

GHANA

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INVESTMENT CODE, 1985

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WHEREAS the Government of the Provisional National Defense Council of Ghana has embarked on an Economic Recovery Programme to redress past decline in the economy of Ghana;

WHEREAS it is considered vital to encourage investment in the Ghanaian economy to enable increased production and productivity for national development, and to enable the exploitation of the immense natural resources of Ghana in a manner conducive to the mutual benefit of investors and the nation, to promote effective employment and the development of skills and technology requisite for the progress of Ghana:

WHEREAS as part of the Economic Recovery Programme, the Government has taken realistic steps to make Ghana's economic environment more competitive for investment;

WHEREAS it is deemed necessary and appropriate for a clear and stable institutional framework to be established for investors to operate within;

WHEREAS it is proposed to offer incentives and guarantees to encourage investment particularly in areas of national priority;

WHEREAS it is deemed expedient to modify the existing laws relating to investment;

WHEREAS the Government has enacted a Petroleum (Exploration and Production) Law, 1984 (P.N.D.C. Law 84) to govern investment in the exploration and production of petroleum;

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WHEREAS the Government intends to enact a Minerals Code to update and systematize the law relating to investment in mining activities apart from petroleum; and

WHEREAS investment in all other areas shall be governed by this Code. NOW THEREOF in pursuance of the Provisional National Defense Council (Establishment) Proclamation, 1981, this Law is hereby made.

PART I—THE GHANA INVESTMENTS CENTRE

1. (1) There is hereby established a body corporate to be known as "Ghana Investments Centre", (hereinafter referred to as the "Centre") which shall be an agency of the Government for the encouragement, promotion and co-ordination of investments in the Ghanaian economy.

(2) The Centre shall have perpetual succession and a common seal and may sue and be sued in its own name.

(3) The Centre shall have power for the discharge of any of its functions, to acquire and to hold any movable or immovable property, to dispose of such property and to enter into any contract or other transaction.

2. Without limiting the general effect of subsection (1) of section 1, the Centre is empowered to carry out the following functions related to enterprises covered by the provisions of this Code:

(a) to collect, collate, analyze and disseminate information about investment opportunities and sources of investment capital, and advice, upon request, on the availability, choice or suitability of partners in joint-venture projects;

(b) to identify specific projects and invite interested investors for the implementation of such projects;

(c) to initiate and organize promotional activities such as exhibitions, conferences, and seminars for the stimulation of investments;

(d) to grant approvals for the establishment of enterprises as specified under this Code;

(e) to grant approvals which will qualify investors or enterprises for the benefits specified under this Code;

(f) to secure all licences, authorities, approvals and permits required to enable any approval granted by the Centre to have full effect;

(g) to maintain liaison between investors and Ministries, Government departments, agencies, institutional lenders and other authorities concerned with investments;

(h) to monitor and enforce compliance with the terms and conditions of approvals granted under this Code;

(i) to approve and keep record of all technology transfer agreements relating to investments under this Code;

(j) to do all such other acts as are incidental or conducive to the attainment of the purposes of this Code, including recommending needed changes in legislation to encourage investments, and recommending the simplification of procedures relating to immigration, land acquisition, customs clearance and related matter.

3. (1) The governing body of the Centre shall be the Board which shall be responsible for the discharge of the business and functions of the Centre.

(2) The Board shall consist of:

(a) a Chairman and six other persons, including a Vice-Chairman and a Chief Executive all of whom shall be appointed by the Council having regard to their sound knowledge or practical experience of matters pertaining to investments in Ghana, or both.

(3) Members of the Board except the Chief Executive shall hold office for a term of three years and shall be eligible for re-appointment; and a member may at any time resign his office by writing addressed to the Council.

4. (1) The Chairman shall preside at all meetings of the Board and in his absence the Vice-Chairman shall preside

(2) In the absence of the Chairman and the Vice-Chairman at any meeting of the Board, a member of the Board elected by members present shall preside at that meeting.

(3) The quorum for any meeting of the Board shall be four.

(4) The Board may co-opt any person to act as adviser at any meeting of the Board, so however that no person so co-opted shall have the right to vote on any matter coming before the Board for decision.

(5) Except as otherwise expressly, provided under this Code, the Board shall determine the procedures for its meetings.

5. The Board may for the discharge of the functions of the Centre appoint Committees of the Board comprising members of the Board or non-members or both and may assign to them such functions as the Board may determine.

6. (1) The Chief Executive shall hold office upon such terms and conditions as the Council may on the advice of the Board determine.

(2) Subject to such general directions as the Board may give on matters of policy, the Chief Executive shall be responsible for the day-to-day administration of the Centre and the implementation of the decisions of the Board.

7. The Board shall have an officer to be designated the "Secretary" who shall be appointed by the Board to perform the functions of maintaining a Secretariat of the Board and of ensuring accurate records of proceedings and decisions of the Board.

8. (1) The Centre may from time to time engage such employees, consultants and advisers as may be necessary for the proper and efficient conduct of its business and functions.

(2) The staff of the Centre shall be appointed in accordance with section 17 of the Provisional National Defence Council (Establishment) Proclamation (Supplementary and Consequential Provisions) Law, 1982 (P.N.D.C. Law 42).

(3) The Board may, on the recommendations of the Chief Executive create such departments in the Centre as it may consider necessary for the efficient discharge of the functions of the Centre.

9. (1) The Centre may open and operate bank accounts.

(2) The Government shall provide such funds as may be necessary for the efficient discharge of its functions under this Code.

(3) The Centre may levy such fees and charges for its services as may be determined by the Board.

(4) All assets of the Centre and all receipts from activities and transactions under the provisions of this Code as well as receipts from other authorized sources shall be credited to the Centre and may be used for any expenditure or obligations in connection with the performance of the object and function.

10. The Centre shall be exempt from the payment of income tax.

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11. (1) All assets, rights obligations and liabilities of the Ghana Investments Center established under the Investment Code, 1981 (Act 437) are hereby transferred to the Ghana Investments Center reestablished under this Code.

(2) All persons employed by the Centre immediately before the coming into force of this Code shall, on the coming into force of this Code be deemed to have been duly appointed under this Code, and shall continue to hold office as employees of the Centre.

PART II—PRIORITY AREAS

12. (1) The following categories of activities specified in Part A of Each category in this subsection are priority areas of investment and any priority enterprise obtaining approval to engage in any such activity shall be accorded priority status and qualify for the benefits and incentives specified in Part B in relation thereto and the guarantees in Part 3 of this Code.

A. Agriculture:

- (a) Production, protection, processing and preservation of crops and livestock;
- (b) Any other agricultural activities, including services, as may from time to time be prescribed.

B. Applicable incentives and benefits:

- (a) Government guarantee of land use for the establishment and operation of the project;
- (b) requisite permission for importing essential plant, machinery, equipment and accessories required for the enterprise;
- (c) exemption from payment of customs import duties on plant, machinery, equipment and accessories imported specially and exclusively to establish the enterprise once approved;
- (d) a corporate income tax rate of forty-five per cent with the allowances and deductions herein below provided:
 - (i) depreciation or capital allowance on plant, machinery, equipment and accessories to the extent of 100 per cent in the year of investment;
 - (ii) investment allowance of 10 per centum;
 - (iii) in the case of tree crops and livestock, excluding poultry, an income tax rebate over a three-year period to be specified by the Centre at the following rates:
 - 75 % in the first year;
 - 50% in the second year; and
 - 25% in the third year.
 - (iv) exemption of staff from payment of income tax relating to furnished accommodation on the farm.

A. Manufacturing Industries:

- (a) manufacturing for export;
- (b) manufacturing industries that predominantly use local raw materials;
- (c) manufacturing industries that produce agricultural equipment, machinery, spare parts and machine tools.

B. Applicable Incentives, and Benefits:

- (a) requisite permission for importing essential machinery and equipment required for the enterprise;
- (b) exemption from the payment of customs import duties in respect of plant, machinery, equipment and accessories imported specifically and exclusively to establish the enterprise once approved;
- (c) investment allowance of seven and a half per cent;
- (d) depreciation or capital allowances of 40 per cent in the year of investment and 20 per cent in subsequent years.

A. Construction and Building Industries:

- (a) Real Estate Development;
- (b) Road construction,
- (c) Any other activity in the construction and building industries as may from time to time be prescribed.

B. Applicable Incentives and Benefits:

- (a) requisite permission for importing essential machinery and equipment required for the enterprise;
- (b) exemption from the payment of customs import duties on plant, machinery, equipment, accessories (excluding building materials) imported specially and exclusively to establish the approved enterprise;
- (c) investment allowance of seven and a half per centum per annum;
- (d) exemption of staff from income tax relating to accommodation provided on building or construction site;
- (e) depreciation or capital allowances of 50 per cent in the year of investment and 25 per cent in subsequent years;

A. Tourism:

Enterprises concerned with the development of the Tourist Industry such as tourist accommodation, insofar as these are net foreign exchange earnings.

B. Applicable Incentives and Benefits:

- (a) exemption from customs import duties on plant, machinery, equipment and accessories imported exclusively and specifically to establish the approved enterprise;
- (b) depreciation or capital allowance as follows:
 - (i) plant and machinery 50 per cent in the year of investment and 25 per cent in subsequent years;
 - (ii) buildings: 20 per cent in the year of investment and 10 per cent in subsequent years;

- (c) exemption from taxes and rates levied on building properties for a period not exceeding three years;
- (d) investment allowance of seven and a half per centum per annum.

(2) In addition to the benefits and incentives mentioned in subsection (1) where any enterprise with priority status undertakes or supports a programme of scientific research in Ghana approved by the Centre for the purpose of developing or advancing the said enterprise, the capital expenditure in respect of such research shall be fully deductible.

13. (1) The Board may grant deferment of payment of stamp duty for a period not exceeding five years where it is satisfied that the circumstances prevailing at the time of the application for the benefit justify such deferment.

(2) There shall be a reduction of the company income tax payable:

- (a) for enterprises situated within n Kumasi and Sekondi-Takoradi Metropolitan areas, a reduction of fifteen per centum on the company income tax payable;
- (b) for enterprises situated within regional capitals other than Accra-Tema Metropolitan area, Kumasi, Sekondi Takoradi and Wa, a reduction of twenty-five per centum on the company income tax payable;
- (c) for enterprises situated in the rest of the country including Wa, but excluding Accra-Tema Metropolitan area, a reduction of forty per centum on the company income tax payable.

(3) The Board may grant a reduction or deferment of income tax payable to enterprises located in areas lacking in basic infrastructure where the enterprise undertakes the costs of such infrastructure.

(4) An enterprise which utilizes Ghanaian labour in preference to imported machinery shall be entitled to an income tax rebate as follows:

- (a) in the case of agriculture, where an enterprise employs more than twenty Ghanaians, to the value of the Social Security contribution payable in respect of every Ghanaian employee in excess of the first twenty;
- (b) in the case of manufacturing industries, where an enterprise employs more than one hundred Ghanaians, to the value-of the Social Security contribution payable in respect of every Ghanaian employee in excess of the first one hundred;
- (c) in the case of construction and building industries, where an enterprise employs more than seventy-five Ghanaians, to the value of the Social Security contribution payable in respect of every Ghanaian employee in excess of the first seventy-five.

14. All foreign exchange earning enterprises may be permitted by the Bank of Ghana to retain in an external account under the supervision of the Bank of Ghana a portion of their foreign exchange earnings for use in acquiring spare parts and other inputs required for the enterprise which would otherwise not be readily available without the use of such earnings:

Provided that in the case of a net foreign exchange earning enterprise the Bank of Ghana shall permit the operation of an external account in which may be retained at least 25 per cent of the foreign exchange earnings for acquiring machinery and equipment, spare parts and raw materials as well as for debt service, profit and dividend payments and remittances in respect of quota for expatriate personnel.

15. Without prejudice to section 12 an enterprise approved under this Code shall be granted the following benefits as appropriate:

- (a) establishment or manufacturing licence as appropriate;

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- (b) immigrant quota in respect of the approved number of expatriate personnel;
- (c) personal remittance quota for expatriate personnel from any tax imposed by any enactment on the transfer of external currency out of Ghana;
- (d) exemption from Selective Alien Employment Tax under the Selective Employment Tax Decree, 1973 (N.R.C.D. 201).

16. Enterprises listed in the Schedule hereto are reserved for Ghanaians, and may not be the subject-matter of applications to the Centre from non-Ghanaians even where they may be regarded as coming within priority areas.

17. Mining activities shall not be governed by this Code.

PART III—PROTECTION OF INVESTMENT AND TRANSFERABILITY OF CAPITAL

18. Subject to the provisions of this Code, an approved enterprise shall be guaranteed free transferability, through the Bank of Ghana or in the case of the net foreign exchange earning enterprise, through the external account opened with the permission of the Bank of Ghana in freely convertible currency of:

- (a) dividends or net profits attributable to the investment of such freely convertible currency;
- (b) payments in respect of loan servicing where foreign loan has been obtained by an approved enterprise;
- (c) fees and charges in respect of any technology transfer agreement approved under this Code;
- (d) the remittance of foreign capital in the event of sale or liquidation of the approved enterprise or any interest in the approved enterprise attributable to foreign investment.

19. Subject to the provisions of this Code:

- (a) no enterprise approved under this Code shall be expropriated by the Government;
- (b) no person who owns, whether wholly or in part, the capital of an enterprise approved under this Code shall be compelled by law to cede his interest in the capital to any other person.

20. (1) Where any dispute arises between a foreign investor and the Government in respect of any approved enterprise, all effort shall be made through mutual discussions to reach an amicable settlement.

(2) Any dispute between the foreign investor and the Government in respect of an approved enterprise which is not amicably settled through mutual discussions may be submitted to arbitration:

- (a) in accordance with the rules of procedure for arbitration of the United Nations Commission on International Trade Law, or
- (b) within the framework of any bilateral or multilateral agreement on investment protection to which the Government and the country of which investor is a national are parties, or
- (c) in accordance with any other international machinery for the settlement of investment disputes agreed to by the parties.

(3) An approval of any enterprise may specify the particular mode of arbitration to be resorted to in the case of a dispute relating to that enterprise and such specification shall constitute the consent of the Government or any agency thereof and of the investor to submit to that forum.

PART IV—MINIMUM FOREIGN CAPITAL REQUIREMENT AND APPROVAL FOR ESTABLISHMENT OF ENTERPRISE

21. (1) No enterprise eligible for foreign participation shall be established or operated by a non-Ghanaian unless there is the investment of foreign capital or an equivalent in capital goods worth at least US\$.60,000 by way of total equity capital in the case of a joint venture with a Ghanaian partner or an investment of foreign capital or an equivalent goods worth at least US\$100,000 by way of total equity capital where the enterprise is wholly owned by a non-Ghanaian.

(2) Subject to subsection (1) the Centre shall have power to approve the establishment of any enterprise where:

(a) the investor seeks the benefits and guarantees provided under this Code, or

(b) a technology transfer agreement is intended to be entered into as part of the establishment or operation of the enterprise and at least twenty per cent of the share in the enterprise is owned by Ghanaian citizens.

(3) The Centre may only approve an enterprise wholly owned by a non-Ghanaian where it is a net foreign exchange earning enterprise.

(4) The Centre shall on approval of an enterprise under this section issue a certificate of approval in a form determined by the Centre.

(5) A certificate of approval issued by the Centre shall be deemed to be a manufacturing licence within the meaning of the Manufacturing Industry Act, 1971 (Act 356) in the case of a manufacturing enterprise or an establishment licence in the case of any enterprise other than a manufacturing, enterprise.

22. (1) The Centre shall not approve any enterprise under this Code without due appraisal of the capacity of the enterprise to contribute to any of the following objectives:

(a) development of the productive sectors of the national economy;

(b) efficient utilization, expansion and diversification of the productive capacity of existing enterprises;

(c) utilization of local materials, supplies and services;

(d) the creation of employment opportunities in Ghana;

(e) real increase in national export earnings;

(f) real savings on national imports;

(g) development and transfer of advanced technology, including the upgrading of indigenous technology;

(h) country-wide distribution of viable enterprises;

(i) such other objectives as the Centre may consider relevant for achieving the objects of this Code.

(2) The Centre may, by legislative instrument, specify from time to time, areas of special priority from the categories of activities specified in section 12 or priority geographical areas for the siting of specified enterprises.

(3) The location of an approved enterprise particularly the siting of an industry to take advantage of zones of local raw material production shall be taken into account in the consideration by the Centre of any application.

(4) The Centre shall also have regard to any effect the enterprise is likely to have on the environment and the measures proposed for the prevention and control of any harmful effects to the environment.

23. In granting approval for investments under this Code the Centre shall have due regard to the need to generate constructive competition among enterprises and shall avoid a tendency to establish monopolies.

24. Any person who seeks an approval to establish an enterprise under this Code shall obtain an application form from, the Centre and submit the form to the Centre upon completion together with a clear and concise statement about how the enterprise, if approved and established is likely to contribute to any of the objectives referred to in subsection (1) of section 22, and where applicable, to address the concerns contained in subsection (2) of section 22.

25. (1) The Centre shall on receipt of an application form submit within fourteen days a copy to the Ministry, Government Department or agency to whose administrative competence such enterprise belongs.

(2) Any Ministry, Government Department or agency to which a copy of the application is submitted shall within twenty-one days of the receipt of the report submit any comments or observations on the application to the Centre, and these shall be taken into account by the Centre in the appraisal of the proposed enterprise.

26. (1) When the Centre has resolved to approve an enterprise, the applicants shall be notified promptly in writing of this decision and shall be required to confirm in writing to the Centre within twenty-one days of such notification that he intends to proceed with the enterprise.

(2) In granting approval for investment the Centre may stipulate conditions in the approval certificate, the conditions to be complied with by the investor with regard to:

- (a) the amount and source of capital; Applicants to be Notified of Approval.
- (b) the nationality and number of shareholders;
- (c) the project size;
- (d) the training of Ghanaians in administrative, technical, managerial and other skills related to the operation of the enterprise;
- (e) the period of time to commence the implementation of the enterprise; (f) reporting on implementation of the project and operation;
- (g) the prevention and control of any damage to environment;
- (h) the utilization of local raw materials;
- (i) any other matter as is appropriate having regard to the objects of this Code.

PART V—TECHNOLOGY TRANSFER AGREEMENT

27. (1) The Centre shall maintain a record of all technology transfer agreements, including amendments thereto.

(2) Where an approved enterprise involves a technology transfer agreement the Centre shall:

- (a) evaluate such agreement;
- (b) advise the investor with regard to the choice and suitability of technology;

(c) monitor and ensure compliance with the terms and conditions of such agreements.

28. (1) Where a technology transfer agreement has been approved by the Centre, a certificate of such approval shall be issued to the approved enterprise.

(2) No technology transfer agreement relating to enterprise requiring approval of the Centre under this Code shall come into effect without the approval of the Centre.

29. (1) Copies of technology transfer agreements concluded and in force in relation to a Ghanaian enterprise before the commencement of this Code shall be submitted by the parties to the Centre within a period of six months of the commencement of this Code.

(2) The Centre shall maintain a record of all such agreements including any amendments thereto.

(3) No existing technology transfer agreements may be renewed without the approval of the Centre.

(4) The Centre may advise the parties regarding any existing technology transfer agreement particularly as to the suitability of the technology and the level of remuneration for the transfer.

30. The Board may make regulations in respect of any of the following:

(a) criteria for the approval of technology transfer agreements;

(b) remuneration for technology transfer and reasonableness of fees;

(c) reasonableness of duration of agreement;

(d) restrictive business practices;

(e) transfer and absorption of technology;

(f) form and procedure for approval and monitoring of technology transfer agreements;

(g) any other matter relating to technology transfer agreements that appears to the Centre to be reasonably necessary.

PART VI—GROUNDS FOR CANCELLATION AND SUSPENSION OF APPROVALS

31. No approval given under this Code may be assigned except with the prior written consent of the Centre.

32. (1) The Centre shall cancel an approval where.

(a) the approval has been obtained on the basis of fraud, or deliberate or negligent submission of false or misleading facts or statements;

(b) an approval has been assigned without the prior written consent of the Centre.

(2) Where an approved enterprise:

(a) applies any benefit conferred by or under this Code for purposes other than those for which the benefit was conferred;

(b) fails without reasonable cause stated in writing to submit a report required under this Code after sixty days' written notice of such default has been given;

(c) fails without reasonable cause stated in writing to commence operations within the time stipulated in the approval;

the Centre may impose any of the sanctions provided in subsection (3) of this section.

(3) Where the Centre is satisfied that an approved enterprise has contravened any of the provisions of subsection (2) of this section the Centre may:

(a) suspend or cancel the approval;

(b) decide that all fees, taxes, duties and other charges in respect of which benefits were granted to the enterprise be paid within such time as the Centre shall determine;

(c) advise the Bank of Ghana to suspend any remittances including transfer of capital profits and dividends.

33. (1) Any person who:

(a) deliberately or negligently submits false or misleading statements;

(b) refuses or neglects to give any information which the Centre may reasonably request for the purposes of this Code;

(c) refuses without lawful excuse to admit an officer or a designated agent of the Centre into the business premises or otherwise obstructs any inspection by an officer or a designated agent of the Centre.

shall be guilty of an offence and liable on summary conviction to a fine not exceeding ₵50,000.00 or to a term of imprisonment not exceeding two years or both; and in the case of a continuing offence, to an additional fine not exceeding ₵5,000.00 in respect of each day on which the offence continues.

(2) Where an offence is committed by a body of persons:

(a) in the case of a body corporate other than a partnership every director or officer of the body shall be deemed also to be guilty of the offence; and

(b) in the case of partnership, every partner or officer of that body shall be deemed to be guilty of that offence;

Provided that no person shall be deemed to be guilty of an offence by virtue of this subsection if he proves that the offence was committed without his knowledge or that he exercised due care and diligence to prevent the commission of the offence, having regard to all the circumstances.

PART VII—GENERAL PROVISIONS

34. The Centre shall maintain records containing the following particulars:

(a) projects approved for establishment and expansion;

(b) capitalization of approved projects showing foreign equity investment;

(c) technology transfer agreements;

(d) such other particulars as the Centre may determine.

35. (1) The Centre may request any person to supply any estimates, any other information whatsoever within his knowledge which Centre is satisfied is necessary for ensuring the due compliance with the provisions of this Code and it shall be the duty of an such person to comply with the request.

(2) An officer or a designated agent of the Centre may at all reasonable times enter any premises used or is reasonably suspected to be used, for a purpose to which the Code applies, to carry out any inspection designed to obtain information required by the Centre.

(3) Any person who contravenes subsection (1) of this section shall be liable on summary conviction to a fine not exceeding ₵50,000.00 or to a term of imprisonment not exceeding two years or both; and in the case of a continuing offence, to an additional fine not exceeding ₵5,000.00 respect of each day on which the offence continues.

36. The Secretary may on the advice of the Board by legislative instrument make regulations for:

(a) prescribing fees for any approval, licence or any matters required or authorized to be done under this Code:

(b) providing for anything required to be prescribed under this

(c) generally for the purpose of giving effect to the provisions of this Code.

37. Any person who in the course of his official duties in the administration of this Code has possession of or control over any document or information obtained under this Code and who communicates such document or information or an part there to any other person to whom he is not authorized to communicate it by any enactment or by the Board shall be guilty of an offence and liable on summary conviction to a fine not exceeding ₵50,000.00 or to imprisonment for a term not exceeding two years or to both.

38. The following enactments:

(a) the Exchange Control Act, 1961 (Act 71);

(b) the Aliens Act, 1963 (Act 160)

(c) the Manufacturing Industries Act, 1971 (Act 356);-

(d) the Selective Alien Employment Tax Decree, 1973 (N.R.C.D. 201);

(e) the Income Tax Decree, 1975 (S.M.C.D. 5); and

any other enactment relating to the functions of the Centre as provided under this Code shall have effect with such modifications as may be necessary to give full effect to this Code.

39. (1) The Investment Code, 1981 (Act 437) is hereby repealed.

(2) Notwithstanding the repeal of the Investment Code, 1981 (Act 437) any agreement executed thereunder and in force immediately before the commencement of this Code shall continue in force as if made under this Code and applications pending before the Ghana Investments Centre under the Investment Code, 1981 (Act 437) shall be deemed made to the Centre:

Provided that agreements continue in force by this subsection shall, unless modified by any new agreement entered into with the Centre, confer only the benefits previously enjoyed under the said agreements before the commencement of this Code.

(3) Where any enterprise in existence immediately before the commencement of this Code has duly complied with the investment Code, 1981 (Act 437) in relation to any employed capital, specified in the First Schedule of that Code, the enterprise shall be deemed lawful notwithstanding the Schedule to this Code.

(4) Any licence issued under section 1 of the Manufacturing Industries Act, 1971 (Act 356) to any enterprise required to be approved under section 21 of this Code, and in force immediately before the commencement of this Code shall continue in force.

(5) Where, before the commencement of this Law, under any other enactment relating to investments in Ghana the assets of an enterprise were vested in another person or body of persons for the purpose of compliance with the terms of that enactment, the Centre shall continue to ensure full compliance with such enactment by exercising the powers conferred thereunder for that purpose including the power of disposal over such assets, and to this end any such assets shall unless already disposed of in accordance with such enactment be deemed to have been vested in the Centre.

40. (1) In this Code unless the context otherwise requires:

- "approved enterprise" means an enterprise to which approval has been granted by the Centre under this Code;
- "benefits" includes facilities, entitlements and exemptions conferred on an approved enterprise;
- "capital" means all cash contributions, plant, machinery, equipment, buildings, spare parts, raw materials and other business assets other than goodwill
- "company" means a company registered under the Companies Code, 1963 (Act 179);
- "Council" means the Provisional National Defence Council; customs import duties "includes import duty, sales tax and other related charges;
- "employed capital" in relation to an enterprise, means the net current assets plus net fixed assets of the enterprise as reflected in the accounts or statement of that enterprise submitted to the Central Revenue Department for the purpose of income tax returns for the year of assessment next following the year of assessment in which the enterprise was established;
- "enterprise" means an industry, project, undertaking, or business or an enlargement of any such industry, undertaking, project or business, or any part of any such industry, undertaking, project or business;
- "foreign capital" means convertible currency, plant, machinery, equipment, spare parts, raw materials and other business assets other than goodwill that enter Ghana with no initial disbursement of Ghana's foreign exchange and are intended for the production of goods and services related to the approved enterprise;
- "foreign exchange" has the same meaning as 'external currency' as under the Exchange Control Act, 1961 (Act 71);
- "Ghanaian" means any citizen of Ghana or any company, partnership or association or body (whether corporate or unincorporated) the entire capital or financial interest in which is owned by citizens of Ghana, and includes the State and a statutory corporation;
- "Government" means the Government of Ghana;

- "market" means a public or open place established by local customs or by the appropriate local government council for the purpose of buying and selling and any other public place used substantially for the said purpose;
- "minerals" means all minerals and mineral substances other than mineral oils, natural gases and salt;
- "mining" includes any operation for exploration, prospecting, winning or obtaining of minerals, precious metals or precious stones;
- "own" in relation to any enterprise, includes the holding of any proprietary interest in the enterprise; "petroleum" means crude oil or natural gas or a combination of both;
- "Secretary" means the Provisional National Defence Council Secretary for Finance and Economic Planning;.
- "Technology Transfer Agreement" means any agreement relating to an enterprise approved under this Code involving:
 - (i) the assignment, sale and use of foreign patents, trademarks or other industrial property rights;
 - (ii) the supply of foreign technical know-how or technological knowledge;
 - (iii) foreign technical assistance, design and engineering, consultancy or other technical services in whatever form they may be supplied;
 - (iv) foreign managerial, marketing or other services: Provided however that an agreement shall not be regarded as a technology transfer agreement for the purposes of this Code if its duration does not exceed a period of eighteen months;
- "year of assessment" has the same meaning as in the Income Tax Decree, 1975 (S.M.C.D. 5);

(2) In this Code "Ghanaian" includes any company incorporated in Ghana to the extent to which the capital of that company is owned by Ghanaians as defined in subsection (1) of this section.

SCHEDULE**ENTERPRISES WHOLLY RESERVED FOR GHANAIS**

1. Any enterprise concerned with retail or wholesale trade, unless such business is carried on by or within a department store or a supermarket which has an employed capital of not less than US\$500,000.00
2. The sale of anything whatsoever in any market, petty trading, hawking or selling from a kiosk at any place.
3. Business representation for foreign companies unless the enterprise has an employed capital of not less than five hundred thousand United States dollars (US\$500,000.00) or its equivalent.
4. Operation of taxi service and car hire service.
5. The sale under hire-purchase contract of motor vehicles including taxis or vehicles intended to be used in the operation of taxi service or a car hire service.
6. Produce brokerage unless the employed capital of the enterprise is not less than US\$500,000.00.
7. Advertising agencies and public relations business.
8. All aspects of pool betting business and lotteries.
9. Estate agency.
10. Travel agency.
11. Lighterage services.
12. Commercial transportation of passenger by land.
13. Bakery.
14. Manufacture of articles from foam materials.
15. Operation of beauty saloons and barbers' shops.
16. Manufacture of cement blocks for sale.
17. Manufacture or tailoring or both of garments other than for export.
18. Textile screen hand printing (including tie and dye).
19. Tyre retreading.
20. Manufacture of suitcases, briefcases, portfolios, handbags, shopping bags, purses, wallets other than for export.

Made this 13th day of July, 1985.