax paid by Valco to Ghana could be taken as a credit against the United States income tax of the Valco participants. The imposition of a duty, however, would not be so allowed as a credit.

Figures not yet agreed

As an added incentive to build an alumina plant, there should also be provision for tax holiday applicable to income earned by such a plant.

VII. Use of Local Materials

Valco might indicate its desire to use local materials and there should definitely be no commitment as such even to the extent of putting us under extreme political pressure. Moreover, the contractor to be employed by Valco in the construction of the smelter should be equally free from any restrictions in this respect.

VIII. Foreign Currency Earned by Valco

The memorandum submitted by the Ghana representatives provides that all foreign currency earned by Valco shall be regarded as falling within the normal currency legislation of Ghana, i.e., all foreign currency would be required to be exchanged for Ghana pounds. (This is fundamentally inconsistent with the earlier request that Valco pay for power in dollars.)

M/L to N says is available for release

No, it does not!

It is a cornerstone of our consideration of the Valco investment that the currency earned by Valco be deposited in U.S. or other foreign bank accounts.

Basically, our proposal is that the shareholder customers of Valco would pay to a trustee or a bank the following amounts: (1) The

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actual cash needed in Ghana for costs of operation, power charges, the payment of taxes to the government, (2) Amounts necessary to service the loans of Valco (This money would not go to Ghana but rather directly to the lenders.), (3) The remainder of the payment would be in the form of notes or open book accounts which would ultimately be offset by dividends from Valco.

From the antitrust aspect of the situation, the most favorable approach is that of a "cost company." However, such cost company has to be related to the problem of providing an adequate measure of income on which Ghana can measure the amount subject to its taxation. In resolving this difference between a cost company and the necessity of showing a profit for income purposes, we have taken the tolling approach which calculates profit on an accounting basis rather than on an "assumed profit" basis. We believe that such approach is acceptable to the other participants. Although the result produces an acceptable method of calculating income tax in Ghana, we feel that if the currency is handled in the manner above proposed that we have achieved a true cost company from the point of view from the antitrust aspects of the situation.

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We also believe keeping the cash out of Ghana in United States or other bank accounts and the use of trustees will be a great help in financing the project. This was the approach taken in the case of Fria which incidentally is also a cost company.

The use of foreign accounts for the amounts paid to Valco and the ability to give notes for the amount of Valco's profits also greatly reduces the necessity for obtaining ICA convertibility guarantees. It should be pointed out that ICA convertibility guarantees have certain weaknesses which result in their not giving complete protection, i. e., they do not protect against devaluation of the currently unrealistic rates of exchange, etc.

Moreover, by eliminating the necessity of making large transfers of foreign currencies to Ghana and back to the U. S. or other countries, there will be a large saving in bank transfer costs and exchange losses which would otherwise occur.

Options
IX. Objections to Renew Power Contract

It is provided in the Ghana memorandum that "the principals of agreement provide for a power contract for twenty years renewable on Valco's option." Actually, the principals of agreement provided for a power contract equal to the period of the fiscal regime expected to be for twenty-five years. We would prefer to remain with a time period equal to the fiscal regime with an option to extend the contract for an equal period under the same terms.

Valco

PRIMARY FACTORS FOR CONSIDERATION

IN ADDITION TO THE POWER CONTRACT

In addition to the Power Contract, there are four primary factors which have to be resolved between Ghana and VALCO. These primary factors are exclusive of satisfactory financing arrangements upon which, of course, the success of the project will ultimately rest. However, an agreement on these matters must be obtained with Ghana before satisfactory financing arrangements can be undertaken.

The four primary matters which must be determined with Ghana are:

1. Currency.
2. Tax holiday and fiscal regime.
3. Importation of materials, including alumina.
4. Financial responsibility of VALCO.

While these are the primary matters to be dealt with, there remain subsidiary questions, such as the rent payable for the smelter site, harbor and port dues, payment for water, minor matters in connection with the tolling charge, etc., all of which can be considered to be details.

Following is an outline of the major problems and the position of VALCO.

I. CURRENCY

Ghana has adopted a policy of granting "approved status" by which it agrees to allow repatriation of earnings, loans and capital for new investments made in the country. Companies which receive this "approved status" would normally convert the foreign exchange which they receive into Ghana pounds, and upon making payments for loans, dividends, or return of capital would make application to the Ghana Exchange Control authorities for permission to receive the foreign exchange necessary to accomplish these remittances. Assuming that a company has obtained "approved status", the Exchange Control authorities of Ghana will issue the necessary exchange, provided Ghana has such exchange available. At the present time Ghana's foreign exchange reserves are quite substantial and there is no question

Rec'd 9/21/60
From Ron Sullivan

about obtaining foreign exchange for a company with "approved status". It is not possible, however, to determine how long this state of affairs will persist, since continuation of the maintenance of large foreign exchange reserves depends upon (a) continued high prices for the cocoa crop, and (b) conservative fiscal management of the foreign exchange reserves.

Since the practical effect of the present "approved status" policy of Ghana is to permit unrestricted transfers of funds by companies such as VALCO, VALCO has proposed that the handling of its currency be accomplished in such a manner so that there will be the same practical effect to the foreign exchange reserves to Ghana, but at the same time VALCO will be protected against any unforeseen events in the future. Preliminary steps in this respect have already been taken by VALCO in obtaining permission during the interim study period to hold its dollar exchange outside of Ghana and remit to Ghana only what is necessary for expenses in Ghana.

Basically, what is proposed during the period of operation of the smelter is an extension of the present method of operation. It is proposed that the tolling charges earned by VALCO would be payable to a U.S. account which may or may not be managed by a Trustee for VALCO. This payment for the tolling charge would consist (1) of cash amounts in respect of actual costs of VALCO in Ghana and payment of income tax to the Ghana government; (2) cash in respect of the amounts necessary to make payments to VALCO leaders; and (3) notes or open book accounts for the remainder (which represents profit). These notes or open accounts will thereafter be offset by dividends from VALCO to its shareholders. It is expected that the payments in cash for the tolling charge will be in currency foreign to Ghana but not necessarily in U.S. dollars. The reason for this is that sales of the VALCO produced metal will be made on the world markets where it is not possible to guarantee over the long run that it will be possible to obtain dollars for metal produced in sterling areas, i.e., Ghana. By the same token, remittances from the U.S. bank account of VALCO to make payments to the Ghana Government for the power charges and income tax will be in foreign exchange but not necessarily dollars. Moreover, it does not seem possible that VALCO could agree to make payment to Ghana in exchange in the same proportion which it received such exchange for its tolling charges, since VALCO will require certain specified types of exchange, such as dollars, for repayment of its loans.

In any event, however, the payments by VALCO to Ghana will result in a net increase in the total foreign exchange position of Ghana. In addition to the exchange received from VALCO, Ghana normally has large foreign exchange earnings resulting from its sales of cocoa, timber, diamonds and gold. All of these foreign exchange receipts are placed into a central fund against which amounts can be withdrawn to make available the foreign exchange necessary to serve the external loans and to purchase imported commodities. At present Ghana has sales in the dollar areas which provide substantially more dollar funds than would be necessary to service

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the dollar loans for the VLEIA project even assuming that VALCO made no contribution of the dollars itself. Naturally, to the extent that Ghana is able to make borrowings from the World Bank in currency other than dollars, its need for dollar exchange will diminish. It is also possible that the DLF loan could be repayable in Ghana pounds, which would mean that repayment of such loans would have no effect at all upon the foreign exchange position of Ghana.

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In making the arrangements proposed above for VALCO, there are several considerations to be taken into account. The first of these is an endeavor to avoid the present weaknesses of the ICA convertibility guarantees which do not protect against a devaluation in currency. To the extent that it is possible that the bank accounts of VALCO in the United States can be totally removed from the Exchange Control authority of Ghana, the necessity for ICA convertibility guarantees can be eliminated, either partially or totally. We have been informed by some of the Ghana representatives that the complete removal from Ghana Exchange Control of a Ghanaian company such as VALCO is impossible within the present framework of the sterling system. While we think it is doubtful that special arrangements cannot be accomplished, it appears necessary that this matter will have to be resolved by discussions with the British Exchange Control officials who, at present, are managing Ghana's foreign exchange reserves.

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In considering what arrangements could be made to remove VALCO from Ghana's Exchange Control authority, due consideration will have to be given so that such arrangements will not adversely affect the foreign tax credit receivable by VALCO's shareholders for income taxes paid to Ghana. In other words, it is necessary that the foreign exchange be, in fact, owned by VALCO so that VALCO can make dividend distributions to its shareholders. Various methods could be worked out by which right to the exchange would not be received by VALCO (hence not being within the Exchange Control authority of Ghana), but this would have the collateral effect of destroying the ability of VALCO to make dividend distribution of such funds.

The second reason for our desire to remit to VALCO only the cash necessary for payments in Ghana and servicing the loan was to achieve a "cost company" status for the purposes of our antitrust approach. A "cost company" is the most favorable approach from the standpoint of antitrust considerations; however, it is necessary from the standpoint of Ghana to have some measure of earnings attributable to VALCO for the purposes of taxation. In resolving the difference between a "cost company" and the necessity of showing a profit for income tax purposes, we have taken the tolling approach which calculates profits on an accounting basis rather than on an "assumed profits" basis. To the extent that cash paid for the tolling fee represents only actual amounts needed to pay costs in Ghana and service the loans, our antitrust position is made even more favorable, since we have achieved a true "cost company".

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We also are desirous of keeping VALCO's accounts in the United States because it permits the use of Trustees in connection with the loan financing

what about other countries

of the project. This was the approach taken in the case of Fria which, incidentally, is also a "cost company". Naturally, keeping the money in the U.S. bank accounts rather than making the round-trip to Ghana results in the elimination of considerable costs which would be incurred in bank transfer charges and exchange losses.

It should be pointed out that it is our impression that there is no fundamental disagreement by the advisers of Ghana on the establishment of bank accounts in the United States and the remittance to Ghana of only actual exchange needed there, although there is a considerable disagreement as to whether the funds held by VALCO in the United States would be subject to the Exchange Control laws of Ghana. Moreover, since the recent memorandum presented by Ghana requested the transfer of all foreign exchange of VALCO into Ghana pounds, it is necessary that even the matter of keeping the U.S. bank accounts should be clarified.

II. TAX HOLIDAY AND FISCAL REGIME

The original proposal of VALCO was for a tax holiday until such time as the shareholders of VALCO received their equity investment, which at that time was expected to be approximately one-third of the total capital investment. VALCO in the Principles of Agreement also proposed that the total of all its fiscal charges, including taxes, customs duties, etc., would amount to a tax of 40% on its income after the holiday period, and that there be a stabilization of this income tax for a period equal to the Power Contract.

To accomplish the results envisaged by the Principles of Agreement, it was contemplated that VALCO would be considered a "pioneer company" under the amendments to the Pioneer Company Act to be made this year. Thus, VALCO would achieve a tax holiday under the provisions generally in effect for all other companies in Ghana. It is necessary to obtain this relief under the general law in order to receive a tax credit under the sparing provisions of the forthcoming tax treaty, since the Treasury and the State Department have indicated to the U.S. Senate that they will not propose any relief not generally available.

With respect to the stabilization of the income tax rate of 40%, the Principles of Agreement provided that there would be enacted in Ghana a "Primary Metals Production (Encouragement) Act".

Recently, in the memorandum presented by the Ghana representatives in New York, it was suggested that VALCO not be considered as obtaining relief under the Pioneer Company Act but rather receive a tax reduction to 34% over the period of the fiscal regime, i.e., 30 years. The result of this proposal would eliminate any benefit to the shareholders of VALCO from the proposed tax treaty and would also considerably extend the present estimated payout of the investment to the extent where the entire economic feasibility of the project is severely questioned. The memorandum which we prepared and submitted to the Ghana representatives outlined our objections to their proposal.

The memorandum presented by the Ghana representatives also raised the question as to whether VALCO should pay "municipal rates" in Ghana. In our previous discussions we were informed by the Ghana representatives that "municipal rates" were in fact payment for services rendered, such as garbage collections, etc. However, further discussions with the Ghana representatives indicated that these "municipal rates" are the same as the ordinary property taxes which are levied by municipal authorities in the United States, which taxes were specifically exempted by the Principles of Agreement. Moreover, the World Bank Report itself contemplates exemption from municipal rates when in discussing the income tax to be received from VALCO it states "not all this tax income would be clear gain; offsetting it would be additional government services, such as schools, hospitals, police protection, sewage, etc., which would have to be provided for the increased size of the community". (Para. 67 World Bank Report.)

The question of rates and timing of capital allowances, i.e., depreciation, also remains to be determined. In the Principles of Agreement it was stated that this would be a matter for determination between the parties. As long as the period of tax relief is determined by a specific amount of money rather than a time period, the amount and timing of depreciation does not have too much bearing. However, should it be desirable to limit the tax holiday to a specified period of time, such as 10 years, any capital allowances taken during that period serve to reduce the tax relief granted. It is our understanding that the proposed Pioneer Company Amendments provide for tax relief up to 10 years and no capital allowances during the period of the tax relief. It is, therefore, suggested that VALCO obtain this type of tax relief which is generally contemplated for all Pioneer Companies, and which would permit tax sparing under the provisions of the tax treaty. It is suggested that if capital allowances are deferred until the end of the 10-year period of the tax relief that VALCO might be willing to modify somewhat its previous position on municipal rates, since the Ghana representatives have indicated that it would be most difficult to transfer funds from the income tax revenues to the municipalities as previously contemplated. Accordingly, if agreement on capital allowances could be obtained, VALCO could consider the possibility of agreeing to pay municipal rates on the same basis as generally applicable in Tema, provided, however, that there be an annual limit on such municipal rates at an agreed amount of money, (for instance, 20,000 Ghana pounds), and that there be a stabilization of this annual limit for a period equal to the fiscal regime. The reason for the necessity of establishing a limit on the amount of annual municipal rates is to assure that there will be no discrimination against VALCO in connection with these rates. It has been our experience, both in the United States and abroad, that mere assurances of non-discrimination are not sufficient to prevent it, hence a money limitation is necessary.

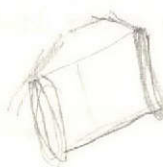
III. IMPORTATION OF MATERIALS, INCLUDING ALUMINA

It does not appear that there is any substantial objection to the continuous importation of raw materials, including alumina. However, it should

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be definitely agreed that as contemplated in VALCO proposals made to date, that the right of such importation be continued over the entire length of the contract.

While the Ghana representatives recognize the right to import these materials and alumina, they have proposed that Ghana levy a duty on such importation after the first 10 years of operation in order to encourage the use of local materials and the construction of an alumina plant. It is our position that importation of materials and alumina without the payment of customs duty should be continued for the entire length of the contract. This provision is not unreasonable and is found in the Brekoponde agreement with which Ghana representatives are familiar. However, because of the desire of Ghana to encourage the establishment of an alumina plant within Ghana, we have suggested the possibility that if construction of an alumina plant is not commenced by the 10th year, the tolling charge for alumina should be increased from 55% to 60% at the beginning of the 11th year and continue at that higher rate as long as alumina is imported. The amount of tax revenue accruing to Ghana on the increased tolling charge would approximate a duty on alumina but such taxes would be able to be taken as a tax credit by the shareholders of VALCO whereas a duty would not be allowed as a credit. As an added incentive to build an alumina plant there should also be a provision for a tax holiday applicable to income earned by such a plant.

IV. FINANCIAL RESPONSIBILITY OF VALCO

Both the World Bank and the Government of Ghana have raised the suggestion that payment of the power charges by VALCO should be guaranteed by the shareholders of VALCO. Such a guarantee would require the respective companies to guarantee an obligation in excess of \$150 million, which would directly affect the borrowing capacity of each of the companies.

We have suggested that appropriate financial responsibility of VALCO can be obtained by the shareholders of VALCO agreeing to contribute a minimum paid-up share capital (\$5,000,000 to \$10,000,000) by the date that power is available. This will assure that VALCO has adequate equity capitalization to finance the project and satisfy its obligations. The shareholder-customers will also enter into tolling contracts on a take or pay basis, providing metal is available. We feel that the combination of an agreed equity participation, together with the take or pay contracts gives VALCO all the financial responsibility that is necessary. Indeed, the result of this is that VALCO will be an aluminum company of greater size than some of the existing aluminum companies and in addition, will have a guaranteed market for all it produces, something which eliminates all its problems of sale of its production. We believe that other recent projects in West Africa have been set up on a similar basis and are now taking steps to confirm this point.

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Valco Memo: Factors for Consideration
in addition to the Power Contract (9/21/60)

Valco Memo: Power Contract Force
Majeure Provisions (9/21/60)

POWER CONTRACT FORCE MAJEURE PROVISIONS

Valco

9/21/60

From R. Sullivan

Normally, Force Majeure provisions are included in power contracts as a mutual protection, both to the power producer and the purchaser. These Force Majeure provisions are normally on a reciprocal basis and are designed to relieve either the producer or the purchaser from damages resulting from the inability to produce or purchase power because of uncontrollable forces.

To some extent it could be considered that the protection of force majeure clauses is more to the benefit of the power producer than to the power purchaser. The reason for this is that the damages from the failure to supply power could be much larger than the mere value of the power contracted for, because of the Anglo-Saxon theory of law which holds a person breaching a contract responsible for consequential damages resulting from such breach. Accordingly, a power producer who fails to deliver the power contracted for could be liable not only for actual damages suffered by the power purchaser because of inability to take power, but also for loss of profits which the purchaser would have made should power have been available and no breach of the contract occurred. On the other hand, it would seem that damages for failure of the purchaser to take power would, in the absence of force majeure, be equal only to the value of the power not taken, since there would be no consequential effects on the operation of the power project.

In the absence of force majeure provisions in the case of Ghana and VALCO, it would also be the obligation of the Volta project to make available a firm demand of power, even to the exclusion of all other consumers in Ghana, if power was curtailed by drought, strikes, failure of machinery, or other normal occasions of force majeure. With a force majeure provision there would be some

proration of power on an agreed-upon basis so that necessary community services, including hospitals, could receive appropriate power.

The draft Power Contract of June 22, 1960, which has been submitted to the Ghana Government, contains reciprocal provisions providing that neither Ghana nor VALCO shall be liable for any failure, interruption or delay in service, or inability to take or use power due to force majeure. Article 31 of this draft Contract details the matter, and is similar to the force majeure provisions which were originally discussed between the Volta River Secretariat and Aluminium Ltd. in 1956.

These similar provisions were adopted because of the familiarity of the Ghana representatives with such provisions.

Another example of force majeure provisions is contained in Section 13.1 and 13.2 of the General Rate Schedule Provisions adopted by the Bonneville Power Administration of the United States Department of the Interior. These provisions reduce the charges for power if interruptions occur as the result of "uncontrollable forces", i.e., force majeure. The term "uncontrollable forces" is defined as being "(a) strikes affecting the operation of the purchaser's works or system or other physical facilities upon which such operation is completely dependent, or of physical facilities used by the Government to serve the purchaser, or (b) failure, damage, or destruction of such works, system, or facilities from causes reasonably beyond the control of the party having jurisdiction thereof, which by the exercise of reasonable diligence such party could not reasonably have been expected to avoid."

The
letter

Wafal Concession

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January 26, 1961

S. Noel McIvor

GHANA - Volta River Project - Wafal

The attached memorandum on West African Aluminium Limited (Wafal) was prepared for us by Aluminium Limited and given to us by their Washington representative Mr. Covel.

When Mr. Rouse-Jones was in the Bank recently, he told us that Wafal's claims in Ghana, in his opinion presented no difficulties. He said that Wafal had:

- (1) Certain bauxite concessions which no one else wanted;
- (2) Rights to land which formed part of the Akosombo-Volta Project area.

The Ghana Government could take over these land rights upon payment of compensation, so Mr. Rouse-Jones anticipated no difficulty there.

Mr. Rouse-Jones told us also that some years ago Mr. Rose had tried to sell his shareholding in Wafal to the Ghana Government who after due consideration decided not to buy.

It would seem from the attached memorandum that Wafal consider they have certain power concessions at the Akosombo site.

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Attachment

cc: Messrs. Lejeune ✓
Murick
Fontein/Hornstein
Lithgow/Brash

SNOIvor:mc

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WEST AFRICAN ALUMINIUM LIMITED (Wafal)

Incorporated

Accra, Gold Coast Colony, January 19th, 1946, by registration under the Companies' Ordinance, Chap. 156 (December 11th, 1906), as amended by Ordinances up to and including Ordinance 19 of 1936 of the Gold Coast.

Registered Office

Chambers of Messrs. Cassleton Elliott & Co., Accra, Ghana.
(Postal Address: P.O. Box 242, Accra, Ghana)

Capital

Authorized & Issued: £50,000 - divided into 250,000 shares of 4/- each, fully paid.

Shareholders

	<u>Number of Shares</u>	
Aluminium Limited		
Direct shareholding	126,367	
Nominee directors' qualification shares:		
S.P. Brewster	500	
Bruce Manning	500	
E.F. Willard	500	
Francis Rooney	500	
F.R.W. Woods	<u>500</u>	128,867 (51.55%)
Anglo-Transvaal Consolidated Investment Company, Limited	71,964	(28.79%)
The United Africa Company Limited	16,480	(6.59%)
Chriss Line Company Limited	11,240	(4.50%)
Edward Duncan Carr Rose	11,061	(4.42%)
Thomas Woolf Charles	8,388	(3.35%)
C. St. John Bird	2,000	(0.80%)
		<u>121,133</u> (48.45%)
		<u>250,000</u>

Directors

Messrs. Bruce Manning
Sidney Fentelow Brewster
Francis Rooney
E.F. Willard
F.R.W. Woods

All the present directors are nominees of Aluminium Limited and, with the exception of Mr. Bruce Manning, are associated with the firm of Cassleton Elliott & Co., Accra.

Officers

Messrs. Cassleton Elliott & Co., Accra, Ghana - Secretaries.

Auditor

C.P. Smith, Chartered Accountant, Messrs. Cassleton Elliott & Co.

Principal Assets

Power Concessions:

- (1) Volta River Leases Nos. 1, 2 & 3: Certificates of Validity Nos. 662, 663, 664, respectively, issued by Supreme Court of Gold Coast. Three contiguous areas, in the vicinity of Ajena, each of approximately 5 square miles, covering all the potentially feasible dam-sites on Lower Volta including that at Akosombo currently considered for development. Granted by the State of Kwana et al for a period of 99 years from 1942 and conferring the right to build dams and power stations and to carry out all the operations and works necessary and ancillary thereto.

Bauxite Concessions:

- (1) Ejuanema Bauxite Mining Concession: Certificate of Validity No. 695 issued by the Supreme Court of the Gold Coast. Approximately 3 square miles in area, near Mpraaso, covering the Ejuanema deposit containing an estimated 4 million tons of bauxite. Granted by the State of Kwana et al for a period of 99 years from 1946 and conferring

Bauxite Concessions (continued):

bauxite mining rights, timber rights and other rights subsidiary and ancillary thereto.

- (2) Nyinahin Bauxite Concessions Nos. 1 & 2: Certificates of Validity Nos. 62 (Ashanti) & 60 (Ashanti), respectively, issued by the Supreme Court of the Gold Coast. Two contiguous areas of approximately 5 and 4 square miles respectively, situated approximately 40 miles west of Kumasi, and estimated to contain about 30 million tons of bauxite. Granted by the State of Ashanti et al to United African Explorations Limited and Fanti Consolidated Investment Company Limited, respectively.

By Agreements, Wafal acquired from United African Explorations Limited and Fanti Consolidated Investment Company Limited exclusive bauxite mining rights to these two concessions for the duration of the leases (i.e. 99 years from 1928).

Building Concession:

- (1) Azisanya Building Concession:

This small concession, 0.318 square miles in area, was acquired for construction purposes when it was envisaged that the Volta River Project would have its own sea port at Ada, in the estuary of the Volta River. The concession has since become of little value with the construction, by Government, of the new port and harbour at Tema.

Background and Status

Wafal was formed in 1945-46 to take over the concessions listed above and to carry forward the detailed engineering investigation of the fully integrated Volta River aluminium project which had been initiated by Mr. Duncan Rose, of Johannesburg, S.A., in 1938, and financed by certain individuals and corporate interests, also of Johannesburg, S.A. Aluminium Limited acquired a 25% share interest in Wafal in 1949

and increased the holding to 51.55% in 1953, at which time Aluminium Limited assumed the management and direction of Wafal. The activities of Wafal were financed in part by the sale of shares but, principally, by advances from the larger shareholders; upon the attainment of its majority position, in 1953, Aluminium Limited provided all the funds subsequently required by Wafal. Wafal was placed on a "care and maintenance" basis in 1952 and de-activated in 1958.

In the engineering field, the pioneer studies above-mentioned, under the direction of Mr. Duncan Rose, were completed and reported upon in 1949. During 1950-51, upon the initiative of Aluminium Limited and for the account of Wafal, considerable diamond drilling as well as expert geological examination of the foundations of the proposed Ajena dam and power house site were carried out. In addition, expert advice was obtained on all aspects of the proposed hydro-electric development at the Ajena site. In 1949, the Gold Coast Government, with the concurrence of the Colonial Office of the United Kingdom Government, advised Wafal that its proposals for the Volta River aluminium project would be considered in relation to the development of the Volta River Basin, as a whole, and in this latter connection the Government of the Gold Coast commissioned the engineering firm of Sir William Halcrow and Partners (Halcrows) to carry out the necessary surveys. Wafal made the results of its pioneer engineering studies available to Halcrows and permitted them to carry out investigations on the Company's power concessions. Following the recommendations of Halcrows, chief among which was the proposal that the hydro-electric development be reserved for the public sector and that private enterprise be permitted to undertake only the aluminium producing part of the project, a series of discussions were held, during 1951-52, between the governments named above and the aluminium companies to formulate a plan for joint participation in the project. The plan evolved was described in the U.K. White Paper on the "Volta River Aluminium Scheme", Cmd. 8702 of November 1952, published in London, and a body known as the Volta River Project Preparatory Commission (V.R.P.P.C.), was set up, jointly, by the two governments in 1953 to examine carefully the technical soundness and economic viability of the

scheme outlined in the said White Paper. The V.R.P.P.C. retained Halcrows as Consultants to continue the engineering investigations into the hydro-electric potential of the Volta River and the development thereof, which, as aforementioned, they had been carrying out for the Gold Coast Government on Wafal's power concessions, and to undertake investigations into all the other engineering aspects of the "White Paper" scheme. The V.R.P.P.C. reported in 1956 that the scheme was both technically and economically feasible. However, owing to the greatly increased estimates of the cost of the scheme, the unfavourable climate for investment, as well as the state of the world aluminium market, then prevailing, the realization of the project could not be undertaken. Moreover, in view of the impending transition in the political status of the Gold Coast, there was a more or less tacit understanding among all the prospective participants in the scheme that none of the agreements necessary for the implementation of the project should be entered into until after the Gold Coast Colony had attained its full sovereignty as the independent state of Ghana.

In 1959 the firm of Kaiser Engineers and Constructors Incorporated (Kaiser) was commissioned by the Governments of Ghana and the U.S.A. to make a reappraisal of the Volta River aluminium project. Wafal, without prejudice to its existing and future rights, granted Kaiser permission to enter its power concessions and to carry out preliminary engineering works.