

## **Ghana: 2007 Investment Climate Statement**

### **Openness to Foreign Investment**

Attracting foreign direct investment continues to be a priority for the government. President Kufuor, re-elected in December 2004, continues to encourage foreign investment as an integral part of Ghana's economic policy. The Ghana Investment Advisory Council (GIAC), which was established with the help of the World Bank, helps shape government policy aimed at creating an enabling investment environment. The GIAC consists of multinational and local companies and institutional observers (IMF, WB, UNDP).

Ghana embarked on a privatization program in the early 1990s. The Ghanaian government at one point controlled more than 350 state-owned enterprises, but nearly 300 were privatized by the end of 2000 under the privatization program of former President Rawlings. Privatization efforts have continued under the Kufuor Administration under a reconstituted Divestiture Implementation Committee. As of December 31, 2005, a total of 351 firms had been privatized, leaving only a handful of state-owned enterprises, some of which are in very poor financial condition. The government also pursues privatization through selling of state-owned shares on the Ghana Stock Exchange (GSE). For example, the government has an ongoing process of offering its shares in Ghana Oil Company and State Insurance Company on the GSE.

The Divestiture Implementation Committee is the government institution that oversees the privatization of public enterprises. Actual divestiture is usually done through a bidding process, and bids are evaluated on the basis of criteria including management skills, financial resources, and business plans. New owners are expected to build the enterprises into profitable, productive ventures, which contribute to tax revenue and increase local employment. Foreign investors comprise most of the interested bidders. Few local investors have sufficient capital to participate in this process except as partners with foreign firms.

Although the Kufuor administration has publicly stated its support for continuing the privatization program, it has made only one major new divestiture during its 6 year tenure, the Cocoa Processing Company. The government's stated priority privatizations for 2007 include Ghana Telecom, Western Wireless (Westel), Tema Oil Refinery, Ghana Oil Company and State Insurance Company. In October 2006, the government solicited letters of interest for a transactions advisor for the privatization of Ghana Telecom.

The Government of Ghana recognizes that attracting foreign direct investment requires an enabling legal environment, and has passed laws that encourage foreign investment and replaced some that previously stifled it. The Ghana Investment Promotion Center (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, 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.gipc.org.gh](http://www.gipc.org.gh).

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

The GIPC law specifies areas of investment reserved for Ghanaians, such as small-scale trading, operation of taxi services (except when a non-Ghanaian has a fleet of at least 10 vehicles), pool betting businesses and lotteries (except soccer pools), beauty salons and barber shops. The law further delineates incentives and guarantees that relate to taxation, transfer of capital, profits and dividends, and guarantees against expropriation.

With the enactment of the GIPC law, the Government of Ghana stopped screening investments. The GIPC registers investments and provides assistance to enable investors to become established and take advantage of relevant incentives. The Government of Ghana has no overall economic or industrial strategy that discriminates against foreign-owned businesses. In some cases a foreign investment can enjoy additional incentives if the project is deemed critical to the country's development. U.S. and other foreign firms are able to participate in government-financed and/or research and development programs on a national treatment basis.

The only pre-condition for foreign investment in Ghana is financial; the GIPC requires foreign investors to satisfy a minimum capital requirement. Once this is met and all necessary documents submitted, investments are supposed to be registered within five working days. However, the actual time required for registration can be significantly higher (sometimes three to four times) than the required time.

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 5 government agencies including the GIPC, Registrar General Department, Internal Revenue Service (IRS), 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 2007 report issued in 2006, the average time to start a business in Ghana is 81 days. This is an improvement from the 129 days it took in 2003 but still places Ghana 145th out of 175 countries surveyed on this indicator. In terms of overall ease of doing business, the report ranks Ghana 94th.

The minimum capital required for foreign investors is USD 10,000 for joint ventures with Ghanaians or USD 50,000 for enterprises wholly owned by non-Ghanaians. Trading companies either wholly or partly-owned by non-Ghanaians require a minimum foreign equity of USD 300,000 and must employ at least ten 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 is, however, not applicable to portfolio investment, enterprises set up for export trading (operating inside or outside of Free Zones), or branch offices.

The principal law regulating investment in minerals and mining is the Minerals and Mining Law, 1986 (PNDCL 153) as amended by the Minerals and Mining Amendment Act, 1994 (Act 475). Non-Ghanaians may invest in mining, except in small-scale (artisanal) mining, which is reserved for Ghanaians. It addresses different types of mineral rights, issues relating to incentives and guarantees, and land ownership. The government revised the law in December 2005. The revised law contains a stability and development agreement, which protects the holder of a mining lease from future changes in law for a period of 15 years. The Minerals Commission ([www.mincomgh.org](http://www.mincomgh.org)) is the government agency that implements the law.

The Petroleum Exploration and Production Law, 1984 (PNDCL 84), 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 Ghana National Petroleum Corporation (GNPC) ([www.gnpcghana.com](http://www.gnpcghana.com)) is the government institution that administers this law. Several U.S. companies currently are involved in oil/gas exploration in Ghana.

There are no major sectors in which American investors are denied the same treatment as other foreign investors. There are, however, some areas where foreign investors as a whole are denied national treatment: banking, securities, fishing and real estate. Regarding real estate, the 1992 Constitution recognized existing private and traditional title to land but does not now allow freehold acquisition of land. There is an exception for transfer of freehold title between family members for lands held under the traditional system. Foreigners are allowed to enter into long-term leases of up to 50 years (the lease may be bought and sold and/or renewed for consecutive terms) while Ghanaians are allowed to enter into 99 year leases.

The U.S. 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 ([www.accra.usembassy.gov](http://www.accra.usembassy.gov)) or upon request.

## **A.2. Conversion and Transfer Policies**

Ghana operates a free-floating exchange rate policy regime. There are no restrictions on conversion and transfer of funds provided there is documentation proving how the funds were acquired. Ghana's local currency, the cedi, can be exchanged for dollars and major European currencies.

The exchange rate for January 2007 is about 9200 cedi per USD and the largest bill is 20,000 cedis, worth a little over USD 2. The government has announced it will redenominate the cedi by removing 4 zeroes, beginning July 2007. One Ghana new cedi will be equivalent to 92 cents (at the current exchange rate) and both old and new currency will circulate for at least 6 months.

Ghana's hard currency needs are met largely through cocoa and gold export revenues, official assistance, and private remittances. The fall in the world prices of Ghana's export commodities in 1999 and increases in oil import bills led to a foreign currency shortage in 2000 and a subsequent, large depreciation of the cedi. The cedi has been stable since November 2002, bolstered by sound macroeconomic policies, record levels of remittances and favorable cocoa and gold prices. However, The Bank of Ghana has noted the very low retention rate of gold proceeds.

Ghana has no restrictions on the transfer of funds associated with investment, provided documentation about how the funds were acquired is available. Ghana's investment laws guarantee that investors can transfer the following in convertible currency out of Ghana: dividends or net profits attributable to the investment; payments in respect of loan servicing where a foreign loan has been obtained; fees and charges in respect to technology transfer agreements registered under the GIPC law; and the remittance of proceeds from the sale or liquidation of the enterprise or any interest attributable to the investment.

With regard to offshore loans, the Bank of Ghana, Ghana's central bank, must approve the loan agreement. The Bank of Ghana inspects the terms of the loan, especially the interest rate, to see if it conforms to current international rates. There is no legal parallel remittance system for investors. The Parliament passed a new Foreign Exchange Act in November 2006. The Act provides a new legal framework for the management of foreign exchange transactions in

Ghana. It is expected to efficiently integrate the country's forex market into the global financial system, give legal backing to policies of the 1980s that liberalized the foreign exchange regime. It also will fully liberalize capital account transactions. Payments or transfer of foreign currency can only be made through institutions such as banks or persons licensed to do money transfer. The new law also gives the Central Bank power to allow foreigners to buy securities in Ghana.

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

Ghana 's investment laws provide guarantees against expropriation and nationalization, although the 1992 Constitution provides some exceptions to these laws. The Constitution sets out both 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 expropriatory actions in recent times. Since President Kufuor's administration took power in 2001, two U.S. investors have filed for international arbitration against the Ghana government, claiming expropriation. While these cases were resolved when the Government of Ghana agreed to purchase the investments, in both cases, the U.S. investors agreed to the terms of the government purchase as an exit strategy and consider the terms inequitable

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

Ghana 's legal system is based on British common law. The most important exception for the purpose of investment is the acquisition of interest in land, which 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 judgment 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 a growing interest in alternative dispute resolution, especially as it applies to commercial cases. Several lawyers are providing arbitration and/or conciliation services. Arbitration decisions are enforceable provided they are registered in the courts.

The government has established "fast-track" courts to expedite action on some cases. The "fast track" courts, which are automated ( computerized) divisions of the High Court of Judicature, were intended to try cases to conclusion within six months. However, they have not been able to handle cases that quickly. 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 the United States 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 trade and investment agreements with Ghana: the OPIC Investment Incentive Agreement, the Trade and Investment Framework Agreement (TIFA), and the Open Skies Agreement. These agreements contain some provision 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.

In 1996, the privately managed Ghana Arbitration Center was established to strengthen the legal framework for protecting commercial and economic interests, and to bolster investors' confidence in Ghana. The American Chamber of Commerce's ( Ghana) Commercial Conciliation Center provides arbitration services on trade and investment issues.

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, at least with disputes related in the energy sector, the government has expressed a strong preference for handling disputes under UNCITRAL 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").

#### **A.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. However, as a condition of privatization of some state-owned enterprises, notably the telecommunications sector, acquiring companies have to meet performance targets or they may have their licenses revoked. In the case of banks, the opening of branches requires approval from the central bank. Investors are not required to purchase from local sources. Except for free zone enterprises operating under the Free Zone Act, which are required to export 70 percent of their products, investors are not required to export a specified percentage of their output.

Foreign investors are not required by law to have local partners except in the fishing, insurance, and mining industries, as well as in the securities market. In the tuna-fishing

industry, non-Ghanaians may own a maximum of seventy-five 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. In the case of the Ghana Stock Exchange, a single foreign investor cannot own more than ten percent of any security listed. This applies to individuals as well as institutional investors. The total holding of all foreigners in a listed security cannot exceed seventy-four percent. There is compulsory local participation in the minerals and mining sector: by law, the Government of Ghana acquires ten percent of all interests in mining ventures at no cost.

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 requirement for compulsory employment of Ghanaians 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.

There are regulations relating to the transfer of technology when it is not freely available in Ghana. For example, according to the Technology Transfer Regulations, 1992, total management and technical fee levels should not exceed 8 percent of net sales. Higher fees have to be approved by GIPC. Among others, the regulation does not allow agreements that impose obligation to procure personnel, inputs, and equipment from the transferor or specific source. The duration should not exceed 10 years and cannot be renewed for more than 5 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, depending upon the sector in which they are operating.

All investment-specific laws contain some investment incentives. The GIPC law allows for import and tax exemptions for plant inputs and machinery (and parts thereof) imported for the purpose of the investment. Specifically, chapters 82, 84, 85, and 89 of the Customs Harmonized Commodity and Tariff Code zero-rates (i.e. does not levy import duty) these production items. The Government of Ghana recently imposed a five percent import duty on some items that were previously zero-rated, in conformity with the ECOWAS common external tariff.

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

The GIPC website ([www.gipc.org.gh](http://www.gipc.org.gh)) provides a more thorough description of incentive programs. The law also guarantees the investor all the tax incentives provided for under Ghanaian law. For example, rental income from commercial and residential property for the first five years after construction is exempt from tax. Similarly, income from a company selling or letting out premises is income tax exempt for the first five years of operation. Rural banks and cattle ranching are exempt from income tax for 10 years.

The government lowered the corporate tax rate to 25 percent (from 32.5 percent in 2004 and 28 percent in 2005) in 2006. The new rate applies to all sectors except income from non-traditional exports (eight percent). For some sectors there are tax holidays for a number of years. These sectors include, free zone enterprises and developers (zero percent for the first 10 years and eight percent thereafter), real estate development and rental (zero percent for the first five years and 25 percent thereafter), agro-processing companies (zero percent for the first five years after which the tax rate ranges from 0 to 25 percent depending on the location of the company in Ghana), and waste processing companies (zero percent for seven years and 25 percent thereafter). Tax rebates are also offered in the form of incentives based on location. A capital allowance in the form of accelerated depreciation is also applicable in all sectors except banking, finance, commerce, insurance, mining, and petroleum.

The government charges a 12.5 percent VAT plus a 2.5 percent Health Insurance Levy, instituted in August 2004, 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.

Ghana has no discriminatory or excessively onerous 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 USD 10,000 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 USD 10,000 to USD 100,000 entitles the enterprise to two automatic visas/work permits. An investment of USD 500,000 and above allows an enterprise to bring in four expatriate employees. An enterprise may apply for extra visas/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.

Ghana has no import price controls. It is pursuing a liberalized import regime policy within the framework and the spirit of the World Trade Organization to accelerate industrial growth. The Government of Ghana joined other ECOWAS countries on the phased implementation of the ECOWAS Common External Tariff on January 1, 2005.

#### **A.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 6).

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 equal basis with respect to access to credit, markets, licenses, and supplies.

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

The legal system recognizes and enforces secured interest in property, both chattel and real, but 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.

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 Mortgages Decree. In the case of default, the property is sold after obtaining court approval. 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). Ghana's Parliament in 2004, ratified the WIPO internet treaties, namely the WIPO Copyright Treaty and the WIPO Performance and Phonograms Treaty. Ghana is yet to deposit its instrument of ratification with WIPO. Since December 2003, Ghana's Parliament has passed all 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. Implementing legislation necessary for fully effective implementation has not been passed.

Piracy of protected goods is known to take place, though there is no reliable information on the scale of this activity. In cases where trademarks have been misappropriated, the price and quality disparity is usually readily apparent. Holders of intellectual property rights have access to local courts for redress of grievances, although few trademark, patent, and copyright infringement cases have been filed in Ghana.

#### **A.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. 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" to facilitate business registration for investors, but it is not really a "one-stop shop." It serves more as a facilitating mechanism. Under the Ghana Trade and Investment Gateway (GHATIG) Program, time frames within which government officials must perform specific duties have been set and are monitored. Implementation, however, has not measured up to desired standards.

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

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

Private sector growth in Ghana has been constrained by limited financing opportunities for private investment. Almost two decades after the beginning of financial sector reforms in 1988, much remains to be done. Confidence in the financial sector has suffered because of a legacy

of government interventions, many of which did not facilitate the free flow of financial resources in the product and input markets. Current high interest rates on bank loans (in the 20 percent range) and treasury bills (11 percent) have been a serious impediment to raising capital on the local market.

Banks in Ghana are relatively small. The largest in the country, Ghana Commercial Bank (GCB), has a net worth of approximately USD 50 million. Out of the 23 banks in Ghana, the government has a majority ownership position in GCB and fully owns two other banks. The GCB plans to issue new shares for sale on the Ghana Stock Exchange, which will result in a further reduction of the government ownership. The Bank of Ghana, under its 2004 universal banking policy, increased capital requirements for establishing a bank to 70 billion cedis (USD 7.7 million). This new level applies to both foreign and Ghanaian-owned banks. In the past, foreign-owned banking businesses faced higher capital requirements than Ghanaian-owned banks: 50 billion cedis (USD 5.6 million) versus 25 billion cedis (USD 2.8 million). In mid-2005, the Bank of Ghana lowered the official secondary reserve requirements for financial institutions from 35 to 15 percent and finally abolished it in August 2006, so the total bank reserve requirement is now 9 percent.

Some recent developments in the non-banking financial sector have been encouraging. Among the non-banking financial institutions, leasing companies, building societies and savings and loan associations have been innovative in serving savers and borrowers. In addition, the formulation of new regulatory policies for the Ghana Stock Exchange (which as of January 2007 had 32 listed companies, 2 government bonds and 4 corporate bonds and oversees portfolio investment) has been promising. The Ghana Stock Exchange (GSE) was one of the best performing bourses in emerging markets in 2003 and 2004, it fell substantially in 2005 and then improved marginally in 2006. It is open to all foreign buyers, subject to the restrictions described in section 7.5, paragraph 3. Both foreign and local companies are allowed to list on the GSE. The Securities Regulatory Commission regulates the activities on the Exchange.

#### **A.10. Political Violence**

Ghana offers a relatively stable and predictable political environment for American investors. Ghana has a solid democratic tradition, completing its fourth consecutive democratic election in 2004. There is no indication at present that the level of political risk in Ghana will change markedly over the near term. Incumbent President John Agyekum Kufuor of the New Patriotic Party will complete his second, and final, four-year term in 2008. The 2008 election will likely be keenly contested and there is the possibility of some election-related violence.

#### **A.11 . Corruption**

Corruption in Ghana is somewhat less prevalent than in other countries in the region, and no U.S. firms have identified corruption as the main obstacle to foreign direct investment. However, there is a growing perception in Ghana that government-related corruption is on the rise. In 2006, Ghana's score and ranking slipped in the Transparency International Global Corruption Perceptions Index.

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 new law aims to improve accountability, value for money,

transparency and efficiency in the use of public resources. However, some in civil society have criticized it as inadequate. The government, in conjunction with civil society representatives, is drafting a Freedom of Information bill, which will allow greater access to public information. Notwithstanding the new procurement law, companies cannot expect complete transparency in locally funded contracts. 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 have reported being asked for "favors" from contacts in Ghana, in return for facilitating business transactions. These favors could potentially conflict with U.S. business ethics or laws, and U.S. business visitors should make clear that U.S. companies operating abroad are subject to the Foreign Corrupt Practices Act of 1977.

Commercial fraud in the form of scams, especially in gold or currency deals, is on the rise in Ghana. These are commonly termed "419" scams. While these cases are exceptions and not the rule to doing business in Ghana, potential buyers of gold and diamond 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. U.S. firms can request a background check on companies and individuals with whom they wish to do business by using the U.S. Commercial Service's International Company Profile (ICP). Requests for ICPs should be made through the nearest U.S. Export Assistance Center. For more information about the U.S. Commercial Service, visit [www.buyusa.gov/ghana](http://www.buyusa.gov/ghana).

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, and such employees have been known to ask for a "dash" (tip) in return for assisting with license and permit applications

The 1992 Constitution provided for the establishment of a 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 prosecute alleged offenders when there is sufficient evidence to initiate legal actions. The Commission, however, is under-resourced and few prosecutions have been made since its inception.

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 that cause a loss to the state. SFO's 1999 report to the President and Parliament reported cases of economic fraud that resulted in more than USD 2 million in losses to the country. The SFO has called for a national debate on how to deal with largesse acquired through economic crimes since the present punishment of dismissal and imprisonment is an inadequate deterrent. The government has announced plans to streamline the roles of the CHRAJ and SFO, in order to remove their duplication of efforts. Government passed the "Whistle Blower" law in July 2006. This law is expected 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.

## **B. Bilateral Investment Agreements**

Ghana has bilateral investment agreements with: the United Kingdom; People's Republic of China; Romania; Denmark; and Switzerland. These agreements were signed and ratified between 1989 and 1992. Italy and France are negotiating similar arrangements. Agreements with Germany, India, Pakistan, South Korea, North Korea, and Belgium are being considered. The United States signed three agreements between 1998 and 2000: the OPIC Investment Incentive Agreement, the Trade and Investment Framework Agreement (TIFA), and the Open Skies Agreement.

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

## **C. 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 fund, 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 a member of the World Bank Group's Multilateral Investment Guarantee Agency (MIGA).

## **D. Labor**

Ghana has a large pool of relatively inexpensive and unskilled labor. English is widely spoken, especially in urban areas. Labor regulations and policies are generally favorable to business. Labor-management relations are fairly good. A revised Labor law (Act 651) passed in 2003 became effective in March 2004. The new law 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. All the old labor related laws, except the Children's Law (Act 560), have been repealed.

Under the 2003 Labor Law, the Chief Labor Officer issues collective bargaining agreements (CBA) in lieu of the Trade Union Congress (TUC). This effectively limits the TUC's monopoly, since the old CBA provisions implicitly compelled all unions to be part of TUC. Also, instead of the labor court, a National Labor Commission has been established to resolve labor and industrial disputes. Finally, the Tripartite Committee that determines the minimum daily wage now has legal backing, and public and private employment centers can be created to help job seekers find work.

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

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.

Consulting a local attorney with regard to labor issues is recommended. The U.S. Embassy in Accra maintains a list of local attorneys, which is available on the US Embassy's web site [www.accra.usembassy.gov](http://www.accra.usembassy.gov) or upon request.

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

Free Trade Zones were established in May 1996, 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 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. To further facilitate operations in the zones, nationals of OECD countries, East Asian countries, and the Republic of South Africa may with advance notice obtain entry visas at the international airport in Accra. However, all foreign employees of businesses established under the program will require work and residence permits.

The contact address for the secretariat is as follows:

The Director  
Ghana Free Zones Board  
Ministry of Trade & Industry Annex  
P.O. Box M.47  
Accra - Ghana  
Tel: 233-21-780532/3/4/5/7  
Fax: 233-21-780536  
Website: [www.qfzb.com](http://www.qfzb.com)

## **F. Major Foreign Investors in Ghana**

Major foreign investments in Ghana are mainly in mining, off-shore oil exploration and manufacturing. Great Britain is Ghana's leading foreign investor with direct investment exceeding USD 750 million. Major U.S. investors are CMS Energy (independent power producer), Chevron West Africa Gas Ltd. (West Africa Gas Pipeline construction), Regimanuel Gray Limited (housing and construction), Affiliated Computer Services (data processing), and Newmont Mining.

## G. Foreign Direct Investment (FDI) Statistics

### FDI (USD million) FDI as share of GDP (%)

2000	165.9	3.3
2001	89.3	1.7
2002	58.9	0.9
2003	136.6	1.8
2004	139.7	1.6
2005	145.0	1.4
2006 (Jan – Jun)	217.9	n.a.

Source: Bank of Ghana, International Monetary Fund (IMF)