



Executive Summary

Botswana is a stable, democratic country which has historically enjoyed among the highest economic growth rates in the world. Botswana has consistently ranked number one in Africa on Transparency International’s anti-corruption index, and its 56th place ranking on the 2014 annual World Bank/IFC Doing Business compares favorably to all but three other sub-Saharan African countries. Botswana’s per capita income of \$16,105 (based on purchasing power parity) makes it an Upper Middle-Income Country according to the World Bank.

Botswana’s export-driven economy is highly correlated with global economic trends. In the aftermath of the global financial crisis, Botswana’s economy went into recession, posting a negative GDP growth rate of 4.9%. Weakened demand for mineral resources, particularly diamonds, hampered growth in 2011 and 2012 when GDP growth was 6.1% and 4.2% (est.), respectively. Botswana maintains a conservative fiscal policy and low levels of foreign debt. In February of 2014, the Government of Botswana (GoB) reported an unanticipated \$45 million USD surplus for FY 2013. Better-than-expected diamond and customs revenues helped recharge the GoB’s current account, which was projected to be in deficit as late as November of last year. The 4.1% year-end inflation rate in 2013 was the lowest since 1971. Botswana’s trade balance is largely tied to the global demand for diamonds. As of December 31, 2013, Moody’s and S&P rate Botswana’s sovereign debt as A2 and A-, respectively.

Government spending has traditionally played a large role in Botswana’s economy. The government employs about 40% of workers and employees of quasi-public “parastatal” firms make up another 5%. Botswana has been able to keep expenditures higher than the emerging market average because it has combined high diamond revenue with prudent fiscal policies. However, diamond stores are expected to decline within 10-15 years, and Botswana must confront the prospect of declining diamond revenues over the medium to long term. Diamond revenue has traditionally contributed about 40% to government income, but demand is volatile and has trended downward in recent years. Revenue from the Southern African Customs Union (SACU) replaced diamonds as the largest source of government income in 2012. Today diamonds and customs revenue each contribute to about 30% of total government revenue, however the variability of this income, which is subject to global and regional economic trends, are largely outside of the GoB’s control. These conditions make for difficult forecasting and place added pressure on policy makers to plan conservatively.

Investment Climate Indices		
Measure	Year	Index or Rank
Transparency International Corruption Index	2013	30 out of 177
Heritage Foundation’s Economic Freedom Index	2014	27 out of 178
World Bank’s Doing Business Report	2014	56 out of 189

1. Openness to, and Restrictions Upon, Foreign Investment

Investment Support

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. It has abolished all foreign exchange controls and instituted low corporate tax rates. It has also convened a government-wide task force to improve scores in specific areas of the World Bank’s Doing Business report.

The Botswana Investment and Trade Centre (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 also 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 also encouraged to transfer technology to Botswana and skills to Botswana citizens with a view to preparing them for promotion into management positions.

While the GoB has stated that it wants to attract foreign investment, its policies do not always make it easy for foreign firms to do business. The Ministry of Labour and Home Affairs, which has jurisdiction over the provision of residency and work permits, has denied permits to a large number of skilled foreign workers without detailed explanation, prompting many foreign-owned businesses, as well as foreign chambers of commerce, to express concern over their ability to establish or maintain commercial operations. At the same time, the GoB has not moved aggressively to reduce the time and cost of trading across borders, which are among the highest in the world and have contributed to the decline of the manufacturing sector.

Licensing

Foreigners who wish to operate a business in Botswana are required to register their enterprise under the Companies Act and, in most cases, to obtain the relevant licenses and permits as prescribed by the Trade Act of 2008.

Licenses are required for a wide array 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, owners report that some local authorities will insist that a business apply for a license even though the business does not clearly fall into one of the established categories. As a result, owners may be forced to choose a category in which to be licensed. 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 procedures for obtaining construction permits are lengthy, taking an average of 69 days and 21 separate procedures to complete. The Embassy continues to engage with the Government of Botswana to highlight this and other licensing difficulties.

Botswana reserves some licenses solely for citizens, including butcheries, general trading establishments, gas stations, liquor stores, supermarkets (excluding chain stores), bars (other than those related to 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 Ministry of Trade and Industry, which administers the citizen participation initiative, has taken an expansive interpretation of "chain stores" to mean any store with more than one outlet. This interpretation has resulted in exemptions being applied to supermarkets, simple specialty operations, and general trading stores. Consequently, many large general merchandise markets, restaurants, and grocery networks are owned by foreigners. Foreign investors are legally permitted to participate in all other sectors not otherwise reserved for locals.

Privatization

The government is moving toward privatizing a number of state-owned businesses. As part of this effort, it has established the Public Enterprise Evaluation and Privatization Agency (PEEPA). The government believes that privatization would generate much-needed capital, but there are significant concerns within government circles that rapid privatization would cause extensive job losses. Initial privatization plans, none of which have been implemented, call for the GoB to maintain at least a 51% ownership of the company to be privatized. The GoB's unwillingness to cede effective control to the private sector has led to concerns that initial public offerings will be unsuccessful, and these concerns, among others, have contributed to delays in the privatization effort.

Privatization efforts initially focused on the national airline, Air Botswana. After more than 12 years of effort and multiple attempts to reach agreement with strategic partners, the airline has still not been privatized. The planned privatizations of six other state organizations, including the Botswana Telecommunications Corporation and the National Development Bank, are behind schedule.

The ability of PEEPA to manage the privatization of state-owned enterprises is hampered by the fact that there is no privatization-implementing legislation. As a result, the decision to privatize, and the speed with which a parastatal is privatized, remains with the relevant ministry or department.

Competition Policy

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 vertical and horizontal market agreements and mergers and acquisitions. Between March and September of 2012, the Competition Authority investigated 39 cases of anti-competitive behavior. While the Competition Authority is charged with ensuring that businesses do not engage in anti-competitive conduct, it is also empowered to reject mergers when they are deemed not to be “in the public interest.” The Competition Authority has interpreted this power to mean that it should prohibit mergers when it would result in the concentration of shares in the hands of non-citizens. Of the three merger applications in 2012, two were rejected under this “public interest” exception.

2. Conversion and Transfer Policies

There are no foreign exchange controls in Botswana and no restrictions on capital outflows through financial institutions. Commercial banks are required to ensure that their 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” (the equivalent of a U.S. Treasury bond) can be purchased only by Botswana citizens. Foreigners can hold shares in BSE-listed Botswana companies.

Botswana residents are permitted to invest overseas and borrow offshore. Travelers are not restricted to the amount of currency they may carry on their person or in their baggage, but they are required to declare to customs at the port of departure any cash amount in excess of 10,000 Pula (USD \$1,200). There are no quantitative limits on foreign currency access for current account transactions.

Foreign currency-denominated accounts are permitted in Botswana. At present, commercial banks offer accounts denominated in U.S. Dollars, British Pounds, Euros and South African Rand. Businesses and other bodies incorporated or registered under the laws of Botswana may open such 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.

There is no difficulty in obtaining foreign exchange. Shortages of foreign exchange that would lead banks to block transactions are highly unlikely.

3. Expropriation and Compensation

The Constitution of Botswana prohibits the nationalization of private property. The Government of Botswana has never pursued a policy of forced nationalization and is highly unlikely to adopt such a policy.

4. Dispute Settlement

The Constitution of Botswana provides for an independent judiciary. Civil law is based on the Roman-Dutch system. The courts enforce legal agreements related to commercial disputes and the judicial system is widely regarded as fair. Foreign and domestic businesspersons have equal access to the judicial system. In general, Botswana courts will enforce decisions of a foreign court found to have jurisdiction in a given case. Botswana is a party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

In the past, U.S. litigants have complained that the time taken to obtain and enforce a judgment in a commercial dispute is unreasonably long. 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.

The laws of Botswana, including Bills before Parliament, are searchable and 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.

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. Botswana is a member of the International Center for the Settlement of Investment Disputes (ICSID) and the Multilateral Investment Guarantee Agency (MIGA), and therefore accepts binding international arbitration of investment disputes.

5. Performance Requirements and Investment Incentives

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 policy matter, the government encourages foreign firms to hire qualified Botswana nationals rather than expatriates, and the granting of work permits to expatriates may be made

contingent upon establishment of demonstrable “localization” efforts. When such a contingency is imposed, after the company’s start-up period, the government may require evidence that a citizen is being trained to assume some of the duties being filled by an expatriate, particularly at the middle-management level. The government offers training incentives to companies that train citizen employees, including allowing companies to deduct 200% of training expenses when training with 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 (EDD), 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.

Many investors who rely on expatriate managerial and technical expertise believe that immigration is a major regulatory constraint. In response to complaints that the immigration authorities lacked the necessary skill and expertise to properly adjudicate applications for individuals with certain technical skill sets, Botswana implemented a Points Based System (PBS) to evaluate work permits in 2012. The PBS resulted in immediate and widespread complaints that it was too stringent. As a result, the government announced that it would review the policy, however, there is evidence that restrictions have not relaxed. The Ministry of Labour and Home Affairs, which has jurisdiction over the provision of residency and work permits, has recently denied permits to a large number of skilled foreign workers, prompting many foreign-owned businesses, as well as foreign chambers of commerce, to express concern over their ability to establish or maintain commercial operations. Recent amendments to the Immigration Law do not appear to be designed 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 (CEDA) 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 parastatals 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 Ministry of Trade and Industry (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 a waiver letter written by a “competent authority.” Few of these procedures can be completed online. Therefore, in practice companies 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 60,000 Pula; Small Enterprises — less than 25 employees and annual turnover of between 60,000 and 1,500,000 Pula; Medium Enterprises — less than 100 employees and an annual turnover of between 1,500,000 and 5,000,000 Pula; Large Enterprises —more than 100 employees and an annual turnover of 5,000,000 Pula or more.

Botswana has one of lowest corporate tax rates in sub-Saharan Africa. The standard company tax rate is 22%; manufacturing companies registered in Botswana approved by the Minister of Finance and Development Planning, and offshore financial services companies are subject to a reduced rate of 15%.

The Minister of Finance and Development Planning has the authority to issue “Development Approval Orders” for specific projects, providing special tax relief and/or education and training grants of different types and rates. 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.

6. Right to Private Ownership and Establishment

Other than the previously identified business sectors reserved for citizen ownership, Botswana has no 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. Foreign and domestic private entities may freely establish, acquire, and dispose of their interests in business enterprises.

7. Protection of Property Rights

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% of land in Botswana is freehold. In the capital city of Gaborone, the number of freehold plots is limited.

State land represents about 25% 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.

Tribal land represents 70% 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 (BITC) has also built factory units for lease to industrialists with the option to purchase at market value.

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.

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/>.

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) has oversight over the award of 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 currently 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% of total deposits and 98% of total loans in Botswana. A large portion of the population does not participate in the formal banking sector.

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.

In 2011, the Government of Botswana launched the Financial Intelligence Agency, an independent government body responsible for the investigation of money laundering and terrorist finance. 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. However, Botswana has yet to implement an internationally accepted anti-money laundering and terrorist finance (AML/CTF) regime (see section on Corruption). In 2011, the Eastern and Southern Africa Anti-Money Laundering Group placed Botswana under enhanced monitoring.

Botswana’s 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 stable exchange rate and inflation rate (an average of 4.4% between December 2013 and February 2014), falling within the BoB's target of 3 to 6%.

The Botswana Pula has a crawling peg exchange rate and is tied to a basket of currencies comprised of approximately two-thirds South African rand and one third Special Drawing Right (SDR) (SDR is itself a currency basket, comprised of the U.S. dollar, the Euro, British pound, and Japanese yen). This currency weighting means that the exchange rate is heavily influenced by movements of the South African rand against the U.S. dollar.

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.

Botswana banks may lend to non-resident controlled companies and other non-resident owned business entities in Botswana without specific approval from the Bank of Botswana. As a practical matter, foreign investors usually enjoy better access to credit than local firms due to the limited capital base of local entrepreneurs and conservative lending policies by commercial banks. Access to credit is frequently cited as a significant constraint for commercial enterprises. Commercial lenders generally apply a debt to equity ratio of 4:1. Authorized dealers and credit institutions licensed by the Bank of Botswana are allowed to make foreign currency-denominated loans, financial leases and other forms of financial support to their customers in Botswana whether or not they have onshore accounts.

The BSE had a total of 36 listed companies as of April 08, 2014: 23 companies on the Domestic Board and 13 companies on the Foreign Equities Board. In addition, two exchange traded funds are listed on the exchange. The total market capitalization for listed companies, as of April 07, 2014, was 415.9 billion Pula (USD 52 billion), though most of that is taken up by one company, Anglo-American Plc, which has a market capitalization of some 347 billion Pula. 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. With the exception of deficiencies relating to AML/CTF regulations (see Corruption), banking legislation is largely in line with industry norms for regulation, supervision, and payments.

10. Competition from State Owned Enterprises

State-owned enterprises (SOEs) are majority or one hundred percent owned by the Government. Some SOEs are state-sanctioned monopolies, including the Botswana Meat Commission, the Water Utilities Corporation, Botswana Railways and Botswana the Power Corporation. SOEs appoint a CEO, who reports to a Board of Governors, 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.

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 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.

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, 25 firms have signed the Code of Conduct.

12. Political Violence

There is no political violence in Botswana. The 2011 April-June public sector strike saw some police deployed to respond to clashes with protesters but, with the exception of a few minor instances, the demonstrations did not turn violent.

13. Corruption

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 (30th overall), and a 2013 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.

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 or “cheating for valuable consideration” is punishable by a prison term of up to 10 years, a fine of 500,000 Pula (USD 64,000), or both. The DCEC received 1800 reports of corruption in 2011, a 3% decrease over the previous year. The DCEC investigated 433 allegations in 2012, and the government typically obtains 16-20 convictions per year for corruption-related crimes. High level officials have been prosecuted.

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.

In 2011, ESAAMLG issued a report placing Botswana under enhanced monitoring due to its lack of progress in implementing key AML/CFT regulations. The ESAAMLG report states that Botswana continues to have deficiencies in the areas of anti-terrorism legislation, anti-money laundering laws that provide for civil forfeiture, and a lack of regulations allowing the FIA to receive and review suspicious transaction reports (STRs) from the banking sector and certain other financial institutions.

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

14. Bilateral Investment Agreements

Botswana does not have any bilateral investment agreements. Botswana's trade and tariff policies have largely been influenced by its membership in the Southern African Customs Union (SACU), which includes South Africa, Namibia, Swaziland and Lesotho. SACU has announced that it is planning to pursue free trade negotiations with China and India in addition to its Trade and Investment Cooperation Agreement with the U.S. and the Free Trade Agreement that it signed with Iceland, Liechtenstein, Norway, Switzerland, and the European Free Trade Association. Botswana is also a member of the Southern African Development Community (SADC). Botswana has signed an interim Economic Partnership Agreement with the EU as part of SADC. Botswana and the United States entered into an investment guarantee agreement soon after independence. In addition, Botswana participates in the Generalized System of Preferences, and is an Africa Growth and Opportunity Act beneficiary country. Finally, Botswana has bilateral trade agreements governing the duty-free entry of goods with Malawi and Zimbabwe.

Botswana's trade regime is more open than that of an average sub-Saharan Africa country. According to the 2010 World Trade Indicators published by the World Bank, Botswana's MFN Tariff Trade Restrictiveness Index (TTRI) was 7.7%, as compared to 7.4% in 2011 for sub-Saharan Africa (the lower percentage indicates fewer trade restrictions). Botswana has improved its ease of doing business score with respect to trading across borders after it installed a new scanner on the Botswana-South African border. In addition, Botswana and Namibia are participating in a joint program to create a single software platform for customs clearance procedures.

Botswana's tariff policy is governed by SACU, which controls customs and excise duties on goods imported from non-SACU countries and establishes transit rights for products transported over Southern African territory. 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. An ongoing USAID-funded program is working with the Government of Botswana and SADC to reduce those barriers.

Botswana has active double taxation agreements with Barbados, Mozambique, India, Namibia, South Africa, the United Kingdom, Sweden, Mauritius, Zimbabwe, France, Lesotho, Swaziland and the Seychelles. Ratification is pending for double tax agreements with Russia, Belgium, Malawi, Tanzania, Zambia and Luxembourg. Botswana is currently negotiating double taxation agreements with Kenya, Angola, Nigeria, Uganda, China and Japan.

15. OPIC and Other Investment Insurance Programs

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

The U.S. Embassy in Gaborone purchases local currency at the official exchange rate provided by the Department of State's Financial Service Center. The Bank of Botswana uses a "crawling peg" that is largely tied to the South African Rand, therefore any appreciation or depreciation in the value of the Pula will likely follow the Rand's movement against the dollar. The estimated annual U.S. dollar value of local currency likely to be used by the Mission in 2014 is \$14 million.

16. Labor

Botswana has high unemployment (estimated to be 20%) 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 (BDF), 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.

17. Foreign-Trade Zones/Free Ports

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 Ministry of Trade and Industry.

18. Foreign Direct Investment Statistics

Foreign direct investment statistics trends show that FDI forms a major portion of capital flows into Botswana, followed by portfolio investments, which, though small, have increased since the founding of the Botswana Stock Exchange.

The following tables show the levels of Foreign Investment in Botswana by Industry and Country. The figures are from the Bank of Botswana 2012 Annual Report, the latest available at the time of printing.

LEVEL OF FOREIGN DIRECT INVESTMENT IN BOTSWANA BY INDUSTRY 2011 (PMILLION)			
Industry	Equity	Non-Equity	Total
Mining	13744	129	13873
Manufacturing	199	79	279
Finance	3228	366	3594
Retail and Wholesale	417	31	448
Electricity, Gas and Water	65	5283	5349
Real Estate and Business Services	2	15	17
Transport, Storage and Communication	193	-	193
Construction	65	-	65
Hospitality	140	-	140
Public Administration	-	19992	19992
Other	359	79	438
Total	18414	25975	44389
Source: Bank of Botswana			

Mining and finance accounted 31% of FDI inflows in 2011. Europe was the principal source of FDI (74%), followed by Asia at 12.5% and Africa at 7.7%. The United States contributed only .5% of FDI.

19. Contact Point at Post

Goitseone Montsho
 Commercial Specialist
MontshoG@state.gov
 +267 373-2354