



BOTSWANA
INVESTMENT CLIMATE STATEMENT
2015

Table of Contents

Executive Summary

1. Openness To, and Restrictions Upon, Foreign Investment

- 1.1. Attitude Toward FDI*
- 1.2. Other Investment Policy Reviews*
- 1.3. Laws/Regulations of FDI*
- 1.4. Industrial Strategy*
- 1.5. Limits on Foreign Control*
- 1.6. Privatization Program*
- 1.7. Screening of FDI*
- 1.8. Competition Law*
- 1.9. Investment Trends*
 - 1.9.1. Tables 1 and if applicable, Table 1B*

2. Conversion and Transfer Policies

- 2.1. Foreign Exchange*
 - 2.1.1. Remittance Policies*

3. Expropriation and Compensation

4. Dispute Settlement

- 4.1. Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts*
- 4.2. Bankruptcy*
- 4.3. Investment Disputes*
- 4.4. International Arbitration*
 - 4.4.1. ICSID Convention and New York Convention*
- 4.5. Duration of Dispute Resolution*

5. Performance Requirements and Investment Incentives

- 5.1. WTO/TRIMS*
- 5.2. Investment Incentives*
 - 5.2.1. Research and Development*
- 5.3. 5.3 Performance Requirements*
- 5.4. Data Storage*

6. Right to Private Ownership and Establishment

7. Protection of Property Rights

7.1. Real Property

7.2. Intellectual Property Rights

8. Transparency of the Regulatory System

9. Efficient Capital Markets and Portfolio Investment

9.1. Money and Banking System, Hostile Takeovers

10. Competition from State-Owned Enterprises

10.1. OECD Guidelines on Corporate Governance of SOEs

10.2. Sovereign Wealth Funds

11. Corporate Social Responsibility

11.1. OECD Guidelines for Multinational Enterprises

12. Political Violence

13. Corruption

13.1. UN Anticorruption Convention, OECD Convention on Combatting Bribery

14. Bilateral Investment Agreements

14.1. Bilateral Taxation Treaties

15. OPIC and Other Investment Insurance Programs

16. Labor

17. Foreign Trade Zones/Free Ports/Trade Facilitation

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

19. Contact Point at Post for Public Inquiries

Executive Summary

Botswana is a land-connected country located in Southern Africa. Botswana has historically enjoyed among the highest economic growth rates in the world and its export-driven economy is highly correlated with global economic trends. Development has been driven mainly by revenue from the diamond industry, which has enabled Botswana to provide infrastructure such as transportation and social services. During the 12 months prior to September 2014, Botswana's economy grew by 4.2 percent and inflation remained at the bottom end of the central bank's 3 percent to 6 percent spectrum. According to Government of Botswana (GOB), investments within Botswana totaled USD 4 billion in 2012. In accordance to the World Bank's rating scale, Botswana's per capita income of USD 7,730 makes it higher than most other sub-Saharan countries. As of December 2014, Moody's and S&P rate Botswana's sovereign debt as A2 and A-, respectively.

Botswana is a stable, democratic country with an independent judiciary system. It maintains a stable macroeconomic environment, fiscal discipline, a well-capitalized banking system, and a sensible crawling peg exchange rate system. Corruption in Botswana remains less pervasive than in other parts of Africa; nevertheless, foreign and national companies have commented an increasing tender-related corruption where colluding officials manipulate the process. The GOB has launched initiatives to promote foreign investment in key sectors in order to diversify its economy beyond diamond industry and it created the Botswana Investment and Trade Centre to assist local and foreign investors in this endeavor. Botswana is a member state to both the ICSID convention and the 1958 New York convention.

Despite a commitment towards attracting investment, GOB policies do not always facilitate foreign business operations in Botswana. Currently they do not have a consolidated legal framework that clarifies the protections and incentives afforded to investors and there are limitations on foreign participation in the market. At least twenty different service sector businesses are reserved for nationals. Complimentary to this are the institutionalized preferences of procuring goods and services from citizen-owned sources. Managers cite local skills deficits, low labor productivity, and challenges obtaining work permits for foreign workers as key business constraints in Botswana. Bureaucratic hurdles and shortages of water and electricity also hamper economic activity in Botswana and the government's increasing number of state-owned enterprises (SOEs) and market holdings crowd out the private sector. The GOB is seeking to improve its customs and procurement processes with assistance from USAID, and the U.S. Trade and Development Agency.

The World Bank ranked Botswana 74 out of 189 economies in the category of Ease of Doing Business. Key investment opportunities include large water, electricity, transportation, and telecommunications infrastructure projects that the GOB has plans to implement. The lion's share of economic activities outside the diamond sector are driven by government procurement and the GOB has an approximate USD 5 billion budget for the 2015 fiscal year. Economic experts have noted that Botswana has considerable potential in areas such as; mining beneficiation, electricity, meat industry, tourism, and financial services sectors.

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

The GOB publicly emphasizes the importance of attracting foreign direct investment (FDI). The GOB has launched initiatives to promote economic activity and foreign investment in specific areas, including the establishment of hubs to promote economic growth in the agriculture, diamond, education, health and transportation sectors. Additional investment opportunities in Botswana include large water, electricity, transportation, and telecommunication infrastructure. Botswana imports the majority of its products for consumption; food, clothing, appliances, mining equipment, and raw materials.

In 2012, the Ministry of Trade and Industry (MTI) drafted a position paper for a proposed Investment Facilitation Law and requested an OECD Investment Policy Review in order to inform its discussions of consolidating a legal regime for investment. It has abolished all foreign exchange controls, instituted low corporate tax rates, and the Botswana Investment and Trade Centre provides assistance to foreign investors (reference Investment Incentives section). Despite the desire to attract foreign investment, certain GOB's policies do not make it easy for foreign firms to do business.

Other Investment Policy Reviews

In December of 2014, the Organization for Economic Cooperation and Development (OECD) released an Investment Policy Review on Botswana. (http://www.oecd-ilibrary.org/finance-and-investment/oecd-investment-policy-reviews-botswana-2014_9789264203365-en).

Botswana has been a World Trade Organization (WTO) since 1995. As a member of the Southern African Customs Union (SACU) the WTO last conducted a trade policy review in 2009. (https://www.wto.org/english/tratop_e/tpr_e/tp322_e.htm)

Laws/Regulations of Foreign Direct Investment

Under Botswana's Company Act, foreigners who wish to operate a business are required to register as well as obtain the relevant licenses and permits as prescribed by the Trade Act of 2008.

Licenses are required for a wide spectrum of businesses, including banking, non-bank financial services, transportation, medical services, mining, energy provision, and alcohol sales. Although recent amendments to the Trade Act have eliminated the catch-all miscellaneous business license category, investors have reported on local authorities insisting that a business apply for a license even when it does not fall within the established categories. In addition, some businesses have observed that the enforcement of licenses, as well as the time taken for inspections to comply with licensing requirements, varies widely across local government authorities. Botswana's processes to obtain a construction permit are lengthy (an average of 110 days) in addition to needing to complete twenty separate steps. The U.S Embassy continues to engage with the GOB to highlight these and other licensing challenges.

The Botswana Investment and Trade Centre serves as a useful resource when registering a company and obtaining licenses and permits. The MTI also provides guidance on the process of registering a company on its website (<http://www.mti.gov.bw/businessregistration>).

Industrial Promotion

The GOB's National Export Strategy identifies eight priority sectors targeted for growth: (1) arts and crafts; (2) garments; (3) textiles; (4) jewelry; (5) mineral processing (including diamonds); (6) glass and glass products; (7) leather and leather products; and, (8) beef. The Economic Diversification Drive, a government program used to implement a strategy to diversify the economy beyond diamond industry, added five additional areas: (9) renewable energy; (10) recycled material products; (11) auxiliary support services; (12) banking, finance and insurance; and, (13) construction/building.

Limits on Foreign Control

Botswana reserves some licenses solely for citizens, including butcheries, general trading establishments, gas stations, liquor stores, supermarkets (excludes chain stores), bars (other than those associated with hotels), certain types of restaurants, boutiques, auctioneers, car washes, domestic cleaning services, curio shops, fresh produce vendors, funeral homes, hairdressers, various types of rental/hire services, laundromats, specific types of government construction projects under a certain dollar amount, certain activities related to road and railway construction and maintenance, and certain types of manufacturing activities including the production of furniture for schools, welding, and bricklaying.

The MTI reported to the National Doing Business Committee (NDBC) in 2015 that it would allow foreigners to begin operating an undetermined number of business sectors currently limited to Botswana citizens.

The MTI, which administers the citizen participation initiative, has taken an expansive interpretation of the term chain stores, so that it encompasses any store with more than one outlet. This broad interpretation has resulted in the need to apply exemptions to certain supermarkets, simple specialty operations, and general trading stores. Consequently, many large general merchandise markets, restaurants, and grocery networks are owned by foreigners. \

Privatization Program

The GOB has represented itself a deeply committed towards privatization, even putting a task force together in 1997. This task force approved regulations back in 2000 to privatize all of its state-owned companies; and formed a Public Enterprises Evaluation and Privatization Agency (PEEPA) to oversee this process. In practice, none of the state-owned entities (SOE), known as parastatals, have been privatized and the GOB has expanded its SOEs in recent years. In 2012, the GOB created the Okavango Diamond Company and the Mineral Development Company Botswana in order to oversee their mineral industry holdings. In 2014, the GOB acquired operations to form a mining hub under a grand economic diversification strategy dubbed Polaris II and launched Botswana Oil Limited to manage the country's fuel supply.

After more than 12 years of effort and multiple attempts to reach a privatization agreement regarding the state-owned airline, Air Botswana, to this day the airline still remains part of the GOB. The privatizations of six other state organizations, including the Botswana Telecommunications Corporation (BTC) and the National Development Bank, are also behind schedule. In September 2014, the GOB announced that it would hold an initial public offering to sell 49 percent of its current BTC holdings only to nationals as well as citizen-owned companies, while retaining a 51 percent. Since making this announcement in 2014, GOB has deferred this initial public offering on three separate occasions. No new date has been announced.

The ability of PEEPA to manage the privatization of state-owned enterprises is hampered by the lack of corresponding legislation to enforce the process. As a result, the decision to privatize, and the speed with which it is done, remains at the discretion of the ministry or department.

Screening of FDI

The Botswana Investment and Trade Center screens foreign direct investment (FDI) in Botswana when evaluating whether to assist investors.

Competition Law

Botswana has developed anti-trust legislation and policies to ensure appropriate competition in the business environment. Under the Competition Act, the newly-established Competition

Authority is now monitoring mergers and acquisitions. Between April 2013 and March of 2014, the Competition Authority investigated 61 cases of alleged monopoly practices. The Competition Authority is empowered to reject mergers when they are deemed not to be in the public best interest. The Competition Authority has interpreted this ability to mean that it can prohibit mergers when the end result is the concentration of a majority of shares in the hands of foreign investors.

Investment Trends

The GOB has stated its desire to attract additional foreign investment, nevertheless its existing policies do not always make it easy for foreign firms to do business. There is no consolidated legal framework to clarify the protections and incentives afforded to investors and the limitations on foreign participation in the market. The 2014 Botswana Investor's Handbook (http://botswana.usembassy.gov/economic_information_reports.html) published by the Investment and Trade Centre (BITC) does shed some light onto aspects of the investment framework. Botswana's political parties emphasize the importance of citizen empowerment, an interchangeable term that refers to either social safety or the creation of economic policies that create new opportunities for its citizens. Over twenty businesses in the service sector are reserved exclusively for citizens. The 2012 Citizen Economic Empowerment Policy has emphasized the preference for local companies. In October 2014 the GOB and the Chamber of Mines created a committee to oversee the purchasing of mining supplies with a preference towards those produced locally.

Botswana dropped eight places in the 2015 World Bank, Doing Business Report to 74 out of 189 due to the deterioration of procedures such as paying taxes, starting a business, registering property, and its continued low ranking in cross-border trade. Burdensome bureaucratic procedures in addition to water rationing, power outages and weak infrastructure hamper economic activity. The Ministry of Labor and Home Affairs, has denied permits to a large number of skilled foreign workers without providing any explanation, prompting foreign chambers of commerce, to express concern over their ability to establish or maintain commercial operations within the country. In 2014 the GOB increased its market share by acquiring private mining operations and launching the new state-owned Botswana Oil Limited to manage the country's fuel supply. Botswana's leading chamber of commerce spoke out in response against the government's increasing number of state-owned enterprises, noting that it crowds out the private sector.

Over the last year, the GOB has taken steps to improve the investment climate. If implemented, these reforms would facilitate investment in Botswana; however, the GoB's implementation of planned reforms has historically lagged. In May 2014, parliament approved an E-Communications and Transactions Bill designed to streamline procedures by creating a centralized online system for storing and approving documents. The GOB also began granting license waivers for businesses in 2014, and has stated that it will remove in 2015 requirements for licenses that are not related to health or safety. In January 2015, the GOB Cabinet approved the establishment of Botswana's National Single Window which enables international traders to submit regulatory documents at a single location in order to facilitate trade. As of March 2015, the Botswana Unified Revenue Services is consulting with the private sector on a draft to amend the Customs and Excise Duty Act with the view of streamlining procedures and lowering importing and exporting costs. USAID's Southern African Trade Hub provided technical assistance to the GOB during the drafting process.

The MTI reported to the National Doing Business Committee (NDBC) in March 2015 that it approved an unprecedented set of business reforms in December 2014. Key changes it presented include creating a corps of commercial specialized judges within the civil court system, streamlining property registration, and allowing foreigners to operate in an undetermined number of business sectors currently limited to Botswana citizens. The MTI reported to the NDBC that the GOB would implement administrative reforms included in the packet by the end of 2015 and legal reforms by the end of 2016. The GOB is also considering implementing a procurement reform roadmap with the U.S. Trade and Development Agency's Global Procurement Initiative: Understanding Best Value technical assistance program.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2014	31 of 175	transparency.org/cpi2014/results
World Bank's Doing Business Report "Ease of Doing Business"	2015	74 of 189	doingbusiness.org/rankings
Global Innovation Index	2014	92 of 143	globalinnovationindex.org/content.aspx?page=data-analysis
World Bank GNI per capita	2013	USD 7,770	data.worldbank.org/indicator/NY.GNP.PCAP.CD

2. Conversion and Transfer Policies

Foreign Exchange

There are no foreign exchange controls in Botswana or restrictions on capital outflows through financial institutions. Commercial banks are required to ensure customers complete basic forms indicating name, address, purpose and other details prior to processing funds transfer requests or loan applications. The Ministry of Finance monitors data collected on the forms for statistical information on capital flows, but the form does not require government approval prior to the processing of a transaction and does not delay capital transfers.

To encourage portfolio investment, develop domestic capital markets, and diversify investment instruments, non-residents are able to trade in and issue Botswana Pula-denominated bonds with maturity periods of more than one year, provided such instruments are listed on the Botswana Stock Exchange (BSE). Botswana's Letlole Saving Certificate (equivalent to a U.S. Treasury bond) can be purchased only by Botswana citizens. Foreigners can only hold shares in BSE-listed Botswana companies.

Travelers are not restricted to the amount of currency they may carry, but they are required to declare to customs at the port of departure any cash amount in excess of BWP 10,000 (USD 1,200). There are no quantitative limits on foreign currency access for current account transactions.

Bank accounts denominated in foreign currency are allowed in Botswana. Commercial banks offer accounts denominated in U.S. Dollars, British Pounds, Euros and South African Rand. Businesses and other bodies incorporated or registered domestically may open accounts without prior approval from the Bank of Botswana. The government also permits the issuance of foreign currency denominated loans.

Upon disinvestment by a non-resident, the non-resident is allowed immediate repatriation of all proceeds including profits, rents, fees, etc.

The Botswana Pula (BWP) has a crawling peg exchange rate and is tied to a basket of currencies comprised of the South African rand, weighted at 50 percent, with the IMF's Special Drawing Rights (consisting of the U.S. dollar, the Euro, British pound, and Japanese yen) comprising the other 50 percent. The Bank of Botswana reduced the weighting of the South African rand from 55 percent to 50 percent in January 2015. The BWP continues to be heavily influenced by movements of the South African rand against the U.S. dollar. There is no difficulty in obtaining foreign exchange. Shortages of foreign exchange that would lead banks to block transactions are highly unlikely.

In 2014, the Ministry of Finance's Financial Intelligence Agency (FIA) began processing suspicious transaction reports. The FIA is set to assist the Botswana Police Service, Directorate on Corruption and Economic Crime, and Department of Public Prosecution to identify and investigate money laundering offenses. Under the FIA's oversight, Botswana banks have begun improving anti-money laundering practices by introducing AML compliance systems. In addition, in 2014 the parliament passed the Counter-Terrorism Act and Proceeds and Instruments of Crime Act, meeting the Eastern and Southern Africa Anti-Money Laundering Group's (ESAAMLG) requirements. Botswana was previously under enhanced monitoring by ESAAMLG before they introduced these reforms.

Remittance Policies

Not applicable/information not available.

3. Expropriation and Compensation

Section 8 of the country's Constitution prohibits the nationalization of private property. The GOB has never pursued a policy of forced nationalization and is highly unlikely to adopt one. The Acquisition of Property Act provides a process for any expropriation, including parameters to determine market value and receive compensation. The 2007 Amendment to the Electricity Supply Act allows the GOB to revoke an Independent Power Producer's license and confiscate the operations with compensation for public interest purposes.

4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

The local Constitution provides for an independent judiciary system. The legal system of Botswana is based on Roman-Dutch law as influenced by English common law. This type of system cohabits with legislation, judicial decisions and local customary law. The courts properly enforce commercial contracts, and the judicial system is widely regarded as being fair. Both foreign and domestic investors have equal access to the judicial system. Botswana does not have a dedicated commercial court. The Industrial Court set up by the Trade Dispute Act of 2004 primarily addresses labor matters.

As part of the December 2014, reforms packet that the MTI presented to the National Doing Business Committee, the GOB is planning to create a corps of commercial specialized judges within the civil court system. Under the new system, commercial cases will be overseen by

commercial judges in order to expedite the handling and ensure relevant expertise. The GoB plans to implement these changes by the end of 2016; however implementation of GoB-planned reforms has historically lagged.

U.S. litigants have complained that the time taken to obtain and enforce a judgment in a commercial dispute is unreasonably long. The turnaround time for civil cases is approximately two years. In an effort to create more efficient adjudications, the government has established land tribunal, industrial, small claims and corruption courts. During the past several years, some dockets have improved but progress has been uneven.

Local laws are accessible through the Botswana Attorney General's Office web site (www.laws.gov.bw). It can take up to 24 months for a law, once passed, to appear on the web site.

Bankruptcy

Botswana's commercial and bankruptcy laws are comprehensive. Secured and unsecured creditors enjoy similar rights under bankruptcy proceedings as they would in the United States.

Investment Disputes

There are no known investment disputes involving U.S. persons.

International Arbitration

Botswana accepts international arbitration to settle investment disputes.

ICSID Convention and New York Convention

Botswana has ratified the convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958 New York Convention). They are also a member state to the International Centre for the Settlement of Investment Disputes (ICSID convention), and the Multilateral Investment Guarantee Agency (MIGA).

Duration of Dispute Resolution

The duration in reaching a resolution involving an investment dispute depends on a number of factors. When local courts are involved they will usually call the aggrieved parties and recommend that they try to settle their differences out-of-court. If negotiations fail, the matter will be assigned to a judge whom will place the case on his docket. There is also an option to label the matter as urgent in order to speed up the process but this too requires a subsequent judicial assessment to determine if the matter is urgent.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

Botswana is a World Trade Organization (WTO) member since 1995. Botswana does not keep any policies that are inconsistent with WTO TRIMS requirements.

Investment Incentives

Botswana has several mechanisms in place to attract foreign direct investment (FDI). The BITC provides assistance to local and foreign investors. BITC is responsible for promoting foreign direct investment, investor aftercare, and the promotion of locally-manufactured goods in export markets. It assists investors with company registration, land acquisition, factory shells, utility connections, and work and residence permits for essential staff. Requests by investors for investor support from BITC and other agencies are evaluated based on the extent to which the proposed project assists in the government's diversification efforts, contributes to the growth of priority sectors, and provides employment and training to Botswana citizens. The government also makes grants available to investors who partner with citizens and will extend credit to investors presenting proposals that have undergone appropriate due diligence and which have completed a feasibility study. Foreign investors are encouraged to transfer technology to Botswana and skills to Botswana citizens with a view to preparing them for promotion into management positions.

Botswana offers a relatively low tax rate of 22 percent of the corporate taxable income and 7.5 percent withholding tax on all dividends distributed. The MTI can grant manufacturing companies the reduced level of 15 percent taxable income. Companies can pay the reduced rate of 15 percent of profit with accreditation from the Innovation Hub or the International Financial Services Centre on approved operations.

The Minister of Finance and Development Planning has the authority to issue development approval orders which are used for specific projects, which include providing tax holiday and education and training grants. The Minister must be satisfied that the proposed project will be beneficial to Botswana's economy. Any firm, local or foreign, may apply for a Development Approval Order through the Permanent Secretary for Finance and Development Planning. Applications will be evaluated against the following criteria: job creation for Botswana citizens; the company's training plans for Botswana citizens; the company's plans to localize non-citizen positions; Botswana citizen participation in company management; amount of equity held by Botswana citizens in the company; the location of the proposed investment; the project's effect on the stimulation of other economic activities; and the project's effect on reducing local consumer prices. The MTI also offers rebates on imported materials for manufactures that produce products for export.

Research and Development

Information is not available

Performance Requirements

Performance requirements are not imposed as a condition for establishing, maintaining, or expanding an investment in Botswana, or for access to tax and investment incentives. Foreign investors are encouraged, but not compelled, to establish joint ventures with citizens or citizen-owned companies.

Foreign investors wishing to invest in Botswana are required to register the company in accordance with the Companies Act and comply with other applicable legislation. Investors are encouraged, but not required, to purchase from local sources. The Government does not require investors to locate in specific geographical areas, use a specific percentage of local content, permit local equity in projects, manufacture substitutes for imports, meet export requirements or targets, or use national sources of financing for private-sector investments.

As a matter of policy, the GOB encourages foreign firms to hire qualified Botswana nationals rather than expatriates. The granting of work permits for foreign workers may be made contingent upon establishment of demonstrable localization efforts. The government may additionally require evidence that a local is being trained to assume duties currently being fulfilled by foreign worker, specially focused at the middle-management level. The GOB offers incentives to companies that train local employees, including the deduction of 200 percent of training expenses when training is carried out by an accredited institution. The government has introduced a range of policy initiatives intended to mitigate the impending loss of diamond revenue and decrease government spending, including an Economic Diversification Drive, which employs government purchases to stimulate local production and consumption, as well as a wage freeze to reduce the size of the public sector wage bill.

Investors who rely on expatriate managerial and technical expertise see these limitations on immigration as a major regulatory constraint. In 2012, Botswana implemented a Points Based System (PBS) to evaluate work permits, in response to complaints that immigration authorities lacked the necessary expertise to properly evaluate applications for individuals with certain skill sets. This resulted in immediate and widespread complaints that the PBS was too stringent. The government then announced that it would review the policy; however, there is no indication that restrictions have not relaxed. The Ministry of Labor and Home Affairs has recently denied work permits to a large number of skilled foreign workers.. Even recent amendments to the Immigration Law do not appear to address the problem. Firms that retain BITC's investment services are afforded priority in the permitting process and may avoid some of the delays that have been reported in finalizing immigration documents.

Grants are available to foreign investors who partner with Botswana citizens. The Citizen Entrepreneurial Development Agency has established a venture capital fund to provide equity to citizens and ventures between citizens and foreign investors. Foreign investors do not have access to Botswana government loans and grants designed specifically for citizen-owned contracting firms or for small enterprises.

The government, the largest procuring entity in the country, has directed central government, local authorities and state-owned enterprises to purchase all products and services from locally-based manufacturers and service providers if the goods and services are locally available,

competitively priced, and meet tender specifications in terms of quality standards as certified or recognized by the Botswana Bureau of Standards. The Department of Industrial Affairs under the MTI administers this program.

In order for a foreign firm to qualify with the Department of Industrial Affairs as a locally-based manufacturer or service provider to sell goods or services to the government of Botswana, the firm first must be registered with the Registrar of Companies and possess a relevant license or waiver letter. Few of these procedures can be completed online. Therefore, in practice companies see the need to hire an agent on the ground to handle registrations.

For Companies Act registration purposes, enterprises are classified as follows: Micro Enterprises —less than 6 employees including owner and annual turnover of up to BWP 60,000; Small Enterprises — less than 25 employees and annual revenue between BWP 60,000 and 1,500,000; Medium Enterprises — less than 100 employees and an annual revenue between BWP 1,500,000 and 5,000,000; Large Enterprises —more than 100 employees and an annual revenue between BWP 5,000,000 or more.

Data Storage

There are no requirements to store data within the country.

6. Right to Private Ownership and Establishment

The GOB reserves some business sectors for citizen ownership, has instituted local procurement preferences, and limits the land permitted to be sold to foreigners (see Sections 1, 7, and 8). Botswana has no other known restrictions on investment ownership, the sources of financing for investments, the marketing of products, the sources of technology used by companies, or the methods of training used by companies; however the absence of a consolidated investment framework has resulted in a lack of clarity regarding limitations on foreign investment.

7. Protection of Property Rights

Real Property

As part of the December 2014 reforms packet that the MTI presented to the National Doing Business Committee, the GOB plans to streamline and standardize property registration procedures by the end of 2016; however implementation of GOB-planned reforms has historically lagged. There are three main categories of land in Botswana: freehold, state land, and tribal land. Tribal and state land cannot be sold to foreigners. There are no restrictions on the sale of freehold land, but only about 5 percent of land in Botswana is freehold. In the capital city of Gaborone, the number of freehold plots is limited.

State land represents about 25 percent of land in Botswana. On application to the Department of Lands, both foreign-owned and local enterprises registered in Botswana may lease state land for industrial or residential use. Commercial use leases are for 50 years and residential leases are for 99 years. Waiting periods tend to be long for leasehold applications, but subleases from current leaseholders are available. In 2014, the GOB changed its implementing regulation to allow

companies with less than five employees to operate in residential areas if their operations do not pose a health or safety risk to residents.

Tribal land represents 70 percent of land in Botswana. To obtain a lease for tribal land, the investor must approach the relevant local Land Board. Processes are unlikely to be streamlined or consistent across Land Boards.

Since independence, the trend in Botswana has been to increase the area of tribal land at the expense of both state and freehold land. Landlord-tenant law in Botswana tends to be moderately pro-landlord.

In addition to helping investors who meet its criteria obtain appropriate land leaseholds, the Botswana Investment and Trade Centre has also built factory units for lease to industrialists with the option to purchase at market value.

Intellectual Property Rights

Intellectual property rights are protected under the Industrial Property Act of 2010, the Registration of Business Names Act of 1975 and the Copyright & Neighboring Rights Act of 2000. Other IP-related Laws include the Competition Act, the Value Added Tax Act, the Botswana Penal Code, the Customs and Excise Duty Act, the Monuments and Relics Act, the Broadcasting Act, and the Societies Act.

Botswana is a signatory to the Beijing Treaty on Audiovisual Performances, the Hague Agreement Concerning the International Deposit of Industrial Designs, the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, the Convention Establishing the World Intellectual Property Organization (WIPO), the WIPO Copyright Treaty, the WIPO Performances and Phonograms Treaty, the Patent Cooperation Treaty, the Berne Convention for the Protection of Literary and Artistic Works and the Paris Convention for the Protection of Industrial Property.

In June 2014 GOB authorities worked with Namibian authorities and Interpol to seize 644,000 counterfeit items valued over USD 3 million in Botswana and Namibia.

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/>.

Resources for Rights Holders

Embassy point of contact: Goitseone Montsho: MontshoG@state.gov

Local lawyers list:

<http://photos.state.gov/libraries/botswana/19452/pdfs/List%20of%20Attorneys.pdf>

8. Transparency of the Regulatory System

Bureaucratic procedures necessary to start and maintain a business tend to be open, though slow. Foreign investors' complaints generally focus on the inefficiency and/or unresponsiveness of mid-level and low-level bureaucrats in government. The government has introduced a Performance Management System to improve the service and accountability of government employees, but its effectiveness has not yet been evaluated.

The Public Procurement and Asset Disposal Board (PPADB) oversee all government tenders. Prospective government contractors are required to register with the PPADB. The PPADB maintains a process by which tender decisions can be challenged, and a bidder can also challenge a tender procedure in the courts. The PPADB publishes its decisions concerning awarded tenders, prequalification lists, and newly registered contractors.

The PPADB Act calls for preferential procurement of citizen-owned contractors for works, service and supplies, as well as specific, disadvantaged women's communities, though it states that such preferences must be time-bound, phased in and out as necessary, and consistent with the country's external obligations and its "market-oriented, macroeconomic framework." When a procuring entity wishes to reserve a tender for citizen-only participation, it is required to publish a notice to that effect either in the bid document or the pre-qualification notice.

Health and safety laws, embodied in the Factories Act of 1973, provide basic protection for workers from unsafe working conditions. Minimum working conditions required on work premises include cleanliness of the premises, adequate ventilation and sanitation, sufficient lighting and the provision of safety precautions. Health inspectors and the Botswana Bureau of Standards carry out periodic checks at both new and operating factories.

9. Efficient Capital Markets and Portfolio Investment

The government encourages the establishment of new and diverse financial institutions to support increased foreign and domestic investment and to fill existing gaps where finance is not commercially available. There are eight commercial banks, one merchant bank and one offshore bank, one statutory deposit-taking institution and one credit union operating in Botswana. All have corresponding relationships with U.S. banks. Additional financial institutions include various pension funds, insurance companies, microfinance institutions, stock brokerage companies, asset management companies, statutory finance institutions, collective investment undertakings, and statutory funds. Historically, commercial banks have accounted for 92 percent of total deposits and 98 percent of total loans in Botswana. A large portion of the population does not participate in the formal banking sector.

Money and Banking System, Hostile Takeovers

The Non-Bank Financial Institutions Regulatory Authority (NBFIRA) was established in 2008 and provides regulatory oversight for the non-banking sector. It extends know-your-customer practices to non-banking financial institutions and is intended to help deter money laundering and terrorist financing. NBFIRA is also responsible for regulating the International Financial Services Centre, a hub charged with promoting the financial services industry in Botswana.

The central bank, the Bank of Botswana (BOB), acts as banker and financial advisor to the government and is responsible for the management of the country's foreign exchange reserves, the administration of monetary and exchange rate policies, and the regulation and supervision of financial institutions in the country. Monetary policy in Botswana is widely regarded as prudent and the government has successfully managed to maintain sensible exchange rate and stable inflation rate, generally within the target of 3 to 6 percent.

Banks may lend to non-resident controlled companies without seeking approval from the Bank of Botswana. Foreign investors usually enjoy better access to credit than local firms due. In July 2014 USAID's Development Credit Authority, in collaboration with the Barclays Bank of Botswana, implemented a program to allow Small and Medium Enterprises (SME) to access up to USD 15 million in loans in an effort to diversify the current economy.

The local Stock Exchange (BSE) has 36 publicly traded companies. As of 2015, 22 companies on the Domestic Board and 12 companies on the Foreign Equities Board. In addition, three exchange traded funds are listed on the exchange. The total market capitalization for listed companies, as of March 2015 was USD 41.95 billion though most of that is taken up by one company, Anglo-American Plc, which has a market capitalization of some USD 35 billion. The BSE is still highly illiquid compared to larger African markets and is dominated by mining companies which adds to index volatility. Laws prohibiting insider trading and securities fraud are still under development.

The government has legitimized offshore capital investments and allows foreign investors, individuals and corporate bodies, and companies incorporated in Botswana to open foreign currency accounts in specified currencies. The designated currencies are U.S. Dollar, Pound Sterling, Euro and the South African Rand. There are no known practices by private firms to restrict foreign investment participation or control in domestic enterprises. Private firms are not permitted to adopt articles of incorporation or association which limit or prohibit foreign investment, participation or control.

In general, Botswana exercises careful control over credit expansion, the Pula exchange rate, interest rates, and foreign and domestic borrowing. Banking legislation is largely in line with industry norms for regulation, supervision, and payments, and its anti-money laundering and combating the financing of terrorism regime is improving (see section two).

10. Competition from State-Owned Enterprises

State-owned enterprises (SOEs), known as "parastatals," are majority or one hundred percent owned by the Government. There is a published list of SOEs at the GoB portal (www.gov.bw) with profiles of financial and development SOEs. Some SOEs are state-sanctioned monopolies, including the Botswana Telecommunications Corporation, Botswana Meat Commission, the Water Utilities Corporation, Botswana Railways, and the Botswana Power Corporation.

Private and government-owned enterprises are governed by the same business registration and licensing laws. No law or regulation prohibits or restricts private enterprises from competing with SOEs. Botswana law requires SOEs to publish annual reports and, depending on how they are constituted, SOEs are audited by private sector accountants or the Auditor General. In 2011,

Parliament also began overseeing SOEs, compelling Presidents and Chairmen to appear before Parliamentary committees to provide reports and answer questions regarding their performance. Many SOEs are not performing well and several, including the Botswana Meat Commission, the Botswana Telecommunications Corporation (BTC) and the Botswana Power Corporation, have been embroiled in scandals involving alleged fraud and mismanagement. One former CEO and several employees of the BTC were indicted on corruption charges in 2012. In 2013, the Parliamentary Committee investigated allegations of corruption and mismanagement at Botswana Meat Commission.

OECD Guidelines on Corporate Governance of SOEs

SOEs appoint a CEO, who reports to a Board of Directors, which reports to the relevant government Ministry. Board members are appointed by line ministers and are drawn from both the government and the private sector. Corporate governance is still a very new phenomenon in Botswana, but most SOEs are moving towards implementing it. CEOs of some SOEs, i.e. Bank of Botswana, Public Procurement & Asset Disposal Board, are still holding the Chairman positions of their boards while the OECD guidelines good practice calls for separation of duties. Appointment of Board members and CEO is very much politically motivated. Nominated candidates for these positions are submitted to the parliament for approval and they can either accept or reject a candidate.

Sovereign Wealth Funds

The Bank of Botswana maintains a long-term sovereign wealth fund, known as the Pula Fund, in addition to a regular foreign reserve account providing basic import cover. The Pula Fund, with an estimated value of some USD 7 billion, was established under the Bank of Botswana Act and forms part of the country's foreign exchange reserves, which are primarily funded by diamond revenues. The Pula Fund is wholly invested in foreign currency-denominated assets and is managed by the Bank of Botswana Board with input from recognized international financial management and investment firms. All realized market and currency gains or losses are reported in the Bank of Botswana's income statement.

11. Corporate Social Responsibility

Corporate Social Responsibility (CSR) is recognized and embraced by government, some foreign and local firms, and customers. Major banks such as Standard Chartered and cell phone providers such as Mascom have established CSR programs, sponsor projects and support local nonprofit concerns. However, the CSR ethos has not taken hold in many smaller firms. The U.S. Embassy worked with the Botswana Confederation of Commerce, Industry and Manpower (BOCCIM) on the issue of CSR and ethical compliance to help enlist companies to sign onto a Corporate Code of Conduct that covers, among other things, conflicts of interest, bribery, political interference, political party funding, procurement and bidding and issues surrounding residence and work permits. While the Code of Conduct is voluntary, it envisions amending Botswana's Procurement Act to allow only firms that have signed on to participate in tenders. It also envisages procedures whereby firms may be de-listed as signatories. To date, more than 70 firms have signed the Code of Conduct.

OECD Guidelines for Multinational Enterprises

The GoB actively encourages companies to embrace corporate social responsibility. The President of Botswana has publicly commended companies that exercise corporate social responsibility and challenged others to do the same.

12. Political Violence

The threat of political violence is considered low in Botswana. Public demonstrations are rare and seldom turn violent. The most recent protest involved public sector employees and occurred in April to June 2011. There were reports of police deployments and clashes with protestors. With the exception of a few minor instances demonstrations were largely peaceful.

13. Corruption

UN Anticorruption Convention, OECD Convention on Combatting Bribery

Botswana has a reputation for a relative lack of corruption and a willingness to prosecute corrupt officials. Transparency International ranks Botswana as the least corrupt country in Africa (31st overall), and a 2014 report by the World Justice Project ranked Botswana number one on its regional rule of law index. Investors with experience in other developing nations describe the relative lack of obstruction or interference by law enforcement or other government agents as among the country's most important assets. Nevertheless, private sector representatives now note rising corruption levels in government tender procurements.

The major corruption investigation body is the Directorate on Corruption and Economic Crimes (DCEC). Overall, the DCEC is regarded as an active and independent organization. The DCEC has embarked on an education campaign to raise public awareness about the cost of corruption and is also working with Government departments to reform their accountability procedures.

Corruption is punishable by a prison term of up to 10 years, a fine of USD 50,000, or both. The DCEC received 1,471 reports of corruption in 2013, an 18 percent decrease from the 2011 statistics. The DCEC investigated 520 allegations in 2013, and the government typically obtains 16-20 convictions per year for corruption-related crimes. High level officials have been prosecuted. Allegations that the Director of Intelligence and Security Services escaped corruption charges because of his personal connections circulated widely in Botswana media in 2014. The Directorate of Public Prosecutions applied for a withdrawal of corruption charges against MTI Vincent Seretse in March 2015 citing the grounds that key witnesses were unavailable. The charges stemmed from alleged tender manipulation in 2008 when he was CEO of SOE Botswana Telecommunication Company.

The 2000 Proceeds of Serious Crime Act expanded the DCEC's mandate to include money laundering. The 2009 Financial Intelligence Act provides a comprehensive legal framework to address money laundering and establishes a financial intelligence agency (FIA). The FIA, which operates under the Ministry of Finance and Development Planning, cooperates with various institutions, such as Directorate of Public Prosecutions (DPP), Botswana Police Service, Bank of Botswana, the Non-Banking Financial Institutions Regulatory Authority (NBFIRA), the DCEC,

and foreign FIAs to uncover and investigate suspicious financial transactions. Botswana is a member of the Eastern and Southern Anti-Money Laundering Group (ESAAMLG), a regional standards-setting body for ensuring appropriate laws, policies and practices to fight money laundering and the financing of terrorism.

Botswana is not a party to the OECD Anti-bribery Convention but is a party to the 2005 UN Anticorruption Convention.

Resources to Report Corruption

Contacts for agencies responsible for combating corruption:

Name: Ms. Rose Seretse
Title: Director
Organization: Directorate on Corruption and Economic Crime
Address: Madirelo Extension 6, Gaborone, Botswana
Telephone Number: +267 3914002/+267 3604200
Email: dcec@gov.bw

Name: Ms. Bridget John
Title: Executive Director
Organization: Public Procurement & Asset Disposal Board
Address: Private Bag 0058, Gaborone, Botswana
Telephone Number: +267 3602000
Email: webmaster@ppadb.co.bw

Name: Mr. Abraham Sethibe
Title: Director
Organization: Financial Intelligence Agency
Address: Private Bag 0190, Gaborone, Botswana
Telephone Number: +267 3998400
Email: asethibe@gov.bw

One can also reach out to the Minister of the relevant Ministry for a particular tender and provide a copy of the complaint to the Public Procurement & Asset Disposal Board Executive Director.

14. Bilateral Investment Agreements

The U.S. and the Southern Africa Customs Union (SACU), which includes Botswana, signed a Trade, Investment, and Development Cooperative Agreement (TIDCA) in 2008. The TIDCA establishes a forum for consultative discussions, cooperative work, and possible agreements on a wide range of trade issues, with a special focus on customs and trade facilitation, technical barriers to trade, sanitary and phytosanitary (SPS) measures, and trade and investment promotion.

SACU has Free Trade Agreements with Iceland, Liechtenstein, Norway, Switzerland, and the European Free Trade Association. The preferential trade agreement between SACU countries

and MERCOSUR (Argentina, Brazil, Paraguay and Uruguay) was signed by MERCOSUR and SACU States in December 2008 and April 2009 respectively. The PTA establishes fixed preference margins as a first step towards the creation of a free trade area between SACU and MERCOSUR. Botswana has ratified the Agreement and is awaiting remaining Member States to complete ratification for the agreement to be implemented.

For more information on SACU's tariff regime see the World Trade Organization (WTO) document: http://www.wto.org/english/tratop_e/tpr_e/s222-00_e.doc.

Botswana is also a member of the Southern African Development Community (SADC), is currently implementing the SADC Protocol on Trade. For more information about SADC, visit: www.sadc.int.

In 2014, Botswana concluded an Economic Partnership Agreement (EPA) with the European Union as part of SADC EPA Group. The EPA guarantees access to the EU market without any duties or quotas for Botswana, and gives asymmetric access to the SADC EPA Group.

Botswana has a trade agreement with Zimbabwe which provides duty-free access for goods that meet the 25 percent local content requirement.

Botswana's trade regime is more open than that of an average sub-Saharan Africa country. According to the 2012 World Trade Indicators published by the World Bank, Botswana's MFN Tariff Trade Restrictiveness Index (TTRI) was 5.2 percent, as compared to 7.4 percent in 2011 for sub-Saharan Africa (the lower percentage indicates fewer trade restrictions). Nevertheless customs procedures remain a challenge for businesses in Botswana. Botswana ranked 157 out of 189 in trade in the World Bank's, 2015 Doing Business Report because it takes USD 3,145 and 27 days to export a container and USD 3,710 and 35 days for import procedures.

In 2015, the GOB Cabinet approved the establishment of Botswana's National Single Window which enables international traders to submit regulatory documents at a single location in order to facilitate trade. The Botswana Unified Revenue Services is consulting with the private sector on a draft to amend the Customs and Excise Duty Act with the view of streamlining procedures and lowering importing and exporting costs.

Botswana has erected some non-tariff barriers to trade, including import permit requirements for a variety of food products, seasonal trade bans on selected agricultural goods, and a state monopoly on beef exports.

Bilateral Taxation Treaties

Botswana has not signed a double taxation treaty with the United States.

15. OPIC and Other Investment Insurance Programs

The Overseas Private Investment Corporation (OPIC) makes insurance available for projects in Botswana. In October 2008, OPIC approved a USD 250 million guarantee facility for the

diamond industry. The purpose of the guarantee was to develop a robust lending market to Botswana's emerging cutting and polishing industry.

Botswana is a member of the Multilateral Investment Guarantee Agency (MIGA). MIGA offers investors protection against inconvertibility or transfer of currency, expropriation, breach of contract, and war and civil disturbance.

The Botswana Export Credit Insurance and Guarantee Ltd. allows investors to purchase coverage against certain events and losses such as the insolvency and inability of buyers to pay for purchases, unanticipated import restrictions, or the blockage by the buyer's country of foreign exchange transfer.

16. Labor

Botswana has high unemployment (estimated to be 20 percent) and a severely constricted worker skills base. Employers can expect to engage in significant training efforts, depending on the industry. Retention of workers and absenteeism can pose problems. In addition, managers often cite workforce productivity as a point of frustration. The lack of trained local citizen professionals is generally resolved by the use of expatriates if they can secure work permits.

The Employment Act of 1992 provides basic guidelines for employment in Botswana. The legislation sets requirements for a minimum wage, length of the workweek, annual and maternity leave, hiring and termination. Standards set by the Act are consistent with international best practice as described by ILO model legislation and guidelines.

Employment-related litigation occurs and is both an example of trust in the court system and a cost to doing business in Botswana. Considerable expense and frustration can be avoided if an employer observes the provisions of the Employment Act, relevant labor regulations and prudence in advance of potential litigation. Before a potential litigant goes to one of eleven labor courts, the parties must attempt mediation through the Department of Labor.

All Botswana citizens, except those working in the Botswana Defense Force, police, and prisons are permitted to participate in trade unions. The largest unions are comprised of public sector workers. Although workers have a right to strike, those engaged in certain categories of "essential" services, including air traffic control, electricity services, fire services, the Bank of Botswana, health services, and sewage services are not permitted to strike. When the GoB tried to add diamond workers, veterinarians, and teachers to this list in the wake of a public sector strike in 2011, the public sector union sued the government to be taken off the list. The union won the case in April 2014. However, certain law provisions are found inconsistent with the ILO Conventions on Freedom of Association and Collective Bargaining Rights, including section 35(1)(b) of the Trade Disputes Act, which permits an employer or employers' organization to apply to the commissioner to withdraw the recognition granted to a trade union on the grounds that the trade union refuses to negotiate in good faith with the employer; section 20(3) of the Trade Disputes Act which imposes compulsory arbitration of disputes of interest in non-essential service sectors. According to the ILO Committee of Experts, there is a lack of provisions of law which provide for adequate protection against acts of interference by employers.

17. Foreign Trade Zones/Free Ports/Trade Facilitation

Botswana currently has no domestic free trade zones or free ports. Botswana approved a Special Economic Zone (SEZ) policy in 2009 and the government is currently drafting legislation to establish a SEZ authority. The government has allocated 426.6 hectares for SEZs to be overseen by the MTL.

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

Economic Data	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) (\$B USD)	2014	13.8	2013	14.7	www.worldbank.org/en/country
Foreign Direct Investment	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country (\$M USD, stock positions)	2012	0	N/A	N/A	
Host country's FDI in the United States (\$M USD, stock positions)	N/A	N/A	N/A	N/A	
Total inbound stock of FDI as % host GDP	2012	16%	2013	22.7%	

*Bank of Botswana

Table 3: Sources and Destination of FDI

IMF Coordinated Direct Investment Survey data are not available for Botswana.

According to the Bank of Botswana, investment in Botswana totaled USD 4 billion in 2012. Foreign direct investment statistics trends show that FDI forms slightly over half of capital flows into Botswana, followed by portfolio and other types of investments. Portfolio investments, though small, have increased since the founding of the Botswana Stock Exchange. The mining sector continues to dominate Botswana's investments, accounting for 72 percent of FDI and 42 percent of other investment inflows in 2012. The financing sector followed, comprising 22 percent of FDI and 10 percent of other investments. Europe was the primary source of FDI (75 percent), followed by Africa (22 percent). According to Bank of Botswana statistics the dominant countries contributing FDI in Botswana are Luxembourg (69 percent) and South Africa (14 percent). Non-FDI investments are dominated by an unspecified category of "other" countries (63 percent) and the bulk (77 percent) of non-FDI investments were provided to the public administration sector as external debt. The United States' non-FDI investments totaled approximately USD 5.3 million. The Bank of Botswana announced that there were substantive changes to the 2012 data following revisions to align it with balance of payment flows.

Table 4: Sources of Portfolio Investment

IMF Coordinated Portfolio Investment Survey data are not available for Botswana.

19. Contact for More Information

Goitseone Montsho
Commercial Specialist
MontshoG@state.gov
+267 373-2431

Chansonette Yun
Economic/Commercial Officer
YunCR@state.gov
+267 373-2354