

# The Gambia

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RISK & COMPLIANCE REPORT

DATE: January 2017

<b>Executive Summary - Gambia</b>	
<b>Sanctions:</b>	None
<b>FAFT list of AML Deficient Countries</b>	No
<b>Higher Risk Areas:</b>	<p>Non - Compliance with FATF 40 + 9 Recommendations</p> <p>Not on EU White list equivalent jurisdictions</p> <p>Corruption Index (Transparency International &amp; W.G.I.)</p> <p>World Governance Indicators (Average Score)</p> <p>Failed States Index (Political Issues)(Average Score)</p> <p>Offshore Finance Centre</p>
<b>Medium Risk Areas:</b>	Weakness in Government Legislation to combat Money Laundering
<p><b>Major Investment Areas:</b></p> <p><b>Agriculture - products:</b></p> <p>rice, millet, sorghum, peanuts, corn, sesame, cassava (manioc), palm kernels; cattle, sheep, goats</p> <p><b>Industries:</b></p> <p>processing peanuts, fish, and hides; tourism, beverages, agricultural machinery assembly, woodworking, metalworking, clothing</p> <p><b>Exports - commodities:</b></p> <p>peanut products, fish, cotton lint, palm kernels</p> <p><b>Exports - partners:</b></p> <p>China 57.3%, India 18%, France 4.6%, UK 4.1% (2012)</p> <p><b>Imports - commodities:</b></p> <p>foodstuffs, manufactures, fuel, machinery and transport equipment</p> <p><b>Imports - partners:</b></p> <p>China 27.1%, Senegal 8.4%, Brazil 8%, UK 6.3%, India 6%, Indonesia 4.1% (2012)</p>	

**Investment Restrictions:**

The Gambian government publicly espouses a liberal, open economic environment and free-market pricing, with a firm commitment to private sector participation in all sectors of the economy.

There are no laws or regulations that limit or prohibit foreign investment, participation, or control.

Formal restrictions on private-sector investment only in sensitive areas like television broadcasting and defense.



## Contents

<b>Section 1 - Background</b> .....	<b>5</b>
<b>Section 2 - Anti – Money Laundering / Terrorist Financing</b> .....	<b>6</b>
FATF status.....	6
Compliance with FATF Recommendations.....	6
Giaba Annual Report 2013.....	7
US Department of State Money Laundering assessment (INCSR) .....	8
Reports.....	12
International Sanctions.....	13
Bribery & Corruption.....	14
Corruption and Government Transparency - Report by US State Department .....	14
<b>Section 3 - Economy</b> .....	<b>16</b>
Banking .....	17
Stock Exchange.....	17
<b>Section 4 - Investment Climate</b> .....	<b>18</b>
<b>Section 5 - Government</b> .....	<b>39</b>
<b>Section 6 - Tax</b> .....	<b>40</b>
<b>Methodology and Sources</b> .....	<b>41</b>

## Section 1 - Background

The Gambia gained its independence from the UK in 1965. Geographically surrounded by Senegal, it formed a short-lived federation of Senegambia between 1982 and 1989. In 1991 the two nations signed a friendship and cooperation treaty, but tensions have flared up intermittently since then. Yahya JAMMEH led a military coup in 1994 that overthrew the president and banned political activity. A new constitution and presidential elections in 1996, followed by parliamentary balloting in 1997, completed a nominal return to civilian rule. JAMMEH has been elected president in all subsequent elections including most recently in late 2011.



## Section 2 - Anti – Money Laundering / Terrorist Financing

### FATF status

The Gambia is not on the FATF List of Countries that have been identified as having strategic AML deficiencies

### Compliance with FATF Recommendations

The initial Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in The Gambia was undertaken by the Financial Action Task Force (FATF) in 2010. According to that Evaluation, The Gambia was deemed Compliant for 3 and Largely Compliant for 9 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for 5 of the 6 Core Recommendations.

#### Sixth and seventh follow-up reports of the Gambia

The sixth follow-up report of the Gambia indicated that the country inaugurated the Board of the FIU. During the period under review, the Gambia FIU exchanged information with a third country. The Gambia did not provide enough information to attest to the effectiveness of its AML/CFT system, particularly outstanding deficiencies relating to measures for the effective implementation of UNSCRs 1267 and 1373. Outstanding matters are effective supervision of financial institutions and DNFBPs; adoption of a National AML/CFT Strategy; and ratification of the UN Convention for the Suppression of Financing of Terrorism and the UN Convention against Corruption.

In its seventh follow-up report, the Gambia indicated that a new Director of the FIU was expected to assume office in December 2013 to facilitate the operational autonomy of the FIU and enable it to perform its core functions effectively. The Gambia also indicated that there has been an upward revision of the budget of the FIU to facilitate its effective operation, as well as cater for additional staff seconded to the FIU. The follow-up report also indicated that the Gambia issued AML/CFT guidelines to DNFBPs.

However, the Gambia had not taken any actions to criminalize illicit traffic in stolen and other goods, counterfeiting and piracy of products, smuggling, insider trading and market manipulation, participation in organized criminal groups, racketeering, and illicit arms trafficking. The country does not have effective laws or procedures to freeze terrorist funds or other assets of persons designated by the United Nations Al-Qaida and Taliban Sanctions Committee in accordance with UNSCR 1267 and those designated under UNSCR 1373.

As part of efforts to address its remaining outstanding deficiencies, the Gambia should ratify the International Convention for the Suppression of Financing of Terrorism and the UN Convention against Corruption; criminalize the remaining predicate offences of money laundering; adopt effective laws and procedures to implement UNSCRs 1267 and 1373; and

confirm the appointment of the Director of the FIU before the May 2014 Plenary. The Gambia was retained on Enhanced Follow-up and directed to submit its eighth follow-up report in May 2014.

## Giaba Annual Report 2013

### Prevalence of Predicate Crimes

The Gambia lacks the capacity to monitor the full stretch of its borders. Smuggling is therefore prevalent, though the country's customs collaborate with Senegalese counterparts to address the problem. As recent seizures of cocaine and marijuana demonstrate, the country is also one of the routes for drug trafficking in West Africa.

Tourism-related human trafficking is a thriving underground business in the Gambia. It is also a source, transit and destination country for women and children subjected to forced labour and sex exploitation. The Trafficking in Persons Report 2013 reveals that the booming sex tourism industry propels the recruitment of young (sometimes under-aged) girls from nearly all ECOWAS member States by traffickers to meet the demands of European child-sex tourists.

Cross-border movement of cash is a serious challenge due to the economic activities of nationals from other countries. Because of the strict monitoring of foreign exchange transfers in Senegal, the Gambia has become very attractive for such transactions because of its more liberal policies.

The most prevalent predicate crimes in the country in 2013 were drug trafficking, corruption, tax fraud, bank fraud and fraud in other investments. According to the Country Report provided by the Gambia, the proceeds of these crimes are typically laundered through the real estate, cross-border cash movements, banks and DNFBPs.

### AML/CFT Situation

Progress in the implementation of AML/CFT measures in the Gambia has been slow. In 2012, the Gambia enacted the new AML/CFT law, reactivated the Inter-Ministerial Committee and appointed a Director for the FIU. These measures have helped to address some of the deficiencies in the country's AML/CFT regime.

However, the seventh follow-up report of the country, submitted in November 2013, shows that it has not addressed a number of the strategic deficiencies in its AML/CFT system. The most crucial of these deficiencies are the non-criminalization of the full range of predicate offences, absence of effective laws and procedures for implementing UNSC Resolutions 1267 and 1373, and lack of ratification of various instruments on counter-terrorism. In particular, the country has not ratified the key UN International Convention on the Suppression of the Financing of Terrorism.

However, the FIU received funding from the African Development Bank to support the implementation of the requirements of the Anti-Money Laundering and Combating of

Terrorism Financing Act 2012. A consultant is to be recruited to help in the process. The work schedule has also been developed.

In 2013, the FIU received 20 STRs, of which 16 are linked to money laundering. Out of this number, 10 cases were forwarded to the law enforcement agencies for investigation. In one of the cases involving suspected ML-related drug trafficking worth US\$500,000, investigations showed that the funds were genuine.

In another case involving illegal gold mining and smuggling worth US\$400,000, the Netherlands Government has sought mutual legal assistance to recover illicit funds in a commercial bank in the Gambia. Consequently, the FIU and the Financial Supervision Department of the Central Bank conducted a joint prudential visit to the bank. As reported by the country, the mutual assistance process will be completed soon to determine and detail financial trails that could be traced to several banks.

While the status of the other investigations is not known, however, and there has been neither prosecution nor conviction. The low level of reporting and the lack of prosecution and conviction in the face of real ML/TF threats are matters of concern. The main obstacles to implementation of AML/CFT measures in the country are weak law enforcement and the low capacity of regulatory authorities.

## **Conclusion**

At the November 2013 Plenary, the Gambia was called upon to demonstrate greater commitment to the implementation of its AML/CFT measures. The country was directed to address its AML/CFT strategic deficiencies and submit a follow-up report in May 2014, failing which a public statement will be published on the country. These serious measures have been taken by the Plenary because of the high risk associated with the country's low compliance level.

The Gambia therefore needs to mobilize all required resources, including political commitment at the highest level, in order to mitigate the ML/TF risks it faces. It is also in the interest of the Gambia to address these deficiencies urgently in order to avoid being blacklisted as a country not making sufficient progress to improve its AML/CFT system. The consequences of this action on the country's economy will be enormous.

## **US Department of State Money Laundering assessment (INCSR)**

The Gambia was deemed a 'Monitored' Jurisdiction by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

### **Perceived Risks:**

The Gambia is not a regional financial center, although it is a regional re-export center. The Gambia derives most of its GDP from agriculture, tourism, remittances, and the re-export trade, with most transactions conducted in cash. Goods and capital are freely and legally

traded in The Gambia, and, as is the case in other re-export centers, smuggling of goods occurs. Although The Gambia has limited capacity to monitor its porous borders, customs officials cooperate with counterparts in Senegal to combat smuggling along their common border. A lack of resources hinders law enforcement's ability to combat smuggling more effectively.

It is unclear to what extent money laundering is related to narcotics, but seizures of large amounts of cocaine and marijuana two years ago heightened concerns regarding links to international drug trafficking. The number of new banks entering the local market in the past few years - there are currently a total of 12 commercial banks operating in The Gambia - also raises possible money laundering concerns. These concerns are further heightened by the problems of persistently weak bank controls and supervision, the dominance of cash transactions, a poor know-your-customer compliance culture, and significant inflows of tourists.

DO FINANCIAL INSTITUTIONS ENGAGE IN CURRENCY TRANSACTIONS RELATED TO INTERNATIONAL NARCOTICS TRAFFICKING THAT INCLUDE SIGNIFICANT AMOUNTS OF US CURRENCY; CURRENCY DERIVED FROM ILLEGAL SALES IN THE U.S.; OR ILLEGAL DRUG SALES THAT OTHERWISE SIGNIFICANTLY AFFECT THE U.S.: NO

CRIMINALIZATION OF MONEY LAUNDERING:

"All serious crimes" approach or "list" approach to predicate crimes: List approach

Legal persons covered: criminally: YES civilly: YES

KNOW-YOUR-CUSTOMER (KYC) RULES:

Enhanced due diligence procedures for PEPs: Foreign: YES Domestic: NO KYC covered entities: Banks and microfinance entities; money remitters and exchanges; financial instrument and securities brokers and dealers; real estate agents; bullion dealers; casinos and lottery outlets; insurance companies and intermediaries; payroll services; guarantors and safe custody services; and trust and company service providers

SUSPICIOUS TRANSACTION REPORTING (STR) REQUIREMENTS:

Number of STRs received and time frame: 21 in 2015

Number of CTRs received and time frame: Not available

STR covered entities: Banks and microfinance entities; money remitters and exchanges; financial instrument and securities brokers and dealers; real estate agents; bullion dealers; casinos and lottery outlets; insurance companies and intermediaries; payroll services; guarantors and safe custody services; and trust and company service providers

MONEY LAUNDERING CRIMINAL PROSECUTIONS/CONVICTIONS:

Prosecutions: 1 in 2015

Convictions: 0 in 2015

RECORDS EXCHANGE MECHANISM:

With U.S.: MLAT: NO Other mechanism: NO

With other governments/jurisdictions: YES

The Gambia is a member of the Inter Governmental Action Group against Money Laundering in West Africa (GIABA), a FATF-style regional body.

## **ENFORCEMENT AND IMPLEMENTATION ISSUES AND COMMENTS:**

The Gambia has criminalized all predicate offenses to money laundering and terrorism financing in accordance with international standards. The Gambia Financial Intelligence Unit (GFIU), established within the Central Bank in January 2014, has now become fully operational as an independent agency and is housed in a separate building. The Government of The Gambia has increased its budget allocation to the FIU, which has now increased its staff complement from seven to 14 as of November 2015. The FIU works closely with other law enforcement agencies, such as the Gambia Police Force and the National Intelligence Agency (NIA).

In 2014, GFIU froze several bank accounts holding a total of 17 million dalasi (approximately \$430,000) of suspicious transactions. Several arrests were made and at least one case, involving a Gambian and two foreigners, was taken before the courts in 2015. Six other cases are being actively investigated.

On July 8, 2015, The Gambia formally became a party to the UN International Convention for the Suppression of the Financing of Terrorism and the UN Convention against Corruption. Both conventions were ratified by the Gambian National Assembly a year earlier, but the UN was not properly notified.

The Gambia should provide adequate resources and capacity to its law enforcement, supervisory, and customs personnel so they are able to effectively fulfill their responsibilities. The Gambia should adopt effective laws and procedures to implement UNSCRs 1267 and 1373. Gambian authorities should investigate the country's re-export sector to determine whether it is being used to launder criminal proceeds.

### **Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):**

According to the US State Department, The Gambia does not conform with regard to the following government legislation: -

**Arrangements for Asset Sharing** - By law, regulation or bilateral agreement, the jurisdiction permits sharing of seized assets with third party jurisdictions that assisted in the conduct of the underlying investigation.

**International Terrorism Financing Convention** - States parties to the International Convention for the Suppression of the Financing of Terrorism, or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

**States Party to United Nations Convention Against Corruption** - States party to the United Nations Convention against Corruption (UNCAC), or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

### **EU White list of Equivalent Jurisdictions**

The Gambia is not currently on the EU White list of Equivalent Jurisdictions

### **World Governance indicators**

[To view historic Governance Indicators Ctrl + Click here and then select country](#)

### **Failed States Index**

[To view Failed States Index Ctrl + Click here](#)

### **Offshore Financial Centre**

The Gambia is considered to be an Offshore Financial Centre

### **US State Dept Narcotics Report**

No report available

### **US State Dept Trafficking in Persons Report 2014 (introduction):**

The Gambia is classified a Tier 3 country - a country whose government does not comply with the Trafficking Victims Protection Act's minimum standards.

The Gambia is a source and destination country for women and children subjected to forced labor and sex trafficking. Within The Gambia, women, girls, and, to a lesser extent, boys are subjected to sex trafficking and domestic servitude. Women, girls, and boys from West African countries—mainly Senegal, Sierra Leone, Liberia, Ghana, Nigeria, Guinea, Guinea-Bissau, and Benin—are recruited for commercial sexual exploitation in The Gambia. The majority of these victims are subjected to sexual exploitation by European child sex tourists. Observers believe organized sex trafficking networks use both European and Gambian travel agencies to promote child sex tourism. Many Gambian boys attend Koranic schools led by religious teachers, known as marabouts; some corrupt or unscrupulous marabouts force such boys into begging and street vending. Gambian children have been identified as victims of forced labor in neighboring West African countries, including Ghana and Senegal.

The Government of The Gambia does not fully comply with the minimum standards for the elimination of trafficking and is not making significant efforts to do so. The government did not provide comprehensive law enforcement data relating to trafficking offenses; it did not report initiating any prosecutions or securing any convictions of trafficking offenders during the reporting period. It also did not formally identify any trafficking victims nor indicate whether any victims were afforded shelter or care by government-supported services. The government continued to sustain modest prevention efforts over the reporting period.

### **US State Dept Terrorism Report**

No report available

## International Sanctions

None Applicable

## Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	26
World Governance Indicator – Control of Corruption	22

## Corruption and Government Transparency - Report by US State Department

Corruption exists, and the government continues its efforts to combat it. On June 28, 2012, the National Assembly passed the Gambia Anti-Corruption Act aimed at fighting official corruption. The law provides for the setting up of a permanent six-member Commission mandated to investigate and prosecute all crimes of corruption committed by Gambians within and outside the country. The Commission is yet to be established.

The Criminal Code also provides a legal platform for combating corruption. For example, in May 2011, a former permanent secretary at the Ministry of Agriculture was convicted on charges of “stealing by a person in public service” for fraudulently overpaying his travel per diem entitlement. He was fined 100,000 dalasi (\$3,300). In July 2011, a former Inspector general of Police was sentenced to life in prison after being convicted on numerous charges including corruption. In December 2013 and January 2014, a former Minister of Justice and a former President of the Gambia Court of Appeal, were each sentenced to two years in prison for soliciting a bribe, an audio recording of which was later uploaded on to YouTube.

U.S. firms have not identified corruption as a serious obstacle to foreign direct investment in The Gambia. Traffic police and other junior police and immigration officers are often accused of corruption and solicitation of bribes. Accepting a bribe, irrespective of source, is a criminal act and the penalties are fines and imprisonment depending on the magnitude of the amount. Senior government officials take anticorruption efforts seriously, even though some of them have been investigated for corruption.

The police, the National Intelligence Agency and the Ministry of Justice are responsible for combating corruption.

Transparency International has a local representative in the country, and The Gambia was ranked 127 out of 174 countries in the 2013 Corruption Perceptions Index. The Gambia has signed and ratified the African Union Convention on Preventing and Combating Corruption and Related Offences, but has ratified neither the UN Convention Against Corruption nor the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

Local companies do not have internal codes or effective controls to detect and prevent bribery.

### Section 3 - Economy

The Gambia has sparse natural resource deposits and a limited agricultural base, and relies in part on remittances from workers overseas and tourist receipts. About three-quarters of the population depends on the agricultural sector for its livelihood and the sector provides for about one-fifth of GDP. The agricultural sector has untapped potential - less than half of arable land is cultivated. Small-scale manufacturing activity features the processing of peanuts, fish, and hides. The Gambia's natural beauty and proximity to Europe has made it one of the larger markets for tourism in West Africa, boosted by government and private sector investments in eco-tourism and upscale facilities. In 2012, however, sluggish tourism led to a decline in GDP. Tourism brings in about one-fifth of GDP. Agriculture also took a hit in 2012 due to unfavorable weather patterns. The Gambia's re-export trade accounts for almost 80% of goods exports. Unemployment and underemployment rates remain high. Economic progress depends on sustained bilateral and multilateral aid, on responsible government economic management, and on continued technical assistance from multilateral and bilateral donors. International donors and lenders continue to be concerned about the quality of fiscal management and The Gambia's debt burden.

#### **Agriculture - products:**

rice, millet, sorghum, peanuts, corn, sesame, cassava (manioc), palm kernels; cattle, sheep, goats

#### **Industries:**

processing peanuts, fish, and hides; tourism, beverages, agricultural machinery assembly, woodworking, metalworking, clothing

#### **Exports - commodities:**

peanut products, fish, cotton lint, palm kernels

#### **Exports - partners:**

China 57.3%, India 18%, France 4.6%, UK 4.1% (2012)

#### **Imports - commodities:**

foodstuffs, manufactures, fuel, machinery and transport equipment

#### **Imports - partners:**

China 27.1%, Senegal 8.4%, Brazil 8%, UK 6.3%, India 6%, Indonesia 4.1% (2012)

## Banking

Banking in The Gambia began over a 100 years. Currently there are fourteen banks within the industry of which one is an Islamic Bank and thirteen conventional commercial banks.

## Stock Exchange

The West African Regional Stock Exchange (BRVM), headquartered in Abidjan, with local offices in each of the WAEMU member countries offers additional opportunities to attract increased foreign capital and to give private investors access to more diversified sources of financing. The West African Regional Stock Exchange (BRVM), headquartered in Abidjan, with local offices in each of the WAEMU member countries offers additional opportunities to attract increased foreign capital and to give private investors access to more diversified sources of financing.

### Executive Summary

The Gambia has an active private sector and the government is committed to encouraging local investment and attracting foreign direct investment. There is a government agency dedicated to attracting foreign investment and promoting exports and it provides guidelines and incentives to all investors whose portfolios qualify for a Special Investment Certificate.

Although a smaller market compared to some of its West African neighbors, The Gambia has a comparative advantage of being one of the most politically stable countries in the region. There is a visible presence of foreign investors, particularly from Nigeria, East Asia, the Middle East and North Africa and a limited number of European and American-owned businesses. Trade relations with Turkey have also increased recently.

There are opportunities for investment in various sectors such as tourism and the hotel industry, agriculture and manufacturing for the larger West African market. There are also opportunities for cashew processing with one of West Africa's biggest cashew growers, Guinea Bissau, less than a day away by truck.

The country has a functioning bank system, although the Central Bank recently took control over two Nigerian-owned banks due to concerns over bad assets and issues with capital reserves. There are currently no restrictions on the conversion of funds. Investors may repatriate profits and dividends through commercial banks or licensed money transfer agencies at prevailing exchange rates. Bank customers can also open foreign currency denominated accounts (FCDs).

There is no legal distinction between the treatment of foreign and domestic investors but anti-Western discourse emanating from senior government officials has been of concern to many private sector operators. A Gambian ban on the importation of frozen poultry products, which lasted about six months in 2013 impacted American chicken exports to The Gambia. It appears that this trade issue was resolved in early 2014.

Gambian law provides the legal framework for the protection of private ownership of property and for adequate and prompt compensation in the event of compulsory acquisition. However, in January 2013, the government of The Gambia announced the cancellation of a petroleum exploration, development and production licenses awarded to at least one foreign oil company. There has been no public discussion to any type of settlement with that company. There have been several other land disputes over the past year involving the government and private owners — most remain unresolved.

American companies seeking to invest in The Gambia must work through one of the local lawyers and must be open and transparent in all their dealings.

### 1. Openness to, and Restrictions Upon, Foreign Investment

The Gambian government publicly espouses a liberal, open economic environment and free-market pricing, with a firm commitment to private sector participation in all sectors of the economy.

The government recognizes the potential of the private sector as an engine of growth; however, the executive branch has taken over key industries like groundnut manufacturing and more sensitive areas like television and radio broadcasting, and defense. There is no legal distinction between the treatment of foreign and domestic investors.

The government's drive to attract foreign direct investment (FDI) received a jumpstart in 2002 when it set up The Gambia Investment Promotion and Free Zones Agency (GIPFZA), whose primary task was to establish and manage Free Economic Zones (FEZs) around Banjul International Airport. In July 2010, GIPFZA was restructured and transformed into the Gambia Investment and Export Promotion Agency (GIEPA) with an extended mandate to include export promotion and support for small and micro enterprise (SME) development. Under the GIEPA Act 2010, the former free economic zones are now called Export Processing Zones (EPZ) and the incentives that were provided under the now repealed GIPFZA laws have been enhanced to attract more investors. Other laws affecting foreign investment are the Companies Act of 1955 and the Business Registration Act of 2005.

The judicial system upholds the sanctity of contracts and there is no obvious discrimination against foreign investors. The Gambia is one of eight Sub-Saharan African countries that took advantage of a U.S. Department of State initiative in 2002 to provide sovereign credit ratings to increase transparency and attract foreign direct investment. Fitch granted The Gambia a C/CCC rating at the end of 2005 with a Stable Outlook. Fitch stopped issuing ratings for The Gambia in July 2007.

There are no economic or industrial strategies that have discriminatory effects on foreign investors neither at the time of the initial investment nor after the investment have been made.

There are no limits on foreign ownership or control of businesses except in the operations of foreign exchange bureaus, television broadcasting, and defense industries; the latter two sectors closed to all private sector participation irrespective of nationality. An embargo on the setting up of private security companies imposed in previous years has now been lifted. However, security firms are required to pay the sum of D1, 000 (\$25.64) for every new guard to receive induction training at the Police Training Academy.

There is no mandatory screening of foreign investment, but such screening may be conducted if there is suspicion of money laundering or terrorism financing.

Foreign investors are not denied national treatment (i.e. the same treatment as domestic firms) or MFN treatment (i.e. the same treatment as the most favored foreign investor) in any sector. As part of the country's privatization program, foreign investors are treated equally with local investors. In some recent privatization moves, the bidding process was not made public even though the entity decided in favor of foreign investors. The only tax that specifically applies to foreign investors is the Payroll Tax, which is paid for every expatriate employee of the company. There are no laws or regulations that limit or prohibit foreign investment, participation, or control. There is also no restriction on the repatriation of profits so long as it is done through the banking system.

Foreign investors are encouraged to participate in privatization programs, particularly as what is described as a "strategic investor" with majority shares. In such cases, some shares are

reserved for state corporations that are described as "institutional investors," some are reserved for Gambian private individuals and businesses, and a limited number of shares are reserved for the staff of the institution being privatized.

In two major privatizations in 2007, firms with Lebanese connections secured 50 per cent of the state-owned telecommunications and cellular phone companies and took over management of the state-owned electricity and water company. However, the contract with Spectrum, a little known Lebanese company that bought 50 per cent of the shares of the state-owned telecommunications company (GAMTEL) and its cellular phone subsidiary (GAMCEL), was terminated by the Government of The Gambia in November 2008. Prior to the termination, the government gave Spectrum a 72-hour ultimatum to provide an account of the state of affairs in GAMTEL. Immediately after the deadline elapsed, the government announced that the arrangement had been terminated because of "a fundamental breach of contract at the expense of the Gambian people."

Over the past five years, the bulk of major investments in The Gambia were in the power generation, financial, and IT sectors. A company with Lebanese backers has invested heavily in providing power generators and in building a large fuel storage depot. In the financial sector, 12 commercial banks, many of them Nigerian owned, have been established in the last six years, while numerous IT companies including two mobile phone operators have also set up business. The recently created GIEPA set up a 'One-Stop-Shop' that is supposed to streamline the process for investments and reduce the time it takes to establish a business. As of May 2014; however, registering a business for start-ups were still in process. Under the new registration plans, a business can pay as much as 500,000 Dalasi (\$12,500) to register.

In the past year, several delegations from Taiwan, Turkey, Nigeria, India, Qatar, Bulgaria, Romania, Poland, Indonesia, and others have visited The Gambia to explore possible investment opportunities in areas such as agriculture, tourism, and construction. In September 2011, the African Cashew Alliance held its annual conference in Banjul with a record attendance of over 300 participants including processors, traders, and investors. The Government of The Gambia subsequently identified cashew as a priority crop and GIEPA finalized a National Export Strategy. Compared to other regional neighbors, such as Senegal, niche exports like cashews have been limited due to limitations in quality control and processing capabilities.

**TABLE 1:** The following chart summarizes several well-regarded indices and rankings.

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2013	127/177	<a href="http://cpi.transparency.org/cpi2013/results/">http://cpi.transparency.org/cpi2013/results/</a>
Heritage Foundation's Economic	2013	92/177	<a href="http://www.heritage.org/index/ranking">http://www.heritage.org/index/ranking</a>

Freedom index			
World Bank's Doing Business Report "Ease of Doing Business"	2014	150 of 189	<a href="http://doingbusiness.org/rankings">http://doingbusiness.org/rankings</a>
Global Innovation Index	2013	122 of 142	<a href="http://www.globalinnovationindex.org/content.aspx?page=gii-full-report-2013#pdfopener">http://www.globalinnovationindex.org/content.aspx?page=gii-full-report-2013#pdfopener</a>
World Bank GNI per capita	2012	US\$510	<a href="http://data.worldbank.org/indicator/NY.GNP.PCAP.CD">http://data.worldbank.org/indicator/NY.GNP.PCAP.CD</a>

**TABLE 1B – MCC Scorecards:** The Millennium Challenge Corporation, a U.S. Government entity charged with delivering development grants to countries that have demonstrated a commitment to reform, produced scorecards for countries with a 2012 per capita gross national income (GNI) or \$4,085 or less. A list of countries/economies with MCC scorecards and links to those scorecards is available here:

<http://www.mcc.gov/pages/selection/scorecards>. Details on each of the MCC's indicators and a guide to reading the scorecards are available here:

<http://www.mcc.gov/documents/reports/reference-2013001142401-fy14-guide-to-the-indicators.pdf>

Measure	Year	Index or Rank	Website Address
MCC Gov't Effectiveness	2014	84%	<a href="http://www.mcc.gov/documents/scorecards/score-fy14-english-gm-gambia.pdf">http://www.mcc.gov/documents/scorecards/score-fy14-english-gm-gambia.pdf</a>
MCC Rule of Law	2014	82%	<a href="http://www.mcc.gov/documents/scorecards/score-fy14-english-gm-gambia.pdf">http://www.mcc.gov/documents/scorecards/score-fy14-english-gm-gambia.pdf</a>
MCC Control of Corruption	2014	69%	<a href="http://www.mcc.gov/documents/scorecards/score-fy14-english-gm-gambia.pdf">http://www.mcc.gov/documents/scorecards/score-fy14-english-gm-gambia.pdf</a>
MCC Fiscal Policy	2014	25%	<a href="http://www.mcc.gov/documents/scorecards/score-fy14-english-gm-gambia.pdf">http://www.mcc.gov/documents/scorecards/score-fy14-english-gm-gambia.pdf</a>

MCC Trade Policy	2014	38%	<a href="http://www.mcc.gov/documents/scorecards/score-fy14-english-gm-gambia.pdf">http://www.mcc.gov/documents/scorecards/score-fy14-english-gm-gambia.pdf</a>
MCC Regulatory Quality	2014	93%	<a href="http://www.mcc.gov/documents/scorecards/score-fy14-english-gm-gambia.pdf">http://www.mcc.gov/documents/scorecards/score-fy14-english-gm-gambia.pdf</a>
MCC Business Start Up	2014	13%	<a href="http://www.mcc.gov/documents/scorecards/score-fy14-english-gm-gambia.pdf">http://www.mcc.gov/documents/scorecards/score-fy14-english-gm-gambia.pdf</a>
MCC Land Rights Access	2014	75%	<a href="http://www.mcc.gov/documents/scorecards/score-fy14-english-gm-gambia.pdf">http://www.mcc.gov/documents/scorecards/score-fy14-english-gm-gambia.pdf</a>
MCC Natural Resource Protection	2014	32%	<a href="http://www.mcc.gov/documents/scorecards/score-fy14-english-gm-gambia.pdf">http://www.mcc.gov/documents/scorecards/score-fy14-english-gm-gambia.pdf</a>
MCC Access to Credit	2014	17%	<a href="http://www.mcc.gov/documents/scorecards/score-fy14-english-gm-gambia.pdf">http://www.mcc.gov/documents/scorecards/score-fy14-english-gm-gambia.pdf</a>
MCC Inflation	2014	68%	<a href="http://www.mcc.gov/documents/scorecards/score-fy14-english-gm-gambia.pdf">http://www.mcc.gov/documents/scorecards/score-fy14-english-gm-gambia.pdf</a>

## 2. Conversion and Transfer Policies

There are no restrictions on the conversion of funds into any freely usable currency or their transfer of investment-related funds into and out of The Gambia. There are no indications of an impending change of this policy. As a signatory to Article 8 of the International Monetary Fund, The Gambia operates a fully liberalized capital account. However, under the Money Laundering Act of 2003, the authorities may investigate any suspicious transactions.

Foreign currency becomes scarce during certain periods of the year and this, rather than any other reason, would be responsible for any delays in remitting investment returns. Delays are unlikely to exceed a few weeks. In 2003, November 2012, and July 2013, the Gambian government launched major crackdowns on illegal moneychangers who the authorities accused of speculating on the value of the local currency and consequently caused serious currency depreciation and spiked inflation. In the case of 2013, the arrest of the money changers was followed by a brief closure of all foreign exchange bureaus and then the fixation by the government of the rate of exchange between the Dalasi and the U.S. dollar, the Euro, the pound sterling and the CFA Franc. The measure was later removed following a presidential decree that all forex bureaus must apply for new licenses and abide by the regulations of the Central Bank. The government then reverted back to a floating exchange rate in line with its normal policy. There are currently 56 licensed FOREX bureaus and money transfer agencies with more than 200 branches across the country. Foreign investors are free to use the transfer agencies to both receive and remit funds.

Investors may repatriate profits and dividends through commercial banks or licensed money transfer agencies at prevailing exchange rates. Most commercial banks in The Gambia now

operate foreign currency denominated accounts (FCDs), which were introduced by the Central Bank of The Gambia in 2001 to further facilitate international trade and foreign direct investment.

The banks do not issue dollar-denominated government bonds, but can issue cash or drafts drawn on overseas banks. There is no limit on the inflow or outflow of funds for remittances of profits, debt service, capital, capital gains, returns on intellectual property, or imported inputs. However, travelers through Banjul Airport are advised not to carry cash more than \$10,000 or its equivalent value in other currencies.

### **3. Expropriation and Compensation**

The Gambian Constitution of 1997 provides the legal framework for the protection of private ownership of property and only provides for compulsory acquisition by the state if this is found to be necessary for defense, public safety, public order, public morality, public health, town and country planning. Both the Constitution and the Compulsory Acquisition Act require the state to affect adequate and prompt compensation. According to local media reports, the provision has generally been respected, although the government has ignored court injunctions and torn down private property in early 2014.

However, in April 2011, the Gambian government announced it had taken control of all Libyan assets in the country, which included a number of hotels and an amusement park in reaction to the crisis in Libya. In May of the same year, a high court judge ruled that the Gambian government can take control of the assets until a United Nations backed political force emerges from the crisis. There has been no further statement on the status of the properties even after the Transitional National Council assumed power in Libya.

In February 2008, the Gambian Government announced that it had cancelled the license it granted to an Australian mining company, Carnegie Minerals (Gambia) Ltd., in December 2005 to extract and process heavy mineral sands containing zircon, ilmenite, and rutile. The decision to cancel Carnegie's mining license came nearly a month after the government gave the company a 24-hour ultimatum to provide information about the type and quantity of minerals it had mined and the international value of tonnage already exported. The deadline was later extended for two weeks and after it elapsed, the authorities arrested the British manager of the company, Charles Northfield. He was charged with economic crimes, but the trial did not continue after Mr. Northfield jumped bail and left the country. It is not known if Carnegie Minerals has brought the matter for arbitration and there is no information that it has been compensated for the equipment it left behind in The Gambia. However, in January 2014, The Gambia's Special Criminal Court delivered judgment in the government's case against Carnegie Minerals and its Managing Director, Andrew Charles Northfield, and ordered the company to pay \$200 million. If it defaults, the company is to forfeit all the machines and other assets of the company to the state.

In January 2014, the Gambian government terminated the petroleum exploration, development and production licenses awarded to three oil companies – African Petroleum, Buried Hill, and Oranto. A statement from the Office of the President said the companies concerned had failed to meet the license obligations. The statement said the government would not allow companies to acquire licenses only to keep them for speculation.

The Gambian government does not discriminate against U.S. investments, companies or representatives. However, in June 2013, the government announced a ban on the importation of frozen poultry parts, which constituted the largest U.S. export to The Gambia, worth over \$7 million a year. The ban was lifted in November 2013, but a statement issued by the Ministry of Trade imposed a new condition that all shipments of poultry products entering the country required SGS certification that they are hormone-free.

Based on historical precedent, there are sectors that are at risk of appropriation by the government, including (but not limited to) agriculture, energy, and natural resources sectors. There are no laws that force local ownership. However, there have been instances of "creeping expropriation" or governmental action tantamount to expropriation as noted above in this report.

#### **4. Dispute Settlement**

The Gambia Investment and Export Promotion Act 2010 and the Gambian legal code provide the mechanisms and legal framework for dispute settlement, either through negotiation or arbitration. Appeals against decisions of district tribunals (or the industrial tribunal in the case of labor disputes) may be lodged with the lower courts, the High Court, and the Supreme Court, which is the highest court of appeal in the country.

The Gambian government has previously accepted court rulings on investment disputes and has been willing to discuss and honor out-of-court settlements. The last major dispute with foreign investors was with the Swiss group Alimenta over the assets of the Gambia Groundnut Corporation in 1998. This groundnut processing plant at Denton Bridge is the biggest industrial complex in the country and the hostile takeover sparked off a protracted legal battle. The government eventually settled out of court and paid Alimenta compensation of \$11.2 million.

The country's legal system is based on English common law and there is a legal framework for enforcing property and contractual rights. According to local media sources and legal experts; however, the government is known to interfere in the court system. There is no known historical precedent for the Gambian government accepting the rulings of foreign courts.

The Gambia has a written and consistently applied commercial law, which is found in the Companies Act. Monetary judgments can be made in both the investor's currency and local currency. The government accepts binding international arbitration of investment disputes between foreign investors and the state and the courts recognize and enforce foreign arbitral awards. International arbitration is accepted as a means for settling investment disputes between private parties. There are also domestic commercial courts presided over by high court judges that have the competence to arbitrate commercial and investment disputes.

The Gambia is a member of the International Center for the Settlement of Investment Disputes (ICSID) but, there is no specific legislation providing for enforcement of ICSID awards. The GOTG has not been involved in an ICSID claim to date.

There is no set duration for local investment/commercial dispute resolution proceedings. However, cases in the lower courts may be settled quicker than those in the higher or appellate courts where sittings can sometimes be far in between.

## 5. Performance Requirements and Incentives

The Gambia Investment and Export Promotion Agency (GIEPA) Act, signed into law in 2010, sets out the administrative and legal requirements for investing in The Gambia and makes provisions for business incentives, protection against compulsory acquisition, settlement of disputes and the transfer of funds. The ultimate objective is to promote The Gambia as an investment haven by:

- providing an attractive business environment and incentives for business activities in The Gambia;
- facilitate the securing of permissions, licenses, land, and incentives required to establish a business enterprise;
- attracting, promoting, and increasing the manufacture of goods and trade in goods and services;
- coordinating, promoting, and facilitating investment in The Gambia;
- advising government on investment policy and related matters;
- promoting and facilitating the development of exports in The Gambia;
- promoting and facilitating the development of micro, small and medium enterprises;

Investments must fulfill the following criteria to qualify for special investment certificates:

- investment outlay in fixed assets of at least \$250,000 (within two years) or its equivalent in Gambian dalasis or other freely convertible currencies at the time of application;
- investment activities targeted in one of the priority sectors as specified in Schedule 1 of the GIEPA Act, which include: agriculture, fisheries, tourism, forestry, manufacturing, energy, skills development, financial and offshore services, health and veterinary, river and air transportation, information technology, minerals exploration and exploitation, and communications;
- utilization of local materials, supplies and services;
- creation of employment opportunities in The Gambia;
- introduction of advanced technology or upgrading of indigenous technology;
- contribution to locally or regionally balanced socio-economic development.

The Act establishes two priority investment categories namely; a) priority sectors, which consist of the list of sectors specified in schedule 1 of the Act and b) priority areas, which consist of geographical areas specified in schedule 11, considered by Government to be in urgent need of development. Special Investment Certificate (SIC) applicants shall be granted incentives if engaged within any priority investment category as specified under the GIEPA Act. Such investments will be entitled to the following incentives:

- exemption from corporate tax, turnover tax, depreciation allowance, withholding tax on dividends for five years in the case of priority sector and for a maximum of eight years in the case of priority area;

A newly established investment enterprise that falls within a priority investment category under section 61 shall be granted import sales tax waiver in respect of the importation of:

(a) its manufacturing plant, construction materials, and spare parts for a period of five years from the date of signing of the investment agreement; and

(b) raw and intermediate inputs, for a period of five years from the date of commencement of operation; and

(c) the product listed in the third schedule to the Custom and Excise Acts.

preferential treatment for the allocation of land for the site of the proposed investment and infrastructure facilities (utilities and telephone);

The Act makes no discrimination between foreign and local investors and there are no requirements that nationals own shares or that the share of foreign equity be reduced over time.

Within the Gambia Investment and Export Promotion Agency (GIEPA) Act, there are attractive incentives for export and SMEs.

Citizens of the Economic Community of West African States (ECOWAS) and other nations with a reciprocal visa abolition agreement with The Gambia do not require a visa to enter the country; whether on holiday or on a business trip not exceeding 90 days. The same rule applied to citizens of the United Kingdom and the Commonwealth until October 2, 2013 when The Gambia withdrew from membership of the Commonwealth of Nations. Citizens of the U.S. require an entry visa with at least one blank page on their passport for the stamp as per the rules and regulations of the Immigration Act.

The Gambian Government does not maintain any measures that it has notified the WTO to be inconsistent with TRIMs or that violate the TRIMs text.

## **6. Right to Private Ownership and Establishment**

The Gambian Constitution guarantees the right of private ownership. Under the Company Act of 1955, there are no restrictions on the minimum or maximum share capital of a business venture, nor is there any compulsory requirement for equity participation by Gambian nationals in foreign-owned enterprises, except as described in Paragraph 9 in relation to privatization programs. Businesses may be wholly owned by foreigners or jointly owned with participation by local investors.

Organizational forms include:

- limited liability companies;
- unlimited companies;
- guarantee companies;

- partnerships;
- co-operatives;
- institutions established by act of the National Assembly (e.g., parastatals);
- branches of foreign businesses;
- sole proprietorship.

In those sectors where private businesses are in competition with public enterprises, there is no undue discrimination with regard to access to markets, credit, and other business facilities, such as licenses and supplies.

Private entities are free to establish, acquire and dispose of interests in business enterprises.

## **7. Protection of Property Rights**

Property rights are protected by the Constitution and secured interests in property, both movable and real, are recognized and enforced. The concept of a mortgage exists and there is a recognized and reliable system of recording such security interests. The legal system fully protects and facilitates acquisition and disposition of all property rights including land, buildings, and mortgages.

The Gambia is a signatory to both the Paris Convention for the Protection of Industrial Property and the Bern Convention for the Protection of Literary and Artistic Works. In 2003, the country enacted its own Copyright Act. This law provides adequate protection for intellectual property, patents, copyrights and trademarks. The Government has also signed and ratified both the WIPO Copyrights Treaty and WTO TRIPS agreement. However, enforcement of these regulations and treaties is sometimes inadequate due to a lack of resources and expertise. The Gambia has not yet ratified the WIPO Internet Treaties. Meanwhile, the government, through the National Centre for Arts and Culture, is in the final stages of launching a fully operational Collecting Society for The Gambia. A Board for the Society has been elected and it meets regularly and conducts training programs as it awaits government's finalization of the regulations that will govern its operation.

Resources for Rights Holders:

Local lawyers list: [http://banjul.usembassy.gov/public\\_services/legal-services.html](http://banjul.usembassy.gov/public_services/legal-services.html)

Embassy point of contact:

- Stephen C. Harris
- Political-Economic Officer
- Tel: (+220) 4392856
- E-mail: [PolEconBanjul@state.gov](mailto:PolEconBanjul@state.gov)

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at <http://www.wipo.int/directory/en/>.

## **8. Transparency of the Regulatory System**

A Fair Competition Law was enacted in 2007 and a Fair Competition Commission was established in 2009. None of the existing laws and policies relating to tax, labor, environment, health, and safety are known to impede investment. Bureaucratic procedures, including those for obtaining licenses and permits are streamlined and could be significantly reduced with the 'One-Stop-Shop' facility expected under the Gambia Investment and Export Promotion Agency (GIEPA).

Proposed laws and regulations are made available to all the relevant stakeholders for their review and discussion at validation workshops. During the process of enactment in the National Assembly, deputies are free to suggest changes.

In 2001, The Gambia established the Public Utilities Regulatory Authority (PURA), a multi-sector regulatory authority that regulates the activities of providers of certain public utilities such as energy services (electricity, petroleum and gas), communications services (telecommunications, broadcasting and postal services), water and sewerage services and transport services. PURA has been very successful in regulating service providers and ensuring transparency. PURA is responsible for providing licensing permits and acts as an advocate for the consumer.

## **9. Efficient Capital Markets and Portfolio Investment**

There are no policies in place that impede the free flow of financial resources in the product and factor markets. On the contrary, the authorities facilitate the free flow of resources to support the government's growth agenda.

Foreign investors can acquire credit on the local market at prevailing interest rates if they are able to provide the requisite collateral or guarantee. There are limited credit instruments available to the private sector because the only money market instruments available are the government treasury bills.

Portfolio investment is also very low because, among other reasons, there is no formal stock market such as a stock exchange for trading equity securities. Only one Gambian bank, Trust Bank Limited, is listed on the Ghana Stock Exchange.

The estimated total assets of the country's 12 commercial banks at the end of November 2013 were 20.74 billion dalasi (about \$531.9 million). In May 2014, the Central Bank took over Keystone and Access banks, apparently in response to the banks' failures to maintain minimum capital reserves. Problems in the sector also include high interest rates, difficulty accessing credit, and a non-performing loan rate of 20 per cent (as of late 2013).

There is limited "cross-shareholding" and no incidents of hostile takeovers.

## **10. Competition from State-Owned Enterprises**

Private enterprises are allowed to compete with public enterprises under the same terms and conditions with respect to access to markets, credit, and other business operations, such as licenses and supplies. However, public enterprises often have material advantages, and there is a general conception in the public that the president's own diversified companies (e.g., Kanilai Bakery, one subsidiary of KGI) enjoy privileges that independent private

companies do not. State-owned enterprises are active in aviation, maritime services, public transport, power generation, telecommunications, road building, and housing.

All SOEs have a Board of Directors which is appointed by their line ministry. Members of the Board usually comprise key stakeholders in the sector and some government officials who serve as ex-officio members. Management reports to the line ministry which has final responsibility to approve Board decisions.

All SOEs are required to submit their annual report and audited accounts to the National Assembly. There is no Sovereign Wealth Fund in the country.

## **11. Corporate Social Responsibility (CSR)**

Generally speaking, the notion of corporate social responsibility is not well known in The Gambia and only some state-owned enterprises and some private companies such as banks and mobile phone companies adopt CSR as a policy. In most cases, their understanding of CSR is allocating funds to support various charitable causes such as supporting schools and health projects, disaster relief, and environment enhancement. However, the banks and mobile phone companies often use such donations for publicity and marketing reasons. These firms are often viewed favorably by the Gambian public.

Both foreign and local enterprises do little in terms of adhering to the voluntary principles and standards for responsible business in areas such as employment and industrial relations, human rights, information disclosure, combating bribery, science and technology, competition, and taxation.

## **12. Political Violence**

Compared to the rest of West Africa, The Gambia has generally benefited from a stable political climate since independence in 1965. A bloody coup attempt in 1981 was put down by the Senegalese army after the former President invoked a mutual defense agreement between the two countries. The country's only successful coup d'etat occurred in July 1994 and was accompanied by minimal violence. President Jammeh took power in 1994 and was elected president in October 2001 through elections, which foreign observers (Commonwealth, EU, U.S., etc.) deemed generally free, fair, and transparent, albeit with shortcomings such as voter intimidation and the use of state resources to create an uneven playing field. As a result, the U.S. Government lifted section 508 sanctions in April 2002. In March 2006, an aborted coup attempt led to several arrests of military officers and civilians. Many of the alleged high-profile coup leaders are still in prison, including Lieutenant General Lang Tombong Tamba. In September 2006, the country held a presidential election in which the incumbent, President Yahya Jammeh, was returned to office for a further term of five years. National Assembly elections were held in January 2007 and local government elections took place in January 2008. In November 2011, President Jammeh was elected for a fourth consecutive time with 72% of the vote on turnout exceeding 83%. National Assembly elections were held in March 2012 and local government elections took place in April 2013.

There have been no incidents of politically motivated damage to projects or installations. Various political parties are active, but there is no indication that civil disturbances are likely because of this. Relations with the country's neighbors are generally peaceful. Skirmishes

along Gambia's southern border with Senegal have occurred in the past, but this violence and instability generally does not cross the border into The Gambia.

### **13. Corruption**

Corruption exists, and the government continues its efforts to combat it. On June 28, 2012, the National Assembly passed the Gambia Anti-Corruption Act aimed at fighting official corruption. The law provides for the setting up of a permanent six-member Commission mandated to investigate and prosecute all crimes of corruption committed by Gambians within and outside the country. The Commission is yet to be established.

The Criminal Code also provides a legal platform for combating corruption. For example, in May 2011, a former permanent secretary at the Ministry of Agriculture was convicted on charges of "stealing by a person in public service" for fraudulently overpaying his travel per diem entitlement. He was fined 100,000 dalasi (\$3,300). In July 2011, a former Inspector general of Police was sentenced to life in prison after being convicted on numerous charges including corruption. In December 2013 and January 2014, a former Minister of Justice and a former President of the Gambia Court of Appeal, were each sentenced to two years in prison for soliciting a bribe, an audio recording of which was later uploaded on to YouTube.

U.S. firms have not identified corruption as a serious obstacle to foreign direct investment in The Gambia. Traffic police and other junior police and immigration officers are often accused of corruption and solicitation of bribes. Accepting a bribe, irrespective of source, is a criminal act and the penalties are fines and imprisonment depending on the magnitude of the amount. Senior government officials take anticorruption efforts seriously, even though some of them have been investigated for corruption.

The police, the National Intelligence Agency and the Ministry of Justice are responsible for combating corruption.

Transparency International has a local representative in the country, and The Gambia was ranked 127 out of 174 countries in the 2013 Corruption Perceptions Index. The Gambia has signed and ratified the African Union Convention on Preventing and Combating Corruption and Related Offences, but has ratified neither the UN Convention Against Corruption nor the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

Local companies do not have internal codes or effective controls to detect and prevent bribery.

### **14. Bilateral Investment Agreements**

The Gambia has bilateral investment agreements with Mauritania, Morocco, the Netherlands, Switzerland, and the United Kingdom; however, only the agreement with Switzerland has come into force.

The Gambia does not have a bilateral investment treaty or a bilateral taxation treaty with the U.S.

### **15. OPIC and other investment insurance programs**

The Gambia is a member of the Multilateral Investment Guarantee Agency (MIGA). The Overseas Private Investment Corporation (OPIC) was not opened for business in The Gambia until the lifting of restrictions on bilateral assistance in April 2002. In 2003, OPIC conducted a study of The Gambia and listed it as having significant potential for investment.

The Gambian currency, the Dalasi, significantly depreciated in 2012 and 2013, and prompted the Central Bank to fix the exchange rate for a short period of time. From December 2012 to December 2013, the Dalasi depreciated by nearly 15 percent, which affected real purchasing power and hampered regional trade. The current exchange rate used by the Embassy is 39 dalasi to the dollar and could depreciate further in 2014 with the end of the tourist season and extra budgetary spending by the GOTG. Although the government has chosen to temporarily fix the exchange rate in the past, the Central Bank maintains a free floating exchange rate the majority of the time.

The country's leadership has publicly expressed interest in adopting the proposed common currency of the five-nation West African Monetary Zone (WAMZ), the ECO, which it plans to launch in the near future despite several postponements.

## **16. Labor**

The Gambia's total economically active population is estimated at 400,000. About 75 percent are engaged in agriculture; 18 percent in industry, commerce, and services; and 7 percent in government. The Gambia suffers from high unemployment and underemployment, compounded by a shortage of skilled workers and trained professionals. Many of the skilled workers in the construction and mechanical industries are foreigners from neighboring countries. These workers are required by law to pay an annual registration fee of about \$54 and a work permit fee of about \$11. Companies employing non-Gambians are required not to exceed 20 percent of their staff. They are also required to pay an annual expatriate quota (or payroll tax) fee of 10,000 Dalasis (\$256.40) for ECOWAS citizens and 40,000 Dalasis (\$1,025.64) for all other foreigners.

The Labor Act of 1990, the 2007 amendments to the Act, and its regulations, provide the legal framework for labor relations in The Gambia. The Ministry of Trade, Regional Integration and Employment enforces the Act. It covers most conditions of employment, including dismissals, recruitment and hiring, registration and training, protection of wages, registration of trade unions and employees' organizations, and industrial relations in general. The Act also contains procedures for the settlement of disputes, including an industrial tribunal. Minimum wages and working hours are established through six joint industrial councils: commerce, artisans, transport, port operations, agriculture, and fisheries. Private-sector employees receive between 14 and 30 days of paid annual leave, depending on length of service.

Labor and trade unions exist, but are not very active. Most workers are not unionized. The most active unions are for dock workers and workers in the transport sector. The Gambia Workers Confederation, formed in 1985, coordinates union activities. The confederation is a member of the International Labor Organization (ILO). The confederation is not political but is increasingly active in negotiations on pay and employment conditions.

The Children's Act of 2005 raised the minimum labor age from 14 to 16 and holds corporate entities accountable for exploitative labor practices involving children on their premises with

executive officers of these entities subject to fines and criminal liability for violations of the Act.

A regulation that set up the Expatriate Quota Board is intended to encourage businesses to hire qualified Gambian staff. If a company chooses to hire an expatriate for a job that can be done by a Gambian, they are required to pay the equivalent of \$345 in tax annually. An amendment to the Payroll Tax Act approved by the National Assembly in April 2008 set the limit of non-Gambians that businesses can employ to 20 per cent, except in the case of specialized professionals.

## **17. Foreign Trade Zones/Free Ports**

The aim of the Export Processing Zones (EPZ) is to provide a conducive business environment for export oriented investment enterprises through the provision of additional incentives, simplifying the import-export procedures and facilitating the acquisition of land, permits and licenses. The Act provides for export processing zones to be established in separate selected areas to which special customs territory status shall be conferred. The Act also provides for the establishment of single factory EPZs for which GIEPA will be the regulator.

The GIEPA largely maintains the objectives of the former Gambia Gateway Project which were to transform The Gambia into a major gateway to the West African coast through significant improvements of its port and airport, and through onshore facilities to support export-related manufacturing. This objective has remain unfilled due to the harmonization of tariffs in the region and rapid improvements at the Port of Dakar, which is hampering the re-export trade that The Gambia previously enjoyed. The GIEPA is also tasked with focusing on exports and small and micro enterprise development. An area measuring 164 hectares at Banjul International Airport has been designated an Export Processing Zone (EPZ) and the first phase of this \$6 million project was completed in December 2005. An area of almost 9 hectares has been fully developed with factory space, access roads and electricity. The July 22 Business Park, as it is called, is designated as a mixed-use EPZ to allow both free zone and non-free zone activity. It is currently occupied by a garment, diaper and tissue manufacturing company. There are also some bonded warehouses at the Banjul port which have not yet been designated as EPZs.

An investor operating within an export processing zone that exports at least eighty percent of its output is exempted from the payment of:

- (a) import or excise duty and sales tax on goods produced within or imported into an export processing zone unless the goods are entered for consumption into the customs territory;
- (b) import duty on capital equipment;
- (c) corporate or turnover tax;
- (d) withholding tax on dividends;
- (e) municipal tax;

An investment enterprise located outside an export processing zone that exports at least thirty percent of its output is entitled to the following incentives;

- (a) a ten percent corporate or turnover tax concession for five years;
- (b) financial planning services and advice;
- (c) participation in training courses, symposia, seminars and workshops on export promotion;
- (d) export market research;
- (e) advertisement and publicity campaigns in foreign markets;
- (f) product design and consultancy.

Incentives for investors in the EPZ are valid for maximum period of ten years.

Foreign-owned firms have the same investment opportunities as local companies. However, an American investor locally registered as Zain Group Limited, who approached GIPFZA for agricultural land during the period of its transition to the new agency (GIEPA), had to wait six months before the land was finally allocated. When the company's workers moved in to survey the 25 hectares of land near the village of Siffoe, some villagers asked them to leave saying it was their traditional land. Zain Group has now been offered an alternative site to grow vegetables for export but work has not yet started.

## **18. Foreign Direct Investment and Portfolio Investment Statistics**

Foreign investment is present and visible in some sectors of the economy. Almost all the commercial banks operating in The Gambia have majority foreign ownership. Out of the 12 commercial banks in operation at the beginning of 2014, seven are Nigerian-owned, two are regional, one is British and one is Malaysian and only one has majority Gambian shares. The telecommunications industry has also considerable Lebanese presence with two of the four cellular phone companies owned by Lebanese interests. The national electricity and water company, NAWEC, is also managed by a company with Lebanese interests, Global Electrical Group (GEG). The same group has also invested millions of dollars to build a large fuel storage depot which holds the country's supplies. The tourism sector is dominated by Scandinavian, British, French, Spanish, Italian, German, Dutch, and Lebanese investments. A Kuwaiti firm, M.A. Kharafi & Sons, also has significant investments in the tourism sector having bought the Kairaba Beach Hotel and built the country's first Sheraton branded hotel and conference center.

The trading sector has a heavy presence of Lebanese, Indian, Mauritanian, Senegalese, and Nigerian businesses. Kuwaiti-owned M.A. Kharafi has invested heavily in agriculture and has also secured contracts for extending the runway and refurbishing the terminal building at Banjul International Airport as well as upgrading most of The Gambia's trunk roads network.

Only a small number of U.S. firms have invested in The Gambia. One of them is Seaboard Corporation which has invested in a \$17 million flour mill commissioned in Banjul in July 2013. A number of U.S. citizens have set up small businesses in The Gambia and several U.S. brand companies such as Western Union, MoneyGram, UPS, Sheraton, Motorola and Coca Cola are represented here.

Since the establishment of the defunct GIPFZA in 2002, 145 projects have been awarded the Special Investment Certificate (SIC) or the Export Promotion Zone License (EPZL) by the

agency. Of these, several were fully established and 54 remained operational as at end December 2013. These companies are now handled by GIEPA and they operate in various sectors such as agriculture, fisheries, manufacturing, ICT, tourism and services. They have created more than 5,039 direct jobs. By the end of 2013, total actual investment of all projects registered with agency is estimated at about \$240.43 million.

**TABLE 2: Key Macroeconomic data, U.S. FDI in host country/economy**

	Host Country Statistical source*		USG or international statistical source		USG or international Source of data  (Source of Data: BEA; IMF; Eurostat; UNCTAD, Other)
<b>Economic Data</b>	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) (Millions U.S. Dollars)	Insert (Year)	Amount	2012	\$907	<a href="http://data.worldbank.org/country/gambia">http://data.worldbank.org/country/gambia</a>
<b>Foreign Direct Investment</b>	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country (Millions U.S. Dollars, stock positions)	Insert (Year)	Amount	Insert (Year)  Not available	Amount [Not shown]  Not available	( <u>BEA</u> ) click selections to reach.  Bureau of Economic Analysis  Balance of Payments and Direct Investment Position Data  U.S. Direct Investment Position Abroad on a Historical-Cost Basis  By Country only (all countries) (Millions of Dollars)
Host country's FDI in the	Insert (Year)	Amount	Insert (Year)	Amount	( <u>BEA</u> ) click selections to reach

United States (Millions U.S. Dollars, stock positions)			Not available	[Not shown]  Not available	Balance of Payments and Direct Investment Position Data  Foreign Direct Investment Position in the United States on a Historical-Cost Basis  By Country only (all countries) (Millions of Dollars)
Total inbound stock of FDI as % host GDP ( <i>calculate</i> )	Insert (Year)	Amount	Insert (Year)  Not available	Amount  Not available	

LIST OF OPERATIONAL PROJECTS WITH INVESTMENTS OF \$100, 000 AND ABOVE

REGISTERED WITH THE FORMER GIPFZA AND THE NEW GIEPA

(as of end December 2013)

Name of Company	Country of Origin	Sector
Sheraton Resort & Spa	USA [1]	Tourism
West African Aquaculture	Sweden	Fisheries
International Commercial Bank	Malaysia	Financial Services
Africell	Lebanon	IT/ Mobile Communications
Jerma Company Ltd.	Libya	Tourism
Gam-Petroleum Storage Facility	Lebanon/Gambia	Services
Gamwater Company Ltd	Gambia	Manufacturing
TAF Holding Company	Gambia	Housing
Access Bank (Gambia) Ltd	Nigeria	Financial Services
Atlantic Seafood Company	Netherlands	Fisheries

Walo Development Enterprises	Gambia/UK	Agriculture
Comfort Quality Services	Gambia	Manufacturing
Kafuta Fresh Produce (Kharafi FZ)	Kuwait	Agriculture
Golden Beach Hotel	Gambia	Tourism
Fine Water Company Limited	Gambia	Manufacturing
Cosmos Industrial Company Ltd	China	Manufacturing
African Safari Company	Libya	Tourism
West African Pearl	China/Gambia	Manufacturing
Salam Company Limited	Gambia	Manufacturing
Swami India International Ltd	India Sand Mining	India Sand Mining
Global Electrical Group Ltd.	Lebanon/Gambia	Energy
Reliance Financial Services	Gambia	Financial Services
Lemon Creek Hotel	Denmark	Tourism
Comium	Lebanon	Mobile Communications
Unique Solutions	Gambia	IT
Radville Farms Ltd.	UK	Agriculture
Hydara Foam Manufacturing Co.	Gambia	Manufacturing
Kombo Farms Company Ltd.	Gambia	Agriculture
EcoBank	ECOWAS	Financial Services
Sandele Eco-Retreat	UK	Tourism
AHS Holding Ltd.	China	Manufacturing
A & A Industries Ltd.	Pakistan	Fisheries

Takaful Gambia Ltd.	Gambia	Services
QCell	Gambia	IT
Empass Poultry processing Limited	Gambia/Netherlands	Manufacturing
Elton Depot	Senegal	Air Cargo and Fuel Depot
Greentec Company Limited	Gambia/Netherlands	Manufacturing
NetPage Co. Ltd	Gambia	IT
Tunkara Pak Manufacturing	Pakistan/Gambia	Manufacturing
Teefarms	Nigeria	Agriculture
Gambia Bird Airlines	Germany	Transportation
Jah Multi-Industrial Co. Ltd	Gambia	Manufacturing
AGIB Enterprises	Nigeria/S. Arabia/Gambia	Manufacturing
Afro Nut Company Ltd	Slovenia/Gambia	Manufacturing
New Nut Company Ltd	South Africa/Gambia	Manufacturing
Reliance Oil Mills	India	Manufacturing
Sunswing Beach Resort	Holland/Gambia	Tourism
rlg Communication Co Ltd	Ghana/Gambia	Manufacturing
Salam Co Ltd	Gambia	Manufacturing
Gambia Milling Corporation	Lebanon	Manufacturing
Senegambia Beach Hotel	Gambia/ England/Italy	Tourism
Leo's Hotel	Austria/Gambia	Tourism
Sunshine Industry Limited	India/Gambia	Manufacturing
Redsea International Fishing Co	Chinese/S. Leone	Fisheries



## Section 5 - Government

### Chiefs of State and Cabinet Members:

For the current list of Chief of State and Cabinet Members, please access the following - [Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments](#)

### Legal system:

mixed legal system of English common law, Islamic law, and customary law

### International organization participation:

ACP, AfDB, AU, C, ECOWAS, FAO, G-77, IBRD, ICAO, ICRM, IDA, IDB, IFAD, IFC, IFRC, ILO, IMF, IMO, Interpol, IOC, IOM, IPU, ISO (correspondent), ITSO, ITU, ITUC (NGOs), MIGA, NAM, OIC, OPCW, UN, UNAMID, UNCTAD, UNESCO, UNIDO, UNMIL, UNOCI, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO

## Section 6 - Tax

### Exchange control

There are no exchange controls in effect.

### Treaty and non-treaty withholding tax rates

For further information - <http://www.gambia.gm/>-

## Methodology and Sources

### Section 1 - General Background Report and Map

(Source: [CIA World Factbook](#))

### Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
<a href="#">FATF List of Countries identified with strategic AML deficiencies</a>	Not Listed	AML Deficient but Committed	High Risk
<a href="#">Compliance with FATF 40 + 9 recommendations</a>	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
<a href="#">US Dept of State Money Laundering assessment (INCSR)</a>	Monitored	Concern	Primary Concern
<a href="#">INCSR - Weakness in Government Legislation</a>	<2	2-4	5-20
<a href="#">US Sec of State supporter of / Safe Haven for International Terrorism</a>	No	Safe Haven for Terrorism	State Supporter of Terrorism
<a href="#">EU White list equivalent jurisdictions</a>	Yes		No
<a href="#">International Sanctions UN Sanctions / US Sanctions / EU Sanctions</a>	None	Arab League / Other	UN , EU or US
<a href="#">Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network</a>	>69%	35 – 69%	<35%
<a href="#">World government Indicators (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Failed States Index (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Offshore Finance Centre</a>	No		Yes

### **Section 3 - Economy**

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: [CIA World Factbook](#))

### **Section 4 - Foreign Investment**

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: [US State Department](#))

### **Section 5 - Government**

Names of Government Ministers and general information on political matters.

(Source: [CIA World Factbook](#) / <https://www.cia.gov/library/publications/world-leaders-1/index.html>)

### **Section 6 - Tax**

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: [OECD Global Forum on Transparency and Exchange of Information for Tax Purposes](#) [PKF International](#))

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