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LEGAL SYSTEM OF BUSINESS IN GHANA

Ghana operates a legal system that is premised on English common law. The laws of Ghana are composed of: the Constitution; statutes enacted by Parliament; orders, rules and regulations made by any person or authority with power conferred under the Constitution; the existing law; and Common Law, which is defined as the rules of law generally known as the doctrines of equity and the rules of customary law, which are rules of law that by custom are applicable to particular communities in Ghana, including those determined by the Superior Court of Judicature. An entrepreneur, irrespective of nationality, can set up a business enterprise in Ghana in accordance with the provisions of any of the following legal instruments: The Companies Code, 1963 (Act 179) The Partnership Act, 1962 (Act 152) The Business Name Act, 1962 (Act 151).

The Directive Principles of State Policy, prescribed under the 1992 Republican Constitution of Ghana, emphasize the encouragement of foreign investment in Ghana, subject to any law that is in force and regulates investment in Ghana. A foreign investor may team up with a Ghanaian entrepreneur or company for a joint venture, usually in the form of a partnership or a limited company. However, under the Ghana Investment Promotion Centre Act, 1994 (Act 478), a minimum equity capital of US\$10,000 is required from any foreign investor who intends to enter into a joint venture partnership with a Ghanaian in any area of economic activity, except trading. In trading, the minimum equity capital requirement is US\$300,000.

There is also sector-specific legislation that regulates specific industries. Investment guarantees include:

- a. Guaranteed transferability of capital, profits, proceeds of sale/liquidation, interest and dividends, and personal remittances attributable to the investment (net of all taxes and other obligations) subject to Bank of Ghana (BoG) directives on foreign exchange (forex) transactions;
- b. Direct and indirect taxes;
- c. Income tax on profits for the first 10 years from the date of commencement of the operation, with a subsequent income tax rate of 8%. It also proposed that the corporate tax rate of companies after the 10-year tax holiday be increased from 8% to 15%

In Ghana a local entity may be established by either: the incorporation of a private or public company limited or unlimited by shares (for profit) or by guarantee (not for profit); or by registration of an external company incorporated outside of Ghana. The minimum capitalization (either cash or capital goods relevant to the investment or a combination of both) of a local enterprise is determined by the nationality of the shareholders and nature of business. A company seeking to do business in Ghana may acquire an equity stake in an existing company (investee company). Such an acquisition does not obviate the obligation to comply with minimum capitalization requirements. Additionally, the approval of the Securities and Exchange Commission (SEC) is required where an investee company is listed on the Ghana Stock Exchange (GSE).

Ghana's wealth of resources, democratic political system and dynamic economy, makes it undoubtedly one of Africa's leading lights. Gaining the world's confidence with a peaceful political transition and a grounded and firm commitment to democracy has helped in expediting Ghana's growth in foreign direct investment (FDI) in recent years. Ghana has attracted the attention of well-known international businesses, investing in all sectors of our economy. All these investors have come to Ghana because they know we have a wonderful conducive social, political and economic

environment in which they can invest, grow and be successful. Ghana overtook Nigeria as the largest beneficiary of foreign direct investment (FDI) in West Africa in 2018, according to UNCTAD Global Investment Trends Monitor.

In 2019, FDI in Ghana was at 2.32 billion U.S. dollars. The foreign investment inflow decreased by 1.17 billion U.S. dollars compared to 2016, when it was at its highest (3.49 billion U.S. dollars). Moreover, FDI represented roughly 3.5 percent of the country's GDP in 2019. Ghana has seen a surge in Foreign Direct Investments (FDI) inflows, recording an impressive 2.6 billion dollars' worth of inbound investments for the year 2020. ... The FDI value of US\$2,650.97 million illustrates a significant increase of 139.06% over the FDI value of US\$1,108.93 million recorded in 2019.

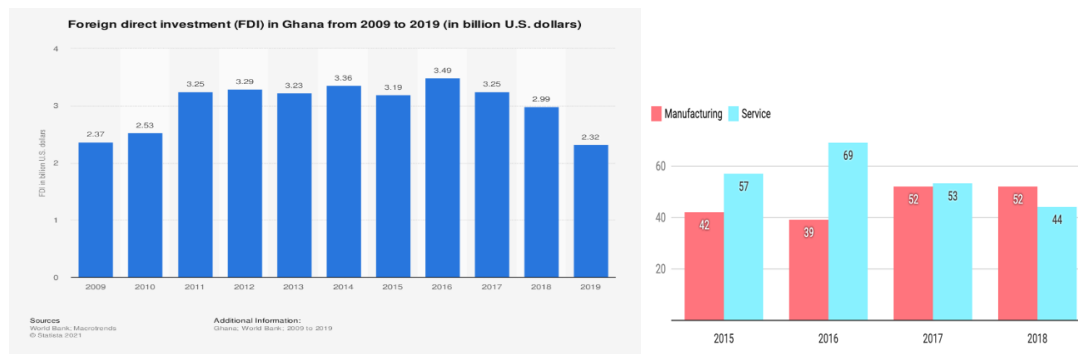


Fig 1.1 Annual Number of FDIs into Manufacturing and Service Sectors (2015-18)

The Labor Act 2004, (Act 654) governs the rights and obligations of employers and employees, except for employees of national security agencies and intelligence organizations.

Before commencing business, further information on the company must be provided. This includes the particulars of the company and a declaration of compliance. The particulars of the company are given on Form No. 3 and signed by the Directors and the Secretary of the company. The information provided must include: name of company authorized business particulars of directors (at least two) and a secretary name and address of auditors addresses of the company's registered office and principal place of business address at which register of members is maintained amount of stated capital; number of authorized and issued shares, amount paid (other than cash), and amount due for each class. The declaration of compliance is made on Form No. 4. This states that the conditions of section 28 of the Companies Code pertaining to a minimum capital issue of 25,000 cedis (C) has been paid and signed by all directors and the secretary of the company. There is a stamp duty of 0.5 per cent of capital issue payable. Upon due completion and presentation of the forms, the registrar issues the company with a certificate of commencement of business. Ghana offers a relatively stable and predictable political environment for investors. This is mainly due to the strong fundamentals that have been developed in the past few years, thanks to good economic management and fiscal discipline exhibited in adherence to recently enacted legislation. Notable among these are the Fiscal Responsibility Act, 2018 (Act 982), which places a 5 percent cap on the fiscal deficit in any given year; Public Financial Management Act, 2016 (Act 921); Public Financial Management Regulation, 2019 (L.I. 2378).

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