

GHANA

TRADE SUMMARY

The U.S. goods trade surplus with Ghana was \$386 million in 2008, an increase of \$169 million from 218 million in 2007. U.S. goods exports in 2008 were \$609 million, up 46.2 percent from the previous year. Corresponding U.S. imports from Ghana were \$222 million, up 11.8 percent. Ghana is currently the 89th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Ghana was \$306 million in 2006 (latest data available).

IMPORT POLICIES

Tariffs

Ghana is a Member of the WTO and the Economic Community of West African States (ECOWAS). According to the WTO, Ghana has bound only 1 percent of tariffs on industrial goods. Along with other ECOWAS countries, Ghana adopted a common external tariff (CET) in 2008 that requires members to simplify and harmonize *ad valorem* tariff rates into five bands: zero duty on social goods (*e.g.*, medicine, publications); 5 percent on imported raw materials; 10 percent on intermediate goods; 20 percent on finished goods; and 35 percent on goods in certain sectors. The fifth band – proposed by Nigeria – is still under negotiation among member countries. Ghana currently maintains 190 exceptions to the CET, and the highest tariff charged is 20 percent. The tariff rates for the items covered under these exceptions will require some changes to align with the CET.

Nontariff Measures

Importers are confronted by a variety of fees and charges in addition to tariffs. Ghana levies a 12.5 percent value added tax (VAT) plus a 2.5 percent National Health Insurance levy on the duty-inclusive value of all imports and locally produced goods, with a few selected exemptions. In addition, Ghana imposes a 0.5 percent ECOWAS surcharge on all goods originating from non-ECOWAS countries and charges 0.4 percent on the free on board value of goods (including VAT) for the use of the automated clearing system, the Ghana Community Network (GCN). Further, under the Export Development and Investment Fund Act, Ghana imposes a 0.5 percent duty on all non-petroleum products imported in commercial quantities. Ghana also applies a 1 percent processing fee on all duty free imports.

All imports are subject to destination inspection and an inspection fee of 1 percent of cost, insurance and freight (CIF). Importers have indicated that they would prefer a flat fee on each transaction based on the cost of the services rendered. The destination inspection companies (DIC) licensed by the Ghanaian government account for the longest delay in import clearance. A 2008 study on port fees revealed that, out of the total transaction time of 69 hours for import clearance, destination inspection accounts for 45 hours. Following lobbying from importers, Ghana Customs has established a Customs Management System (CMS) to take over the valuation and classification of imported goods from the DICs. The new system is expected to reduce the time for import clearance because key steps associated with customs entry processing, payments, and clearance will be automated whereas under the current system hard copies of documents are physically submitted to the offices of the DICs.

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In July 2007, an *ad valorem* excise tax on locally produced and imported malt drinks, water, beer, and tobacco products was replaced with specific rates for each product. These changes were based on a study done for the Ghanaian government. The previous *ad valorem* excise tax on these products was between 5 percent and 140 percent. Specific rates are now charged on a per liter basis depending on the level of alcohol content. Carbonated soft drinks are taxed at GHC 0.04 (about \$0.04) per liter, while malt drinks are taxed at GHC 0.05 per liter.

An 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. Ghana Customs 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.

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

Ghana has lifted its previous restriction on imports of U.S. bone-in beef, which was based on concerns regarding Bovine Spongiform Encephalopathy (BSE).

Certificates are required for agricultural, food, cosmetics, and pharmaceutical imports. The import procedures for these products are cumbersome. Permits are required for poultry and poultry product imports. The permit process is time consuming, and at the time the permit is issued, a non-standardized quantity limit is imposed. Ghana prohibits the importation of meat with a fat content by weight greater than 25 percent for beef, 42 percent for pork, 15 percent for poultry, and 35 percent for mutton. Imported turkeys must have their oil glands removed. Ghana restricts the importation of condensed or evaporated milk with less than 8 percent milk fat by weight, and dried milk or milk powder containing less than 26 percent by weight of milk fat, with the exception of imported skim milk in containers. In November 2007, the Ghanaian government imposed a temporary ban on the import of tomato paste and concentrates, citing "unfair trade practices." Temporary permits were, however, granted to some importers to import the tomato concentrate for canning.

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.

EXPORT SUBSIDIES

The government uses preferential credits and tax incentives to promote exports. The Export Development Investment Fund administers financing on preferential terms using an 18 percent interest rate, which is below market rates. Agricultural export subsidies were eliminated in the mid-1980s. The Export Processing Zone (EPZ) Law, enacted in 1995, leaves corporate profits untaxed for the first 10 years of business operation in an EPZ, after which the rate climbs to 8 percent (the same rate for non-EPZ companies). Seventy percent of production in the EPZ zones must be exported. The current corporate tax rate for nonexporting companies is 25 percent.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

Ghana has issued its own standards for most products under the auspices of its testing authority, the Ghana Standards Board (GSB). The GSB has promulgated more than 343 Ghanaian standards and adopted more than 1,362 international standards for certification purposes. The Food and Drugs Board is responsible for enforcing standards for food, drugs, cosmetics, and health items.

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Under Ghana's Conformity Assessment Program (CAP), some imports are classified as "high risk goods" (HRG) that must be inspected by GSB officials at the port to ensure they meet Ghanaian standards. The GSB has classified the HRG into 20 broad groups, including food products, electrical appliances and used goods. The classification of HRG is vague and confusing, and its scope has raised numerous questions. For example, the category of "alcoholic and nonalcoholic products" could presumably include beverages, pharmaceuticals, and industrial products under the same classification. The CAP process requires prior registration with GSB as an importer of HRG and GSB approval to import any listed HRG. The importer must submit to GSB a sample of the HRG, accompanied by a certificate of analysis (COA) or a certificate of conformance (COC) from accredited laboratories in the country of export. Most often, the GSB officials conduct a physical examination and check labeling and marking requirements and ensure that goods are released within 48 hours. Currently, the fee for registering the first three HRG is GHC 50 (about \$45) and GHC 20 for each additional product. Any HRG entering Ghana without a COC or COA from an accredited laboratory is detained and subjected to testing by the GSB. The importer is required to pay the testing fee based on the number and kinds of parameters tested. The GSB publishes most of its fees on its website. U.S. companies have expressed concern that the standards that the Ghana CAP utilizes are difficult to determine and that independent third party certifications and marks may not be recognized, resulting in costly and redundant testing.

Ghana passed provisional biosafety legislation in March 2008 to govern agricultural biotechnology pending the passage of a larger biosafety regime. The legislation established regulations governing biotechnology products in three broad areas: field trials and contained work on biotechnology products; the release of these products into the environment; and the importation, exportation, and transit of agricultural biotechnology products. The law allows the National Biosafety Committee, through consultation with appropriate authorities, to issue guidelines on labeling. The Cabinet is currently reviewing draft biosafety legislation that will establish the National Biosafety Authority, which will be the administrative body responsible for all issues related to biotechnology in Ghana.

Sanitary and Phytosanitary Measures

The GSB requires that all food products carry expiration or shelf life dates and requires that the expiration date at the time it reaches Ghana should be at least two-thirds the shelf life. Goods that do not have two-thirds of their shelf life remaining are seized at the port of entry and destroyed. Questions have been raised regarding the consistency of this requirement with the Codex Alimentarius Commission General Standard for Labeling of Pre-packaged Foods.

GOVERNMENT PROCUREMENT

In 2003, Parliament enacted a public procurement law that codified guidelines to enhance transparency and efficiency in the procurement process and assigned responsibility for administration of procurement to a central body. In 2004, the government inaugurated the Public Procurement Board. Individual government entities have formed tender committees and tender review boards to conduct their own procurement. Large public procurements are made by open tender and foreign firms are allowed to participate. A draft guideline being applied 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 procurement law, companies cannot expect complete transparency in locally funded contracts. Allegations of corruption in government procurement are fairly common. Ghana is not a signatory to the WTO Agreement on Government Procurement.

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INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Ghana is a party to the World Intellectual Property Organization (WIPO) Convention, 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 WIPO Copyright Treaty and the African Regional Industrial Property Organization protocols. Ghana has signed the WIPO Performances and Phonograms Treaty and the Patent Law Treaty. Since December 2003, Parliament has passed six bills designed to bring Ghana into compliance with the WTO TRIPS Agreement. The new laws address copyright, trademarks, patents, layout-designs (topographies) of integrated circuits, geographical indications, and industrial designs. Regulations to define the procedures for comprehensive IPR protection and enforcement have not been promulgated. However, copyright regulations were passed in July 2008.

There are incidents of piracy of copyrighted works, although there is no reliable information on the scale of this activity. Holders of intellectual property rights have access to local courts for redress of grievances, although very few trademark, patent, and copyright infringement cases have been filed in Ghana in recent years. Government initiated enforcement remains relatively rare but the Copyright Office, which is under the Attorney General's Office, has initiated raids on markets for pirated works. The Customs Service has collaborated with concerned companies to inspect import shipments for specific counterfeit products.

SERVICES BARRIERS

Ghana's investment code precludes foreign investors from participating in four economic sectors: petty trading, the operation of taxi and car rental services with fleets of fewer than 10 vehicles, lotteries (excluding soccer pools), and the operation of beauty salons and barber shops.

Ghana allows foreign telecommunications firms to provide basic services, but requires that these services be provided through joint ventures with Ghanaian nationals. The National Communications Authority has yet to become effective in resolving complaints alleging that Ghana Telecom, the state-owned national telecommunications operator, is engaging in anticompetitive practices.

In the insurance sector, Ghana limits foreign ownership to 60 percent, except for auxiliary insurance services, where 100 percent foreign ownership is permitted. Although foreign investors may participate in Ghana's market for banking and other non-insurance financial services, discriminatory treatment applies to companies owned by non-resident investors. Specifically, under the central bank's new minimum capital requirement for banks, existing banks with Ghanaian majority share ownership (local banks) have until 2012 to fully increase their capital base to GHC 60 million (about \$54 million) from GHC 7 million. By contrast, banks with majority foreign ownership need to meet the target by 2009.

INVESTMENT BARRIERS

Foreign investment projects must be registered with the Ghana Investment Promotion Center (GIPC), a process that is supposed to take no more than five business days but that often takes longer. In an attempt to improve its service, in 2007 the GIPC introduced an online registration system.

The following minimum capital contribution requirements apply for non-Ghanaians who wish to invest in Ghana: \$10,000 for joint ventures with a Ghanaian entity; \$50,000 for investment in enterprises wholly owned by a non-Ghanaian; and \$300,000 for investment in trading companies (firms that buy/sell finished goods) either wholly or partly owned by non-Ghanaians. The GIPC has proposed increasing the

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minimum capital contribution for investment in trading companies to \$1 million. Trading companies must also employ at least 10 Ghanaians.

ELECTRONIC COMMERCE

Barriers to electronic commerce are mainly related to inadequate telecommunications and financial infrastructure. A proposed legal framework for electronic transactions is before Parliament. The payment system in Ghana is largely cash based. In June 2008, the government established a smart card payment system that links banks and financial institutions throughout Ghana and allows the use of point of sale and other electronic payments tools, but enrollment has been low.

OTHER BARRIERS

There are frequent problems related to Ghana's complex land tenure system. For example, establishing clear title on real estate can be difficult. Non-Ghanaians can have access to land only on a leasehold basis.

Frequent backlogs of cargo at the port hurt the business climate. The Customs Service phased in an automated customs declaration system that was established in the last quarter of 2002 to facilitate customs clearance. Although the new system has reduced the number of days for clearing goods through the ports, the desired impact has yet to be realized because complementary services from government agencies, banks, destination inspection companies, and security services have not been established.

The residual effects of a highly regulated economy and lack of transparency in certain government operations create an added element of risk for potential investors. Entrenched local interests sometimes have the ability to derail or delay new entrants, and securing government approvals may depend upon an applicant's local contacts. The political leanings of the Ghanaian partners of foreign investors are often subject to government scrutiny, and ensuring compliance with the U.S. Foreign Corrupt Practices Act remains a challenge.

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