

GHANA

TRADE SUMMARY

U.S. goods exports in 2013 were \$1.1 billion, down 19.3 percent from the previous year. Corresponding U.S. imports from Ghana were \$366 million, up 25.7 percent. The U.S. goods trade surplus with Ghana was \$701 million in 2013, a decrease of \$330 million from 2012. Ghana is currently the 75th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Ghana was \$3.6 billion in 2012 (latest data available), up from \$3.2 billion in 2011.

IMPORT POLICIES

Tariffs

According to the WTO, Ghana's average most favored nation (MFN) applied tariff rate in 2010 was 13 percent. For agricultural goods, the average applied tariff was 17.5 percent, and for non-agricultural products, it was 12.3 percent. Along with other ECOWAS countries, Ghana administers a common external tariff (CET) with five bands. The five tariff bands are: zero duty on social goods (*e.g.*, medicine, publications); 5 percent duty on imported raw materials; 10 percent duty on intermediate goods; 20 percent duty on finished goods; and 35 percent duty on goods in certain sectors that the government seeks to protect, such as poultry and rice. Ghana currently maintains 190 exceptions to the CET, and the highest applied tariff is 20 percent.

Ghana has bound all agricultural tariffs in the WTO at an average of 97.2 percent, more than five times the average level of its MFN applied rates on agricultural goods. On industrial goods, almost all of Ghana's tariffs are unbound at the WTO, such that Ghana could raise tariffs to any rate at any time without violating its WTO commitments, contributing to uncertainty for traders.

Nontariff Measures

Importers are confronted by a variety of fees and charges in addition to tariffs. Ghana levies a 15 percent value-added tax (VAT) (increased from 12.5 percent effective January 2014) plus a 2.5 percent National Health Insurance levy on the duty-inclusive value of all imports as well as on locally produced goods, with a few selected exemptions. In addition, Ghana imposes a 0.5 percent ECOWAS surcharge on all goods originating in non-ECOWAS countries and charges 0.4 percent of the free on board value of goods (including VAT) for the use of the automated clearing system, the Ghana Community Network.

Under the Export Development and Agricultural Investment Fund (EDAIF) Act, Ghana imposes a 0.5 percent duty on all non-petroleum products imported in commercial quantities. Ghana also applies a one percent processing fee on all duty-free imports. In July 2013, a Special Import Levy of one percent was imposed on the cost, insurance, and freight (CIF) value of goods under chapters 84 and 85 of the Harmonized System schedule which cover, *inter alia*, boilers and certain types of machinery, electrical machinery, mechanical appliances and recording devices, while the import levy applied to all other imports was set at 2 percent, except for some petroleum products and fertilizers. The EDAIF which was amended in December 2013 to expand the scope of exemptions, is scheduled to expire on December 31, 2014.

Imports are subject to an inspection fee of 1 percent of the CIF value of the goods. Importers have reported that the flat fee is not based on the cost of the services rendered. Destination inspection companies (DICs) are licensed by the Ghanaian government, and inspection by the DICs accounts for the longest delays in import clearance.

A separate examination fee of 1 percent is applied to imported vehicles. Imported used vehicles that are more than 10 years old incur an additional tax ranging from 2.5 percent to 50 percent of the CIF value. The Customs Division of the Ghana Revenue Authority maintains a price list that is used to determine the value of imported used vehicles for tax purposes. There are complaints that this system is not transparent because the price list used for valuation is not publicly available.

Between May and October each year, there is a temporary ban on the importation of fish, except on imports of canned fish, to protect local fishermen during their peak season.

Certificates are required for imports of food, cosmetics, and agricultural and pharmaceutical goods. Permits are required for poultry and poultry product imports. At the time the permit is issued, a quantity limit is imposed.

All communications equipment imports require a clearance letter from the National Communications Authority. Securing a clearance letter prior to importation can help avoid delays at the port of entry.

GOVERNMENT PROCUREMENT

Large public procurements are conducted with open tendering and allow the participation of non-domestic firms; however, single source procurements are common on many government contracts. A draft guideline that applies to current tenders gives a margin of preference of 7.5 percent to 20 percent to domestic suppliers of goods and services in international competitive bidding. Notwithstanding the public procurement law, companies report that locally funded contracts lack full transparency. Supplier or foreign government subsidized financing arrangements appear in some cases to be a crucial factor in the award of government procurements. Allegations of corruption in the tender process are fairly common.

Ghana is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Since December 2003, Ghana's Parliament has enacted seven laws designed to implement Ghana's obligations under the TRIPS Agreement. The laws pertain to copyrights, trademarks, patents, layout-designs (topographies) of integrated circuits, geographical indications, and industrial designs. Ghana is a signatory to the Berne Convention for the Protection of Literary and Artistic Works, the Paris Convention for the Protection of Industrial Property, the Patent Cooperation Treaty, the World Intellectual Property Organization (WIPO) Internet Treaties (the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty), and the African Regional Industrial Property Organization.

Owners of intellectual property rights have filed very few trademark, patent, or copyright infringement cases in local courts. Companies that initiate cases continue to report prolonged waits for resolution, a possible factor in discouraging other companies from filing cases.

There continues to be virtually no government initiated enforcement. However, the Copyright Office, which is under the Attorney General's Office, periodically initiates raids on physical markets for pirated

works. The Customs Service has also collaborated in the past with concerned companies to inspect import shipments.

SERVICES BARRIERS

On December 31, 2009, Ghana enacted legislation requiring a minimum rate of \$0.19 per minute for terminating international calls into Ghana, significantly increasing the cost of terminating international calls into the country from the prior levels of approximately \$0.07 per minute for fixed networks and \$0.13 per minute for mobile networks. All local and international calls are subject to a tax of \$0.06 per minute.

INVESTMENT BARRIERS

Ghana's investment code excludes foreign investors from participating in eight economic sectors: petty trading; the operation of taxi and car rental services with fleets of fewer than 25 vehicles; lotteries (excluding soccer pools); the operation of beauty salons and barber shops; printing of recharge scratch cards for subscribers to telecommunications services; production of exercise books and stationery; retail of finished pharmaceutical products; and the production, supply, and retail of sachet water.

Foreign investors are required by law to have local partners in the insurance and extractive industries. In the insurance sector, Ghana limits foreign ownership to 60 percent, except for auxiliary insurance services. There is compulsory local participation in the extractive sector. By law, the government of Ghana acquires an automatic 10 percent of all interests in mining, oil, and gas ventures. The 2006 Minerals and Mining Law also allows the government of Ghana to negotiate any other form of participation.

In November 2013, local content regulations applicable to the oil and gas sector entered into force. The most concerning provisions in the regulations are:

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

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

Foreign investment projects must be registered with the Ghana Investment Promotion Center. While the registration process is designed to be completed within five business days, the process often takes significantly longer. Foreign investments are also subject to the following minimum capital requirements: \$200,000 for joint ventures with a Ghanaian partner; \$500,000 for enterprises wholly-owned by a non-Ghanaian; and \$1,000,000 for trading companies (firms that buy or sell imported goods or services) wholly owned by non-Ghanaian entities. Trading companies are also required to employ at least 20 skilled Ghanaian nationals.

OTHER BARRIERS

Foreign investors have experienced difficulties and delays in securing required work visas for their non-Ghanaian employees. The process for obtaining required work permits can be unpredictable and take several months from application to delivery. Obtaining access to land may also be challenging for foreign investors. Non-Ghanaians are only permitted to access land on a long-term leasehold basis, and Ghana's complex land tenure system makes establishing clear title on real estate difficult.

Corruption

Foreign investors in Ghana must contend with a highly regulated economy, a politicized business community, and a lack of transparency in certain government operations. Entrenched local interests can derail or delay new entrants. The political leanings of the Ghanaian partners of foreign investors are often subject to government scrutiny. Corruption also remains a concern. The government does not implement anticorruption laws effectively, and some officials engage in corrupt practices. For example, some judicial officials accept bribes to expedite or postpone cases or to "lose" records. There are, however, two important anticorruption instruments awaiting Parliamentary approval and adoption: the Right to Information bill and the National Anti-Corruption Action Plan.