

# Ghana

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RISK & COMPLIANCE REPORT

DATE: March 2017

<b>Executive Summary - Ghana</b>	
<b>Sanctions:</b>	None
<b>FAFT list of AML Deficient Countries</b>	No
<b>Higher Risk Areas:</b>	US Dept of State Money Laundering Assessment Compliance with FATF 40 + 9 Recommendations Not on EU White list equivalent jurisdictions Offshore Finance Centre
<b>Medium Risk Areas:</b>	Weakness in Government Legislation to combat Money Laundering Corruption Index (Transparency International & W.G.I.) World Governance Indicators (Average Score) Failed States Index (Political Issues)(Average Score)
<p><b>Major Investment Areas:</b></p> <p><b>Agriculture - products:</b> cocoa, rice, cassava (manioc), peanuts, corn, shea nuts, bananas; timber</p> <p><b>Industries:</b> mining, lumbering, light manufacturing, aluminum smelting, food processing, cement, small commercial ship building</p> <p><b>Exports - commodities:</b> oil, gold, cocoa, timber, tuna, bauxite, aluminum, manganese ore, diamonds, horticultural products</p> <p><b>Exports - partners:</b> France 13.3%, Italy 12.1%, Netherlands 8.7%, China 7.2%, Germany 4.2% (2012)</p> <p><b>Imports - commodities:</b> capital equipment, petroleum, foodstuffs</p>	

**Imports - partners:**

China 25.8%, Nigeria 10.9%, US 7%, Netherlands 6.3%, Singapore 4.5%, UK 4.1%, India 4% (2012)

**Investment Restrictions:**

The Government of Ghana recognizes that attracting foreign direct investment requires an enabling legal environment. The Government passed laws to encourage foreign investment and replaced regulations perceived as unfriendly to investors. The Ghana Investment Promotion Centre (GIPC) Act, 1994 (Act 478), governs investment in all sectors of the economy except minerals and mining, oil and gas, and the Free Zones. Sector-specific laws further regulate banking, non-banking financial institutions, insurance, fishing, securities, telecommunications, energy, mining, and real estate. Foreign investors are required to satisfy the provisions of the investment act as well as the provisions of sector-specific laws.

The GIPC law specifies areas of investment reserved for Ghanaians, which include small-scale trading, operation of taxi and rental services (except when a non-Ghanaian operator has a fleet of at least 10 vehicles), pool-betting businesses and lotteries (except soccer pools), and the operation of beauty salons and barber shops.

There are sectors where foreign investors as a whole are denied national treatment: banking, fishing, mining, petroleum, and real estate. Regarding real estate, the 1992 Constitution recognized existing private and traditional titles to land; however, freehold acquisition of land is no longer permitted.

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## Section 1 - Background

Formed from the merger of the British colony of the Gold Coast and the Togoland trust territory, Ghana in 1957 became the first sub-Saharan country in colonial Africa to gain its independence. Ghana endured a long series of coups before Lt. Jerry RAWLINGS took power in 1981 and banned political parties. After approving a new constitution and restoring multiparty politics in 1992, RAWLINGS won presidential elections in 1992 and 1996 but was constitutionally prevented from running for a third term in 2000. John KUFUOR succeeded him and was reelected in 2004. John Atta MILLS took over as head of state in early 2009, but he died in July 2012 and was succeeded by his vice president John Dramani MAHAMA, who subsequently won a December 2012 special presidential election.



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

### FATF status

Ghana is no longer on the FATF List of Countries that have been identified as having strategic AML deficiencies

### Latest FATF Statement - 22 February 2013

The FATF welcomes Ghana's significant progress in improving its AML/CFT regime and notes that Ghana has established the legal and regulatory framework to meet its commitments in its Action Plan regarding the strategic deficiencies that the FATF had identified in October 2010. Ghana is therefore no longer subject to FATF's monitoring process under its on-going global AML/CFT compliance process. Ghana will work with the GIABA as it continues to address the full range of AML/CFT issues identified in its Mutual Evaluation Report.

### Compliance with FATF Recommendations

The initial Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Ghana was undertaken by the Financial Action Task Force (FATF) in 2009. According to that Evaluation, Ghana was deemed Compliant for 1 and Largely Compliant for 4 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for all 6 of the Core Recommendations.

### Fifth follow-up report of Ghana

In 2013, Ghana continued to address the broader range of deficiencies identified in its AML/CFT system, as contained in its MER, and made progress in implementing the laws and measures it has passed to combat ML/TF. Specifically, Ghana issued an Executive Instrument 2 (2013) which sets out instructions for implementing UNSCRs 1267, 1373, 1718, 1737, successor resolutions and other relevant resolutions. This instrument substantially complies with international standards. Also, the Anti- Money Laundering (Amendment) and the Anti-Terrorism (Amendment) Bills were still before Parliament by end of 2013. The amendments to the two pieces of legislation are intended to strengthen the country's AML/CFT regime and facilitate admission of Ghana FIC to the Egmont Group of FIUs. Ghana also prepared the Companies (Amendment) Bill, which requires companies to maintain adequate information on the beneficial ownership and control of legal persons that can be accessed in a timely manner. The Bank of Ghana organized training on the requirements of record-keeping for

non-bank financial institutions (NBFIs), foreign exchange agencies and Mobile Money Transfers (MVTs) in July 2013 and conducted on-site examinations of 10 savings and loans companies and 25 MVT agencies. Financial institutions in Ghana began submitting the proposed AML/CFT compliance and training guidelines to the FIC for the purpose of assessing their adequacy.

As part of its ongoing monitoring of AML/CFT compliance, the Ghana FIC reviewed AML/CFT compliance reports submitted by banks and NBFIs. It recruited additional staff and conducted training for its staff members. Ghana provided additional information on other measures it had taken to improve its AML/CFT system, including the establishment of a taskforce to strengthen the capacity of prosecutors and members of the judiciary and the commencement of a public outreach aimed at combating cyber crimes.

To sustain the momentum in the implementation of its AML/CFT measures, Ghana is enjoined to expedite actions towards the passage of two outstanding Bills:

the Extradition Bill and the Real Estate and Anti-Terrorism (Amendment) Bill. In addition, Ghana should strengthen its supervisory regime for the insurance, non-profit and security sectors.

Ghana was commended on the significant progress it has made towards improving its AML/CFT regime. It is worth noting that its efforts in addressing the deficiencies identified in its MER resulted in the country's removal from the FATF/ICRG Review process. Ghana was maintained on Expedited Regular Follow-up and directed to submit its sixth follow-up report to the Plenary in November 2014.

## Giaba Annual Report 2013

### Prevalence of Predicate Crimes

The rapid growth of the Ghanaian economy without adequate safeguards is a natural attraction for criminals. The US Department of State's INCSR (2013, vol. II) listed narco-trafficking, various forms of fraud and public sector corruption as the main predicate crimes for money laundering in the country. According to the report, public sector corruption operates mainly through the channels of public procurements and awarding of licences. Emerging crimes also listed are advance fee fraud (known locally as sakawa), credit card identity fraud and ATM account numbers, and cheque cloning.

Ghana reported its most prevalent predicate crimes to include: drug trafficking, corruption, tax fraud, smuggling of precious stones and metals, other investments, bank fraud, forgery, capital market crimes and cyber crime. The large informal proportion of the Ghanaian economy permits the thriving of these crimes because detection and tracking of dubious transactions is extremely difficult in such an environment.

Significant drug seizures were reported in the year. These included the seizure of 442,029.3933G of cocaine aboard a Guyanese Vessel MV ATIYAH ES-LISAM VESSEL worth over 50 million US dollars, on November 19, 2013. Furthermore, the UNODC recently reported that Ghana has become one of the sources of methamphetamine from West Africa. Most revealing, in May 2013, Managing Director of a private security company operating at the Landside car parks of Ghana's international airport was arrested with two Nigerians and a Colombian for conspiring to smuggle Afghan heroine to New York. The case is currently being prosecuted in the USA.

Trafficking in persons (including migrant smuggling) is also a prevalent crime in Ghana. It is designated as a country of origin, transit and destination for men, women and children subjected to forced labour and sex trafficking. Ghanaian ladies are recruited by fraudulent agencies and exported to countries in West Africa, Europe, the USA and the Middle East for forced labour and sexual exploitation or forced prostitution. Trafficking of young persons within the country is, however, more prevalent than transnational trafficking.

According to the INCSR, the proceeds of these crimes are laundered through investments in banking, insurance, real estate, automotive and general import businesses, and donations to religious institutions. The sale of cars stolen from abroad (mostly from the USA), and trade-based money laundering are sometimes used to repatriate 'profit' or to evade customs duties and other taxes. The emergence of the oil and gas sector, with its enclave nature of transactions, is also likely to increase Ghana's vulnerability to ML/TF. Accordingly, pursuant to section 21(2) of the Anti- Money Laundering Act, 2008 (Act 749), the Minister by L.I. 1987 expanded the scope of reporting entities of Suspicious Transaction Reports to include operators in the Oil/Gas, Mining, Freight Forwarding and Timber sectors.

### **AML/CFT Situation**

Ghana has continued to make significant progress in improving its AML/CFT regime since 2012 when it was placed under the FATF International Review process because of the high risks associated with the country's non-compliance with the key and core recommendations of the FATF Standards. A Public Statement was also issued on Ghana by the FATF in early 2012.

Ghana's fifth follow-up report to the GIABA Plenary in November 2013 showed that the country had made significant progress in addressing the deficiencies identified in its mutual evaluation, with considerable support from GIABA. This progress resulted in the country's exit from the FATF International Review process earlier in the year.

The specific actions undertaken by Ghana are discussed in Chapter Three of this report. To reinforce the momentum of progress recorded in the year, the Ghana Financial Intelligence Centre (FIC) signed an MoU with the FIUs of Burkina Faso, Cabo Verde and Guinea Bissau in 2013.

### **Conclusion**

Ghana's enduring political stability, exemplary democratic consolidation and rapid economic growth are an advantage that is expected to help the country evolve a robust AML/CFT regime. The progress the country has made in the last eighteen months as a result of regional and international pressure and mentoring shows that Ghana has the capacity to attain compliance with acceptable international AML/CFT standards. What is required to mobilize this capacity efficiently and effectively is political commitment at the highest level of decision-making.

Ghana should ensure that the current momentum is sustained and that the greatest political will is galvanized towards addressing the remaining deficiencies in the country's AML/CFT regimes. It should become clear to national authorities that its emergence as a petro-dollar economy comes with high risks. Sound governance practices, therefore, need to be put in place as the finance sector expands.

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

**Ghana is categorised by the US State Department as a Country/Jurisdiction of Primary Concern in respect of Money Laundering and Financial Crimes.**

### OVERVIEW

Ghana is gradually realizing both the risk money laundering injects into the country's economic growth and its increasing role in the global fight against ML. With donor assistance, Ghana recently produced a money laundering national risk assessment to better understand and mitigate the country's risks in this area. The report found that Ghana's AML laws are largely compliant with international standards, although these laws are not often applied.

The perception of money laundered in Ghana is that it is linked to proceeds of narcotics trafficking, fraud, and public corruption. The most prevalent forms of financial crime in Ghana are still romance scams, advance-fee-fraud, or other similar schemes. Major vulnerabilities in Ghana's AML regime are a lack of enforcement actions and of effective customer due diligence or KYC identification adherence by most DNFBPs. To address these and other money laundering issues, the government of Ghana should allocate adequate funding to support the fight against money laundering, effectively implement relevant asset forfeiture laws and regulations, and sanction banks and other institutions that do not file STRs and currency transactions reports as required by Ghanaian law.

### VULNERABILITIES AND EXPECTED TYPOLOGIES

DNFBPs are most vulnerable to money laundering. These sectors include real estate

agencies, casinos, dealers in precious metals, accountants, lawyers, notaries, car dealers, NPOs, trust and company service providers, and remittance companies. These sectors account for about 30 percent of the country's gross domestic product and employ about 25 percent of the population, yet none of these institutions or their representatives have ever filed a STR. Ghana is a cash- dominant economy. As such, bulk cash smuggling is the most likely money laundering scheme attractive to launderers. No banks in Ghana provide offshore banking services. Ghana has designated four FTZ areas, but only one, the Tema Export Processing Zone, is active.

The Ghanaian criminal justice system specifically outlawed financial crime with the 2008 Anti- Money Laundering Act. Most investigators and prosecutors lack specific training in this area, and those who do undertake money laundering investigations are typically only trained in general crime investigation. Financial crime cases are prosecuted by state attorneys from the Attorney General's Office and by police prosecutors, who are not attorneys. While several state attorneys have received general training in financial crime prosecution, only a few have specialized AML training. There are no certified financial crime investigators trained in asset forfeiture in Ghana.

## **KEY AML LAWS AND REGULATIONS**

Ghana's principal AML legislation is the Anti-Money Laundering Act, 2008 (Act 749), as amended by the Anti-Money Laundering (Amendment) Act, 2014 (Act 874). It defines the act of money laundering to include the conversion, concealment, disguise, or transfer of property which is or forms part of the proceeds of crime; the concealment and disguise of the unlawful origin of the property; and the acquisition, use, or possession of the property. After parliament passed this act, another 12 acts and two executive instruments were passed or amended to strengthen Ghana's AML regime. No additional legal changes are pending.

Ghana has comprehensive KYC and STR regulations. In 2016, parliament amended Ghana's Companies Act, 1963 (Act 179) to establish a beneficial ownership register in the country.

Ghana and the United States do not have a MLAT, but records can be exchanged through other mechanisms such as the Egmont Group or as parties to the UNCAC and UNTOC. Moreover, mutual legal assistance can be provided on a reciprocal basis through letters of request.

Ghana is a member of the GIABA, a FATF-style regional body.

## **AML DEFICIENCIES**

There are requirements on banks and insurance companies to identify high-risk clients such as PEPs, but there is a lack of effective identification and monitoring of PEPs and their associates. For example, recent onsite inspections of capital market operators showed that many of these organizations were unable to produce their PEP lists. Other deficiencies are

mentioned in the previous sections of this report. Ghana's AML regime covers legal persons. Ghana is not subject to any U.S. or international sanctions/penalties.

## **ENFORCEMENT/IMPLEMENTATION ISSUES AND COMMENTS**

Ghana did not report any specific steps to implement the UN Drug Convention; however, Ghana is implementing the FATF Recommendations via its membership in GIABA. Post was not aware of any refusals to cooperate with U.S. or other governments on ML issues. Other enforcement issues are addressed previously in this report. Ghana recorded two money laundering convictions in 2016; five in 2015; and two in 2014.

### **Current Weaknesses in Government Legislation (2014 INCRS Comparative Tables):**

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

**Record Large Transactions** - By law or regulation, banks are required to maintain records of large transactions in currency or other monetary instruments.

**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.

**Ability to freeze assets without delay** - The government has an independent national system and mechanism for freezing terrorist assets in a timely manner (including but not limited to bank accounts, other financial assets, airplanes, autos, residences, and/or other property belonging to terrorists or terrorist organizations)

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

Ghana 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**

Ghana is considered to be an Offshore Financial Centre

### US State Dept Narcotics Report 2017:

Ghana continues to be a transit point for illegal drugs, particularly South American cocaine and Southwest Asian heroin bound for European and North American markets. Marijuana is the main illicit drug used within Ghana and is trafficked within and from the country with increasing regularity, primarily to Spain. On August 22, more than two metric tons of cannabis were seized by the Customs Division of the Ghana Revenue Authority at Kpedze, near Ho in the Volta Region. Although there are no current statistics on cannabis cultivation within Ghana, some local law enforcement officials believe that cultivation increased in 2016.

Precursor chemicals obtained primarily from sources in Asia continue to be smuggled through Ghana's porous ports of entry for suspected use in clandestine labs to produce methamphetamine and psychotropic substances. According to Ghana's Narcotics Control Board (NACOB), the volume of drugs (cocaine, cannabis, heroin, and methamphetamine) seized within the first six months of 2016 declined markedly from the same period in 2015. NACOB reported that drug couriers are increasingly moving drugs from West Africa to the Gulf Region for further transshipment to Europe.

Ghana maintained a high degree of cooperation with the United States on counter-narcotics issues in 2016. The United States and Ghana continued successful law enforcement cooperation under the U.S. Drug Enforcement Administration's Sensitive Investigative Unit program, which uses special vetted personnel to pursue high-value cases. Supported by \$1 million in U.S. funding, the United Nations Office on Drugs and Crime also launched a new program in 2016 to provide basic equipment and training needed to establish police drug law enforcement units in four of Ghana's regions where these units do not currently exist. The United States increased funding during the year to further professionalize all substance use treatment staff in the country through the dissemination of U.S.-developed treatment curriculum and international credentialing, in partnership with the Colombo Plan. The United States also continued to support the Philip Foundation, a local non-governmental organization committed to reducing demand for illegal drugs. Through the West Africa Regional Training Center, the United States trained 780 mid-level Ghanaian criminal justice sector officials in 2016 on a range of skills from fundamental investigate criminal analysis to advanced narcotics investigations. In 2016, the United States provided training to the Ghanaian Navy on maritime vessel maintenance to support its drug interdiction efforts.

Ghana and the United States are both party to the 1931 extradition treaty with the United Kingdom, which has continued in force. There is no mutual legal assistance treaty between the two countries, although mutual legal assistance can be provided on a reciprocal basis through letters of request.

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

Ghana is classified a Tier 2 country - A country whose government does not fully comply with the Trafficking Victims Protection Act's minimum standards, but is making significant efforts to bring themselves into compliance with those standards.

Ghana is a source, transit, and destination country for men, women, and children subjected to forced labor and sex trafficking. The trafficking of Ghanaians, particularly children, within the country is more prevalent than the transnational trafficking of foreign migrants. Ghanaian boys and girls are subjected to forced labor within the country in fishing, domestic service, street hawking, begging, portering, artisanal gold mining, and agriculture. Ghanaian girls, and to a lesser extent boys, are subjected to prostitution within Ghana. Child prostitution is prevalent in the Volta Region and is growing in the oil-producing Western regions. Ghanaian women and children are recruited and transported primarily to Nigeria, Cote d'Ivoire, Burkina Faso, The Gambia, South Africa, Israel, Syria, Lebanon, the United Arab Emirates, Saudi Arabia, Kuwait, Russia, France, the United Kingdom, Germany, and the United States for forced labor and forced prostitution. Women and girls voluntarily migrating from primarily Vietnam, China, Nigeria, Cote d'Ivoire, Burkina Faso, and Benin are subjected to commercial sexual exploitation after arriving in Ghana. Citizens from other West African countries are subjected to forced labor in Ghana in agriculture or domestic service. During the reporting period, there was an emergence of fraudulent recruitment agencies that advertised locally for jobs abroad, generally in the domestic service and retail sectors; as a result, an increased number of Ghanaian women began migrating to the Middle East, with some subjected to forced labor or forced prostitution upon their arrival. Ghanaian men were recruited under similar pretenses to the same region and subjected to forced labor in the domestic worker sector and forced prostitution. Ghana is increasingly used as a transit point for West Africans who are subjected to sex trafficking in Europe, especially Italy and Germany.

The Government of Ghana does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. During the reporting period, in spite of not receiving an operating budget, the highly motivated Anti-Human Trafficking Unit (AHTU) of the Ghana Police Service (GPS) achieved more investigations, prosecutions, and convictions related to trafficking offenses compared to the previous year and conducted anti-trafficking training for 30 police officers. However, the government did not allocate any funding to the AHTU, forcing the unit to rely on foreign donors and NGOs to undertake its law enforcement efforts. Additionally, for a third year in a row, the government did not provide anti-trafficking training to prosecutors, despite repeated acknowledgments that such training was desperately needed. The government did not provide any funding to its two shelters, which remained in serious and dangerous conditions and unable to provide even basic services and security to residents. It also failed to provide any funding to carry out any anti-trafficking prevention activities, resulting in the dissolution of the Human Trafficking Management Board (HTMB).

## Latest US State Dept Terrorism Report - 2009

In 2008, Ghana enacted the Counterterrorism Act, which called for implementation of a national identification card. The cards will contain biometric data such as fingerprints and photos, but the national identification card has not yet been introduced. Forms of identification with biometrics were not in widespread use, although the Ghanaian driver's license is issued with a fingerprint as part of the individual's application. Most citizens use their voter registration card and a passport for identification. In 2009, Ghanaian passports issued were machine readable but lacked biometric features.

Ghana passed an anti-money laundering law in 2008 that provided for the establishment of a Financial Intelligence Unit (FIU). At the end of 2009, the FIU was not yet operational. However, six potential FIU members, including the Chief Executive Officer, were identified and sent to the United States for training.

U.S. Africa Command provided technical and training assistance to the Ghanaian Navy for the three "Defender" class patrol boats they received in 2008 and the additional four boats delivered in December. The patrol boats are intended to improve maritime interdiction capacity and to address Ghana's limited ability to patrol its porous borders.

The Governments of Ghana and Togo signed an agreement in October to cooperate on crime and security problems such as human trafficking, small weapons trafficking, money laundering, and counterterrorism. The agreement is part of a larger strategy to accelerate regional integration and the free movement of persons, goods, and services; and to intensify trade and economic relations within the sub-region.

## International Sanctions

None applicable

## Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	43
World Governance Indicator – Control of Corruption	53

### US State Department

Corruption in Ghana is comparatively less prevalent than in other countries in the region, but remains a problem. A few American firms have identified corruption as the main obstacle to foreign direct investment. Ghana's 2013 score and ranking on the Transparency International Global Corruption Perceptions Index improved slightly from 2012, tying for 63rd place (out of 177) with Cuba and Saudi Arabia. In 2013, there were a number of corruption allegations involving government officials.

Like most other African countries, Ghana is not a signatory to the OECD Convention on Combating Bribery. It has, however, taken steps to amend laws on public financial administration and public procurement. The public procurement law, passed in January 2004, seeks to harmonize the many public procurement guidelines used in the country and also to bring public procurement into conformity with WTO standards. The law aims to improve accountability, value for money, transparency and efficiency in the use of public resources. However, some civil society observers have criticized the law as inadequate. Notwithstanding the procurement law, companies cannot expect complete transparency in locally funded contracts. The government, in conjunction with civil society representatives, drafted and presented to Parliament the Freedom of Information bill in November 2009, which will allow greater access to public information. As of May 2014, the bill has not yet been passed. There continue to be allegations of corruption in the tender process and the government has in the past set aside international tender awards in the name of national interest.

American businesses report being asked for "favours" from contacts in Ghana, in return for facilitating business transactions. These favours could potentially conflict with American business ethics or laws, and American business visitors should make clear that U.S. companies operating abroad are subject to the Foreign Corrupt Practices Act (FCPA) of 1977 ([www.justice.gov/criminal/fraud/fcpa](http://www.justice.gov/criminal/fraud/fcpa)). The Government of Ghana has publicly committed to ensuring that government officials do not use their positions to enrich themselves. Official salaries, however, are modest, especially for low-level government employees who have been known to ask for a "dash" (tip) in return for assisting with license and permit applications.

Commercial fraud in the form of scams, especially in gold or currency deals, is common in Ghana. These are commonly termed "419" scams. Potential buyers of gold and diamonds are strongly advised to deal directly with the Precious Minerals Marketing Company (PMMC) in Ghana. Gold and diamonds can be exported legally from Ghana only through the PMMC, and prices are based solely on the London Exchange price on the day of export. No discounting or negotiation of prices prior to export by the PMMC is valid. There have also been a number of commercially oriented scams whose sole aim is to obtain a visa fraudulently. American firms can request background checks on companies and individuals with whom they wish to do business by using the United States Commercial Service's International Company Profile (ICP). Requests for ICPs should be made through the nearest United States Export Assistance Center. For more information about the United States Commercial Service, visit [www.buyusa.gov/ghana](http://www.buyusa.gov/ghana).

The 1992 Constitution established the Commission for Human Rights and Administrative Justice (CHRAJ). Among other things, the Commission is charged with investigating all instances of alleged and suspected corruption and the misappropriation of public funds by officials. The Commission is also authorized to take appropriate steps, including providing reports to the Attorney General and the Auditor-General in response to such investigations. The Commission has a mandate to investigate alleged offenders when there is sufficient evidence to initiate legal actions. The Commission, however, is under-resourced and has conducted few investigations leading to prosecutions.

In 1998, the Government of Ghana also established an anti-corruption institution, called the Serious Fraud Office (SFO), to investigate corrupt practices involving both private and public institutions. SFO's name was changed to Economic and Organized Crime Office (EOCO) in 2010 and its functions were expanded to include crimes such as money laundering and other organized crimes. EOCO is empowered to initiate prosecutions and to recover proceeds from criminal activities. As of May 2014, EOCO has not yet prosecuted a single individual. The government passed a "Whistle Blower" law in July 2006, intended to encourage Ghanaian citizens to volunteer information on corrupt practices to appropriate government agencies. In December 2006, CHRAJ issued guidelines on conflict of interest to public sector workers. In December 2009, CHRAJ and the government issued a new Code of Conduct for Public Officers in Ghana with guidelines on conflicts of interest.

In November 2013, President Mahama pledged his support for a National Anti-Corruption Action Plan developed by the CHRAJ. In remarks to CHRAJ officials and funding partners, Mahama stated that he had taken a number of steps to reduce corruption, including sending the Public Officers Code of Conduct Bill to Parliament, clamping down on misuse of government vehicles, launching an online complaints platform, and reviewing several suspect government contracts.

## Political Climate

Overall, Ghana is a stable and functioning democracy, especially when compared to other political systems in Western Africa. In July 2012, President Atta Mills passed away, and Vice President John Mahama became the interim head of the state. In December the same year, John Mahama was elected and became the President of Ghana. Former President Atta Mills was generally praised for boosting Ghana's economy, reducing poverty and, to some extent, curbing corruption. However, while his government introduced a range of anti-corruption initiatives, graft and corruption continue to be widespread, and political patronage systems continue to be deep-rooted.

Throughout his two terms in office, former President Kufuor (2001–2009), ran a zero-tolerance corruption policy and established several anti-corruption initiatives, such as the Office of Accountability. Although it is not clear whether such initiatives have had an impact on the general level of corruption in Ghana, it is widely agreed that they have great symbolic value in the fight against corruption. Whether or not the level of corruption is decreasing, it is commonly acknowledged that corruption in Ghana remains prevalent in the interactions that companies and the public have with public officials. The late President Atta Mills (2009-2012) took steps towards fighting corruption, such as directing all his appointees to declare their assets within seven days instead of six months as stipulated by law, according to a February 2009 article by *Afrique en ligne*. Also, a legislative draft to ensure the declaration of assets for all public office holders was sent to Parliament, and the former Minister of Interior, Cletus Avoka, urged senior police officers to sign 'performance contracts' to inject more competence and professionalism into the police force, as reported by *Al Jazeera* in a December 2009 article

Ghana holds relatively good positions on various indices of corruption and governance when compared to other countries in Africa, and donors and international financial institutions have been keen on supporting political will to curb corruption in Ghana. In spite of this, recent surveys reveal that the citizens have been sceptical of the effect of the government's recent anti-corruption efforts. According to Transparency International's Global Corruption Barometer 2010/2011, 36% of the surveyed households consider the government's efforts in fighting corruption as ineffective, while 55% consider them effective. In addition, 60% of the household respondents believe that the level of corruption in Ghana has increased over the past three years. According to another household survey, *Afrobarometer* 2012, 30% of the surveyed households perceive that the current government is handling its fight against corruption in the government very badly. In 2007, large oil reserves were discovered in western Ghana, which has been the cause of much optimism on the part of the country's economic future and social welfare. However, it has also raised much debate on the need to avoid political mismanagement of the expected oil revenues. Nevertheless, a positive step with regards to revenue transparency of its mining, gas and oil sectors was reached in October 2010, as Ghana achieved full compliant status with the extractive industries transparency standard EITI. See the Ghana Extractive Industries Transparency Initiative (GHEITI) or the Public Anti-Corruption Initiatives' section of this profile for more information on this. Furthermore, in October 2011, an independent body, the Public Interest and Accountability Committee (PIAC) was set up as part of the Petroleum Revenue

Management Law (ratified in April 2011). The PIAC is tasked with managing Ghana's oil revenue and to ensure transparency.

## **Business and Corruption**

The liberal government of former President Kufuor paved the way for revitalising the private sector, liberalising markets and privatising several public companies. However, problems remain in relation to formalising business operations in the country, and corruption continues to be a problematic factor for doing business in Ghana. The informal sector in rural and urban areas continues to provide more than 90% of employment opportunities and, according to the World Bank & IFC Enterprise Surveys 2007, 69% of service companies report that they have to compete against unregistered or informal companies.

Many of the problems companies encounter stem not from regulations, but rather from continuing administrative inertia and corruption. Despite efforts made to make public administration more effective and to increase its outreach to the most remote parts of the country, the visibility of the state administration in rural areas is still limited and the issue of corruption has reportedly not been tackled successfully. The legitimacy and image of state officials are therefore seriously hampered in these areas, and companies are often subject to local rules and regulations and experience a greater corruption risk if they choose to operate in rural areas.

Transparency International's Global Corruption Barometer 2010/2011 reveals that 12% of the surveyed households consider the business/private sector to be 'extremely corrupt'. In the World Economic Forum Global Competitiveness Report 2012-2013, the surveyed companies cite corruption as the second most problematic factor for conducting business in Ghana, after access to financing. According to the report, companies consider the occurrence of irregular payments and bribes in Ghana as not uncommon. In the Enterprise Surveys 2007, more than one-third of the surveyed companies expect to make informal payments to get things done, while 10% see corruption as a major constraint to doing business in the country. Reports of continuing systemic corruption and expectations of facilitation payments, as well as continuing deficits in business financial management, accountability and integrity should be taken seriously. For example, the US Department of State 2013 reports that foreign companies have been asked for 'favours' from contacts in Ghana, in return for facilitating business transactions. In addition, the same report also points out that the tender process is reportedly not conducted in a transparent manner, and that the government has previously set aside international tender awards in the name of national interest. Given this environment, foreign investors considering doing business in Ghana or those who are already doing so are advised to consult with experienced attorneys, to develop, implement and strengthen integrity systems, and to carry out extensive due diligence. In addition, companies are also recommended to use a specialised public procurement due diligence tool in order to mitigate the corruption risks associated with public procurement in Ghana.

## **Regulatory Environment**

The government of former President Kufuor showed great commitment to attracting foreign investments by improving the regulatory environment for the private sector. The Ministry for Private Sector Development was created in 2000 and was mandated to coordinate efforts to strengthen the private sector and reduce bureaucratic restrictions and impediments to private investment. The Ghana Investment Promotion Centre (GIPC) functions as a one-stop shop to eliminate some of the bureaucratic obstacles facing investors, but continues to experience resistance from the various ministries, agencies and authorities responsible for the procedures it covers. The GIPC provides companies with information on and access to investor registration forms, start-up procedures, a land bank database, and general and sector-specific laws and regulations. Foreign investors are required to satisfy the provisions of the Investment Act as well as the provisions of sector-specific laws regulating banking, non-banking financial institutions, insurance, fishing, securities, and real estate. The Ghana Investment Advisory Council (GIAC) was also created to assist the government in developing policies aimed at improving the investment environment. The various initiatives help to streamline private sector regulations, and the result is illustrated in the World Economic Forum Global Competitiveness Report 2012-2013, where the surveyed business executives give a score of 3.4 on a 7-point scale to the burden of government regulation, (1 being 'extremely burdensome' and 7 'not burdensome').

Ghana has continued to increase the efficiency of its public services and has cut delays in property registration from six months to one. Starting a company, paying taxes and trading across borders have also been made easier. Transparency International's Global Corruption Report 2009 reports that the promotion and facilitation of registering a company and passing from informal to formal business are perceived by business executives to have decreased corruption. The administrative procedures related to obtaining various licences and permits remain time-consuming and costly compared to OECD countries. On the other hand, starting a company in Ghana requires fewer days and costs less, compared to the regional average. An entrepreneur is required to go through 7 procedural steps, a process which takes 12 days on average at a cost of approximately 18.5% of GNI per capita, while the average for the region is 8 procedural steps, 34 days, at a cost of approximately 67.3% of GNI per capita, according to the World Bank & IFC Doing Business 2013. Further reform efforts include government plans to increase infrastructure investment and revenue mobilisation through improved administration of the tax system with reduction in leakages and corruption.

According to the US Department of State 2013, high interest rates and limited access to capital can constitute restrictions for growth for local companies. For foreign companies, on the other hand, the most important obstacle for investment is the insecurity resulting from traditional land ownership structures and the complex legal system. Land ownership is based on traditional laws, which creates a high level of insecurity for investors and restricts access to finance, since land is generally not accepted as bankable security. Ghana's traditional court system and British-based 'modern law' legal systems exist in parallel, creating insecurity, especially among foreign investors, and sometimes making contract enforcement difficult. Delays in courts have led the government to introduce several initiatives to enhance investors' confidence in Ghana, including strengthening the legal framework regarding the settlement of commercial disputes. The GIPC Law, the Free Zones Law, the Labour Law, the Minerals and Mining Law outline dispute settlement procedures and provide for arbitration

when no other means of dispute settlement can be agreed upon. New civil procedure rules and mandatory arbitration and mediation have reportedly reduced the time it takes to enforce contracts. The Ghana Arbitration Centre, an autonomous and non-profit institution, provides for arbitration and specialises in commercial and investment laws. Ghana's Commercial Court, a division of the High Court in Accra, tries cases in relation to commercial arbitration, intellectual property rights, commercial fraud, tax, and insurance. The court uses mediation and other alternative dispute resolution mechanisms in the pre-trial stage. In many cases, foreign companies may also choose to settle commercial disputes through international arbitration bodies. Ghana signed and ratified the Convention on the Settlement of Investment Disputes in 1966, which allows for arbitration under the International Centre for the Settlement of Investment Disputes (ICSID). However, the government has expressed a strong preference for handling disputes related to the energy sector under United Nations Commission on International Trade Law (UNCITRAL) rules. Ghana is also a signatory and contracting state to the New York Convention 1958. Access the Lexadin World Law Guide for a collection of legislation in Ghana.

## Section 3 - Economy

Ghana's economy has been strengthened by a quarter century of relatively sound management, a competitive business environment, and sustained reductions in poverty levels. In late 2010, Ghana was recategorized as a lower middle-income country. Ghana is well-endowed with natural resources and agriculture accounts for roughly one-quarter of GDP and employs more than half of the workforce, mainly small landholders. The services sector accounts for 50% of GDP. Gold and cocoa production and individual remittances are major sources of foreign exchange. Oil production at Ghana's offshore Jubilee field began in mid-December 2010, and is producing close to target levels. Additional oil projects are being developed and are expected to come on line in a few years. Estimated oil reserves have jumped to almost 700 million barrels and Ghana's growing oil industry is expected to boost economic growth as the country faces the consequences of two years of loose fiscal policy, high budget and current account deficits, and a depreciating currency. President MAHAMA faces challenges in managing a population that is unhappy with living standards and that perceives they are not reaping the benefits of oil production because of political corruption.

### **Agriculture - products:**

cocoa, rice, cassava (manioc), peanuts, corn, shea nuts, bananas; timber

### **Industries:**

mining, lumbering, light manufacturing, aluminum smelting, food processing, cement, small commercial ship building

### **Exports - commodities:**

oil, gold, cocoa, timber, tuna, bauxite, aluminum, manganese ore, diamonds, horticultural products

### **Exports - partners:**

France 13.3%, Italy 12.1%, Netherlands 8.7%, China 7.2%, Germany 4.2% (2012)

### **Imports - commodities:**

capital equipment, petroleum, foodstuffs

### **Imports - partners:**

China 25.8%, Nigeria 10.9%, US 7%, Netherlands 6.3%, Singapore 4.5%, UK 4.1%, India 4% (2012)

## Banking

While Ghana's banking system has grown rapidly, it serves only about ten percent of the bankable population. The BOG, in collaboration with commercial banks, spearheaded the introduction of a National Payment System to ensure the delivery of financial services to all segments of the population. Stronger regulation of non-bank financial institutions (NBFIs) is a medium-term goal. For this purpose, the Non-Bank Financial Institutions Act, 2008 (Act 774) was enacted. The Act deals with licensing, capital, liquidity and other requirements for NBFIs. The requirements include ownership and corporate governance, accounts and financial statements, powers of supervision and control, receivership and liquidation. It is a key element of the efforts of the BOG to bolster regulation and supervision of NBFIs to meet the challenges of a dynamic and fast-changing financial sector. The Act requires NBFIs to conduct customer due diligence.

## 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.

Extract from IMF Financial System Stability Assessment Update (published June 2011)

### Executive Summary

1. Since the 2003 FSAP Update, Ghana's financial system has undergone rapid growth and structural transformation. Although the financial system remains relatively underdeveloped, the number of intermediaries and their scale of operations have increased, most notably in banking, insurance, capital markets, and micro finance. The range of financial services has also broadened and corporate structures are becoming complex, with conglomerates gaining importance. In addition, foreign shareholding, particularly from within Africa, has increased in the banking and insurance sectors.
2. The authorities have been implementing reforms to enhance the financial system's resilience to shocks and its contribution to growth. The recommendations of the 2003 FSAP Update were incorporated into the revised Financial Sector Strategic Plan (FINSSP) and a comprehensive reform package was developed. New regulations for banks, insurance, pensions, and anti-money laundering (AML) were enacted. The authorities also modernized the trading and settlement infrastructure for capital markets, the national payments system, and accounting standards. In addition, they improved the framework for systemic liquidity management, and established institutions to improve the enforcement of creditor rights.
3. However, the FSAP team found that, despite these reforms, financial stability risks had heightened. Although, in the aggregate, the banking system was liquid, profitable and highly capitalized, nonperforming loans (NPLs) were very high and a significant segment of the

banking industry was fragile. Stress tests undertaken by the team indicated that even a moderate deterioration in asset quality of banks would have led to insolvency of several

banks. In addition, gaps in the frameworks for bank resolution, systemic risk analysis, and crisis management rendered the Bank of Ghana (BOG) ill-equipped to deal with potential crises.

4. The vulnerabilities reflect the interplay of several factors, but state involvement is an important element. The state has controlling interests in five banks accounting for 29 percent of the banking system assets. The performance of these state-owned banks (SBs) has been poor, due to lending practices that focus on developmental objectives at the expense of prudential considerations. The losses of SBs have also created contingent liabilities for the government. Meanwhile, high fiscal deficits have compounded the NPL situation, as government arrears undermined the capacity of contractors to service their obligations to banks.

5. The other contributory factors include deficiencies in commercial banks' risk management, supervision and the insolvency regime. Commercial banks' internal controls and risk management practices have not kept pace with the industry's growth and changing risks. In addition, while government domestic arrears have been a recurring source of vulnerability, banks continued to rely on implicit government guarantees when lending to government service providers. Weaknesses in enforcing prudential regulations allowed banks to build up substantial loan concentrations while deficiencies in the analysis of individual bank risk and systemic risks have led to an under-appreciation of the stability risk implications. High credit risk is exacerbated by time consuming, legally complex, costly, and unpredictable procedures for taking collateral and enforcing creditor rights.

6. The nonbanking sector does not pose systemic risk, but a number of constraints undermine its efficient functioning and contribution to economic development. In particular, despite recent gains, long-term finance remains scarce, access to financial services is limited, and intermediation costs are high. The credit and collateral registries together with the commercial courts do not yet operate efficiently. Mechanisms are needed to enforce compliance with International Financial Reporting Standards (IFRS). The foreign exchange and domestic interbank markets are not sufficiently deep to support the efficient allocation of liquidity in the banking sector. Major efforts are also needed to bring the country into compliance with the Financial Action Task Force (FATF) standards. Moreover, the Social Security National Investment Trust's (SSNIT) sizeable portfolio in a very thin investment market introduces distortions in the financial system.

7. Against this backdrop, the mission recommended expediting actions to minimize stability risks while maintaining the momentum on the broader reforms. It urged the authorities to give priority to repaying government arrears that contributed to NPLs in banks, resolving the problem banks, addressing regulatory gaps, enhancing supervisory capacity and improving systemic risk analysis. It also underscored the need for a paradigm shift in the role the state plays in the financial sector. Preferably, the BOG should divest its shareholding in commercial banks, SBs should be managed on commercial basis, and developmental projects should be financed using institutions whose liability structures are appropriately funded and do not put depositors' funds at risk. These efforts need to be underpinned by

further reforms of the insolvency regime, the regulatory and supervisory oversight of the financial system. The mission also emphasized that success of financial sector reforms would hinge on progress to rein in macroeconomic imbalances and on timely policy responses to bank problems.

8. The policy actions recommended by the mission are summarized in Box 1 and more detailed recommendations are contained in Appendix I. Additional recommendations are detailed in the Report on the Standards and Codes on Compliance (ROSC) with the Basel Core Principles (BCP) for Effective Banking Supervision attached as Appendix VI and several technical notes.

9. The staff visit in March 2011 to update recent developments found that immediate stability risks have been attenuated, but underlying vulnerabilities remain. The authorities have made significant progress in implementing the recommendations of the FSAP Update. The government has repaid the bulk of the arrears that contributed to NPLs in the banking sector, banks have been largely recapitalized, and management of SBs has been strengthened. Some progress has also been made to address the deficiencies identified in micro and macro-prudential regulation and supervision. The FINSSP was being updated to integrate the recommendations of the FSAP Update into a comprehensive reform program. Nonetheless, key sources of vulnerabilities remain and would require a longer time frame to address, most notably the state's involvement in the banking sector and the deficiencies in commercial bank risk management, supervision, systemic risk analysis, insolvency regime, accounting, and prudential data. Therefore, the recommendations of the FSAP remain valid and a sustained and comprehensive reform effort will be key to achieving long-term financial stability.

### Executive Summary

Attracting foreign direct investment continues to be an integral part of the Government of Ghana's policies and is crucial to maintaining Ghana's current economic trajectory, especially given the recent macroeconomic imbalances – high fiscal and current account deficits -- and to overcoming an infrastructure funding gap of at least \$1.5 billion. The Mahama Administration fully recognizes that inward investment requires an enabling legal environment and is extremely open to discussing issues that impede foreign investment. The Government's new Ghana Investment Promotion Center (GIPC) Act, 2013 (Act 865) governs investment in all sectors of the economy and clearly outlines the government's investment framework, but the implementation of the legislation could end up increasing the burden on domestic and international investors.

The following are examples of Ghana's forward leaning, business enabling environment:

- Ghana offers a stable and predictable political environment for American investors.
- The Government of Ghana does not discriminate against foreign-owned businesses.
- Ghana operates a free-floating exchange rate regime and guarantees that investors can transfer profits out of Ghana.
- Ghana's investment laws protect investors against expropriation and nationalization.
- Corruption in Ghana is comparatively less prevalent than in other countries in the region.

A number of challenges are important for investors to understand before entering the market:

- Although the legal system recognizes and enforces secured interest in property, the process to get clear title over land is often difficult, complicated, and lengthy.
- Piracy of intellectual property, including computer software and medicines, is a concern.
- The entire process of establishing a business in Ghana is lengthy, complex, and requires compliance with regulations and procedures of at least five government agencies.
- Ghana's local content regulations in oil/ gas entered into force in November 2013. Until the government implements the regulations it will be difficult to determine their impact.

**Overall, the investment climate in Ghana trends favorably for investors**, especially relative to others in the sub-region; however, the passage of stringent local content regulations in the

petroleum sector could serve as a signal of future efforts to legislate restrictions on how international capital can be used in Ghana. If done properly, local content provisions can spur the growth of the domestic economy while increasing foreign investment. If these regulations become overly restrictive, however, they could stifle foreign investment and impact domestic growth. As Ghana transitions into an established middle income country, we expect the investment climate to continue to improve, but the government will determine the rate at which those improvements occur.

## **1. Openness to, and Restrictions upon, Foreign Investment**

Attracting foreign direct investment continues to be a priority for the Government of Ghana. Ghana currently experiences an infrastructure funding gap of at least \$1.5 billion. Increased foreign investment in Ghana is an integral part of the Mahama Administration's policy. In June of 2011, the Government of Ghana approved the National Policy on Public Private Partnership (NPPPP) as part of the economic reform agenda that aims to increase private sector involvement in infrastructure and public service delivery. The NPPPP created a Public Investment Division within the Ministry of Finance and Economic Policy Planning to develop, oversee and support all public private partnership programs and transactions. In January 2013, President Mahama created a new Minister of State position in charge of Public Private Partnerships. Detailed legislation and regulations are currently being drafted.

The Government of Ghana recognizes that attracting foreign direct investment requires an enabling legal environment. The Government passed laws to encourage foreign investment and replaced regulations perceived as unfriendly to investors. The new Ghana Investment Promotion Center (GIPC) Act, 2013 (Act 865), governs investment in all sectors of the economy except minerals and mining, oil and gas, and the Free Zones. Sector-specific laws further regulate banking, non-banking financial institutions, insurance, fishing, securities, telecommunications, energy, and real estate. Foreign investors are required to satisfy the provisions of the investment act as well as the provisions of sector-specific laws. In general, the GIPC has streamlined procedures and reduced delays. More information on investing in Ghana can be obtained from GIPC's website, [www.gipcghana.com](http://www.gipcghana.com).

The GIPC regulates foreign investment in acquisitions, mergers, takeovers and new investments, as well as portfolio investment in stocks, bonds, and other securities traded on the Ghana Stock Exchange.

The GIPC law specifies areas of investment reserved for Ghanaians, which include small-scale trading, operation of taxi and car rental services with fleets of fewer than 25 vehicles, lotteries (excluding soccer pools), operation of beauty salons and barber shops, printing of recharge scratch cards for subscribers of telecommunication services, production of exercise books and stationery, retail of finished pharmaceutical products, and the production, supply, and retail of sachet water. The law further delineates incentives and guarantees that relate to taxation, transfer of capital, profits and dividends, and guarantees against expropriation.

The GIPC registers investments and provides assistance to enable investors to take advantage of relevant incentives. GIPC registration can be filled out online at [www.gipcghana.com](http://www.gipcghana.com).

The Government of Ghana has no overall economic or industrial strategy that discriminates against foreign-owned businesses. In some cases a foreign investment may enjoy additional incentives if the project is deemed critical to the country's development. American and other foreign firms are able to participate in government-financed and/or research and development programs on a national treatment basis.

Once all necessary documents are submitted, the GIPC states that new investments will be registered within five working days. However, the actual time required for registration can be significantly higher (sometimes up to one month).

Although registration is relatively easy, the entire process of establishing a business in Ghana is lengthy, complex, and requires compliance with regulations and procedures of at least five government agencies including the GIPC, Registrar General Department, Ghana Revenue Authority (GRA), Ghana Immigration Service, and Social Security and National Insurance Trust (SSNIT). Nevertheless, the government's reforms in this area have yielded some returns.

According to The World Bank's Doing Business 2014 report, issued in 2013, the average time to start a business in Ghana is 14 days, down from 33 days in 2010 and 129 days in 2003.

The GIPC requires foreign investors to satisfy a minimum capital requirement. The minimum capital required for foreign investors is \$200,000 for joint ventures with Ghanaians or \$500,000 for enterprises wholly owned by non-Ghanaians. Trading companies (firms that buy/sell finished goods) either wholly or partly-owned by non-Ghanaians require a minimum foreign equity of \$1,000,000 and must employ at least 20 skilled Ghanaians. This may be satisfied through remitting convertible foreign currency to a bank in Ghana or by importing goods into Ghana for the purpose of the investment. The minimum capital requirement does not apply to portfolio investments, enterprises set up for export trading or branch offices.

The principal law regulating investment in minerals and mining is the Minerals and Mining Act, 2006 (Act 703). This law addresses different types of mineral rights, issues relating to incentives and guarantees, and land ownership. The 2006 law provides for a stability agreement, which protects the holder of a mining lease from future changes in law that may impose huge financial burden on the license holder for a period of 15 years. When investment exceeds \$500 million, lease holders can negotiate a development agreement which contains elements of a stability agreement and more favorable fiscal terms. The Minerals Commission ([www.mincomgh.org](http://www.mincomgh.org)) is the government agency that implements the law. Small-scale (artisanal) mining is reserved for Ghanaian investment.

The Petroleum Exploration and Production Law, 1984 (PNDCL 84), also known as the Petroleum Law, regulates oil and gas exploration and production in Ghana. The law deals extensively with petroleum contracts, the rights, duties, responsibilities of contractors, and compensation payable to those affected by activities in the petroleum sector. The newly established Petroleum Commission has taken over the administration of this law from the Ghana National Petroleum Corporation (GNPC) ([www.gnpcghana.com](http://www.gnpcghana.com)). A revision of PNDCL 84 regarding exploration and production is ongoing. Several American companies are currently involved in the oil and gas sector in Ghana.

American investors in Ghana are treated the same as other foreign investors. There are sectors where foreign investors as a whole are denied national treatment: banking, fishing, mining, petroleum, and real estate. Regarding real estate, the 1992 Constitution recognized existing private and traditional titles to land; however, freehold acquisition of land is no longer permitted. There is an exception for transfer of freehold title between family members for land held under the traditional system. Foreigners are allowed to enter into long-term leases of up to 50 years and the lease may be bought, sold or renewed for consecutive terms. Ghanaians are allowed to enter into 99-year leases.

The United States Embassy in Accra advises companies or individuals considering investing in Ghana or trading with Ghanaian counterparts to consult with a local attorney or business facilitation company. The Embassy maintains a list of local attorneys which is available on the embassy website (<http://ghana.usembassy.gov>).

The following table includes third-party assessments of the Ghanaian investment climate:

MEASURE	YEAR	INDEX/RANKING	WEBSITE
TI Corruption Index	2013	46 (63/177)	<a href="http://www.transparency.org">www.transparency.org</a>
Heritage Economic Freedom	2013	61.3 (77/177)	<a href="http://www.heritage.org">www.heritage.org</a>
World Bank Doing Business	2014	67/189	<a href="http://www.doingbusiness.org">www.doingbusiness.org</a>
MCC Government Effectiveness	2014	0.85 (98%)	<a href="http://www.mcc.gov/pages/selection/scorecards">www.mcc.gov/pages/ selection/scorecards</a>
MCC Rule of Law	2014	0.87 (100%)	
MCC Control of Corruption	2014	0.82 (96%)	
MCC Fiscal Policy	2014	-8.1 (6%)	
MCC Trade Policy	2014	64.8 (35%)	
MCC Regulatory Quality	2014	0.86(100%)	
MCC Business Start Up	2014	0.946 (81%)	
MCC Land Rights Access	2014	0.71 (74%)	
MCC Natural Resource Protection	2014	78.0 (68%)	
MCC Access to Credit	2014	49 (89%)	

MCC Inflation	2014	9.2 (32%)	
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Percent rankings for MCC measures indicate a percentile within peer income group.

## 2. Conversion and Transfer Policies

Ghana operates a free-floating exchange rate regime. Ghana's local currency, the Ghana cedi, can be exchanged for dollars and major European currencies. Investors may convert and transfer funds associated with investments provided there is documentation of how the funds were acquired. For details, please consult the GIPC Act (<http://www.gipcghana.com>) and the Foreign Exchange Act guidelines (<http://www.secghana.org/>).

In July 2007, the government redenominated the cedi by converting 10,000 old cedis into 1 new cedi. The new currency, the Ghana cedi (GHS)(notes) and Ghana pesewa (GHP)(coins) are the only currency in circulation. As of April 10, 2014, \$1 was equal to about GHS 2.67 and the largest bill is GHS 50.

Ghana's foreign exchange reserve needs are largely met through cocoa, gold and oil exports, government securities, official assistance, and private remittances. Fiscal problems, the global financial crisis and the fall in commodity prices have led to an average yearly depreciation of the currency by about 10% since 2008.

Ghana's investment laws guarantee that investors can transfer the following in convertible currency out of Ghana: dividends or net profits attributable to an investment; loan service payments where a foreign loan has been obtained; fees and charges with respect to technology transfer agreements registered under the GIPC law; and the remittance of proceeds from the sale or liquidation of an enterprise or any interest attributable to the investment. Companies have not reported challenges or delays in remitting investment returns.

There is a single system for transferring currency out of the country through the banking system. The Parliament passed the Foreign Exchange Act in November 2006. The Act provided the legal framework for the management of foreign exchange transactions in Ghana. It fully liberalized capital account transactions, including allowing foreigners to buy certain securities in Ghana (i.e. those with tenor of 3 years and higher.) It also removed the requirement for the Bank of Ghana (the central bank) to approve offshore loans. Payments or transfer of foreign currency can only be made through institutions such as banks or persons licensed to do money transfer. There is no limit on capital transfer as long as the transferee can identify the source of capital.

## 3. Expropriation and Compensation

Ghana's investment laws protect investors against expropriation and nationalization. The Constitution sets out some exceptions and a clear procedure for the payment of compensation in allowable cases of expropriation or nationalization. The Government of Ghana may compulsorily take possession or acquire property only where the acquisition is in the interest of national defense, public safety, public order, public morality, public health, town and country planning or the development or utilization of property in a manner to

promote public benefit. It must, however, make provision for the prompt payment of fair and adequate compensation. The Government of Ghana also allows access to the high court by any person who has an interest or right over the property.

American investors are generally not subject to differential or discriminatory treatment in Ghana, and there have been no official government expropriations in recent times. Since 2001, four American investors have filed for international arbitration against the Ghanaian government. Two of these cases were resolved when the Government of Ghana agreed to purchase the investments. In both cases the American investors agreed to the terms of the government purchase as an exit strategy, notwithstanding perceived inequitable terms. The other two cases were still in litigation as of December 2012.

There have been no reported instances of "creeping expropriation" or government action equivalent to expropriation.

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

Ghana's legal system is based on British common law and customary law. Investors should note that the acquisition of real property (land) is governed by both statutory and customary law.

The judiciary comprises both the lower courts and the superior courts. The superior courts are the Supreme Court, the Court of Appeal, and the High Court. Lawsuits are permitted and usually begin in the High Court. There is a history of government intervention in the court system, although somewhat less so in commercial matters. The courts have, when the circumstances require, entered judgments against the government. However, the courts have been slow in disposing of cases and at times face challenges in enforcing decisions, largely due to resource constraints and institutional inefficiencies. There is interest in alternative dispute resolution, especially as it applies to commercial cases. Several lawyers provide arbitration and/or conciliation services. Arbitration decisions are enforceable provided they are registered in the courts.

The government established "fast-track" courts to expedite action on some cases. The "fast track" courts, which are automated divisions of the High Court of Judicature, were intended to try cases to conclusion within six months. However, they have not succeeded in consistently disposing of cases within six months. In March 2005, the government established a commercial court to try commercial claims. The Court also handles disputes involving commercial arbitration and other settlement awards, intellectual property rights, including patents, copyrights and trademarks, commercial fraud, applications under the Companies Code, tax matters, and insurance and re-insurance cases. A distinctive feature of the commercial court is the use of mediation or other alternative dispute resolution mechanisms, which are mandatory in the pre-trial settlement conference stage.

Enforcement of foreign judgments in Ghana is based on the doctrine of reciprocity. On this basis, judgments from Brazil, France, Israel, Italy, Japan, Lebanon, Senegal, Spain, the United Arab Emirates, and the United Kingdom are enforceable. Judgments from American courts are not currently enforceable in Ghana.

The GIPC, Free Zones, Labor, and Minerals and Mining Laws outline dispute settlement procedures and provide for arbitration when disputes cannot be settled by other means. They also provide for referral of disputes to arbitration in accordance with the rules of procedure of the United Nations Commission on International Trade Law (UNCITRAL), or within the framework of a bilateral agreement between Ghana and the investor's country.

The United States has signed three bilateral agreements on trade and investment with Ghana: the OPIC Investment Incentive Agreement, the Trade and Investment Framework Agreement (TIFA), and the Open Skies Agreement. These agreements contain some provisions for investment and trade dispute settlement. When the parties do not agree on a venue for arbitration, the investor's choice prevails. In this regard, Ghana accepts as binding the international arbitration of investment disputes. Ghana does not have a bankruptcy statute. The Companies Code of 1963, however, provides for official closure of a company when it is unable to pay its debts.

The Commercial Conciliation Center of the American Chamber of Commerce (Ghana) provides arbitration services on trade and investment issues for disputes regarding contracts with arbitration clauses.

Ghana signed and ratified the Convention on the Settlement of Investment Disputes in 1966, which allows for arbitration under ICSID – the International Center for the Settlement of Investment Disputes. However, for disputes within the energy sector, the government has expressed a preference for handling disputes under United Nations Commission on International Trade Law rules. Ghana is also a signatory and contracting state of the UN Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the "New York Convention").

## **5. Performance Requirements and Incentives**

Ghana is in compliance with WTO Trade-Related Investment Measures (TRIMS) notification. Generally, Ghana does not have performance requirements for establishing, maintaining, and expanding a business. In the case of banks, the opening of branches requires approval from the central bank. Currently, investors are not required to purchase from local sources, but there is a move to pass local content and local participation requirements, particularly for the oil and gas industry, and also make local content requirements in the mining sector more extensive. Investors are not required to export a specified percentage of their output, except for Free Zone enterprises which, in accordance with the Free Zone Act, must export 70 percent of their products.

Foreign investors are not required by law to have local partners except in the fishing, insurance, and extractive industries. In the tuna-fishing industry, non-Ghanaians may own a maximum of 75 percent of the interest in a tuna-fishing vessel. In the insurance sector, a non-Ghanaian cannot own more than sixty percent of an insurance company. There is compulsory local participation in the extractive sector. By law, the Government of Ghana acquires an automatic 10% carried interest of all interests in mining, oil and gas ventures. The 2006 Minerals and Mining Law also allows the Government of Ghana to negotiate any other form of participation. The Petroleum (Local Content and Local Participation) Regulation 2013

(LI 2204) requires at least 5% indigenous Ghanaian company ownership in petroleum agreements. This could be waived if the Ghanaian company cannot provide the 5%. Foreign companies supplying goods or services to subcontractors, licensees or the Ghana National Petroleum Corporation are required to form a joint venture with an indigenous Ghanaian company which should own at least a 10% share.

The Petroleum (Local Content and Local Participation) Regulation 2013, Ghana's local content regulations in oil and gas, entered into force in November 2013. Until the government begins implementing the regulations it will be difficult to determine their actual impact. The most concerning provisions in the regulations are:

- fixed percentages for local private equity participation, procurement of supplies, equipment and provision of services;
- mandatory indigenous equity participation in upstream activities, especially as it relates to the transparency of the selection of equity partners and the role of the Minister of Energy;
- requirement for the Minister's approval for all contracts/sub-contracts and purchase orders above \$100,000; and
- a maximum penalty of a five-year jail sentence for non-compliance.

In September 2012, the newly established Petroleum Commission significantly increased fees for oil and gas service providers. Industry representatives consider the fees to be too high. Depending on a company's annual revenues, registration fees and annual renewal fees for foreign companies range from \$70,000 to \$150,000 compared to fees for local companies of between \$5,000 and \$30,000. Prior to the establishment of the Petroleum Commission, the registration fee was \$2,000 and the annual license renewal fee was \$200.

There are no requirements on physical location of investments. However, there are tax incentives to encourage investment in specific geographic locations, primarily in areas outside the main urban centers. There are also no import substitution restrictions. While the only local employment requirement is that any investment in a trading enterprise must employ a minimum of ten Ghanaians, the issuance of visa/work permits for expatriate staff is tied to the size of the investment.

Ghana regulates the transfer of technologies not freely available in Ghana. According to the 1992 Technology Transfer Regulations, total management and technical fee levels higher than eight percent of net sales must be approved by GIPC. The regulations do not allow agreements that impose obligations to procure personnel, inputs, and equipment from the transferor or specific source. The duration of related contracts cannot exceed ten years and cannot be renewed for more than five years. Any provisions in the agreement inconsistent with Ghanaian regulations are unenforceable in Ghana.

Investment incentives differ slightly depending upon the law under which an investor operates. For example, while all investors operating under the Free Zone Act are entitled to a ten-year corporate tax holiday, investors operating under the GIPC law are not

automatically entitled to a tax holiday. Tax incentives vary depending upon the sector in which the investor is operating.

All investment-specific laws contain some incentives. The GIPC law allows for import and tax exemptions for plant inputs, machinery and parts that are imported for the purpose of the investment. Chapters 82, 84, 85, and 89 of the Customs Harmonized Commodity and Tariff Code zero-rate these production items. The Government of Ghana recently imposed a five percent import duty on some items that were previously zero-rated, to conform with the ECOWAS common external tariff.

The Ghanaian tax system is replete with tax concessions that considerably reduce the effective tax rate. The minimum incentives are specified in the GIPC law and are not applied in an ad hoc or arbitrary manner. Once an investor has been registered under the GIPC law, the investor is entitled to the incentives provided by law. The government has discretion to grant an investor additional customs duty exemptions and tax incentives beyond the minimum stated in the law.

The GIPC website (<http://www.gipcghana.com>) provides a thorough description of available incentive programs. The law also guarantees an investor all the tax incentives provided for under Ghanaian law. For example, rental income from commercial and residential property is exempt from tax for the first five years after construction. Similarly, income from a company selling or leasing out premises is income tax exempt for the first five years of operation. Rural banks and cattle ranching are exempt from income tax for ten years.

The corporate tax rate is 25% and this applies to all sectors except income from non-traditional exports (8%) and oil and gas exploration companies (35%). For some sectors there are temporary tax holidays. These sectors include Free Zone enterprises and developers (0% for the first ten years and 8% thereafter); real estate development and rental (0% for the first five years and 25% thereafter); agro-processing companies (0% for the first five years, after which the tax rate ranges from 0% to 25 % depending on the location of the company in Ghana), and waste processing companies (0% for seven years and 25% thereafter). Tax rebates are also offered in the form of incentives based on location. A capital allowance in the form of accelerated depreciation is applicable in all sectors except banking, finance, commerce, insurance, mining, and petroleum.

The government charges a 15% Value Added Tax (VAT) plus a 2.5% Health Insurance Levy on most imports, all consumer purchases, services, accommodation in hotels and guest houses, food in restaurants, hotels and snack bars, as well as advertising, betting and entertainment. For a list of current exemptions to VAT please visit the Ghana Revenue Authority website at [www.gra.gov.gh](http://www.gra.gov.gh).

Ghana has no discriminatory or excessively burdensome visa requirements. A foreign investor who invests under the GIPC law is automatically entitled to a specific number of visas/work permits based on the size of the investment. When an investment of \$50,000, but not more than \$250,000 or its equivalent is made in convertible currency or machinery and equipment, the enterprise can obtain a visa/work permit for one expatriate employee. An investment of

\$250,000, but not more than \$500,000, entitles the enterprise to two automatic visas/work permits. An investment of \$500,000, but not more than \$700,000, allows the enterprise to bring in three expatriate employee. An investment of more than \$700,000 allows an enterprise to bring in four expatriate employees. An enterprise may apply for extra visas or work permits, but the investor must justify why a foreigner must be employed rather than a Ghanaian. There are no restrictions on the issuance of work and residence permits to Free Zone investors and employees. A few American firms have recently reported to the Embassy extensive delays in receiving the work permits to which they are entitled by their investment levels. Overall, the process of issuing work permits is not very transparent.

Ghana has no import price controls. It is pursuing a liberalized import regime policy within the framework of the World Trade Organization to accelerate industrial growth. ECOWAS Common External Tariff on January 1, 2005.

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

Ghana's laws recognize the right of foreign and domestic private entities to own and operate business enterprises. Foreign entities are, however, prohibited by law from engaging in certain business activities in Ghana (see section 1, paragraph 4).

Private entities may freely acquire and dispose of their interests in Ghana. When a foreign investor disposes of an interest in a business enterprise, the investor is entitled to repatriate his or her earnings in a freely convertible currency.

Private and public enterprises compete on an equal basis with respect to access to credit, markets, licenses, and supplies.

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

The legal system recognizes and enforces secured interest in property, both chattel and real property. The process to get clear title over land is often difficult, complicated, and lengthy. It is important to conduct a thorough search at the Lands Commission to ascertain the identity of the true owner of any land being offered for sale. Investors should be aware that land records can be incomplete or non-existent and, therefore, clear title may be impossible to establish. According to the World Bank's Doing Business Report, Ghana is ranked 49<sup>th</sup> for ease of registering property.

Mortgages exist, although there are only a few thousand in existence due to a variety of factors including land ownership issues and scarcity of long-term finance. Mortgages are regulated by the Home Mortgages Finance Act 770 (2008) which has enhanced the process of foreclosure. A mortgage must be registered under the Land Title Registration Law, a requirement that is mandatory for it to take effect. Registration with the Land Title Registry is a reliable system of recording the transaction.

The protection of intellectual property is an evolving area of law in Ghana. Progress has been made in recent years to afford protection under both local and international law. Ghana is a party to the Universal Copyright Convention and a member of the World Intellectual Property Organization (WIPO), the English-speaking African Regional Industrial Property Organization

(ESARIPO), and the World Trade Organization (WTO). In 2004, Ghana's Parliament ratified the WIPO internet treaties, namely the WIPO Copyright Treaty and the WIPO Performance and Phonograms Treaty. Since December 2003, Ghana's Parliament has passed six bills designed to bring Ghana into compliance with WTO TRIPS (Trade-Related Aspects of Intellectual Property Rights) requirements. The new laws are: Copyright, Trade Marks, Patents, Layout-Designs (Topographies) of Integrated Circuits, Geographical Indications, and Industrial Designs. Except for the Copyright law, implementing regulations necessary for fully effective promulgation has not been passed.

Piracy of intellectual property is known to take place. Although precise statistics are not available for many sectors, counterfeit computer software regularly show up at street markets and counterfeit pharmaceuticals have found their way into public hospitals. Counterfeit products have also been discovered in such disparate sectors as industrial epoxy, pharmaceuticals, cosmetics and household cleaning products. Based on cases where it has been possible to trace the origin of counterfeit goods, most have been found to have been produced outside the region, usually in Asia. Holders of intellectual property rights have access to local courts for redress of grievances, although the few trademark, patent, and copyright infringement cases that have been filed in Ghana by American companies have reportedly moved through the legal system slowly.

Please contact the following at Mission Accra if you have further questions regarding IP issues:

Stuart Banashek  
Economic Assistant – Economic Section  
233-030-274-1404  
[BanashekSI@state.gov](mailto:BanashekSI@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**

The Government of Ghana's policies of trade liberalization and investment promotion are guiding its effort to create a clear and transparent regulatory system. In 2013, Ghana dropped 5 places to 67<sup>th</sup> in the World Bank ease of doing business rankings. The GIPC law codified the government's desire to present foreign investors with a liberal and transparent foreign investment regulatory regime. The GIPC has established a "one-stop shop" for investment registration. In practice, it does not really operate as a "one-stop shop" but it serves as a facilitating mechanism.

The Government of Ghana has established regulatory bodies such as the National Communications Authority, the National Petroleum Authority, the Petroleum Commission, and the Public Utilities Regulatory Commission to oversee activities in the telecommunications, downstream and upstream petroleum, power, and water sectors, respectively. The creation of these bodies was a positive step but they remain relatively under-resourced and subject to political influence, thus their ability to deliver the intended level of oversight is limited.

## 9. Efficient Capital Markets and Portfolio Investment

Private sector growth in Ghana has been constrained by limited financing opportunities for private investment. Over two decades after the beginning of financial sector reforms in 1988, much remains to be done. While credit to the private sector has increased, the high interest rates on bank loans, which are generally higher than 25%, continue to be an impediment to raising capital on the local market.

Capital markets and portfolio investment are gradually evolving. The government is becoming more dependent on the capital market to raise funds for its budget. The longest tenure domestic bond is now seven years and it was first issued in 2013. Foreigners are allowed to buy only bonds with terms of three years and higher, but that is likely to drop to less than three years in the near future. The Government of Ghana and its allied agencies raised \$13.38 billion through issuance of domestic debt instruments alone in 2012. The government borrowed \$10.2 billion while \$3.8 billion dollars was issued by the Bank of Ghana and the Ghana Cocoa Board (COCOBOD). Foreign investors invested in mainly three-year and five-year bonds representing 32% (\$3.3 billion) of the total amount borrowed. Foreign investors hold over 90% of the total outstanding three-year to five-year bonds. A secondary market is emerging as 25,000 transactions valued at more than \$3.2 billion were registered at Ghana's Central Securities Depository (CSD) since 2012 with three-year bonds being the most traded. The International Financial Corporation got approval in 2013 to raise GHS 2 billion by issuing 10-year bonds.

As of December 2013, the Ghana Stock Exchange (GSE) has 36 listed companies, 4 government bonds and 1 corporate bond. Both foreign and local companies are allowed to list on the GSE. The Securities and Exchange Commission regulates the activities on the Exchange. Currently, capital gains for stocks listed on the GSE are exempt from taxation while there is an 8% tax on dividend income. Any foreign buyer can buy stocks listed on the GSE. There is no capital control on the flow of retained earnings, capital gains, dividends or interest payments. The GSE composite index (GGSECI) has exhibited varied performance. The GGSECI was one of the best performers among emerging markets in 2008, but in 2009 it was one of the worst performers, recording a decline of 47.9 percent. While the GSE recovered in 2010, gaining 32.3 percent, it declined by a modest 3 percent in 2011, but rebounded by about 23 percent in 2012 and 79 percent in 2013.

Banks in Ghana are relatively small. The largest in the country, Ghana Commercial Bank (GCB), has a net worth of approximately \$150 million. Out of the 27 banks in Ghana, the government has a majority ownership position in GCB and fully owns two other banks. Under the central bank's minimum capital requirement for banks, existing banks are required to maintain a minimum capital base Ghana Cedi (GHS) 60 million (approximately \$26 million). New banks entering the market are required to pay GHS 120 million (\$52 million). Overall, banks in Ghana are well-capitalized with an average regulatory capital that is 18.2% of risk weighted assets, which is above the 10% prudential and statutory requirement. As of September 2013, the percentage of non-performing loans had decreased to 12.5% from 13.1% a year earlier.

Recent developments in the non-banking financial sector indicate increased diversification, including a recent introduction of rules and regulations governing the trading of Exchange Traded Funds. Among the non-banking financial institutions, leasing companies, building societies and savings and loan associations have been innovative in serving savers and borrowers. Rural banking, mobile banking and other financial instruments have improved access to credit for SMEs and microenterprises. Currently, Ghana has no “cross-shareholding” or “stable shareholder” arrangements used by private firms to restrict foreign investment through mergers and acquisitions.

## **10. Competition from State-Owned Enterprises (SOEs)**

In recent years the government of Ghana has taken significant steps to privatize or reform state-owned enterprises. Today only a handful of SOEs remain, mainly in the transportation, power, extractive and airport management sectors.

The largest SOEs are the Ghana Ports and Harbor Authority, the Electricity Company of Ghana, the Volta River Authority, the Tema Oil Refinery, and the Ghana Airport Company. Many of these receive subsidies and assistance from the government.

Corporate governance of SOEs is overseen by the State Enterprise Commission (SEC). The SEC encourages SOEs to be managed like Limited Liability Companies so as to be profit-making. In addition, the 2014 budget proposed that state owned enterprises be required to secure their own debt, blocking them from adding to the government’s sovereign debt.

The Divestiture Implementation Committee has traditionally overseen privatization efforts. However, the current government is also prioritizing the creation of public private partnerships (PPPs) to restructure and privatize non-performing state-owned enterprises. Officials expect a new PPP law to be passed in 2014, laying the administrative foundation for such partnerships. Significantly, the majority of projects outlined in the 2014 budget are PPPs.

Consequently, the existence of state-owned enterprise should not dissuade foreign companies from entering the market. Government officials openly admit that outside investment will be critical to economic growth in all sectors.

In April 2011, Ghana passed the Petroleum Revenue Management Act 815 which created a Stabilization and a Heritage Fund making up Ghana’s sovereign wealth fund (SWF). Ghana’s Petroleum Funds are managed by the Bank of Ghana with directions from an Investment Committee.

## **11. Corporate Social Responsibility**

Corporate social responsibility (CSR) is of growing concern among Ghanaian companies. The Ghana Club 100 is a ranking of the top performing companies. It is based on several criteria, including a 10% weight assigned to corporate social responsibility, including philanthropy. Ghanaian consumers are not generally overly interested in the CSR activities of private companies, with the exception of the extractive industries (whose CSR efforts seem to attract consumer, government and media attention). In particular, there seems to be a widespread expectation that extractive sector companies will involve themselves in substantial

philanthropic activities in the communities in which they have operations. The relatively free Ghanaian press has often advertised CSR projects sponsored by major extractive sector companies, foreign or domestic.

Foreign and local enterprises do not tend to follow CSR guidelines such as the OECD Guidelines for Multinational Enterprises.

## **12. Political Violence**

Ghana offers a relatively stable and predictable political environment for American investors. Ghana has a solid democratic tradition, completing its sixth consecutive peaceful democratic election in December 2012. The losing party disputed the Presidential election results via a petition to the Supreme Court and the resulting electoral uncertainty was not resolved until the Court dismissed the petition in August 2013, upholding the victory of the National Democratic Congress's John Dramama Mahama. While many investors were a bit reserved about Ghana during the period of uncertainty, it is worth noting that there was no unrest or violence associated with the elections or the disputed result. There is no indication at present that the level of political risk in Ghana will change markedly over the near term, especially since the main opposition New Patriotic Party accepted the Supreme Court's ruling and is participating in the Parliament. President Mahama's term will end in 2016.

## **13. Corruption**

Corruption in Ghana is comparatively less prevalent than in other countries in the region, but remains a problem. A few American firms have identified corruption as the main obstacle to foreign direct investment. Ghana's 2013 score and ranking on the Transparency International Global Corruption Perceptions Index improved slightly from 2012, tying for 63rd place (out of 177) with Cuba and Saudi Arabia. In 2013, there were a number of corruption allegations involving government officials.

Like most other African countries, Ghana is not a signatory to the OECD Convention on Combating Bribery. It has, however, taken steps to amend laws on public financial administration and public procurement. The public procurement law, passed in January 2004, seeks to harmonize the many public procurement guidelines used in the country and also to bring public procurement into conformity with WTO standards. The law aims to improve accountability, value for money, transparency and efficiency in the use of public resources. However, some civil society observers have criticized the law as inadequate. Notwithstanding the procurement law, companies cannot expect complete transparency in locally funded contracts. The government, in conjunction with civil society representatives, drafted and presented to Parliament the Freedom of Information bill in November 2009, which will allow greater access to public information. As of May 2014, the bill has not yet been passed. There continue to be allegations of corruption in the tender process and the government has in the past set aside international tender awards in the name of national interest.

American businesses report being asked for "favors" from contacts in Ghana, in return for facilitating business transactions. These favors could potentially conflict with American business ethics or laws, and American business visitors should make clear that U.S. companies

operating abroad are subject to the Foreign Corrupt Practices Act (FCPA) of 1977 ([www.justice.gov/criminal/fraud/fcpa](http://www.justice.gov/criminal/fraud/fcpa)). The Government of Ghana has publicly committed to ensuring that government officials do not use their positions to enrich themselves. Official salaries, however, are modest, especially for low-level government employees who have been known to ask for a "dash" (tip) in return for assisting with license and permit applications.

Commercial fraud in the form of scams, especially in gold or currency deals, is common in Ghana. These are commonly termed "419" scams. Potential buyers of gold and diamonds are strongly advised to deal directly with the Precious Minerals Marketing Company (PMMC) in Ghana. Gold and diamonds can be exported legally from Ghana only through the PMMC, and prices are based solely on the London Exchange price on the day of export. No discounting or negotiation of prices prior to export by the PMMC is valid. There have also been a number of commercially oriented scams whose sole aim is to obtain a visa fraudulently. American firms can request background checks on companies and individuals with whom they wish to do business by using the United States Commercial Service's International Company Profile (ICP). Requests for ICPs should be made through the nearest United States Export Assistance Center. For more information about the United States Commercial Service, visit [www.buyusa.gov/ghana](http://www.buyusa.gov/ghana).

The 1992 Constitution established the Commission for Human Rights and Administrative Justice (CHRAJ). Among other things, the Commission is charged with investigating all instances of alleged and suspected corruption and the misappropriation of public funds by officials. The Commission is also authorized to take appropriate steps, including providing reports to the Attorney General and the Auditor-General in response to such investigations. The Commission has a mandate to investigate alleged offenders when there is sufficient evidence to initiate legal actions. The Commission, however, is under-resourced and has conducted few investigations leading to prosecutions.

In 1998, the Government of Ghana also established an anti-corruption institution, called the Serious Fraud Office (SFO), to investigate corrupt practices involving both private and public institutions. SFO's name was changed to Economic and Organized Crime Office (EOCO) in 2010 and its functions were expanded to include crimes such as money laundering and other organized crimes. EOCO is empowered to initiate prosecutions and to recover proceeds from criminal activities. As of May 2014, EOCO has not yet prosecuted a single individual. The government passed a "Whistle Blower" law in July 2006, intended to encourage Ghanaian citizens to volunteer information on corrupt practices to appropriate government agencies. In December 2006, CHRAJ issued guidelines on conflict of interest to public sector workers. In December 2009, CHRAJ and the government issued a new Code of Conduct for Public Officers in Ghana with guidelines on conflicts of interest.

In November 2013, President Mahama pledged his support for a National Anti-Corruption Action Plan developed by the CHRAJ. In remarks to CHRAJ officials and funding partners, Mahama stated that he had taken a number of steps to reduce corruption, including sending the Public Officers Code of Conduct Bill to Parliament, clamping down on misuse of government vehicles, launching an online complaints platform, and reviewing several suspect government contracts.

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

Ghana has signed and ratified Bilateral Investment Treaties (BIT) with the following countries: China; Denmark; Germany; Malaysia; the Netherlands; Switzerland; the United Kingdom. Ghana has concluded the BIT negotiation process with 26 countries in total, 19 of which are awaiting Parliament ratification. The countries with concluded bilateral investment treaties that have not yet been ratified include: Barbados; Benin; Botswana; Bulgaria; Burkina Faso; Cote d'Ivoire; Cuba; Egypt; France; Guinea; Mauritania; Mauritius; Romania; Spain; Yugoslavia; and Zambia. Furthermore, agreements with the U.S., Pakistan, South Korea, North Korea, and Belgium are being considered.

Ghana has also signed and ratified "Double Taxation Agreements" that prevent taxing investment income in two sovereign jurisdictions with France, Germany, Italy, Belgium, South Africa, Switzerland, Netherlands and the United Kingdom.

The United States signed three investment related agreements between 1998 and 2000: the OPIC Investment Incentive Agreement, the Trade and Investment Framework Agreement (TIFA), and the Open Skies Agreement. Ghana and the United States currently do not have a bilateral investment treaty (BIT). Similarly, the two countries do not have a bilateral taxation treaty. The U.S. and Ghana initiated exploratory BIT discussions in 2012.

Ghana has continued to meet eligibility requirements to participate in the benefits afforded by the African Growth and Opportunity Act (AGOA) and also separately qualifies for the apparel benefits under AGOA.

#### **15. OPIC and Other Investment Insurance Programs**

OPIC is active in Ghana, and OPIC officers visit Ghana periodically to meet with representatives of American and Ghanaian firms. OPIC has launched several investment funds, which are sources of information and financing for investment in Ghana. The African Project Development Facility (APDF) and the African investment program of the International Finance Corporation are other sources of information. Ghana is also a signatory to the World Bank Group's Multilateral Investment Guarantee Agency (MIGA) Convention.

#### **16. Labor**

Ghana has a large pool of unskilled labor. English is widely spoken, especially in urban areas. However, according to the United Nations, illiteracy remains high at 33%. Labor regulations and policies are generally favorable to business. Although labor-management relationships are generally positive, there are occasional labor disagreements stemming from wage policies in Ghana's inflationary environment. Many employers find it advantageous to maintain open lines of communication on wage calculations and incentive packages. A revised Labor Law of 2003 (Act 651) unified and modified the old labor laws to bring them into conformity with the core principles of the International Labor Convention, to which Ghana is a signatory. A number of labor-related laws, except the Children's Law (Act 560), have been repealed.

Under the Labor Law, the Chief Labor Officer issues collective bargaining agreements (CBA) in lieu of the Trade Union Congress (TUC). This change limited the TUC's influence, since the prior CBA provisions implicitly compelled all unions to be part of TUC. Also, instead of the labor court, a National Labor Commission was established to resolve labor and industrial disputes. Finally, the Tripartite Committee that determines the minimum daily wage was given legal authority.

There is no legal requirement for labor participation in management. However, many businesses utilize joint consultative committees in which management and employees meet to discuss issues affecting business productivity and labor issues.

There are no statutory requirements for profit sharing, but fringe benefits in the form of year-end bonuses and retirement benefits are generally included in collective bargaining agreements.

Post recommends consulting a local attorney for detailed advice regarding labor issues. The United States Embassy in Accra maintains a list of local attorneys, which is available on the United States Embassy's web site <http://ghana.usembassy.gov>.

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

Free Trade Zones were established in May 1996, with one near Tema Steelworks, Ltd., in the Greater Accra Region, and two other sites located at Mpintsin and Ashiem near Takoradi. The seaports of Tema and Takoradi, as well as the Kotoka International Airport and all the lands related to these areas, are part of the Free Zone. The law also permits the establishment of single factory zones outside or within the areas mentioned above. Under the law, a company qualifies to be a Free Zone company if it exports more than 70 percent of its products. Among the incentives for Free Zone companies are a ten-year corporate tax holiday and zero duty on imports.

To make it easier for Free Zone developers to acquire the various licenses and permits to operate, the Ghana Free Zones Board ([www.gfzb.com](http://www.gfzb.com)) provides a "one-stop approval service" to assist in the completion of all formalities. A lack of resources has limited the effectiveness of the Board, however. Foreign employees of businesses established under the program require work and residence permits.

#### **18. Foreign Direct Investment (FDI) Statistics**

Owing to political stability and sound macroeconomic management, FDI in Ghana continues to grow at a rapid pace. Unfortunately, neither the GIPC nor the Ghanaian Statistical Service provides disaggregated data on FDI by country/economy of origin or by industry/sector destination. The following table shows the recent dramatic growth of FDI in Ghana.

	Total GDP (\$ million)	FDI flow (\$ million)	FDI stock (\$ million)	FDI flow as share of GDP	FDI stock as share of GDP
2000	5,027.27	165.9	1,600.50	3.30%	31.8%
2001	5,252.94	89.3	1,689.80	1.70%	32.2%
2002	6,544.44	58.9	1,748.70	0.90%	26.7%
2003	7,588.89	136.6	1,885.30	1.80%	24.8%
2004	8,731.25	139.7	2,025.00	1.60%	23.2%
2005	10,357.14	145	2,170.00	1.40%	21.0%
2006	20,516.13	636	2,806.00	3.10%	13.7%
2007	24,882.05	970.4	3,776.40	3.90%	15.2%
2008	28,535.14	2,111.60	5,888.00	7.40%	20.6%
2009	25,773	1,677.80	7,552.34	6.50%	29.3%
2010	32,186	2,527.36	10,079.69	7.85%	31.3%
2011	39,517	3,222.25	13,327.28	8.23%	33.7%
2012	40,436	3,293.43	16,621.80	8.15%	41.1%
2013*	44,154	1,499.63			

\* - Provisional data as at the end of March, 2013

Source: Bank of Ghana, Ghana Statistical Service, International Monetary Fund (IMF), UNCTAD, U.S. Embassy Accra estimates.

Major foreign investments in Ghana are mainly in mining, off-shore oil exploration and cocoa processing. Major American investors are

- Oil and Gas: Kosmos Energy, Anadarko, Hess, Pan Atlantic/Vanco, Halliburton, Baker Hughes,
- Mining: Newmont Mining

- Urban works: *Conti Group*
- Cocoa processing: *Archer Daniels Midland (ADM), Cargill*
- Food processing: *Kraft food*
- Consumer goods: *Coca Cola, S.C. Johnson*
- IT/Telecom: *Xerox, IBM, American Tower Corporation, **NCR** Corporation*
- Healthcare: *General Electric*
- Power: *Cummins, General Electric*

## 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 system of English common law and customary law

### International organization participation:

ACP, AfDB, AU, C, ECOWAS, EITI (compliant country), FAO, G-24, G-77, IAEA, IBRD, ICAO, ICC (national committees), ICRM, IDA, IFAD, IFC, IFRC, ILO, IMF, IMO, IMSO, Interpol, IOC, IOM, IPU, ISO, ITSO, ITU, ITUC (NGOs), MIGA, MINURSO, MONUSCO, NAM, OAS (observer), OIF, OPCW, UN, UNAMID, UNCTAD, UNESCO, UNHCR, UNIDO, UNIFIL, UNISFA, UNMIL, UNMISS, UNOCI, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO

## Section 6 - Tax

### Exchange control

Ghana has an Exchange Control Act that regulates, among other things, the following:

- a. Use of foreign exchange among residents
- b. Trading in gold ( coins and/or bullion)
- c. Exports and import on bank notes
- d. Exports and export proceeds
- e. Capital and money market instruments.

The DTRD Regulations set a formula for calculating the amount of profits that a foreign company may repatriate to its home country at every point in time. There are restrictions to the amount allowed to be repatriated.

### Treaty and non-treaty withholding tax rates

Ghana has exchange of information relationships through 11 DTCs, 1 TIEAs and 1 multilateral mechanism, Convention on Mutual Administrative Assistance in Tax Matters.

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5	
Barbados	DTC	22 Apr 2008	not yet in force	Yes	No	
Belgium	DTC	14 Jun 2005	17 Oct 2008	Yes	No	
France	DTC	5 Apr 1993	1 Apr 1997	Yes	No	
Germany	DTC	12 Aug 2004	14 Dec 2007	Yes	No	
Italy	DTC	19 Feb 2004	5 Jul 2006	Yes	No	
Liberia	TIEA	24 Feb 2011	not yet in force	Yes	Yes	
Montenegro	DTC	25 May 2000	not yet in force	Unreviewed	No	
Netherlands	DTC	10 Mar 2008	12 Nov 2008	Yes	No	
Serbia	DTC	25 May 2005	not yet in force	Unreviewed	No	
South Africa	DTC	2 Nov 2004	23 May 2007	Yes	No	
Switzerland	DTC	23 Jul 2008	30 Dec 2009	No	No	
United Kingdom	DTC	20 Jan 1993	10 Aug 1994	Yes	No	

## 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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Gary Youinou

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