



African, Caribbean and Pacific Group of States

“Promotion of Quality Standards and Certification for Handicrafts from Ghana and Sierra Leone”

“ACP-EU TBT PROGRAMME” (REG/FED/022-667)

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MARKET NEEDS ANALYSES

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Annex 1: References

1. INTRODUCTION

In order to accurately discuss the handicrafts sector we must first define the word *Handicrafts*. It's usually defined as articles that are principally of cultural origin made primarily by hand, and production can be supplemented by small machinery. This definition falls appallingly short when one understands the dynamic commercial potential of this multi-faceted sector.

In fact *Handicrafts* is an umbrella term encompassing a wide variety of production methodologies, product categories, and market identities. For production methodologies, it denotes artisanal made and traditionally inspired manufacturing techniques. The production methodologies can be individual, assembly line, and partially mechanized. The product categories are spread widely across the consumer goods landscape, depending on raw material availability and skillsets. Design aptitude and quality skill level defines market identity.

What sets *CRAFT*, such as shoe repair, apart from *ART* is the design element. This continuum, from basic craft to high art, defines the spectrum of *Handicraft* as a market commodity.

Most often the word *Handicraft* does not inspire the imagination to grasp the vast commercial aspect of the sector. This commercial potential is key to keeping the underlying cultural impetus alive and active, and to generating income and increasing employment.

India has become the global beacon leading *Handicrafts* to becoming, and being recognized as, an actual *Industry* – a scalable and commercial manufacturing sector. In India the crafts sector has become a \$4.5 billion dollar industry¹, generating employment and stimulating income growth and stability for hundreds of thousands of people. A USAID report on India said that, “Behind agriculture, artisan activity is the second largest employer in the developing world.”²

For decades Ghana was viewed as the potential powerhouse of the handicrafts industry in Africa and was expected to follow India's lead to become the beacon in Africa to transform *Handicrafts* from a cultural activity to a thriving commercial industry.

This project sets out to discover what are the barriers that have inhibited handicraft sector growth in Ghana and by inference, across Africa.

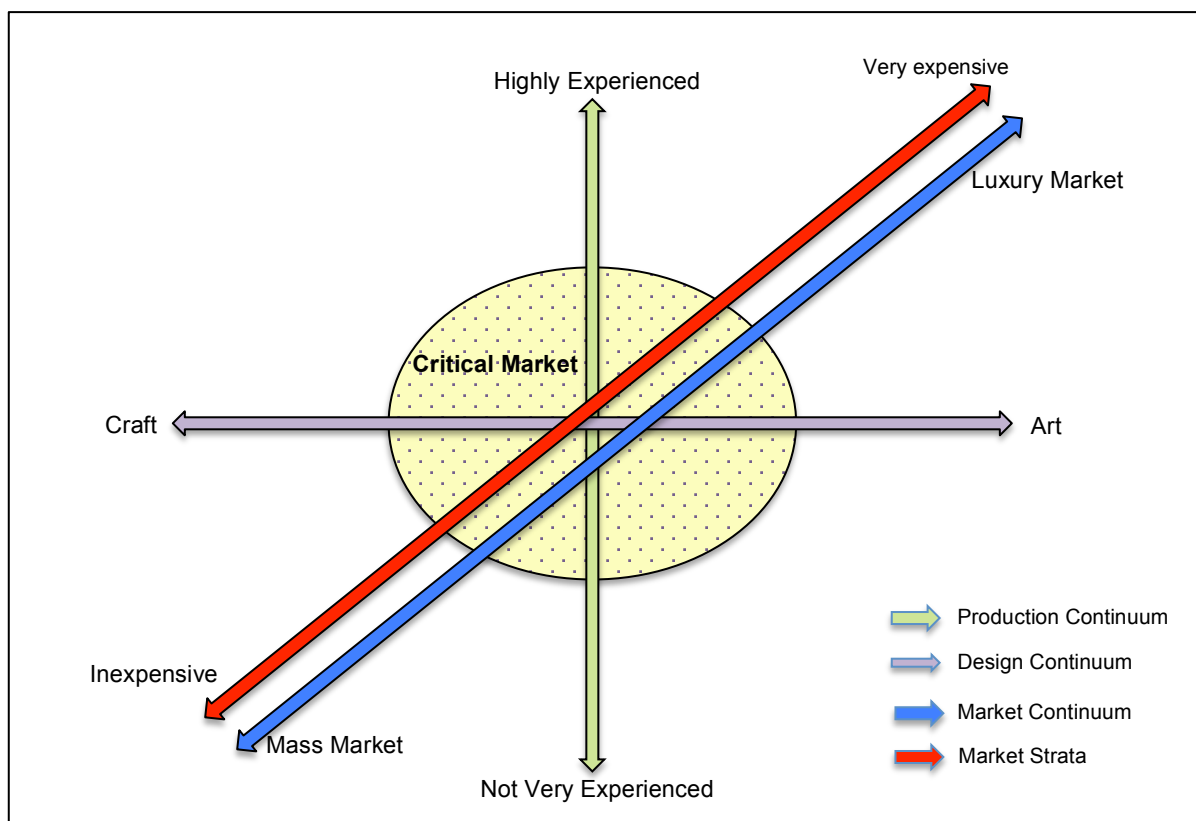
One of the most interesting perspectives of this project is that it looks at the sector from the perspectives of two very different countries, Ghana and Sierra Leone. Though they share a common language, both are on the African continent, and their crafts sectors share many of the same raw materials, they are quite different and very unique from each other. Ghana has enormous production capacity and exports many containers a year of handicraft products, while Sierra Leone, particularly since the civil war, has had few handicraft exports resulting in limited production capacity and virtually no exports.

¹ <http://www.ibef.org/exports/handicrafts-industry-india.aspx>

² Ted Barber and Marina Krivoshlykova of Development Alternatives, Inc. 2006. USAID report: “Global Market Assessment for Handicrafts.”

By working in the same sector in these two countries we target another important continuum, nascent to highly experienced production and export capacity.

The third continuum of this sector is production capacity, from completely individually hand made to semi-industrial. The key to commercial success is to identify where one falls on these continuums and where one needs to be to capture target markets. Once this is identified then we can look at what are the technical barriers to attaining commercial and export success.



The above market chart shows the general handicraft sector continuums and will serve as the guide for market needs analyses and market mapping.

After numerous interviews in both Sierra Leone and Ghana two key product categories have been chosen for the focus of this in-depth needs assessment; basketry and wooden home décor. Both of these categories are produced in both countries and both have European market appeal.

2. OBJECTIVE OF THE MARKET NEEDS ANALYSES

The objective of this report is to outline the barriers to international trade, most notably the access to EU markets, for the Handicrafts sector, particularly for the wooden home décor and basketry sectors.

The biggest challenge facing handicraft producers in Ghana and Sierra Leone, and throughout Africa, is to know exactly what the target market wants to buy and at what price. Producers who do not live in the target market cannot feasibly stay a step ahead of market trends. If producers cannot make products the

market wants to buy, then technical barriers to trade are a moot point.

Likewise, if products are sought by the target market and the producer is capable of producing them sufficiently, but the laws or regulations restrict the trade flow, then the opportunities are strained and even lost. Therefore this report examines equally the market-driven barriers to trade as well as the regulatory and technical barriers.

In reviewing technical barriers government ministries, regulatory bodies and handicraft small and medium-sized enterprises (SMEs) support institutions and their activities as related to handicrafts development and exports have been consulted.

The existing regulations in Ghana and Sierra Leone for the production of Handicrafts will be assessed in light of related international and EU standards. Recommendations on how to enhance the existing handicrafts system to meet the EU standards will also be provided.

Finally, the EU as the target market will be assessed for opportunities and as well as barriers to trade. Technical barriers as well and market driven and hidden barriers are cited to provide a complete picture of the possibilities of accessing EU markets.

3. KEY FINDINGS

3.1 Barriers to Trade

3.1.A Technical Barriers to Trade

3.1.A.a Technical Regulations, Standards and Conformity Assessment Procedures

According to the International Organization for Standardization (ISO), a standard is a document that provides requirements, specifications, guidelines or characteristics that can be used consistently to ensure that materials, products, processes and services are fit for their purpose.³ In other words, standards set out the size, functions, performance and other characteristics of the product as well as how it is labelled or packaged before it enters the marketplace.

European Standards (ENs) are documents that have been ratified by one of the three European Standardization Organizations (ESOs), the European Committee for Standardization (CEN), the European Committee for Electrotechnical Standardization (CENELEC) and the European Telecommunications Standards Institute (ETSI); recognized as competent in the area of voluntary technical standardization as for the EU Regulation 1025/2012. Standards are voluntary which means that there is no legal obligation to apply them. However, certain standards are made compulsory by laws and regulations that make compliance with them mandatory.⁴

The standards are costly, may vary from country to country and may affect international trade. The World Trade Organization (WTO) Agreement on Technical Barriers to Trade provides for rules aimed at

³ <http://www.iso.org/iso/home/standards.htm>

⁴ <http://www.cenelec.eu/standards/DefEN/Pages/default.aspx>

preventing these measures from becoming unnecessary barriers to trade.⁵

According to the European Commission (EC), a manufacturer can only place a product on the EU market when it meets all the applicable requirements. Therefore, a conformity assessment procedure is carried out before the product can be sold. It consists of the following:

- The conformity of a product is assessed before it is placed on the market.
- It needs to demonstrate that all legislative requirements are met.
- It includes testing, inspection and certification.
- The procedure for each product is specified in the applicable product legislation.

As part of conformity assessment, the manufacturer or the authorized representative must draw up a Declaration of Conformity (DoC). The declaration should contain all information to identify:

- The product
- The legislation according to which it is issued
- The manufacturer or the authorized representative
- The notified body if applicable
- A reference to harmonized standards or other normative documents, where appropriate.

The European Commission's main objective is to help ensure that unsafe or otherwise non-compliant products do not find their way to the EU market.⁶

In Ghana, the standards authority (GSA) is a certification and inspection body that works as the secretariat to facilitate the issuance of national standards and the adoption of international standards. According to Mrs Adetola, GSA Deputy Executive Director, there are no standards for handicrafts and therefore no need for national standards for handicrafts. GSA export certification is mandatory even for handicrafts. However, this measure is not being enforced by the Customs, in many cases exporters still can export without getting the GSA export certification. Moreover, GSA is the regulatory authority for the forestry. GSA standards are available for textiles and wood furniture that may apply to handicrafts but are primarily meant for industrial production.

3.1.A.b Customs Duties

There is no universally accepted definition for handicrafts. The generic term "handicrafts" is used to designate a wide range of items including gifts, home décor, furniture, jewellery, ceramics, etc. Without a separate product classification it is difficult to assess the customs duties and other related levies.

According to the National Revenue Authority (NRA) in Sierra Leone there are no duties on the export of handicrafts. Moreover, Customs does not require any particular license for handicrafts. The required documents for export are a business licence and an export license from the Ministry of Trade and

⁵ https://ec.europa.eu/growth/single-market/goods/building-blocks/conformity-assessment_en

⁶ https://ec.europa.eu/growth/single-market/goods/building-blocks/conformity-assessment_en

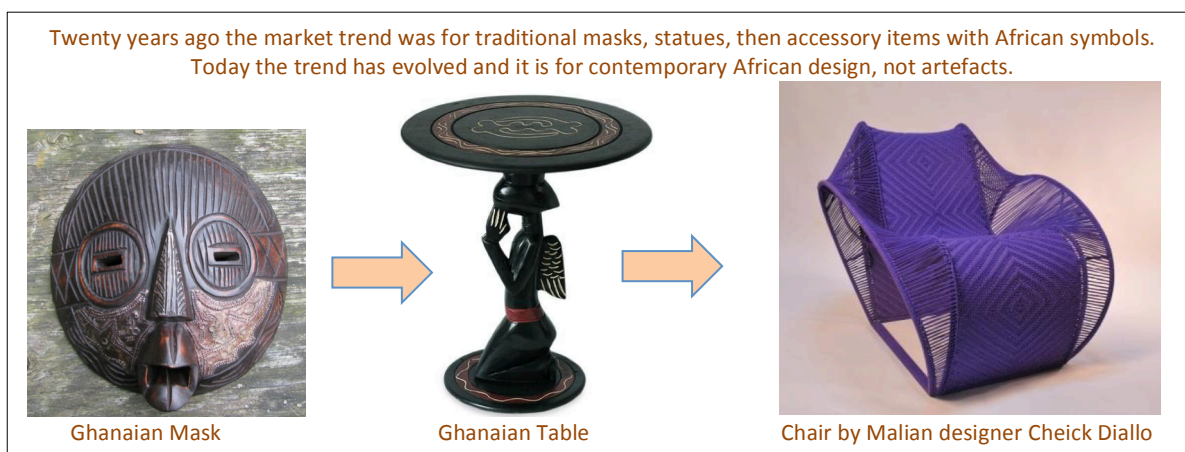
industry (Permanent secretary).

In Ghana, there are no duties on the export of handicrafts. However there is a Museum tax levied by the Ghana Museums and Monuments Board, though the consultants were not able to attain written copies of any statutes pertaining to this tax.

3.1.B. Market Driven Barriers

3.1.B.a Design and Trends

“African design is growing in popularity, especially in the home decoration industry where demand is outstripping supply. The call is not for the masks and statues sold on sidewalks around the world. Interior decorators are looking to African designers for naturally-sourced, beautifully crafted, high-end objects.” WIPO magazine⁷



Lack of marketable designs is the most significant market-driven barrier to handicrafts exports. Throughout the developing world, those countries with strong design capacity or the resources to finance professional and on-going design inputs have the strongest exports. India is a perfect example. From among its many quality design schools the National Institute of Design is rated in the top 25 design schools in the world.⁸ And India is now exporting \$4.5 billion in crafts a year. Good, solid, market-driven design inputs will be the key driver to developing and sustaining sector growth.

Without strong design inputs artisans struggle trying to second guess what the market may want, relying on what they were purchasing in the past and spending time and money with little benefit.

The design challenge manifests itself very differently in Ghana and Sierra Leone. Years ago, ATAG and Ghanaian artisans greatly benefitted from strong design inputs, resulting in sales of many containers a year to major US buyers. But as market trends moved on, the design sensibility in Ghana could not keep

⁷ http://www.wipo.int/wipo_magazine/en/2008/04/article_0007.html

⁸ http://www.ranker.com/list/best-30-design-programs-in-the-world/college-info?var=2&utm_expid=16418821-231.JBrtOVQFR2C-wNUR7R69XA.1&utm_referrer=https%3A%2F%2Fwww.google.com%2F

up with changing trends and sales declined. Intermittent design inputs have been introduced in the intervening years, but not enough to move the entire sector forward and regain market recognition.

Sierra Leone, on the other hand, has had little design inputs and the small artisan community seems ready and anxious to respond with vigour.

In both cases the barrier is the same, there is insufficient funding to launch serious design initiatives that will have a significant and sustainable impact.

3.1.B.b Costing and Pricing

Product costing and pricing is a challenge in all developing countries and can be a barrier to trade. It is intimately linked to the issue of design. If design inputs are done with target market pricing in mind, then costing is automatically a part of the design process and marketable products can be created.

Of course it is not always that simple. Many of the hidden barriers, cited below, do impact costing/pricing. Over the years Ghana has been a leader in being able to meet international pricing demands. This is in part because it has many mechanized workshops, particularly for wood décor products and has built production capacity so that volume production keeps costs low. But producers are beginning to feel the crunch of low prices that are now coupled with lower volumes and increased hidden costs.

Sierra Leone must start with smaller scale exports while working out volume raw material purchases and growing its production capacity.

3.1.B. c Transport Costs

International shipping is paid for by the buyer, and those costs are factored in to the final price of the product. Many medium-size to large buyers have negotiated favourable rates with their chosen shipping line. Both Ghana and Sierra Leone have the advantage of being on the coast where long overland transport is not an additional cost burden.

In talking with exporting artisan companies in Ghana the over-riding complaint about the challenge of shipping costs were the pre-shipping costs at the port. It was indicated that there are numerous fees that they see eating into their already narrow margins. They were particularly vocal about the burden of the museum tax, which they see as unnecessary. Additionally, as small exporters, there is the burden of “informal taxes” to ensure prompt treatment of a shipment.

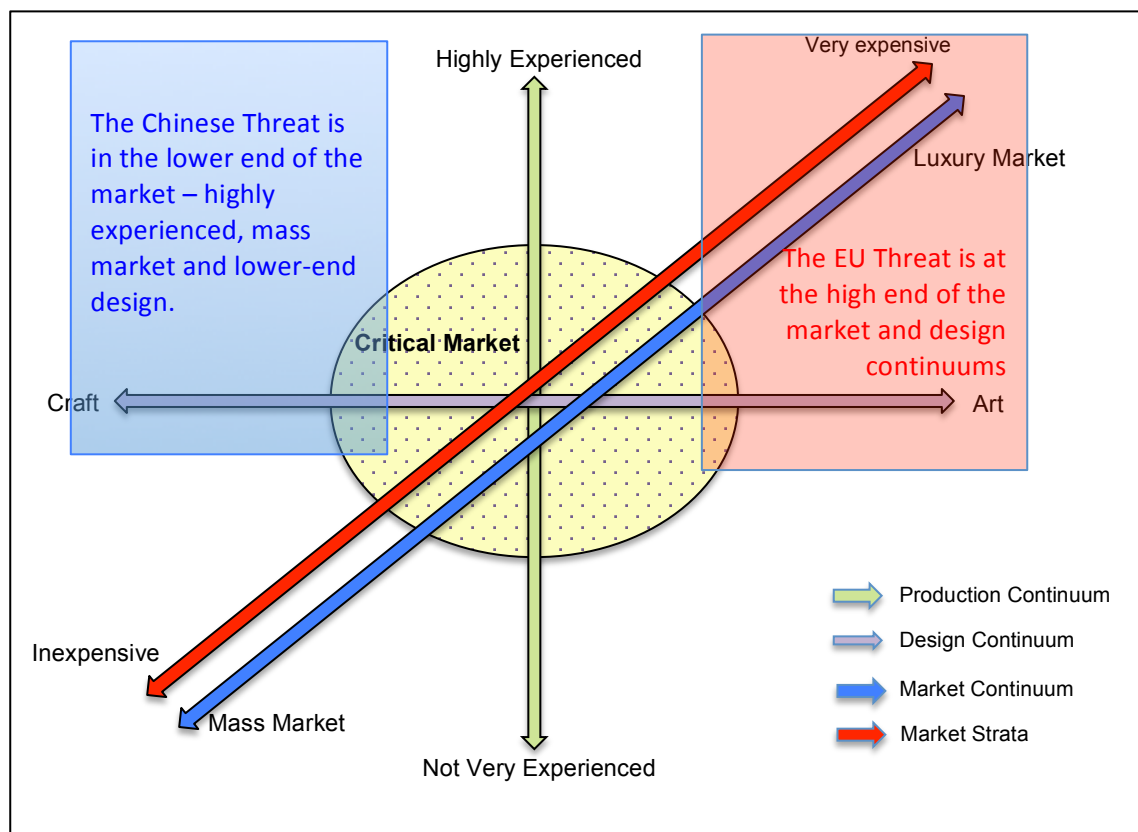
The freight forwarding agents at IMatrix101 in Sierra Leone indicated that shipping costs are relatively high in Sierra Leone, compared to its African neighbours because port services are managed by two European companies. As Sierra Leone has one of the deepest natural ports on the African Atlantic coast, they said that it was a shame that the port is not operating to capacity. IMatrix101 also indicated that “informal taxes” are not a major issue in Sierra Leone. As there have been few artisanal exports from Sierra Leone, the artisanal community had little comment on shipping and transport issues.

3.1.B.d Competition

Consistently throughout Africa China is seen as the major and most menacing competitor. This is true, but not as a default all-encompassing truth as most assume. Additionally, there is another hidden threat

that is currently being overlooked, the European Threat. Europe dominates in the luxury-goods market stream, of which Designer Handmade is a part. *“Europe's high-end industries (luxury goods) showed continuous growth between 2010 and 2013 . . . The EU is global leader in high-end goods with 70% world market share.”*⁹ This EU luxury sector focuses on expert craftsmanship and design elegance and the EU is pro-active in helping this sector grow.¹⁰ Whereas China focuses on low price and mass production, as seen in the chart below.

An interesting trend in China is that the “Chinese exporters are shifting focus to their domestic market.”¹¹ This trend could result in opening their market share to other developing countries.



The competition is, in part, dominated by China at the lower end of the market spectrum and Europe's luxury goods sector.

Historically Ghana's handicraft exports have been focussed, in large part, on the same markets where China is strong, so of course their role as a fierce competitor is keenly felt. Ghana's exports have been mainly to US discount and lower-end retailers such as TJMaxx, Pier One, Target, and Cost Plus World Market (CPWM) who also purchase significant amounts from China. The positive consequence for Ghana is that it has gained profound experience in exporting procedures, in how to navigate stringent buyer

⁹ http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item_id=7985&lang=en&title=Creative-industries-trigger-innovation-spill-overs-in-other-industries

¹⁰ <http://ec.europa.eu/growth/sectors/fashion/high-end-industries/>

¹¹ <https://www.cbi.eu/market-information/home-decoration-textiles/trends/>

expectations, and the knowhow to produce in large quantities in both mechanized and non-mechanized workshops. These advantages are invaluable for Ghana to move to the next chapter in its handicraft sector development. Because it can do competitive pricing and has efficient production methodologies, moving up the design continuum will position it squarely in the critical market where it could successfully compete and regain its global momentum. Of course, there is competition in the middle segment of the market, but with good pricing and strong production capacity Ghana can compete on a more even playing field.

As Sierra Leone is just beginning its export trajectory, it will start with smaller niche buyers and build from there.

3.1.B. e Professionalism

The strongest and most consistent complaint coming from buyers from around the globe regarding sourcing from Africa is the lack of professionalism, meaning adherence to deadlines, poor communication skills, and the lack of good quality-control standards. Though there are examples where Ghanaian entrepreneurs have fallen short, in general Ghanaian crafts exporters are far ahead of their African neighbours.

There is an interesting dynamic in Sierra Leone that could favourably position it for the export market. As a result of the war, many young people were educated in the West, the United Kingdom or the US, thereby ingesting the international aesthetic sensibilities and being very comfortable with social media and the Internet. The three Sierra Leonean crafts businesses interviewed for this study are led by entrepreneurs who have spent significant time being educated in target markets. This experience will be a significant asset in accessing these markets.

3.1.C. Hidden Barriers

It is beyond the scope of this project to thoroughly research the hidden barriers to trade. It is important, however, to be cognizant of these barriers when planning future initiatives. Below is a brief overview of some of the recognized hidden barriers to trade for the handicraft sector.

3.1.C. a Access to Credit

Many Ghanaian exporters expressed dismay at their inability to access affordable credit though they have been exporting for many years and have credible records. Another issue is that exporters seek short-term credit to fund time-sensitive international purchase orders. They noted that often the credit comes too slowly and too late for them to be able to purchase raw materials in time to finish an order by the given deadline. Not responding to deadlines not only impacts this company, but as buyers talk among themselves and report on issues, it reflects on the entire sector, and buyers become wary of purchasing from a country that has a record of not meeting deadlines.

Access to credit is less of an issue for orders from smaller importers who finance production with a 50% advance. But when looking at dynamic growth potential for the sector, this means accessing larger direct import retail chains, and these companies do not offer advances. This is one area where Africa cannot evenly compete with Asian companies, to no fault of the African producers.

3.1.C. b Donor Commitment

Donor activity is not usually considered a barrier to trade. But in fact in the handicraft sector it is certainly a barrier. For decades donor perception of the handicraft sector is that it is not important and cannot render the level of results that are possible in other sectors, so much so that there have been few serious studies to measure its potential possibilities and impact, thereby limiting its ability to leverage the funding necessary for solid growth.

Within the economic development milieu, billions of dollars are channelled into agriculture, energy and other economic sectors, but very little is earmarked for handicrafts, though many agricultural producers can gain more income with the “secondary employment” of handicraft production. As the sector is so poorly viewed and with few in-depth studies to change that view, the lack of donor commitment keeps the sector floundering and resource starved.

3.1.C. c Political or Health Instability

Political or health instability can profoundly impact entrepreneurs in Africa. Fortunately in the recent past Ghana has had neither crisis. It is also noteworthy that Ghana’s handicraft sector is positioned well to weather those types of crises because it focuses on the wholesale export market. This market wants product whether or not there is political upheaval, sickness or other problems. It is the most stable target market for the handicraft sector.

Unfortunately for Sierra Leone in the last few decades it has experienced a civil war and the devastating Ebola crisis. Therefore it has not had the stability to progress in the handicraft sector. These barriers to trade are not, in fact, “hidden” but quite palpable. Fortunately though, these barriers are past and entrepreneurs can and do reach to the future, bringing along with them hundreds of workers who can gain from their insight and entrepreneurial vision.

3.1.C. d Weather

Weather is not necessarily a crisis like political upheaval but its normal and not so normal oscillations do impact the handicraft sector though less profoundly than for the agricultural sector. The hidden weather barriers to trade include the need for workers to harvest crops, the inability to sufficiently dry or season raw materials, the ruin of raw materials, the lack of proper storage facilities which can lead to product mould or insect infestation.

3.2 Legal Environment

The protection of *handicrafts* has been debated extensively at the international level. The nature and shapes of those artistic products which are also referred to as artisanal products, craft products, traditional creative crafts or works of artistic or traditional craftsmanship, made it difficult for the international community to agree on a definition of *handicrafts* and hence on an effective international regime of protection.

In 1997, the UNESCO/ITC Symposium adopted the following definition for “artisanal products”:¹² “Artisanal products are those produced by artisans, either completely by hand, or with the help of hand tools or even mechanical means, as long as the direct manual contribution of the artisan remains the most substantial component of the finished product. These are produced without restriction in terms of quantity and using raw materials from sustainable resources. The special nature of artisanal products derives from their distinctive features, which can be utilitarian, aesthetic, artistic, creative, culturally attached, decorative, functional, traditional, religiously and socially symbolic and significant”. This definition highlights the main characteristics of handicrafts; however it does not make any distinction between *handicrafts* (which are not traditional in nature) and *traditional handicrafts*. The main feature that distinguishes *traditional handicrafts* is that they are associated with an indigenous or local community that has preserved the tradition and transmitted it from generation to generation.

In addition to being cultural assets that help promote cultural identity and preserve the values of communities, *handicrafts* are economic assets that can play an essential role in economic development through job creation, trading and export opportunities if exploited and protected properly. The economics of *handicrafts* can be threatened by imitation and misappropriation of the genuine products at regional and international levels. It must be noted, though, that many producers who feel exploited by others copying their work or their cultural heritage are often doing the same practices with their neighbours.

Protecting *handicrafts* from misuse and other illicit exploitation can be done through Intellectual Property (IP) laws, including sui generis systems, unfair competition law, consumer protection law as well as non-IP laws, such as trade practices and labelling laws, use of contracts, customary and indigenous laws and protocols, cultural heritage preservation laws and programs, common law remedies such as unjust enrichment, rights of publicity, blasphemy, and criminal law. It is important to note that, with regard to *handicrafts* protection, the above-mentioned non-IP laws are complementary to existing IP and unfair competition laws. They are also applied when the country in question lacks any IP regulations.

The main similarities and differences between physical property and IP are summarized in the following table:¹³

Physical Property (tangible or material)	Intellectual Property (intangible or immaterial)
Is property → the owner has exclusive right to determine how it is used.	Is property → the owner has exclusive right to determine how it is used.
Can only be used by one or a limited number of people at a given time.	Can be used by various people at the same time (including the owner or creator).

¹² See UNESCO/ITC Symposium "Crafts and the international market: trade and customs codification" - Manila, 6-8 October 1997

¹³ found in “Marketing Crafts and Visual Arts: The Role of Intellectual Property – A practical guide”, published jointly by the International Trade Centre (ITC) and the World Intellectual Property Organization (WIPO) available at: http://www.wipo.int/edocs/pubdocs/en/intproperty/itc_p159/wipo_pub_itc_p159.pdf

Has economic value as long as it exists or as long as there is demand for it.	Has economic value only for the duration specified in the laws and as long as there is demand for it.
Possibility of theft and disputes concerning ownership is rather limited.	Greater possibility of theft and disputes concerning ownership.
Theft occurs only if the possession of the property changes hands.	Theft occurs if the property is copied, imitated, adapted, translated, used, displayed, etc. without permission of the owner or creator.
Expenditure or income from the property may be subject to taxation.	Expenditure or income from the property may be subject to taxation.
May be valued and reflected on account books and balance sheets.	May be valued and reflected on account books and balance sheets.
May be insured.	May be insured.
May be securitized and used as collateral for borrowing money.	May be securitized and used as collateral for borrowing money.

For the purpose of this study, only laws and regulations related to *handicrafts* will be covered.

3.2.A International and EU Regulations

Intellectual property rights (IPR) include industrial property rights (such as patents, trademarks, industrial designs, geographical indications, trade secrets) and copyright and related rights (known also as neighbouring rights). The protection of *Handicrafts* is not limited to one form of IP. While the external appearance or design of *handicrafts* can be protected by copyright or industrial designs, their reputation can be subject to protection by trademarks (including collective and certification marks), geographical indications or unfair competition. The know-how or the knowledge used to create the *handicrafts* can be protected by trade secrets. When the *Handicraft* constitutes or includes an invention, this can then be protected by patent.¹⁴ In case of dishonest or fraudulent practices, the rules on unfair competition are used to restrain any act of competition contrary to honest practices in industrial or commercial matters.¹⁵

Explanation of each of the aforementioned IP forms is summarized in the following table.

IPR	Definition
Copyright	Copyright (or author's right) is a legal term used to describe the rights that creators have over their literary and artistic works. Works covered by copyright range from books, music, paintings, sculpture, and films, to computer programs, databases, advertisements, maps, and technical drawings. ¹⁶
Patents	A patent is an exclusive right granted for an invention, which is a product or a

¹⁴ See http://www.wipo.int/edocs/pubdocs/en/wipo_pub_tk_5.pdf

¹⁵ See Article 10bis of the Paris Convention on industrial property. It is to be noted that unfair competition is not an IP right in itself, but its protection has been recognized as forming part of IP protection.

¹⁶ Definition provided by WIPO at <http://www.wipo.int/copyright/en/>

	process that provides, in general, a new way of doing something, or offers a new technical solution to a problem. To get a patent, technical information about the invention must be disclosed to the public in a patent application. ¹⁷
Trademarks	A trademark is a sign capable of distinguishing the goods or services of one enterprise from those of other enterprises. Trademarks are protected by intellectual property rights. A word or a combination of words, letters, and numerals can perfectly constitute a trademark. But trademarks may also consist of drawings, symbols, three-dimensional features such as the shape and packaging of goods, non-visible signs such as sounds or fragrances, or colour shades used as distinguishing features – the possibilities are almost limitless. ¹⁸
Collective Marks	Collective marks are usually defined as signs that distinguish the geographical origin, material, mode of manufacture or other common characteristics of goods or services of different enterprises using the collective mark. The owner may be either an association of which those enterprises are members or any other entity, including a public institution or a cooperative. The owner of the collective mark is responsible for ensuring the compliance with certain standards (usually fixed in the regulations concerning the use of the collective mark) by its members. Collective marks are often used to promote products that are characteristic of a given region. ¹⁹
Certification Marks	Certification marks are usually given for compliance with defined standards, but are not confined to any membership. They may be used by anyone who can certify that the products involved meet certain established standards. An important requirement for certification marks is that the entity which applies for registration is considered "competent to certify" the products concerned. Certification marks may be used together with the individual trademark of the producer of a given good. The label used as a certification mark will be evidence that the company's products meet the specific standards required for the use of the certification mark. ²⁰
Industrial Design	In a legal sense, an industrial design constitutes the ornamental or aesthetic aspect of an article. An industrial design may consist of three-dimensional features, such as the shape of an article, or two-dimensional features, such as patterns, lines or colour. Industrial designs are applied to a wide variety of products of industry and handicraft items: from packages and containers to furnishing and household goods, from lighting equipment to jewellery, and from electronic devices to textiles. ²¹

¹⁷ Definition provided by WIPO at <http://www.wipo.int/patents/en/>

¹⁸ Definition provided by WIPO at <http://www.wipo.int/trademarks/en/>

¹⁹ Definition provided by WIPO at http://www.wipo.int/sme/en/ip_business/collective_marks/collective_marks.htm

²⁰ Definition provided by WIPO at http://www.wipo.int/sme/en/ip_business/collective_marks/certification_marks.htm

²¹ Definition provided by WIPO at <http://www.wipo.int/designs/en/>

Geographical Indications	<p>A geographical indication (GI) is a sign used on products that have a specific geographical origin and possess qualities or a reputation that are due to that origin. In order to function as a GI, a sign must identify a product as originating in a given place. In addition, the qualities, characteristics or reputation of the product should be essentially due to the place of origin. Since the qualities depend on the geographical place of production, there is a clear link between the product and its original place of production. Geographical indications are typically used for agricultural products, foodstuffs, wine and spirit drinks, handicrafts, and industrial products. There are three main ways to protect a geographical indication:²²</p> <ul style="list-style-type: none"> • So-called sui generis systems (i.e. special regimes of protection); • Using collective or certification marks; • Methods focusing on business practices, including administrative product approval schemes.
Trade Secrets	<p>Any confidential business information that provides an enterprise a competitive edge may be considered a trade secret. Trade secrets encompass manufacturing or industrial secrets and commercial secrets. The unauthorized use of such information by persons other than the holder is regarded as an unfair practice and a violation of the trade secret. Depending on the legal system, the protection of trade secrets forms part of the general concept of protection against unfair competition or is based on specific provisions or case law on the protection of confidential information.²³</p>
Unfair Competition	<p>Unfair Competition is any act of competition contrary to honest practices in industrial and commercial matters.²⁴</p>

3.2.A.a International Instruments related to *handicrafts*

The major multilateral conventions that deal with IP are administered by the World Intellectual Property Organization (WIPO). The core IP conventions which deal with IP protection provide for the principle of national treatment according to which countries party to the convention are required to accord to the citizens of other parties the same rights to copyright and industrial property that they accord to their own citizens. Accordingly, Ghanaian *handicrafts* protected by copyright in Ghana enjoy, in countries of the Berne Union (i.e. countries members of the Berne Convention for the Protection of Literary and Artistic Works)²⁵, the rights which their respective laws grant to their nationals, as well as the rights specially granted by the Berne Convention.²⁶

The national treatment applies also if the Ghanaian *Handicraft* is protected by an industrial property right such as industrial designs or trademarks. For instance, Nationals of Ghana, as regards the

²² Definition provided by WIPO at http://www.wipo.int/geo_indications/en/

²³ Definition provided by WIPO at http://www.wipo.int/sme/en/ip_business/trade_secrets/trade_secrets.htm

²⁴ See Art. 10bis of the Paris Convention for Industrial Property

²⁵ Ghana is a member of the Berne Convention since 11/10/1991.

²⁶ See Article 5 of the Berne Convention for the Protection of Literary and Artistic Works available at http://www.wipo.int/wipolex/en/treaties/text.jsp?file_id=283698

protection of industrial property, enjoy in all the other countries of the Paris Union ((i.e. countries members of the Paris Convention for the Protection of Industrial Property)²⁷ the advantages that their respective laws to nationals; all without prejudice to the rights specially provided for by this Convention. Consequently, they shall have the same protection as the latter, and the same legal remedy against any infringement of their rights, provided that the conditions and formalities imposed upon nationals are complied with.²⁸

WIPO administers 26 treaties including the Convention establishing WIPO. IP protection treaties define internationally agreed basic standards of IP protection in each country (See below Table).²⁹

IP PROTECTION	SUMMARY
Paris Convention for the Protection of Industrial Property of 1883 (as amended on September 28, 1979)	The Paris Convention applies to industrial property, including patents, trademarks, industrial designs, trade names, geographical indications and the repression of unfair competition.
Berne Convention for the Protection of Literary and Artistic Works of 1886 (as amended on September 28, 1979)	The Berne Convention deals with the protection of works and the rights of their authors. It provides creators such as authors, musicians, poets, painters etc. with the means to control how their works are used, by whom, and on what terms.
Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods Additional Act of Stockholm (1967)	According to the Madrid Agreement, all goods bearing a false or deceptive indication of source, by which one of the Contracting States, or a place situated therein, is directly or indirectly indicated as being the country or place of origin, must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation.

The Global IP Protection System ensures that one international registration or filing will have effect in any of the relevant signatory States. The services provided by WIPO under these treaties simplify and reduce the cost of making individual applications or filings in all the countries in which protection is sought for a given IP right. (See table below).³⁰

GLOBAL PROTECTION SYSTEM	SUMMARY
Lisbon Agreement for the	The Lisbon Agreement provides for the protection of appellations of origin, that is, the "geographical denomination of

²⁷ Ghana is a member of the Paris Convention since 28/9/1976. Sierra Leone is also a member since 17/6/1997.

²⁸ See Article 2 of the Paris Convention for the Protection of Industrial Property available at http://www.wipo.int/wipolex/en/treaties/text.jsp?file_id=288514

²⁹ <http://www.wipo.int/treaties/en/index.html>

³⁰ <http://www.wipo.int/treaties/en/index.html>

Protection of Appellations of Origin and their International Registration (as amended on September 28, 1979) and the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (as adopted on May 20, 2015)	a country, region, or locality, which serves to designate a product originating therein, the quality or characteristics of which are due exclusively or essentially to the geographic environment, including natural and human factors". The Bulletin "Appellations of Origin" is the official publication of the Lisbon system.
Madrid Agreement Concerning the International Registration of Marks (as amended on September 28, 1979)	The Madrid System for the International Registration of Marks is governed by the Madrid Agreement, concluded in 1891, and the Protocol relating to that Agreement, concluded in 1989. The system makes it possible to protect a mark in a large number of countries by obtaining an international registration that has effect in each of the designated Contracting Parties.
Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (as amended on November 12, 2007)	The Madrid System for the International Registration of Marks is governed by the Madrid Agreement, concluded in 1891, and the Protocol relating to that Agreement, concluded in 1989. The system makes it possible to protect a mark in a large number of countries by obtaining an international registration that has effect in each of the designated Contracting Parties.
Patent Cooperation Treaty (PCT) (as modified on October 3, 2001)	The Patent Cooperation Treaty (PCT) makes it possible to seek patent protection for an invention simultaneously in each of a large number of countries by filing an "international" patent application. Such an application may be filed by anyone who is a national or resident of a PCT Contracting State. It may generally be filed with the national patent office of the Contracting State of which the applicant is a national or resident or, at the applicant's option, with the International Bureau of WIPO in Geneva.
The Hague Agreement Concerning the International Deposit of Industrial Designs (1925) and its amendments,	The Hague Agreement governs the international registration of industrial designs. First adopted in 1925, the Agreement effectively establishes an international system – the Hague System – that allows industrial designs to be protected in multiple countries or regions with minimal formalities.

The protection of *Handicrafts* that are traditional cultural expressions (TCEs) or "expressions of folklore" in their design, appearance and style, or embody traditional knowledge (TK) in the form of the skills and know-how used to produce them is being discussed under WIPO's Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) and is negotiating international legal protection of Traditional cultural expressions (TCEs). The IGC was established in 2000

and has made to date substantial progress in this regard.³¹

TRIPS adopts requirements of previous multi-lateral conventions in both copyright and industrial property, and in particular embraces the requirements of the Berne and Paris conventions (thus essentially making them, or at least their standards, mandatory for WTO members.

As IP became more important in trade, new internationally-agreed trade rules along with a binding system for enforcement of IPR were incorporated in the World Trade Organization (WTO) Agreement on Trade Related Aspects on Intellectual Property Rights known as the TRIPs Agreement. The main features of the Agreement are the following:³²

- Standards: In respect of each of the main areas of IP, it establishes minimum standards of protection to be provided by each member. To meet these standards, the Agreement requires WTO members to comply with the substantive obligations of the main WIPO conventions on IP Protection (i.e. the Paris Convention for the Protection of Industrial Property and the Berne Convention for the Protection of Literary and Artistic Works) in their most recent versions. With the exception of the provisions of the Berne Convention on moral rights, all the main substantive provisions of these conventions are incorporated by reference and thus become obligations under the TRIPS Agreement between TRIPS Member countries. New IP obligations are added in matters where the aforementioned conventions are silent.
- Enforcement: The Agreement provides for a detailed set of provisions on enforcement of IP in the country and at the borders which include civil and administrative procedures and remedies, provisional measures, special requirements related to border measures and criminal procedures.
- Dispute Settlement: The Agreement makes disputes between WTO Members about the respect of the TRIPS obligations subject to the WTO's dispute settlement procedures. It also allows for trade sanctions towards WTO members that do not comply with TRIPS obligations.³³

The Agreement provides also for the fundamental rules on national treatment and most-favoured-nation treatment of foreign nationals, which are common to all categories of intellectual property covered by the Agreement. While the national treatment clause forbids discrimination between a Member's own nationals and the nationals of other Members, the most-favoured-nation (MFN) treatment clause forbids discrimination between the nationals of other Members. In other words, With regard to MFN, any advantage, favour, privilege or immunity granted by a Member to the nationals of any other country shall be accorded immediately and unconditionally to the nationals of all other Members.³⁴

UNESCO is an additional international source for handicrafts protection. As stated above, the definition of "Artisanal Products" was adopted by the UNESCO/ITC Symposium "Crafts and the international

³¹ See http://www.wipo.int/edocs/pubdocs/en/wipo_pub_tk_5.pdf

³² See https://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm7_e.htm and https://www.wto.org/english/tratop_e/trips_e/intel2_e.htm#

³³ See https://www.wto.org/english/tratop_e/TRIPS_e/intel2_e.htm#

³⁴ See https://www.wto.org/english/docs_e/legal_e/27-trips_03_e.htm#art4

market: trade and customs codification" - Manila, 6-8 October 1997.³⁵ UNESCO initiated several programs/ projects aiming at developing and preserving the crafts sector. It also administers a number of conventions to protect culture and creativity in particular the following:

- The Universal Copyright Convention as revised at Paris on 24 July 1971
- Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention. The Hague, 14 May 1954.
- Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of their Phonograms. Geneva, 29 October 1971.
- Convention for the Safeguarding of the Intangible Cultural Heritage. Paris, 17 October 2003.
- Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. Paris, 14 November 1970.
- Convention on the Protection and Promotion of the Diversity of Cultural Expressions. Paris, 20 October 2005
- Convention on the Protection of the Underwater Cultural Heritage. Paris, 2 November 2001.
- UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (Rome, 1995) - STATUS

With the exception of UCC, Ghana is member of the aforementioned UNESCO conventions since 2015.

3.2.A.b EU legislation related to *handicrafts*

All EU countries are parties to the Paris Convention for the Protection of Industrial Property, the Berne Convention for the Protection of Literary and Artistic Property and members of the WTO that includes the TRIPS Agreement. The EU countries are hence bound by the agreements' principles on national treatment and most-favoured-nation treatment. Accordingly, EU countries are required to accord to the nationals of other parties the same rights to copyright and industrial property that they accord to their own nationals. Moreover, trade-related privileges granted by EU countries to one country (even if not a WTO Member) must also be granted to all WTO Members including Ghana and Sierra Leone, which are both members since 1995.

The protection of handicrafts is not harmonized in the EU. The protection differs from one EU country to another. In addition to handicrafts that are eligible for protection by copyright and industrial designs, a protection of handicrafts especially those with geographical indication origins can be protected by Trademark Law, Law on Unfair Competition, law on Geographical Indications, Consumer Protection Law, the Penal Code and Marketing Law in addition to specific or sui generis legislation that take various forms, ranging from regional or national regulations on specific crafts (e.g. ceramics), to specific laws on a certain product (e.g. Solingen knives) or to regional or national laws.³⁶

Copyright

The EU copyright legislation is a set of ten directives, addressed to the EU Member States, which harmonize the rights of authors and holders of neighbouring rights.³⁷ Many of the EU directives reflect

³⁵ See http://portal.unesco.org/culture/en/ev.php-URL_ID=35418&URL_DO=DO_TOPIC&URL_SECTION=201.html

³⁶ See http://europa.eu/rapid/press-release_MEMO-14-486_en.htm?locale=en

³⁷ See <https://ec.europa.eu/digital-single-market/en/eu-copyright-legislation>

Member States' obligations under international treaties/ conventions (such as the Berne Convention), the WTO TRIPS Agreement as well as free trade agreements (FTAs) concluded by the EU with its trade partners. The EU is negotiating an Economic Partnership Agreement (EPA) with Ghana³⁸ and another EPA with ECOWAS to which Sierra Leone is a negotiating party.³⁹

The following Directives are of relevance to the protection of handicrafts by copyright:

- Directive on rental right and lending right and on certain rights related to copyright in the field of intellectual property ("Rental and Lending Directive"), 12 December 2006
- Directive on the resale right for the benefit of the author of an original work of art ("Resale Right Directive"), 27 September 2001
- Directive on the enforcement of intellectual property right ("IPRED"), 29 April 2004
- Directive on the term of protection of copyright and certain related rights amending the previous 2006 Directive ("Term Directive"), 27 September 2011

Industrial Designs

In 1998, the EU adopted Directive 98/71/EC on the legal protection of designs. The objective of the Design Directive is to harmonize the EU laws on designs and to ensure that right holders enjoy equivalent protection in all EU countries. In 2002, a unitary design right was established by Regulation No 6/2002 on Community design according to which it is possible to register an industrial design as a European Community design, which is valid in all EU Member States, and the registration procedure of such a design is carried out by the European Union Intellectual Property Office (EUIPO).⁴⁰

Trademarks

In the European Union, trademark protection can be obtained at the national level under the laws of each Member State, at the regional level in the Benelux countries and, at the EU level through a European Union trademark that is valid throughout the EU Member States. Within the EU, national and European Union trademark protection co-exist.

On 16 December 2015, the European Union's trademark law, enacted in Regulation (EC) No 207/2009 of 26 February 2009 on the Community trademark, was amended by Regulation (EU) 2015/2424 of the European Parliament and of the Council of 16 December 2015 amending Council Regulation (EC) No 207/2009 on the Community trademark and Commission Regulation (EC) No 2868/95 implementing Council Regulation (EC) No 40/94 on the Community trademark, and repealing Commission Regulation (EC) No 2869/95 on the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs). The Amending Regulation consists of four Articles as follows:⁴¹

- Article 1 contains the amendments of the Regulation on the Community trademark, which is now called Regulation on the European Union trademark.

³⁸ See http://trade.ec.europa.eu/doclib/docs/2009/june/tradoc_143814.pdf

³⁹ See <http://www.epa.ecowas.int/pageevents/news/>

⁴⁰ https://ec.europa.eu/growth/industry/intellectual-property/industrial-design/protection_en

⁴¹ <http://www.inta.org/TrademarkBasics/Documents/EUTMR%20COMPLETE.pdf>

- Article 2 contains amendments of the Commission Regulation (EC) No 2868/95 implementing Council Regulation (EC) No 40/94 on the Community trademark, generally referred to as the Implementing Regulation.
- Article 3 repeals Commission Regulation (EC) No 2869/95 on the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs). All provisions regarding fees are now found in the amended Regulation itself.
- Article 4 concerns the entry into force of the amendments.

On 23 December 2015, Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the Member States relating to trade marks, was published in the Official Journal.

EU trademarks are registered at the European Union Intellectual Property Office (EUIPO). It is an all-or-nothing deal that means either one gets it for all Member States or one does not get it at all.

The Community trademark regulation was amended by Regulation (EU) No 2015/2424 of the European Parliament and the Council⁴² which entered into force on 23 March 2016. The Office for Harmonization in the Internal Market (OHIM) is now called the European Union Intellectual Property Office (EUIPO) and the Community trademark will be called the European Union trademark. The Amending Regulation was published on 24 December 2015 and is part of the EU trademark reform legislative package that also includes the replacement of the existing EU Trade Mark Directive (Directive 2008/95/EC of the European Parliament and the Council).⁴³

Regulation (EU) 2015/2424 and Directive (EU) 2015/2436 provide for special provisions with regard to **collective marks, guarantee marks and certification marks** which allow for the protection of “signs or indications which may serve, in trade, to designate the geographical origin of the goods or services”. Member States are entitled to set out additional grounds for refusal for these marks.

According to Article 27 of the Directive (a) “guarantee or certification mark” means a trademark which is described as such when the mark is applied for and is capable of distinguishing goods or services which are certified by the proprietor of the mark in respect of material, mode of manufacture of goods or performance of services, quality, accuracy or other characteristics, from goods and services which are not so certified; (b) “collective mark” means a trade mark which is described as such when the mark is applied for and is capable of distinguishing the goods or services of the members of an association which is the proprietor of the mark from the goods or services of other undertakings.

⁴² Regulation (EU) 2015/2424 of the European Parliament and of the Council of 16 December 2015 amending Council Regulation (EC) No 207/2009 on the Community trade mark and Commission Regulation (EC) No 2868/95 implementing Council Regulation (EC) No 40/94 on the Community trade mark, and repealing Commission Regulation (EC) No 2869/95 on the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs) (Text with EEA relevance).

⁴³ See <https://euipo.europa.eu/ohimportal/en/eu-trade-mark-legal-texts>

The following international agreements to which EU Member States are parties affect the European Union trademark and Community design registration.⁴⁴

- Paris Convention for the Protection of Industrial Property
- Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, revised at Stockholm on July 14, 1967, and at Geneva on May 13, 1977, and amended on September 28, 1979
- Locarno Agreement Establishing an International Classification for Industrial Designs. Signed at Locarno as amended on September 28, 1979
- Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks. Amended on October 1, 1985
- Protocol adopted at Madrid relating to the Madrid Agreement concerning the international registration of marks
- Agreement on Trade-related Aspects of IP rights
- Trademark Law Treaty
- Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs Adopted by the Diplomatic Conference
- Singapore Treaty on the Law of Trademarks of Singapore

Geographical Indications

In Europe, GI protection is available for both agricultural and non-agricultural products. While agricultural products can enjoy unitary protection granted exclusively at EU level, non-agricultural GIs are protected only at national and regional levels, through various national legal frameworks.⁴⁵

Council Regulation (EC) No 1898/2006 modified by Council Regulation (EC) No 628/2008 contains detailed rules for the application of Council Regulation (EC) No 510/2006 which establishes the rules for protecting designations of origin and geographical indications for agricultural products and foodstuffs intended for human consumption. It sets out the specific rules applicable to groups, names, raw materials and the labelling of agricultural products.⁴⁶

In 2011 the EU launched a “Study on geographical indications for non-agricultural products (mainly handicrafts) in the internal market”. The study that was published by the Commission in March 2013 highlights the insufficiency of the existing legal instruments available for producers at national and at European level.⁴⁷ It concludes that, “there is a case to be made for the creation of a unitary sui generis system for the protection of non-agricultural GIs at the EU level”.

The Commission organized a public hearing on 22 April 2013 to discuss the results of the Study and the need for more efficient GI protection of non-agricultural products at EU level. Many of the participating stakeholders were in favour of the study’s call. In light of the results of the Study and the outcome of the

⁴⁴ <https://euipo.europa.eu/ohimportal/en/international-treaties>

⁴⁵ See http://europa.eu/rapid/press-release_MEMO-14-486_en.htm?locale=en

⁴⁶ See <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV%3A166044#>

⁴⁷ See <http://eur-lex.europa.eu/legal-content/EN/LSU/?uri=CELEX:52014DC0469>.

public hearing, the Commission decided to pursue its analytical work through a Green Paper aiming at consulting with all stakeholders in the broadest possible manner on whether there is a need, in the EU, to increase GI protection for non-agricultural products, and if so what approach should be taken. The Green Paper invited all interested parties to comment on the issues raised and respond to the specific questions listed. The result of the consultation will be taken into account by the Commission when it decides whether further action is appropriate at EU level.⁴⁸

EU Countries are members of the following treaties on GIs Protection. According to these treaties, both agricultural and non-agricultural products are allowed a GIs protection. The scope of the protection granted to GIs and other aspects of GI protection differ from one treaty to the other.

- Paris Convention for the Protection of Industrial Property
- Lisbon Agreement for the Protection of Appellations of Origin and their International Registration.
- WTO TRIPS Agreement (Articles 22 to 24)

Unfair Competition

The Unfair Commercial Practices Directive (Directive 2005/29/EC on unfair business-to-consumer commercial practices in the internal market)⁴⁹ lays down harmonized rules for the fight against unfair commercial practices. It ensures that consumers are not misled or exposed to aggressive marketing and that any claim made by traders in the EU is clear, accurate and substantiated. It seeks to enable consumers to make informed and meaningful choices. The Directive also aims to ensure, promote and protect fair competition in the area of commercial practices.⁵⁰

3.2.B Existing Regulations in West Africa

3.2.B.a National Legislation: Ghana & Sierra Leone

Ghana⁵¹ and Sierra Leone are committed to the protection of handicrafts through various legislation including national laws, IP treaties administered by WIPO, UNESCO administered treaties on culture and copyright as well as regional and trade agreements.

Treaty Membership

Ghana and Sierra Leone⁵² are members of the following treaties/agreements that are directly or indirectly related to handicrafts protection:

Treaty/ Agreement	Entry into force of the treaty for Ghana	Entry into force of the treaty for Sierra Leone
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⁴⁸http://www.ab.gov.tr/files/ardb/evt/1_avrupa_birligi/1_6_raporlar/1_2_green_papers/com2014_green_paper_nonagricultural_products.pdf

⁴⁹ See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:149:0022:0039:EN:PDF>.

⁵⁰ See http://ec.europa.eu/consumers/consumer_rights/unfair-trade/index_en.htm

⁵¹ See <http://www.wipo.int/wipolex/en/profile.jsp?code=gh>

⁵² See <http://www.wipo.int/wipolex/en/profile.jsp?code=sl>

Treaty/ Agreement	Entry into force of the treaty for Ghana	Entry into force of the treaty for Sierra Leone
WIPO Performances and Phonograms Treaty	February 16, 2013	Not a member
Hague Agreement Concerning the International Registration of Industrial Designs	September 16, 2008	Not a member
Madrid Agreement Concerning the International Registration of Marks	Not a member	June 17, 1997
Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks	September 16, 2008	December 28, 1999
WIPO Copyright Treaty	November 18, 2006	Not a member
Patent Cooperation Treaty	February 26, 1997	June 17, 1997
Berne Convention for the Protection of Literary and Artistic Works	October 11, 1991	Not a member
Paris Convention for the Protection of Industrial Property	September 28, 1976	June 17, 1997
Convention Establishing the World Intellectual Property Organization	June 12, 1976	May 18, 1986
Convention for the Safeguarding of the Intangible Cultural Heritage	April 20, 2016	Not a member
Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property	April 20, 2016	Not a member
Convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005	April 20, 2016	Not a member
Convention on the Protection of the Underwater Cultural Heritage	April 20, 2016	Not a member
Convention on the Rights of Persons with Disabilities	August 30, 2012	November 3, 2010
Optional Protocol to the Convention on the Rights of Persons with Disabilities	August 30, 2012	Not a member

Treaty/ Agreement	Entry into force of the treaty for Ghana	Entry into force of the treaty for Sierra Leone
Kyoto Protocol to the United Nations Framework Convention on Climate Change	February 16, 2005	September 20, 1995
Stockholm Convention on Persistent Organic Pollutants	May 17, 2004	May 17, 2004
International Covenant on Economic, Social and Cultural Rights	December 7, 2000	November 23, 1996
Agreement establishing the World Trade Organization (WTO)	January 1, 1995	July 23, 1995
World Trade Organization (WTO) - Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) (1994)	January 1, 1995	July 23, 1995
Convention concerning the Protection of the World Cultural and Natural Heritage	December 17, 1975	April 7, 2005
Universal Copyright Convention of 6 September 1952, with Appendix Declaration relating to Article XVII and Resolution concerning Article XI	August 22, 1962	Not a member
Protocol 1 annexed to the Universal Copyright Convention as signed at Geneva on 6 September 1952 concerning the application of that Convention to works of stateless persons and refugees	May 22, 1962	Not a member
Protocol 2 annexed to the Universal Copyright Convention as signed at Geneva on 6 September 1952 concerning the application of that Convention the works of certain international organizations	May 22, 1962	Not a member
Protocol 3 annexed to the Universal Copyright Convention as signed at Geneva on 6 September 1952 concerning the effective date of	May 22, 1962	Not a member

Treaty/ Agreement	Entry into force of the treaty for Ghana	Entry into force of the treaty for Sierra Leone
instruments of ratification or acceptance of or accession to that Convention		
Convention for the Protection of Cultural Property in the Event of Armed Conflict	October 25, 1960	Not a member
Protocol to the Convention for the Protection of Cultural Property in the Event of Armed Conflict	October 25, 1960	Not a member
Cultural Charter for Africa	September 19, 1990	Not a member
Harare Protocol on Patents and Industrial Designs Within the Framework of the African Regional Industrial Property Organization (ARIPO)	April 25, 1984	February 25, 1999
Lusaka Agreement on the Creation of the African Regional Intellectual Property Organization (ARIPO)	February 15, 1978	December 5, 1980
Constitutive Act of the African Union	May 26, 2001	May 26, 2001
Economic Community of West African States (ECOWAS)	August 23, 1995	August 23, 1995
Abuja Treaty Establishing the African Economic Community (AEC)	May 12, 1994	May 12, 1994
Global System of Trade Preferences among Developing Countries	April 19, 1989	Not a member
The Georgetown Agreement (formally establishing the African, Caribbean and Pacific Group of States, the "ACP Group"), since 1975 (ACP)	February 12, 1976	February 12, 1976

IP Legislation

In 2010 Ghana developed a National Intellectual Property Policy Strategy (NIPPS) as a result of the implementation of the Swiss-Ghana Intellectual Property Rights Project.⁵³ The NIPPS entailed a reform of

⁵³ The Swiss-Ghana Intellectual Property Rights Project is part of Ghana's Trade Policy Reforms under the Trade

the Ghanaian legal and institutional IP system including the following:

- Review and amendment of existing IP legislation to bring them in line with the TRIPS Agreement and best practices (such as the law on Trademarks, Patent Law and the Law on Industrial Designs, Law on GIs and Law on unfair competition).
- Develop new IP laws on new and emerging areas (such as traditional knowledge and genetic resources).
- Accede to international treaties on IP.
- Establish a National IP Office.
- Modernize and automate the existing administrative systems and procedures.
- Secure funding for IP development by industry and SMEs.
- Establish National Center for Creative Industries.
- Create an enabling environment to stimulate innovation and creativity.
- Promote and facilitate commercial exploitation of IP and technology transfer.
- Strengthen IP enforcement and raise awareness on IP.

Copyright

Copyright protection is available in Ghana through the Copyright Act No 690 dated June 3, 2005, the Copyright (Amendment) Act No Act 788 dated December 31, 2009, and implementing Copyright Regulation No L.I. 1962 dated February 15, 2010. Copyright protection is also provided through international treaties and agreements related to Copyright ratified by Ghana.

The Copyright Act covers literary and artistic works, related Rights (Neighbouring Rights), Traditional Cultural Expressions (or "expressions of folklore"), IP Enforcement and the IP Regulatory Body.⁵⁴ The Copyright Act applies to all handicrafts eligible for copyright protection as stated in Section 1 of the Act. Handicrafts are mentioned under section 76(f) of the law as an example of copyrightable artistic works ("works of applied art whether handicraft or produced on an industrial scale").

The Copyright Act defines "folklore" as "literary, artistic and scientific expressions belonging to the cultural heritage of Ghana which are created, preserved and developed by ethnic communities of Ghana or by an unidentified Ghanaian author, and includes Kente and Adinkra designs, where the author of the designs are not known, and any similar work designated under this Act to be works of folklore"⁵⁵ We believe that this clause is problematic as Kente and Adinkra designs are also common to other African countries. According to our meetings with Hon. Kwame Anyimadu-Antwi this protection was criticized and rejected by the international community (in particular WIPO).⁵⁶ This protection was also criticized by UNESCO which refused to protect Kente as a Ghanaian masterpiece because other neighbouring

Sector Support Program. For more info see the hard copy of the "National Intellectual Property Policy Strategy" (January 2016), a copy of which was submitted to ATAG.

⁵⁴ See http://www.wipo.int/wipolex/en/text.jsp?file_id=148037

⁵⁵ See section 76 of the Copyright Act.

⁵⁶ See minutes of meeting with the Parliamentarian Mr. Hon. Kwame Anyimadu-Antwi. He noted in this regard that Folklore and traditional knowledge belong to the State. Therefore, the laws were made in a way to reflect Ghana's will. He added that Ghana didn't want the laws to be re-packaged by the international community. Moreover, protecting Kente as folklore means that the product is collectively protected to the interest of the community ("to get the best of the exploitation of this part of the world").

countries have also Kente designs for textile.⁵⁷ Accordingly, we believe that the international community will request Ghana to align these provisions of the Copyright Act with the international standards using TRIPS and FTAs as a tool of pressure.

In Sierra Leone, the Copyright Act No. 8 dated October 6, 2011 is the legislation governing Copyright protection in addition to the TRIPS Agreement and other related treaties.⁵⁸ The Law covers literary and artistic works, related Rights, Traditional Cultural Expressions (or "expressions of folklore"), IP Enforcement, Alternative Dispute Resolution and the IP Regulatory Body.

Trademarks

Trademarks are protected in Ghana through the Trade Marks Act No 664 dated 29.1.2004 as amended by the Trademarks Act No. 876 dated 24.4.2014. Trademarks protection is also provided through international treaties and agreements related to trademarks to which Ghana is a member.

The Act No 664 provides for the protection of trademarks and for related matters while Act No. 876 reconcile renewal periods for the registration of trademarks, provide for the international registration of trademarks and for related purposes. Undersection 1 of this Act a "Trademark" is defined as a sign or combination of signs capable of distinguishing the goods or services of one undertaking from the goods or services of another undertaking. It may consist of (a) words, personal names, designs, letters, colours, numerals, shapes, holograms, sounds or a combination of any of these elements, or (b) slogans, where they are not long enough to be protected by copyright. Collective and certification marks are defined in section 2 of this Act as follows:

- (1) A collective mark is a sign of an association of manufacturing, trading or service enterprise that serves to distinguish the goods or services of the members of the association from those of other enterprises.
- (2) A certification mark is a sign or combination of signs capable of designating any specific characteristic, including quality, origin or methods of production, material, mode of manufacture of goods or performance of services.
- (3) An application for the registration of a certification mark shall
 - a. Designate the sign as a certification mark; and
 - b. Be accompanied by the rules governing its use.
- (4) Subsection (3) applies to all certification marks, including certification marks owned by government agencies."

It is important to note that in addition to using and registering a trademark to protect their handicrafts products, Ghanaian producers and artisans may form associations or groups on the basis of common quality characteristics or the common origin of the products. Each group or association may then register a collective mark to be used by its artisans. This may help them promote a unified quality image of their products, strengthen their presence in the market and cooperate as one entity in the marketing of their brand and enforcement of their rights. The collective mark can be associated with the name of the group

⁵⁷ See minutes of meeting with Mr Carl Ampah, National Program Officer (Culture) from UNESCO.

⁵⁸ See http://www.wipo.int/wipolex/en/text.jsp?file_id=328521.

or its symbols.⁵⁹ Another form of protection is by a certification mark that entails a certification by the owner of the mark that the product complies with a pre-established set of rules and standards governing its use. See recommendations, below, regarding Association Building.

In Sierra Leone the Trade Marks ACT No. 53 dated October 9, 2014 covers the protection, registration and regulation of trademarks, trade names, and other related matters. Section 1 of the Act defines trademarks and collective marks as follows:

- “Trade mark” means any sign or combination of signs capable of distinguishing the goods or services of one undertaking from the goods or services of other undertakings including words such as personal names, letters, numerals and figurative elements.
- “Collective mark” means a visible sign capable of distinguishing, from the goods or services of other enterprises the origin or any other common characteristic including the quality of goods or services of different enterprises which use the sign under the control of a registered owner.

The Law lacks any protection for certification marks.

Industrial Designs

Industrial Designs are protected in Ghana under the Industrial Designs Act No 660 dated December 31, 2003. The law has been reviewed and a new draft law is waiting for the approval of the Council of Minister before it is sent to Parliament for adoption. Protection for industrial designs is also available through related international treaties and agreements to which Ghana is a member.⁶⁰

Handicrafts are considered as industrial designs if they conform with the definition of section 1 of this Act as follows:

- (a) A composition of lines or colours, any three-dimensional form or any material, whether or not associated with lines or colours is an industrial design where the composition, form or material gives a special appearance to a product of industry or handicraft and can serve as a pattern for a product of industry or handicraft.,
- (b) A textile design is an industrial design where the composition, form or material gives a special appearance to a product of industry or handicraft and can serve as a pattern for a product of industry or handicraft.

According to section 2 an industrial design can be registered if it is new. An industrial design is new or original if it significantly differs from known designs or combinations of known design features.

Industrial Designs in Sierra Leone are protected under the Patents and Industrial Design Act No. 10 dated October 11, 2012.

⁵⁹ For more info, see “Marketing Crafts and Visual Arts: The Role of Intellectual Property – A practical guide”, published jointly by the International Trade Centre (ITC) and the World Intellectual Property Organization (WIPO), pp 46, 82-83 and 129.

⁶⁰ <http://www.wipo.int/edocs/lexdocs/laws/en/gh/gh016en.pdf>

Geographical Indications

Geographical Indications are protected in Ghana through the Geographical Indications Act No 659 dated December 31, 2003.⁶¹ Protection is also available through the International treaties and agreements to which Ghana is a member. The GIs law is being reviewed to bring it into compliance with the TRIPS Agreement and emerging trends and best practices in the GIs field. It is important to note that the Swiss-Ghana Intellectual Property Rights Project⁶² is conducting a study on GIs which will help identify 3 products (food and handicraft products) to be protected as GIs.⁶³

According to section 22 of the GIs Act “geographical indication means an indication which identifies good as originating in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of the goods is essentially attributable to its geographical origin”.

GIs is an essential form of IP protection for handicrafts as “their aim is to provide consumers with reliable information on the specifications and origin of goods, and prevent free-riding on their acquired reputation. GIs also have the particularity of being non-exclusive intellectual property rights: the use of the name or the sign is accessible to all producers from the given area who manufactured the product in the way prescribed, which is in general linked to longstanding traditions”.⁶⁴

GIs may constitute an efficient protection for the Ghanaian Bolga baskets as they enjoy all the characteristics that make them a good example for GI as defined in the law. Those baskets have been copied and sold by the Vietnamese under the name “Bolga Baskets” which has harmed the Ghanaian basket economy and the reputation of the product worldwide. If the GIs protection is not an option for the time being, a protection with collective or a certification mark may help to put an end to the problem to the Vietnamese counterfeit baskets. It is interesting to note that as the Vietnamese baskets were made of inferior grasses and did not last, consumers have recognized this difference and have returned to the original Ghana Bolga baskets, but not without significant harm to the sector in the intervening period.

Unfair Competition

Unfair competition is protected under the Protection Against Unfair Competition Act No 589 dated December 19, 2000⁶⁵ and the Paris Convention for the Protection of Industrial Property. The Act lists examples of actions constituting acts of unfair competition (sections 1 to 6), and civil remedies against unfair acts of competition (section 8). The Act specially contains provisions on acts of unfair competition closely related to intellectual property, such as:

⁶¹ <http://www.wipo.int/edocs/lexdocs/laws/en/gh/gh015en.pdf>

⁶² The Swiss-Ghana Intellectual Property Rights Project is part of Ghana’s Trade Policy Reforms under the Trade Sector Support Program. For more info see the hard copy of the “National Intellectual Property Policy Strategy” (January 2016), a copy of which was submitted to ATAG.

⁶³ For more info check the following link: <https://www.ige.ch/en/legal-info/international-cooperation/country-specific-projects/ghana.html>.

⁶⁴ See http://europa.eu/rapid/press-release_MEMO-14-486_en.htm?locale=en

⁶⁵ See http://www.wipo.int/wipolex/en/text.jsp?file_id=157035

- Causing confusion to the goods and services of the competitor with respect to a trademark, whether registered or not, a trade name, presentation of a product or service, appearance of a product (section 1);
- Dilution of goodwill or reputation of the competitor (section 2);
- Misleading the public as to the nature, manufacturing process, quality, characteristics, geographical origin of the goods or services, and the suitability for their purpose (section 3);
- Discrediting the goods, or the industrial or commercial activities of the competitor (section 4);
- Disclosure of secret information that results from industrial or commercial espionage (section 5(2)(a)).⁶⁶

Legislation related to the protection of handicrafts	Existing Legislation in Ghana	Existing Legislation in Sierra Leone	EU Legislation
Copyright	<ul style="list-style-type: none"> - The Copyright Act No 690 dated June 3, 2005. - Copyright (Amendment) Act No Act 788 dated December 31, 2009. - Implementing Copyright Regulation No L.I. 1962 dated February 15, 2010. 	Copyright Act No. 8 dated October 6, 2011.	<ul style="list-style-type: none"> - Directive on rental right and lending right and on certain rights related to copyright in the field of intellectual property ("Rental and Lending Directive"), 12 December 2006 - Directive on the resale right for the benefit of the author of an original work of art ("Resale Right Directive"), 27 September 2001 - Directive on the enforcement of intellectual property right ("IPRED"), 29 April 2004 - Directive on the term of protection of copyright and certain related rights amending the previous 2006 Directive ("Term Directive"), 27 September 2011
Trademarks	Trademarks Act No. 876 dated 24.4.2014 amending the Trade Marks Act No 664 dated 29.1.2004	The TRADE MARKS ACT, 2014, Supplement to the Sierra Leone Gazette Vol. CXLV, No. 53 dated 9th October, 2014	<ul style="list-style-type: none"> - Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the Member States relating to trade mark. - Directive 2008/95/EC on

⁶⁶ See <http://www.wipo.int/wipolex/en/details.jsp?id=1782>

			<p>the approximation of the laws relating to trade marks.</p> <ul style="list-style-type: none"> - Regulation (EU) 2015/2424 of the European Parliament and of the Council of 16 December 2015 amending Council Regulation (EC) No 207/2009 on the Community trade mark and Commission Regulation (EC) No 2868/95 implementing Council Regulation (EC) No 40/94 on the Community trade mark, and repealing Commission Regulation (EC) No 2869/95 on the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs). - Commission Regulation (EC) No 2868/95 of 13 December 1995 implementing Council Regulation (EC) No 40/94 on the Community trade mark. - Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community Trade Mark
Industrial designs	<p>Industrial Designs Act No 660 dated December 31, 2003.</p> <p>The law has been reviewed and a new draft law is waiting for the approval of the Council of Minister before it is sent to Parliament for adoption.</p>	<p>Patents and Industrial Design Act No. 10 dated October 11, 2012.</p>	<ul style="list-style-type: none"> - Directive 98/71/EC on the legal protection of designs. - Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs.
Geographical Indications	<p>Geographical Indications Act No 659 dated December 31, 2003.</p>		<ul style="list-style-type: none"> - Council Regulation (EC) No 1898/2006 modified by Council Regulation (EC) No 628/2008 - Council Regulation (EC) No 510/2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs.
Collective Marks	<p>Trademarks Act No. 876</p>	<p>The TRADE MARKS ACT,</p>	<ul style="list-style-type: none"> - Directive (EU) 2015/2436

	dated 24.4.2014 amending the Trade Marks Act No 664 dated 29.1.2004	2014, Supplement to the Sierra Leone Gazette Vol. CXLV, No. 53 dated 9th October, 2014	of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the Member States relating to trade mark. - Regulation (EU) 2015/2424 of the European Parliament.
Certification marks	Trademarks Act No. 876 dated 24.4.2014 amending the Trade Marks Act No 664 dated 29.1.2004	N/A	- Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the Member States relating to trade mark. - Regulation (EU) 2015/2424 of the European Parliament.
Unfair Competition	Protection Against Unfair Competition Act No 589 dated December 19, 2000.	N/A	“Unfair Commercial Practices Directive”: Directive 2005/29/EC of The European Parliament and of The Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65 /EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council.
Trade secrets	Information and Trade Secret Act (being reviewed for compliance with TRIPS)	N/A	Directive (Eu) 2016/943 Of The European Parliament And Of The Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure

Other Legislation

It is to be noted that no legislation has been provided or found on the museum licenses/permits for exports of handicrafts. However the representatives of the Museum Board in Ghana noted that Works of arts are subject to an export permit. This permission permit is required by the UNESCO “Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural

Property” and allows the work to enter any country member of the said Convention. It certifies that the product has gone through the normal process. They added that there exist 2 forms of permit: (1) for Antique objects and (2) for non-antique objects. Handicrafts fall under the second category. The permit is issued electronically after the payment of fees charge. On the definition of handicrafts, it was noted that traditional handicrafts are those made before 900 years. Handicrafts in general are those not machine made products. However the product should not be 100% hand made to be eligible for permit. On standards, it was noted that Museum standards are related to cultural heritage. The handicraft product should not contain any hazardous element and it should not be made of the skin of certain animals.

In Sierra Leone, a copy of the Monuments and Relics Commission Act was provided. However it did not include the required information. Ms Kargbo (Acting Curator at the National Museum) noted that according to the UNESCO “Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property” to which SL is a member, national museums are required to control the arts and crafts for export and issue export permits to this effect. She added that traditional handicrafts are not allowed to leave the country. She also mentioned that the museum management issued an internal regulation/ decision that forbids the export of unique SL designs that constitute master pieces. However, such decision was never enforced.

Free Trade Agreements with the EU

Negotiations for a regional Economic Partnership Agreement (EPA) between West Africa and the European Union were concluded in 2014 with the initialling of an agreed text by Chief Negotiators. The EPA was negotiated under a West Africa regional configuration comprised of the fifteen ECOWAS members States plus Mauritania. To date, 13 out of 16 West African States have signed the Agreement. Only The Gambia, Nigeria and Mauritania have not yet signed. The regional agreement covers trade in goods and development-cooperation. It contains rendez-vous clauses for future negotiations on trade in services and other trade-related issues. The signature and ratification process are currently ongoing. EPA provides duty-free access to the EU market for an unlimited period for all imports originating in Ghana. In return, Ghana and other West African countries including Sierra Leone partially liberalize their imports from the EU over a period up to 20 years.⁶⁷ An "interim EPA" ⁶⁸was negotiated between Ghana and the EU in 2007 as a steppingstone towards the regional agreement. In the absence of any EPA, the EU's standard scheme for developing countries (GSP) would apply ⁶⁹

3.3 Product Specifics and Market Realities

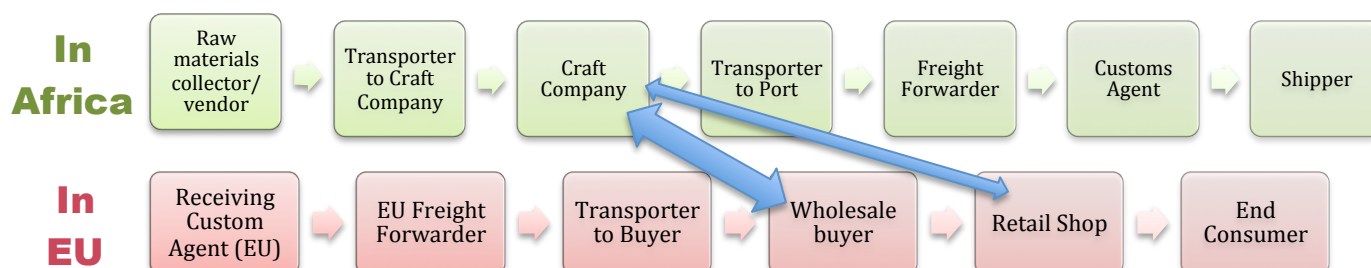
The two product categories that will be closely examined for this project are wood décor and basketry. Both categories are strong market possibilities for both Ghana and Sierra Leone.

⁶⁷ <http://www.epa.ecowas.int/wp-content/uploads/2014/01/EPA.-May-2016.pdf>

⁶⁸ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52008PC0441>

⁶⁹ See <https://eeas.europa.eu/sites/eeas/files/epa-ghana-brochurejune2016.pdf>.

3.3.A. Market Map



3.3. B. Wood Décor Products

Both Ghana and Sierra Leone are countries with large forests and wood availability. In order to attract and sustain market interest producers must appeal to current design trends while also adhering to increasingly demanding environmental regulations. This is particularly important for the wood sector. Wood décor indicates home accessories that could range from small items like cutting boards and mirror frames to larger items such as side tables and accessory seating.

Ghana producers have decades of experience in producing wood home décor items and numerous workshops are well equipped with semi-industrial production equipment. These producers are cognizant of how to pack products, load containers, season and dry wood, and a variety of finishes.

Sierra Leone's producers are mainly carvers, though there is some knowledge of furniture fabrication.

The European consumer profile as outlined by CBI research⁷⁰ indicates that Europe is a mature market and consumers are looking for innovative design and products that are different from what has been seen in the past, and lean towards natural materials with an interest in local craftsmanship. Germany, France and the Netherlands exhibit the highest per capita spending followed by the Scandinavian countries. This study says European consumers are opting for higher-end individualistic furniture products rather than mass-produced, whenever possible. Germany, Italy and Sweden are the major manufacturers of wooden furniture in Europe, and they are also importers, with 38%, 24% and 26% respectively of wooden furniture imports coming from developing countries.

"After a dip in 2013, European imports of small furniture are experiencing a strong recover, especially with regard to imports from developing countries . . . IN 2014 European imports in the Home Decoration and Home Textiles sector amounted to €12 billion . . . furniture accounts for 21%."⁷¹ This report states that Germany, the UK and France offer the greatest potential for imports of accessory furniture from developing countries.

These findings clearly indicate that accessory furniture and wooden home décor is a very strong category

⁷⁰<https://www.cbi.eu/sites/default/files/product-factsheet-south-africa-wooden-furniture-2016.pdf>

⁷¹<https://www.cbi.eu/market-information/home-decoration-textiles/stools-occasional-tables/europe/>

for Ghanaian and Sierra Leonean producers to explore.

3.3.B. a Standards for the Wood Sector

The Ghana Standards Board is a certified standards testing facility with international recognition. Exporters should advise their clients that it is a reputable testing institution for the tests that are available. This could save the cost of shipping samples to be tested in Europe. However they do not have the facilities to stress test furniture.

For the wood sector it is important that surface coatings are lead and cadmium free. The EU also restricts the use of arsenic and creosotes as wood preservatives. In some cases buyers will want accessory furniture stress tested.

The General Product Safety Directive (GPSD)⁷² outlines general EU safety requirements that are not specified elsewhere. REACH⁷³ regulates chemical substances.

For the wood sector environmental compliance is one of the most important issues of which all exporters must be aware and comply. The Convention on International Trade in Endangered Species (CITES)⁷⁴ develops the regulations on international trade of endangered wood species. This is particularly important for the wood handicrafts sector. Only wood that is allowed under CITES can be exported, and only as per the regulations established therein and with other EU specific regulations. The FLEGT Action Plan⁷⁵ controls the importing of wood into countries that have a Voluntary Partnership Agreement with the European Union. For example certain types of wood must have a FLEGT licence indicating that it has been legally harvested before it can be exported to Europe.

Drying wood has been an on-going issue and fortunately there are handicraft wood production companies in Ghana who have initiated wood drying facilities in their workshops. However this is still not the general practice. Though drying wood is not a legal or regulatory issue, wood that is not properly dried can have grave consequences for producers. Products will split and crack when exposed to other climates or will collect mould while being shipped. EU buyers who experience these issues will likely not reorder.

3.3.B. b Certification

For the wood sector there will be certifications for wood through FLEGT. Gustav Adu, Ghanaian wood certification and legality expert, said that the wood assurance system in Ghana, which is the implementation arm of the law, would be finalized soon. The system will define standards, methods for verification, and the monitoring methodologies. Once finalized it will be validated by the Timber Validation Department (TVD) of the Forestry Commission. The Timber Industry Development Division (TIDD) will issue FLEGT licences. These licences will be procured mainly from actors in the timber industry. Products and artefacts that need to procure licences are listed in the agreement. Those not listed are not under obligation to obtain licences.

⁷²http://ec.europa.eu/consumers/consumers_safety/product_safety_legislation/general_product_safety_directive/index_en.htm

⁷³<http://ec.europa.eu/growth/sectors/chemicals/reach/>

⁷⁴<https://www.cites.org>

⁷⁵<http://www.euflegt.efi.int/home>

It is important to note, though, that as sustainability is a strong market trend⁷⁶ for many EU professional buyers and consumers, showing environmental compliance whether required or not, could be a value-added selling point when marketing wood products to the EU market. This is particularly useful for Sierra Leonean companies, as Sierra Leone does not have a Voluntary Partnership Agreement (VPA). This means that their wood products are not under the same regulations as Ghana. But, as stated above, it would be most wise if they followed the same CITES guidelines in order to meet European sustainability trends and eco-consciousness of European consumers.

Fair Trade certification is important for handicraft producers as well as buyers. While Fair Trade has been a greater force in agricultural sectors it does have a strong and positive marketing component for artisanal producers and their European clients. In commodity sectors, such as coffee and chocolate, it is easier and less costly for commodity organizations to get fair trade certification. It is very costly for SMEs to individually attain World Fair Trade Organization (WFTO) certification. As the handicraft sector is widely diversified it has been difficult to develop a cohesive multi-country, multi-discipline trade organization that could singly apply for WFTO certification.

Many international Fair Trade handicraft buyers operate on an honour system, meaning that they review the companies from whom they are buying and attest to their fair trade practices though they are not actually certified.

3.3.C. Basketry and Grass Plaiting Products

Both Ghana and Sierra Leone have strong basket and woven/plaited grass traditions. Ghana has decades of experience exporting baskets, many containers a year. Though Sierra Leone does not have strong export experience, its basket sector has enormous untapped potential. Because of the variety of grasses used in the Sierra Leone basketry sector, it has the potential to produce fashion accessories as well as home décor, such as shoes, belts and jewellery. This expanded product range will set the Sierra Leone basketry sector apart and help establish its special identity.

In general, baskets and basketry are a good category for the EU market. They fit in with the EU consumer interest in natural products/fibres and sustainability. In addition they are useful and decorative, used both indoors and outdoors, and they do eventually wear out which results in repeat purchases.



Michelle Obama with a “Bolga Basket”
from Ghana

⁷⁶<https://www.cbi.eu/market-information/home-decoration-textiles/trend-special/sustainability/>

Basketry Market Categories	
Home Décor	Fashion Accessories
Storage	Bags
Decorative	Shoes
Carry-Alls	Belts
Other (mats, frames, etc)	Other (jewellery, hair accessories, etc.)



It is essential for basket producers to note that many storage baskets are used for gift baskets that hold food items. In this case it is very important that there are no prohibited chemicals in any surface treatment, as in wood products (above). It is wise for producers to avoid using these chemicals in all their products⁷⁷. Any surface treatment, be it paint, dyes, varnish or cleaning fluids should comply with chemical standards as for wood. A hidden problem for basketry producers is that any metal elements, such as closures or rivets probably contain lead and will result in lost sales due to even one rivet with lead. There is another classification of dyes that are restricted in the EU, azo dyes.⁷⁸

In Ghana dyes containing lead and/or cadmium have been an on-going challenge in the basket industry. There has been considerable effort by basket exporters to resolve this issue, though at present it appears that it is still a challenge. If there was an association of basket producers who could as a group buy quality dyes in quantity this could be one possible avenue to resolution (see recommendations below, Association Building). It should be noted that buyers are testing baskets for chemicals.

As for the wood sector, the exporting company must know the scientific name for the grasses used and if they are included on the CITES list of endangered species. Most generally grasses used for baskets are not endangered, but it is always wise to check.

3.3.C. a EU Trends

Storage containers are a trend in the EU market because many consumers live in smaller urban apartment environments where maximizing space is a primary concern. This coupled with the sustainability and natural fibres trends in Europe make basketry a solid product category for consumption. Additionally, EU consumers appreciate the stories of the basket makers who in large part

⁷⁷http://trade.ec.europa.eu/doclib/docs/2013/may/tradoc_151257.pdf

⁷⁸<https://www.cbi.eu/market-information/home-decoration-textiles/buyer-requirements/#what-requirements-must-my-product-comply-with?>

are producing in their villages and gaining much needed income using skills indigenous to their region. Also, “handmade” adds value and African baskets resonate with the EU consumer as 100% handmade.⁷⁹ Finally baskets in general are reasonably priced while adding inspiration to décor.

Another trend in the EU is garden, both indoor garden elements as well as outdoors.⁸⁰ Basketry and gardens have always been linked and garden basketry can include mats and hammocks, a developed specialty of Sierra Leone producers. Garden furniture is a category yet to be exploited in Ghana or Sierra Leone. Wicker, bamboo and sea grass furniture is produced in many parts of the globe. This indicates that it is a competitive market but also a popular one. With the right design inputs both countries may have market opportunities in this category.

Morocco has been able to capture a good part of the market with woven footwear, which has become a global trend, particularly for poolside and resort-wear market segments. Woven raffia jewellery is another emerging trend. Sierra Leone has both the raw materials and the expertise to capitalize on these trends that are currently under-supplied.



4. RECOMMENDATIONS

4.1 Cost/Benefit Quotient

It is important that companies and organizations study the cost/benefit ratio when deciding whether to embark on registering products or designs. More often than not, the lack of appeal to markets has much less to do with protection than with the response to actual market trends. Therefore it would be most wise for companies or other handicraft stakeholders to determine if the cost of protection will actually increase marketability through defeating competition.

An example is the Malian traditional Bogolan cloth, generically called “mudcloth.” Bogolan was becoming a lost art in Mali, with insignificant sales producers moved into other economic activity. Then Bogolan designs started being industrially printed on bolt fabric at a highly reduced cost and sold both in Africa and across the globe. Rather than reduce the appeal of authentic Bogolan, it actually increased

⁷⁹<https://www.cbi.eu/market-information/home-decoration-textiles/storage/>

⁸⁰<https://www.cbi.eu/sites/default/files/study/product-factsheet-garden-europe-home-decoration-textiles-2014.pdf>

interest in the authentic cloth. The Bogolan aesthetic gained strong appeal in the international market and though consumers continued to purchase the less expensive reproduction, they began clamouring for the authentic textile, and sales soared. The industrial reproduction allowed the Bogolan patterns to enter mainstream aesthetic consciousness, profoundly raising awareness and interest in the authentic.

This example illustrates that strict protection is not always the best avenue to sector and market growth. Another point in this regard is that expensive, hand-made traditional art pieces are more expensive and over-protection can possibly lead to their decline, capturing only a tiny sliver of the market.

On the other hand, the example of the Vietnamese forgery of Ghanaian Bolga Baskets is an example where protection could have reduced the risk for Ghanaian producers. There is no simple answer to these questions and each case should be analysed as to the cost/benefit ratio.

4.2 Branding

Another approach to protection is to develop a strong branding campaign. Branding the sector, or certain categories in the sector, could “protect” – through brand awareness – authenticity, origin, tradition, design, and cultural identity. Additionally a strong Brand can establish an international market awareness and identity that inherently builds market access. Therefore, this approach has a two-pronged benefit, protecting essential cultural and product identity while pro-actively building markets. Once the Brand is built, it can be the pre-requisite to seeking legal protection, if deemed necessary. Of course, branding is not “protection” from a legal perspective, though it could make market-sense to pursue this commercial approach.

A serious branding campaign that will have international recognition will require engaging an expert branding specialist, but before doing so it would be most advantageous to have market-driven well-designed product collections and knowledgeable exporters as the real foundation for brand identity. This activity must also be examined for a cost/benefit ratio. Considering that a brand can cover many subsectors, producers, product categories, countries, and be continually expanding, it can spread the cost out over a larger beneficiary base. Most effective for brand development would be the establishment of a sector association, see below.

4.3 Handicrafts Protection

As stated above on page 28, artisans can form groups or associations to register a collective mark, if they have a common origin or characteristics. The collective mark can be a symbol or special identity signification.

A certification mark entails a certification by the owner of the mark that the product complies with the pre-established set of rules and standards governing its use. This could apply to the basketry home décor products.

A protection with geographical indication for the Bolga baskets is also an option as the reputation and other characteristic of the product are essentially attributable to their geographical origin.

4.4 Association Building

A handicraft sector business association could be the vehicle to address many of the concerns raised in this report. It is opportune for West Africa that ATAG has had decades of experience building the sector in Ghana. It is not in the scope of this project to put forward a detailed study on the prospects of a pan West African business association, but this study is something that could be undertaken in the near future, with the view of ATAG leading the initiative.

Below are possible benefits of an association gleaned from this current study:

- A well-organized branding campaign, see 4.2, above
- Registering collective marks, see pg. 28 Trademarks, above
- Applying for handicraft protection, certification marks, etc.
- Attain Fair Trade or other certification as a group
- Capacity to purchase raw materials in volume collectively
- Developing collective market linkage activities
- Accessing donor funds for the entire region or association
- Capacity to organize relevant trainings and conferences for members
- Linking with similar associations across the globe

Annex 1: References

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CASE STUDIES FOR HANDICRAFTS

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Protection of Traditional Cultural Expression (folklore)

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