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PRESS STATEMENT

Practical Insights from IMANI-GIZ Reform Dialogue on Business Registration, Regulation, Property Rights and their Impact on Ghana's Business Climate

Accra, 04 October 2021 — The IMANI Centre for Policy and Education ("IMANI CPE") and the Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH ("GIZ") on 22 September 2021 held its 5th IMANI-GIZ Reform Dialogue on the theme **"Business Registration, Regulation, Property Rights and their Impact on Ghana's Business Climate".** The dialogue sought to engage relevant stakeholders in Ghana's business registration, regulation and property rights space to discuss how the country can address the bottlenecks and increase efficiency to enhance the ease of doing business.

The event took place at the Alisa Hotel and brought together industry experts, public sector leaders, private sector leaders, international agencies including the World Bank, academics and civil society organisations operating within the area. Recommendations on how to address the problems regarding (1) complex processes for starting a business; (2) land title and property rights; (3) enforcement of contracts; and (4) resolving insolvency, are summarised below.

SUMMARY POINTS

1. Policymakers should pursue integrated rulemaking, integrated regulatory delivery, as well as monitoring and feedback of regulations to address the implementation gaps.
2. The Registrar General's Department should speed up the process of digitizing the companies in their manual system since 1963. This will enable real-time company search as well eliminate the names of dormant businesses from its register. The business consultations portal (www.bcp.gov,gh) should be improved and made mobile-friendly.
3. Ghana's Land Commission should facilitate the registration of all private lands and make records readily available. This is not an easy task –around the world, less than a third of economies have a registry with full coverage of private lands.
4. Deregulation in the business space needs to be accompanied by predictability and simplicity in the implementation of the right policies. At the least transparency, automation and the enhancement of accountability should guide all reforms.
5. The government of Ghana should pursue a swift implementation of the new Corporate Insolvency and Restructuring Act, as in the COVID-19 context, it will maximize capital recovery and put capital back to work in productive enterprises.

KEY DISCUSSION POINTS

1. Key bottlenecks to business registration and ways to minimise the effects

The problems and bottlenecks regarding business registration persist but there are efforts to address them.

- **Professor Godfred A. Bokpin,** Economist and Professor of Finance at UGBS and IMANI Senior Fellow
  In his opening remarks, Professor Bokpin noted that although Ghana was one of the first countries among her peers to ratify the African Continental Free Trade Area (AfCFTA) agreement, there are still issues regarding its ability to create the right business climate and guarantee private leadership. He notes that Ghana is not counted among the top five African countries when it comes to dealing effectively with challenges to business registration, regulation and creating the much needed enabling environment. It is often the case that, policymakers in Ghana are cited for using regulation as a hammer to treat every business-related issue as a nail instead of packaging regulation as an enabler to support business growth. Prof. Bokpin believes that Ghana's hosting of the AfCFTA Secretariat is meaningless unless it is linked to the general improvement of the business environment that guarantees private-sector leadership. Such leadership is needed most today, given the adverse distributional effect of the COVID-19 pandemic where risk has become riskier. It is recommended that, the same urgency with which Ghana signed and ratified the AfCFTA agreement should be applied to creating the enabling environment to support the private sector which anchors the job creation-capacity of the economy. To this end, the country must come clear on what constitutes enabling business environment with clear trackable benchmarks for duty bearers. For instance, what level of interest rate and maturity tenure constitute enabling business environment for the private sector in Ghana? Watch Prof. Bokpin's remarks **here.**

- **Aurelien Kruse,** Lead Country Economist for the World Bank (on behalf of Pierre Laporte, World Bank Country Director)
  In his address, Aurelien Kruse noted that there are many good key practices when it comes to business registration that could improve the overall framework and process in Ghana to make it well-functioning, objective-driven, and business-friendly. First, there is the need for reduction of business compliance costs through undertaking a comprehensive review and streamlining of all business requirements at the national, subnational and sector levels. Secondly, he notes the need for a clear, objective, transparent and predictable licensing regime that reduces risks for business. Thirdly, there should be effective and efficient government-to-business services through integrating services and reducing overlap and duplications among involved institutions, streamlining procedures (removing requirements, reducing the time taken), application of risk-based approaches, dissemination of information and having political leadership and a competent and skilled staff championing the business registration reforms. Watch Mr. Kruse's brief remarks **here.**

- **Ms. Domitie Sarpong,** a Principal State Attorney **and Lysbeth Osae-Omane,** State Attorney and Assistant Registrar, both at the Registrar General's Department
  The representatives of the Registrar Generals' Department confirmed that some of the issues encountered by applicants during business registration are beyond their control. One such is the persistent willingness of clients to easily hand over their documents to non-designated staff or to random persons to handle their registrations. Where applicants encounter the right staff, they are overwhelmed by the enormity of improperly filled forms, during the registration process. The issue of poor inter-agency coordination persists and its lack does not encourage easy and timely access to information to prevent companies from presenting different sets of information on the same matter to different government

institutions. They note that there are various reforms and plans within the Registrar General's Department to address these issues. Watch Ms. Sarpong's comments **here**

- **Ms. Eugenia Okyere,** Head of Research at Ghana Investment Promotion Centre (GIPC)
  She emphasised that GIPC continues to ensure that investors have a smooth business environment in Ghana. The GIPC currently has a service offering to ensure that investors who have challenges doing business in Ghana have a place where those issues can be resolved. Also, at the GIPC, business registration is completed within five days and in some cases, fewer. Please watch Ms. Okyere's remarks **here**.

2. Technological improvements to make business registration and regulation more efficient, less costly and timely

There were regulatory and practical steps taken by the Registrar-General's Department to use technological improvements to enhance the business registration process in Ghana.

- **Ms. Domtie Sarpong,** Registrar-General's Department
  She notes that since the start of the ease of doing business report, the Registrar General's Department has been pursuing reforms aggressively. A one-stop-shop process for business registration has been created which allows the integration of the GRA TIN (now Ghana Card PIN), Business Operating Permit (BOP) at the Metropolitan, Municipal and District Assembly (MMDA) levels and SSNIT data. She also notes that the new Companies Act 2019 (Act 992) contain some novel sections that is facilitating technological improvements to further Ghana's efforts towards improving the ease of doing business. It has also improved corporate governance to protect investors (regarding disclosures, directors/ audit disclosures). Sole proprietorships are now approved at the level of Company Inspectors (reducing the number of steps for registering same). Also, the electronic signature of the Registrar automatically appears on the Certificates which reduce the time spent manually signing them. Also, the Ghana.gov portal now makes payment of statutory fees easier and simpler. Again, sole proprietorships can be renewed through mobile money now (*222#). The downside though is that Companies Act has expanded the scope of work for the Registrar General but not in personnel and resources. However, the new Act requires that the Office of Registrar of Companies is hived off the Registrar-General's Department which should make it easier focusing on the registration of businesses and hence better service delivery- which will include expedited service opportunities for those who wish for it. A User Guide for the Companies Act, 2019 (Act 992) has been developed with funding from IFC to offer guidance. Watch Ms. Sarpong's comments **here**

- **Joseph Padi,** PRO, Ghana Union of Traders Association (GUTA)
  He lamented the difficulties that the trading community is still facing when it comes to GIPC and the Registrar-General's Department. He indicates that the GIPC seem to be for only foreign investors, and as local traders, they do not see the same level of enthusiasm GIPC exerts for foreign investors being extended to local players. Mr. Padi accused the GIPC of dereliction its duty of ensuring that foreigners who are registered to undertake particular lines of business in Ghana do not change without express permission sought. He wondered if GIPC had a functioning monitoring and evaluation desk. Mr. Padi complained about the Registrar General's Department's business name search portal. He laments how people search names that are not online but upon visiting the office, they find out there was a name already in the physical files. Watch Mr. Padi's brief remarks **here**

- **Aurelien Kruse,** Lead Country Economist for the World Bank
  He notes that one can think of three key pillars through which technology can improve business regulations overall:
  (1) **Integrated rulemaking and** countries are starting to develop registries of regulations and administrative requirements that are easily accessible to all. Regulations are also posted online for public consultations and feedback.
  (2) **Integrated Regulatory delivery:** This is a concept we are seeing more globally: "Single point of contact" or "once only", where the government entity commits to creating a single contact point for businesses. Other regulatory services can also use the same "single point" concept: e-Licensing, e-Construction Permits, e-Inspections, for example. It used to be common to hear the term "One-stop shop". The new term today is "Non-stop shop", with technological advances allowing for round-the-clock automated services to businesses.
  (3) **Monitoring and Feedback of regulations:** Technology now allows public entities to better measure their performance, with automated performance measurements. Second, once a new regulation is implemented or a new government platform has been launched, technology allows for public feedback mechanisms (also known as *feedback loops*) which provide a wealth of implementation information and input for further improvements.

- **Mrs Diana Afriyie Addo,** Head of Business Regulatory Reforms Units at the Ministry of Trade and Industry
  She stated that the Ministry has a technical working group, which includes the RGD which take steps to identify the various reforms that need to be undertaken. They focus on how institutions can reengineer, automate and cut down some steps to be more efficient. She indicated that they currently have ten technical working groups on various thematic areas, and various reforms have been identified within institutions. There are also efforts to reduce the duplication of efforts across government institutions. She indicated how the business consultations portal (www.bcp.gov.gh) is relevant with continuous progress being made. Watch Mrs. Addo's remarks **here.**

3. Challenges in property registration and how they can be improved

There was a lot of discussions on the challenges of the property registration regime in Ghana and the new land Act.

- **Aurelien Kruse,** Lead Country Economist of the World Bank
  He notes that research suggests that property owners with secure ownership are more likely to invest in private enterprises and transfer land to more efficient users. Furthermore, the ability to easily access authoritative information on land ownership may reduce the transaction cost in financial markets, making it easier to use the property as collateral. He notes that Ghana is in the process of being mapped digitally. A new Land Act 2020 which consolidates several pieces of land legislation in one has been passed in 2020. The introduction of a modern, digital transformation system that provides online services at the Lands Commission has been installed. This digitized system enables the submission of property and land registration applications digitally. The process is facilitated by the interconnection of all the various I.T. systems and databases of all the divisions of the Lands Commission. Now, clients can submit scanned and/or digital copies of property documents, make online payments and track applications online and in real-time.

- **Lawyer Yaw Oppong,** Managing Partner, Ampofo and Oppong & Associates
  Mr Oppong contends that when it comes to property rights, before the Land Act 2020 Act, the Constitution itself has guaranteed the right to own property, under Articles 18 and 20. Then in the land Act, for the first time, there has been a provision on electronic transactions or conveyance, which is very impressive and innovative. He said that new addition to the law regarding the certificate of allocation pertains a lot in Kumasi. He indicated that with an allocation note, people can lay claim to a portion of land. The new Act provides alternative dispute resolution options that have to be resorted to before the right to go to court may accrue and that is a good thing. He advocates a policy that gives exemptions to families to foster registration of lands across the country. He believes that this will be beneficial for the land system and administration in general, as well as, reduce the involvement of middlemen. Please watch Lawyer Oppong's remarks **here.**

- **Eugenia Okyere,** Head of Research at Ghana Investment Promotion Centre (GIPC)
  She indicated that the GIPC was aware of the issues when it comes to land and accessing of land for investors, hence the creation of a land bank directory. This is for individuals and investors who have lands to take advantage of by registering the land in the directory. The GIPC encourages such people to come with the right documentation and in any event, the GIPC always does its independent checks on these documentations. Please see Ms. Okyere's remarks **here**.

4. Business insolvency framework and other reforms

They also discussed issues regarding the insolvency framework and related reforms which have been or are being implemented in Ghana.

- **Aurelien Kruse,** Lead Country Economist, World Bank
  Mr. Kruse said, a well-functioning insolvency framework is essential for the healthy circulation of credit. He argues that where insolvency regimes are effective, creditors are more likely to lend, both in higher volumes and at lower interest rates. These systems will be especially important given the severity of the COVID-19 pandemic and its global economic implications. The COVID-19 crisis coincided with almost a decade of rising debt and a sharp decline in investment in 2020, particularly in emerging markets and developing economies. He notes that the current insolvency framework was recently modernized with technical assistance from IFC. In this context, Ghana would benefit from ensuring a swift implementation of its new insolvency and creditor/debtor framework to maximize capital recovery and put capital back to work in productive enterprises. To that end, the IFC is currently working with RGD and Ghana Association of Restructuring and Insolvency Advisors (GARIA) and Attorney General's Office to finalize the draft regulations of the Act and provide a comprehensive capacity building to practitioners, the regulator, judicial and financial institutions.

- **Lawyer Charles William Zwennes,** Managing Partner for Gaisie Zwennes Hughes & Co
  Lawyer Zwennes believes that the new Corporate Insolvency and Restructuring Act (Act 1050) has come at a very opportune time as the COVID pandemic has impacted businesses negatively. The new Act provides the right legal regime for companies facing financial distress. It is a marked improvement on the previous Official Bodies Corporate Liquidation Act, that essentially shut all of a company's doors the moment it goes into liquidation. The new Act allows a company in difficulty to go into some form of incubation, where it can stand protected from its creditors and use that valuable time to restructure its affairs in an attempt to recover. Until the new Act, the opportunity to offer some form of protection to struggling businesses was a very restricted one in Ghana, available to lending institutions, banks and insurance companies. The new Act has universalized that remedy and has made it available to all companies. The new law also recognises GARIA. Lawyer Zwennes recommended the need for deregulation with simplicity in the implementation of the right policies. At the

minimum, transparency, automation and the enhancement of accountability should guide all reforms. He is confident that this is the time to start pushing for policy objectives to achieve the outcomes of easing business operations and not just dismantling or simplifying regulations alone. Watch Lawyer Zwennes' comments **here.**

- **The Representatives of the Registrar General's Department**
  They note that the Corporate Insolvency and Restructuring Act 2020 (Act 1015) (CIRA), assented on 30th April 2020 provides for a rescue culture that was hitherto not available to businesses and investors. The CIRA is the main legislation for corporate restructuring and insolvency in Ghana. The CIRA replaced the Bodies Corporate (Official Liquidation) Act, 1963 (Act 180) [BCOLA] which mainly provided a framework for the liquidation of insolvent companies but did not make provision for rescue or turn around. The CIRA aims to provide more opportunities for businesses in financial and operational distress to be rescued. If this is deemed impossible, the CIRA also provides a clearer process for bringing the business of an insolvent company to an end. A user guide for Ghana's Corporate Insolvency and Restructuring Act (Act 1015), 2020 [CIRA] was launched on Monday 20, 2021.

About The IMANI-GIZ Reform Dialogue

The partnership between the two entities aims to carry out six policy dialogues to improve Ghana's business climate. The **first dialogue took** place on 26 November 2020 and explored the challenges and opportunities created by the COVID-19 pandemic for Ghanaian businesses. The **second dialogue took** place on 16 March 2021 and explored what the African Continental Free Trade Area (AfCFTA) mean for Ghanaian businesses. The **third dialogue took** place on 12 May 2021 with a focus on Business Taxation and the Road to Ghana's Post-COVID Economic Recovery. The **fourth dialogue took** place on 21 July 2021 and explore access to affordable energy to support economic growth and job creation in Ghana. Aside from the recent dialogue on business registration and regulation issues, the sixth dialogue will explore how corruption affects Ghana's business climate, among others. A related policy brief on "**Taxation and Ghana's Post-Covid Economic Recovery**" provides relevant insights for key stakeholders.

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