



## **Doing Business In Botswana: A Country Commercial Guide for U.S. Companies**

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## Chapter 1: Doing Business In Botswana

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### Market Overview

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Ranked number one in Africa on Transparency International's anti-corruption index, Botswana is a stable democratic country which has historically enjoyed among the highest economic growth rates in the world. Botswana's ranking on the annual World Bank/IFC Doing Business report was 52 out of 183 countries globally. Its score compared favorably to all other African countries except Rwanda (ranked 45), South Africa (ranked 35) and Mauritius (ranked 23).

In 2011, Moody's credit rating agency upgraded Botswana's rating from "negative" to "stable," and retained the A2 rating for foreign and domestic bonds. The upgrade reverses Moody's decision in February 2010 to assign a negative outlook following the deterioration of Botswana's net asset position as a result of the global economic slowdown.

Botswana's diamond mining industry dominates the economy: As of the third quarter of 2011, mining contributed to 32 percent of overall GDP, and it supplies about a third of the government's total revenue. Despite mining's great contribution to the country's wealth, the sector only accounts for about 5 percent of employment. Botswana's economy is among the most skewed in the world between rich and poor, and an estimated 23 percent of Botswana's population survives on less than \$1.25/day.

Largely due to diamond revenue, Botswana enjoyed the highest GDP growth rate in the world from 1970 to 1999 (8.3 percent). Its economy contracted somewhat in the wake of the global financial crisis, but recovery is well underway. Real GDP grew by 7.8 percent in the third quarter of 2011 and is expected to grow by 5.1 percent in 2012. The non-mineral GDP growth rate for 2012 is estimated to be 8.9 percent.

Botswana's mining revenue has provided the government with resources to construct and maintain a solid infrastructure, including roads, telecommunication systems, hospitals, hotels, and schools. The presence of a well-maintained infrastructure, complimented by political stability, tends to encourage foreign investment.

The manufacturing sector is small, accounting for about four percent of GDP, and is focused on the small downstream diamond industry. Agriculture accounts for even less of Botswana's wealth, with only about two percent of GDP, but in the third quarter of 2011 recorded a year-on-year growth rate of 10 percent. Services represent about 10 percent of GDP, and the Government of Botswana is the major buyer in the country, with central government expenditures accounting for 31 percent of GDP. Tourism is a growing sector, accounting for about six percent of GDP.

Recently, public debt has increased and represents about 14 percent of GDP. Recent studies by the World Bank and IMF have called for stringent control of public expenditure for long term budget sustainability. To restore fiscal discipline, the budget for fiscal year 2011/12 recommended expenditure cuts and continued belt tightening which will result in a projected budget surplus of some \$153 million by 2013.

Some have questioned the government's political will to cut the deficit and reign in spending significantly. However, these concerns are dissipating: In 2010 the government froze wages for government employees (which make up roughly half of total employment), the last three annual budget papers have emphasized "doing more with less," and the latest budget projects a surplus. In 2011, an eight week public sector strike tested the government's approach to fiscal discipline. Despite strong pressure to meet worker demands for a 16 percent wage increase, the Botswana government held firm, and public sector workers returned to work with only a three percent increase.

The Pula depreciated against the major international currencies in 2011. Although the Pula's depreciation limits the growth of imports generally, demand for particular imported goods and services – especially infrastructural developments and mining projects – should remain strong.

Domestic inflation rose from 7.4 percent in December 2010 to 9.2 percent in December 2011. In 2011, the Botswana consumer experienced increased fuel prices, public transport fares, and electricity tariffs. The government anticipates that inflation will be contained, however, and fall within the Bank of Botswana desired range of 3-6 percent in the second half of 2012.

U.S. Government trade statistics show total U.S. exports to Botswana of \$43.8 million in 2011, of which the bulk was machinery and transport equipment, generators, military, and telecommunications equipment. U.S. imports from Botswana totaled \$293 million in 2011. As many U.S. products enter Botswana as re-exports from South Africa, the export figure does not represent the total consumption of US goods in the country. Similarly, the U.S. import figure does not include most diamonds, which generally enter the U.S. as re-exports from the United Kingdom.

The major U.S. export opportunities for Botswana continue to be in the area of mining equipment, hospital/medical equipment and supplies, aircraft equipment, pharmaceuticals, generators, telecommunications equipment and supplies, computer hardware and software, solar energy equipment, and financial and consulting services.

Botswana is a member of the Southern African Development Community (SADC), a regional intergovernmental organization of fifteen African states. The SADC Trade Protocol provides each member state most favored nation treatment on import and export duties. SADC members have not yet negotiated a Free Trade Agreement eliminating tariffs but there is a commitment to develop one. FTA negotiations between the United States and the region were suspended in 2006.

Botswana is also a member of the Southern African Customs Union (SACU), which consists of Botswana, Lesotho, Namibia, Swaziland, and South Africa. Customs and excise duties in SACU are pooled and distributed according to a revenue sharing formula. Historically, payments from SACU have represented a large proportion of Botswana's total public sector revenues (in 2008, for example, it was 25 percent). But

revenues from this source have declined from 2007 to the present. Should member states revise the revenue sharing formula as they are set to do in the near future (South Africa pays the most and has grown frustrated with its role subsidizing the smaller economies), this decline will accelerate.

Botswana has had a democratically-elected government since independence in 1966. Democratic institutions are in place and function well. Parliamentary elections held in October 2009 were free and fair. The next general election is expected in October 2014.

Botswana and the U.S. enjoy excellent bilateral relations.

## **Market Challenges**

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More than 800 U.S. companies do business in neighboring South Africa, and market observers in the region often wonder why more of them are not also doing business in democratic, stable, and easily reachable Botswana. The reason cited most often is the small size of Botswana's market. With a population of only 2 million, Botswana, for many companies, does not represent the sizeable market opportunity that would justify the extra time and expense required in doing business across an international border and in another jurisdiction. An FTA between the fifteen SADC member states and the unification and simplification of laws, regulations and procedures—still years away—would change that equation by encouraging observers to think in terms of entering Botswana as a gateway to the SADC market of 277 million people and a convenient central location from which to do business, well connected by transport corridors to neighboring states.

The next most frequently cited market challenge is the narrow skills base of Botswana workers. Partly due to the country's small population, and partly due to lack of opportunities for workers to gain experience and training, Botswana offers too few experienced managers and specialists. Most investors find they must retain expatriates to fill these roles. This poses its own problems, as work and resident permits for expatriate employees are subject to bureaucratic delays and hurdles.

Other market challenges commonly cited are regulatory constraints in certain sectors which have little or no relationship to the protection of the public interest; excessive "red tape" and overly bureaucratic and outdated procedures for obtaining licenses and permits; limited access to finance; high cost of high-speed internet; high cost of energy (although this cost is expected to stabilize as Botswana begins to provide for its own energy needs); poor customer service; and low worker productivity.

## **Market Opportunities**

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Particular sectors in Botswana offer good market opportunities. The mining sector continues to perform well, and includes not only diamonds but significant deposits of coal and copper-nickel. The government recently announced that it was lifting a moratorium on the issuance of mining licenses. Those wishing to prospect for and mine diamonds, coal, copper-nickel, uranium, or any other mineral commodity are now free to apply for a license.

De Beers Co. dominates Botswana's diamond industry; its mining operation, Debswana, is jointly owned by the Government of Botswana and De Beers. Debswana's total sales average an estimated \$300 million per month.

Botswana wishes to capture more of the diamond production value chain including trading, cutting, and polishing. To that end, it has built a state-of-the art Diamond Technology Park on the outskirts of Gaborone.

As part of a 10-year agreement brokered with the Government of Botswana in September 2011, De Beers agreed to transfer permanently the sales operations of its London-based Diamond Trading Company (DTC) to Gaborone. This means that De Beers' major shareholders (those authorized to buy diamonds from De Beers) will need to come to Botswana instead of London to purchase diamonds. The De Beers' sales relocation will also mean increased opportunities for cutters and polishers in Gaborone. More than 80 De Beers personnel will relocate from London to Botswana, providing a boost for the local economy. DTC-Botswana, the Botswana-registered arm of De Beers, will continue to sell rough diamonds to its 21 local shareholders.

In addition, the agreement provides a sales outlet for the Government of Botswana outside of the De Beers framework. Through this sales window, ten percent of the diamonds from Botswana's total mine production will be sold directly to international buyers without passing through De Beers.

Energy remains an important sector to watch for investors. To further its goal of reducing dependence on South African power and becoming a net exporter of electricity, Botswana has made large investments in additional power plants and has authorized at least one independent company to manage a Government of Botswana power plant. However, no independent power producer to date has reached an agreement with the Government of Botswana to sell power although the legal framework is in place permitting independent power production and sales.

The renewable energy sub-sector is also poised for growth—especially solar, as Botswana is an ideal locale for on and off-grid photovoltaic power—but the pace of this growth will depend on government policy decisions such as what rates will be offered for feed-in power agreements and the further development of appropriate standards.

Botswana has some potential to become a center for business process outsourcing, financial services including banking and insurance, call centers (many Botswana citizens speak English), and research, but high internet costs and a poor IT skills base have hampered strong growth in these areas. As internet costs drop, however, Botswana's good telecommunications infrastructure and well-developed banking sector may make it increasingly attractive for the business services sector.

Botswana's tourist market continues to grow, with high-end tour operators and hotels experiencing continued profitability. In addition, there is a steady demand for health services and medical/surgical equipment. Major construction projects principally commissioned by government abound (the construction sector recorded a real growth rate of 24 percent in the third quarter of 2011), but bidders typically face fierce competition from Chinese firms.

In Botswana, personal relationships established telephonically, or preferably in person, are essential to establishing effective business relationships. For a large project involving government, meeting partners face-to-face is essential. Investors increase their chances of successfully navigating the bureaucracy to start their projects by partnering with a local firm. In order to gain access to government loans and grants, having a local partner is mandatory.

The Botswana Export Development and Investment Authority (BEDIA) can facilitate market entry if the investor's project has potential for local employment creation and will facilitate the development of the export market. IT or IT-related companies may want to consider a relationship with the Botswana Innovation Hub in order to facilitate market entry (<http://www.bih.co.bw/>).

Local consultants can source potential business partners and the U.S. Embassy's Economic/Commercial Section can assist American investors by providing general advice on economic conditions and, in some cases, specific market intelligence. The U.S. Department of Commerce's Gold Key partner search, partner matching, and business meeting facilitation services are also available.

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## **Chapter 2: Political and Economic Environment**

For background information on the political and economic environment of the country, please click on the link below to the U.S. Department of State Background Notes.

<http://www.state.gov/r/pa/ei/bgn/1830.htm>

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#### Using an Agent or Distributor

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U.S. companies looking for assistance in finding a Botswana agent or distributor are advised to contact BOCCIM, the Botswana Confederation of Commerce, Industry, and Manpower. BOCCIM has more than 2,000 member companies and is the largest private sector association in the country. Its membership directory is not available online but the Economic/Commercial Section of the U.S. Embassy can provide a hard copy ([CommercialGabs@state.gov](mailto:CommercialGabs@state.gov)).

The U.S. Commercial Service's International Partner Search program also provides partner search services, for a fee. Partner search services for Botswana are available through the U.S. Commercial Service in Johannesburg ([www.buyusa.gov/southafrica/en](http://www.buyusa.gov/southafrica/en)).

#### Establishing an Office

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Companies interested in investing in Botswana should contact the Botswana Export Development and Investment Authority (BEDIA) (<http://www.bedia.co.bw>), the Government of Botswana agency charged with assisting foreign investors in setting up operations.

Company formation and registration in Botswana is relatively straightforward but it is not yet online. All companies doing business in the country must register with the Registrar of Companies. Registration typically takes two weeks; commonly an investor will engage a local attorney to assist. A list of local attorneys who practice in this area can be obtained from the U.S. Embassy's Consular Section (<http://botswana.usembassy.gov>).

## Franchising

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Although most franchises in Botswana are from South Africa, a few U.S. franchises operate in Botswana including Federal Express, Coca-Cola, Kentucky Fried Chicken, Avis, and Re/max Realtors.

Registering a franchise requires the same procedures as registering a company and must be done with the Registrar of Companies. Depending on the type of business, the government may also require a license issued either by the city council or the Ministry of Trade and Industry.

## Direct Marketing

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Although direct marketing techniques are not in great use in Botswana, the country's good telephone and postal infrastructure would permit the use of direct mail or telemarketing.

## Joint-ventures/Licensing

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Joint ventures between local and foreign partners are common and are encouraged, especially where the foreign partner brings production or design expertise and marketing ties. Investors looking for partners should contact the Botswana Development Corporation (BDC – [www.bdc.bw](http://www.bdc.bw)) and use the U.S. Commerce Department's International Partner Search service.

## Selling to the Government

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Public procurement in Botswana is centralized. The Public Procurement and Asset Disposal Board (PPADB - <http://www.ppadb.co.bw/>), awards all government tenders. The tender process is generally transparent. The PPADB's Complaints Review Committee reviews PPADB decisions challenged by stakeholders. The PPADB publishes decisions concerning awarded tenders, prequalification lists and newly registered contractors on its web site and in the Government Gazette. Although lobbying the PPADB directly is prohibited, foreign businesses may contact the individual government departments which request the creation of PPADB tender offers at any time to discuss the products and services they offer.

The government is the largest consumer of goods and services in the country. In 2009 the government spent approximately \$2.9 billion in public procurements, and the PPADB adjudicates some 60 procurements per week. The National Development Plan Version 10 outlines key government projects, the largest of which concern road improvement throughout the country and a series of highway upgrades, construction and extension of the University of Botswana in Gaborone, construction of three dams and cross-country water carriers, construction of junior and secondary schools throughout the country, Botswana Defense Force procurements including vehicles, and health infrastructure and health worker accommodation construction. In addition, the government is set to make major procurements for the development of drainage systems, roads, and fencing in the near future to support the government's Pandametenga Agriculture Infrastructure Development Project. The government's Renewable Energy-Based Rural Electrification Project, a national off-grid household energy project, will provide opportunities for photovoltaic power manufacturers to supply an estimated 50,000 rural end-users.

The U.S. Embassy can assist in making initial business contacts to gain government business. Investors should be aware that some areas of government procurement contain preference schemes for Botswana citizen-owned businesses. Consult the investment climate chapter for further details. Note that anyone wishing to respond to a Botswana Government solicitation for bids must be registered with the PPADB.

## **Distribution and Sales Channels**

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Botswana is a landlocked country at the center of the Trans-Kalahari Corridor which connects Johannesburg through Botswana to the port of Walvis Bay in Namibia. Botswana is also part of the North-South Corridor which connects the port of Durban through Botswana to Zambia and Dar es Salaam. The major transport corridor is the North-South to and from the port of Durban, but many shippers find Walvis Bay to be an increasingly attractive alternative due to delays at Durban.

Most goods enter Botswana through Gaborone, the capital city. However, other points of commerce include Lobatse, Francistown, Maun and Kasane. Roads are typically good, although driving at night is somewhat dangerous due to livestock sometimes wandering onto the roads and should be avoided.

The vast majority of U.S. products sold in Botswana enter as re-exports from South Africa. Many U.S. companies maintain regional distributorships in South Africa, which supply the rest of the SADC region.

## **Selling Factors/Techniques**

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English is the official language, but Setswana is the traditional language and remains predominant in social and business interactions. Depending on the scale or target consumer, marketing materials may need to be translated into Setswana.

## **Electronic Commerce**

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Internet usage is on the rise, but remains low nationwide (less than six percent). Mobile broadband service using cellular technology is available, and coverage is generally good, but it is slow. DSL service through fixed lines and a relatively good national fiber backbone is generally reliable but it is expensive relative to US internet costs. Although the connection to the Seacom (Africa East Coast) has been completed and Botswana is expected to gain access this year to the ACE (Africa West Coast) undersea cable, internet speeds continue to be slow. Prices may decrease as the government moves ahead with its plans to privatize the Botswana Telecommunications Corporation.

Point of sales for credit card transactions are numerous and widely available with reliable connections to processing centers.

No legislation as yet provides for digital signatures.

## **Trade Promotion and Advertising**

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Newspapers and radio are the most common advertising media in Botswana, though as more citizens access the internet through mobile devices in the coming years, advertising via internet will become more important to vendors.

South African satellite television broadcasts reach the major cities and can provide a venue for products marketed throughout the region. The national television station, BTV, and the Gaborone television station, GBC, may also prove useful means for advertising.

Botswana's major newspapers are:

- (a) The Botswana *Guardian* - [www.botswanaguardian.co.bw](http://www.botswanaguardian.co.bw)
- (b) The Botswana *Gazette* - [www.gazette.bw](http://www.gazette.bw)
- (c) The Midweek *Sun* - [www.midweeksun.co.bw](http://www.midweeksun.co.bw)
- (d) *Mmegi* - [www.mmegi.bw](http://www.mmegi.bw)
- (e) The *Daily News* - [www.gov.bw/news](http://www.gov.bw/news); and
- (f) *Sunday Standard* – [www.sundaystandard.info](http://www.sundaystandard.info)
- (g) The *Advertiser* - Printing and Publishing Services, P/Bag 0081, Gaborone, Tel: (267) 391-4788, Fax: (267) 391-4595, email: [advertiser@info.bw](mailto:advertiser@info.bw). (No website)

Advertisers interested in wide, local and English language coverage may wish to contact Radio Botswana at the Department of Information and Broadcasting, P/Bag 0060, Gaborone, Tel: (267) 395-2541; Fax: (267) 395-2541.

Private radio stations include:

- (a) Gabz FM 96.2, Bag B0319, Gaborone, Tel: (267) 3956-962 and
- (b) Yarona FM 106.6. Box 1607, Gaborone, Tel: (267) 391-1066.
- (c) Duma FM 93., Box 1823 Gaborone, Tel: (267) 350 - 0130

The government-owned Botswana television station (BTV) offers some advertising. Interested advertisers should contact the Department of Information and Broadcasting at the above address. The GBC television station, Box 921, Gaborone, Tel. (267) 395-7654, Fax (267) 390-1875, email: [gbctv@info.bw](mailto:gbctv@info.bw), offers advertising for the Gaborone market.

"*Beneath Botswana*" is a locally produced trade magazine for the mining industry and "*Discover Botswana*" is a Botswana tourism trade magazine which showcases tourism resources and investment opportunities. For more information visit: <http://beneathbotswana.com> and [www.discover-botswana.com](http://www.discover-botswana.com).

Several reputable marketing, media, and advertising agencies are available in the country. These include:

- (a) Horizon Ogilvy and Mather - [www.horizon.ogilvy.co.bw](http://www.horizon.ogilvy.co.bw)
- (b) Marketing Communications - Email: [marcom@info.bw](mailto:marcom@info.bw)
- (c) Media Communications - Email: [vich@medcom.bw](mailto:vich@medcom.bw)
- (d) Alliance Media Botswana - <http://www.alliancemediacom/countries/botswana.html>
- (e) Continental Outdoor Media - <http://www.continentaloutdoor.com/>
- (e) Optimum McCann-Erickson – [www.pulaholdings.co.bw](http://www.pulaholdings.co.bw)
- (g) Dialogue Saatchi & Saatchi – Email: [kefilwe@dialoguesaatchi.com](mailto:kefilwe@dialoguesaatchi.com)

## **Pricing**

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Companies are free to set prices inclusive of Value Added Tax (VAT). Most goods are free of price controls, with a few exceptions such as maize meal, petroleum, diesel, illuminating paraffin, and beef.

Currently there is VAT of 12 percent charged on most sales of goods and services. Sales of petrol, diesel, paraffin, maize and sorghum meal, financial, educational, and health services are exempt from VAT.

## **Sales Service/Customer Support**

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Service and after-sales support for imported products sold in Botswana is typically spotty. A distributor will find a distinct market advantage in providing a full range of after-sales support through an authorized representative; for producers with important brand reputations to protect, strong after-sales support including parts and service in Botswana will be essential.

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### **Protecting Your Intellectual Property in Botswana:**

Several general principles are important for effective management of intellectual property (“IP”) rights in Botswana. First, it is important to have an overall strategy to protect your IP. Second, IP is protected differently in Botswana than in the U.S. Third, rights must be registered and enforced in Botswana, under local laws. Your U.S. trademark and patent registrations will not protect you in Botswana. There is no such thing as an “international copyright” that will automatically protect an author’s writings throughout the entire world. Protection against unauthorized use in a particular country depends, basically, on the national laws of that country. However, most countries do offer copyright protection to foreign works under certain conditions, and these conditions have been greatly simplified by international copyright treaties and conventions.

Registration of patents and trademarks is on a first-in-time, first-in-right basis, so you should consider applying for trademark and patent protection even before selling your products or services in the Botswana market. It is vital that companies understand that

intellectual property is primarily a private right and that the US government generally cannot enforce rights for private individuals in Botswana. It is the responsibility of the rights' holders to register, protect, and enforce their rights where relevant, retaining their own counsel and advisors. Companies may wish to seek advice from local attorneys or IP consultants who are experts in Botswana law. The U.S. Commercial Service can provide a list of local lawyers upon request.

While the U.S. Government stands ready to assist, there is little we can do if the rights holders have not taken these fundamental steps necessary to securing and enforcing their IP in a timely fashion. Moreover, in many countries, rights holders who delay enforcing their rights on a mistaken belief that the USG can provide a political resolution to a legal problem may find that their rights have been eroded or abrogated due to legal doctrines such as statutes of limitations, laches, estoppel, or unreasonable delay in prosecuting a law suit. In no instance should U.S. Government advice be seen as a substitute for the obligation of a rights holder to promptly pursue its case.

It is always advisable to conduct due diligence on potential partners. Negotiate from the position of your partner and give your partner clear incentives to honor the contract. A good partner is an important ally in protecting IP rights. Consider carefully, however, whether to permit your partner to register your IP rights on your behalf. Doing so may create a risk that your partner will list itself as the IP owner and fail to transfer the rights should the partnership end. Keep an eye on your cost structure and reduce the margins (and the incentive) of would-be bad actors. Projects and sales in Botswana require constant attention. Work with legal counsel familiar with Botswana laws to create a solid contract that includes non-compete clauses, and confidentiality/non-disclosure provisions.

It is also recommended that small and medium-size companies understand the importance of working together with trade associations and organizations to support efforts to protect IP and stop counterfeiting. There are a number of these organizations, both Botswana or U.S.-based. These include:

- The U.S. Chamber and local American Chambers of Commerce
- National Association of Manufacturers (NAM)
- International Intellectual Property Alliance (IIPA)
- International Trademark Association (INTA)
- The Coalition Against Counterfeiting and Piracy
- International Anti-Counterfeiting Coalition (IACC)
- Pharmaceutical Research and Manufacturers of America (PhRMA)
- Biotechnology Industry Organization (BIO)

## **IP Resources**

A wealth of information on protecting IP is freely available to U.S. rights holders. Some excellent resources for companies regarding intellectual property include the following:

- For information about patent, trademark, or copyright issues -- including enforcement issues in the US and other countries -- call the STOP! Hotline: **1-866-999-HALT** or register at [www.StopFakes.gov](http://www.StopFakes.gov).

- For more information about registering trademarks and patents (both in the U.S. as well as in foreign countries), contact the US Patent and Trademark Office (USPTO) at: **1-800-786-9199**.
- For more information about registering for copyright protection in the US, contact the US Copyright Office at: **1-202-707-5959**.
- For more information about how to evaluate, protect, and enforce intellectual property rights and how these rights may be important for businesses, a free online training program is available at [www.stopfakes.gov](http://www.stopfakes.gov).
- For US small and medium-size companies, the Department of Commerce offers a "SME IP Advisory Program" available through the American Bar Association that provides one hour of free IP legal advice for companies with concerns in Brazil, China, Egypt, India, and Russia. For details and to register, visit: [http://www.abanet.org/intlaw/intlproj/iprprogram\\_consultation.html](http://www.abanet.org/intlaw/intlproj/iprprogram_consultation.html)
- For information on obtaining and enforcing intellectual property rights and market-specific IP Toolkits visit: [www.StopFakes.gov](http://www.StopFakes.gov) This site is linked to the USPTO website for registering trademarks and patents (both in the U.S. as well as in foreign countries), the U.S. Customs & Border Protection website to record registered trademarks and copyrighted works (to assist customs in blocking imports of IP-infringing products) and allows you to register for Webinars on protecting IP.
- The U.S. Commerce Department has positioned IP attachés in key markets around the world. You can get contact information for the IP attaché who covers Botswana at: <http://export.gov/southafrica/>

### **IPR Climate in Botswana**

Botswana is a member of both the Berne and Paris Conventions, and its laws now largely comply with the World Trade Organization's Trade Related Aspects of Intellectual Property Rights (TRIPS) agreement.

In 2010 the Botswana legislature passed the Industrial Act. The law covers layout designs of integrated circuits, geographical indications, and traditional knowledge and handicrafts. It also extends protection to patents subject to the Patent Cooperation Treaty and trademarks registered under the Madrid Protocol. The U.S. Embassy strongly recommends that patent and trademark holders seek local legal advice before relying on this new legislation.

The 2008 Botswana Copyright Act protects, to an internationally accepted standard, the rights of creators of literary, artistic, dramatic, and cinematographic works; computer programs; broadcasting organizations; and sound recordings. This legislation brings domestic law into compliance with the international copyright agreements Botswana has agreed to including the World Intellectual Property Organization Copyright Treaty and the WIPO Performances and Phonograms Treaty.

A Copyright Office exists in Gaborone with a branch in Francistown. The Copyright Office supervises the activities of the Copyright Society of Botswana (COSBOTS). The Copyright office advises the Government and its agencies on matters pertaining to copyright law and Botswana's obligations under international agreements. The office keeps a database of copyrighted works and copyright transfers and assignments. It also carries out anti-piracy awareness campaigns.

Contact information for Botswana can be found at <http://www.wipo.int/directory/en/urls.jsp>.

## Due Diligence

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Due diligence can be conducted in Botswana by engaging a local attorney. Many of the global accounting firms have offices in Gaborone and can also provide due diligence services.

Deloitte & Touche: [www.deloitte.com](http://www.deloitte.com), Tel: (267) 375-1611

Ernest & Young: [www.ey.com](http://www.ey.com), Tel: (267) 397-4078

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Botswana Telecommunications Corporation: [www.btc.bw](http://www.btc.bw)

International Financial Services Center: [www.ifsc.co.bw](http://www.ifsc.co.bw)

Botswana Export Development and Investment Authority: [www.bedia.co.bw](http://www.bedia.co.bw)

Botswana Confederation of Commerce, Industry and Manpower: [www.boccim.co.bw](http://www.boccim.co.bw)

Botswana Development Corporation: [www.bdc.bw](http://www.bdc.bw)

Ernest and Young: [www.ey.com](http://www.ey.com)

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Government Tenders: <http://www.gov.bw/business/tenders.html>.

Botswana Telecommunications Corporation: [www.btc.bw](http://www.btc.bw)

International Financial Services Center: [www.ifsc.co.bw](http://www.ifsc.co.bw)

Botswana Export Development and Investment Authority: [www.bedia.co.bw](http://www.bedia.co.bw)

Botswana Confederation of Commerce, Industry and Manpower: [www.boccim.co.bw](http://www.boccim.co.bw)

Botswana Development Corporation: [www.bdc.bw](http://www.bdc.bw)

Exporters Association of Botswana: <http://www.exporters.bw/>

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## **Chapter 4: Leading Sectors for U.S. Export and Investment**

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### **Commercial Sectors**

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- [Tourism – Leading Sector #3](#)
- [Telecommunications – Leading Sector #4](#)
- [Energy – Leading Sector #5](#)
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- [Textile and Apparel – Leading Sector #7](#)

## **Mining (MIN) – Leading Sector #1**

### **Overview**

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For the past four decades the mining sector accounted for roughly 70 to 80 percent of national foreign exchange earnings, 33 percent of government revenue, and 40 percent of GDP. Botswana's mining industry consists mainly of diamonds and mining currently accounts for about a third of government revenue. In the first quarter of 2011, Botswana's diamond exports reached a high of roughly \$1.2 billion. Other minerals mined in Botswana include copper-nickel matte, coal, soda ash, salt, and small amounts of gold. More recently, coal and uranium have emerged as key potential revenue generators.

The Botswana government and De Beers signed a ten-year agreement in September 2011 that will see De Beers' sales and sorting operations move to Botswana from London. Output from Debswana, the joint venture between De Beers and the government, will be combined with that from De Beers' other mines in South Africa, Namibia and Canada. The deal also provides for the government to market a portion of Debswana's production independently, which it intends to use to kick start plans to establish Gaborone as a diversified diamond center. The transfer of activities from London is due to be completed by the end of 2013. The government faces major challenges in ensuring that the necessary infrastructure – hotels, office space, etc. – are in place to satisfy the international diamond-trading community.

In late September 2011, the government lifted its moratorium on the issuance of new licenses in the mining sector. This was welcome news for companies interested in developing the infrastructure (chiefly rail lines) that will be necessary to exploit Botswana's vast coal reserves. Coal production currently is limited to one facility and stands at roughly 1m tons per year, but demand will increase when Botswana's coal-fired power plant, Morupule B will come on line in 2012. The government is currently studying the feasibility of a westward rail which will ultimately link Botswana's coal fields with the port of Walvis Bay in Namibia. Demand for coal from India in particular may drive the exploitation of coal resources from the country.

U.S.-based Caterpillar has captured a sizable portion of the mining equipment market. Mining equipment is supplied by distributors mainly located in South Africa and recorded as imports from the country of supply and not as imports from the country of origin, hence the understated value of imports from the U.S. All heavy equipment and machinery are imported, as there is no local production or assembly. Local distributors tend to focus on light industrial non-specialized equipment for mines, e.g., switches, pumps, cleaning equipment, rather than heavy mining equipment. Distributors report that mines in Botswana, in general, are interested in purchasing high quality, long-lasting industrial equipment with robust warranties and therefore are less price-sensitive than most industries in the country.

### **Sub-Sector Best Prospects**

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Mining equipment, services, mineral prospecting and consulting are the best sub-sector prospects.

## Opportunities

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Having developed its road map for the growth of the mining sector, the government is now receiving applications for mining licenses. Although the document has not yet been released, the road map is likely to emphasize preparing the country for the high volume mining of coal for export to markets such as India, China, and South East Asia, and the massive investment in infrastructure necessary to realize coal export opportunities.

The Diamond Hub, established in 2008, aims to attract diamond technology companies and has four areas of concentration: diamond cutting and polishing, establishment of a rough and polished diamond trading facility, development of diamond jewelry manufacturing and support industries. The government has plans to make the activities of the Hub more attractive by extending Free Trade zone privileges to all diamond core activities with special dispensations in the tax, import duty and labor fields.

## Web Resources

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Ministry of Minerals, Energy and Water Affairs: <http://www.gov.bw/en/Ministries--Authorities/Ministries/Ministry-of-Minerals-Energy-and-Water-Resources-MMWER/>

Debswana: <http://www.debswana.com/Pages/Welcome.aspx>

Ministry of Trade and Industry: [www.mti.gov.bw](http://www.mti.gov.bw)

Botswana Unified Revenue Services (BURS): <http://www.burs.org.bw>

## Financial Services (FNS) – Leading Sector #2

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The nonbanking financial sector in Botswana is developing rapidly. As of September 2011, financial services institutions such as insurance companies, pension fund operations, capital markets, and microlenders held roughly \$9.3 billion in assets. Microlending and insurance, in particular, have emerged as highly profitable.

Incentives to attract financial services companies to base their operations in Botswana include a 15 percent corporate tax until 2020 for companies registered with the International Financial Services Center; an exemption from withholding taxes on interest, commercial royalties, management or consultancy fees and dividends paid by an IFSC company to a non-resident; a tax credit for withholding taxes in other jurisdictions; a tax exemption for Collective Investment Units (CIU); and no foreign exchange controls. The Bank of Botswana regulates the IFSC.

IFSC-registered companies are eligible to carry out banking and financing operations, brokerage and securities trading, investment advice, collective investment schemes, captive insurance and reinsurance business, registrars and transfer agency services, accounting and financial administration, and back office support or business processing outsourcing, including call centers. The majority of existing financial services businesses are in the areas of international banking, funds administration, corporate treasury management and captive insurance operations, including two U.S. firms, the AON and Marsh insurance companies. The IFSC has certified 47 companies.

### Sub-Sector Best Prospects

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Insurance and reinsurance, regional investment banking and structured financing operations, microlending, and business process outsourcing are the best prospects for the sub-sector.

### Opportunities

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Botswana may be an ideal location for a financial services company to base its operations and anchor a multi-country product. Botswana's financial services and insurance regulatory framework has been designed to encourage this, and IFSC allows registered companies to denominate their share capital in all the major convertible currencies.

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International Financial Services Center: <http://www.botswanaifsc.com/>

Non-Bank Financial Institutions Regulatory Authority (NBFIRA):  
[www.ifsc.co.bw/nbfira.php](http://www.ifsc.co.bw/nbfira.php)

Ministry of Finance: [www.gov.bw](http://www.gov.bw)

Bank of Botswana: [www.bob.bw](http://www.bob.bw)

Ministry of Trade and Industry: [www.mti.gov.bw](http://www.mti.gov.bw)

Botswana Unified Revenue Services (BURS): <http://www.burs.org.bw>

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## Tourism (TRA, HTL) – Leading Sector #3

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The tourism sector has strong potential for growth. Industry participants both in Botswana and abroad have noted that the country's unique and abundant natural resources provide it with a significant advantage in the tourism sector. Yet tourism still plays only a limited role in the national economy, representing about six percent of GDP. The government is committed to growing the sector as part of its economic diversification strategy. Total expenditures on hotel and air transport (which includes non-tourist travel activities) were \$1.8 billion in 2010.

Botswana seeks to broaden the tourism base by adding more product components and increasing the geographic spread of tourism. Providing quality service remains the main challenge.

The government encourages new investments and joint ventures in tourism and continues to play a major role in the development of tourism projects. New hotels and conference facilities such as the Phakalane resort, Mondior, Metcourt, Gaborone International Conference Centre, etc., have opened in the past few years, increasing the country's ability to host international conferences and events. The government continues to upgrade infrastructure in wildlife-protected areas. Lodge sites within four of the largest national parks continue to be awarded.

Observers have commented that there is still need for a large, high-quality hotel and conference facility in Gaborone, as the city's current hotels are relatively small and frequently booked to capacity. This will be especially important in order to accommodate international diamond buyers who will come to Botswana's De Beers operations to buy diamonds beginning in 2013.

The Botswana Tourism Organization (BTO) is responsible for all operational functions of the tourism sector such as marketing, investment promotion, and the grading of tourism facilities to international standards.

### Sub-Sector Best Prospects

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Eco-tourism, hotels (especially in Gaborone), lodges and restaurants are the best sub-sector prospects.

### Opportunities

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Joint ventures are being sought for hotel expansions and start-ups along the Trans-Kgalagadi Highway joining Botswana and Namibia and development of lodges in Kgalagadi Transfrontier Park, Central Kalahari Game reserve, Makgadikgadi Pans National Park and Chobe National Park.

If successful, a proposed trans-frontier conservation area, commonly referred to as the Limpopo/Shashe Trans-frontier Conservation Area, would be a unique partnership between the Governments of Botswana, South Africa, and Zimbabwe, the private sector, and the local communities, and would create new opportunities for eco-tourism.

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Ministry of Environment, Wildlife and Tourism: <http://www.gov.bw/en/Ministries--Authorities/Ministries/Ministry-of-Environment--Wildlife-and-Tourism/>

Hospitality & Tourism Association of Botswana: <http://www.hatab.bw/>

The Tourist (Botswana Tourism Magazine): [TheTourist@botsnet.bw](mailto:TheTourist@botsnet.bw)

Botswana Tourism Organization: [www.botswanaturism.co.bw](http://www.botswanaturism.co.bw)

Ministry of Trade and Industry: [www.mti.gov.bw](http://www.mti.gov.bw)

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## Telecommunications (TES, TEL) – Leading Sector #4

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Botswana has a fairly well-developed telecommunications system. The Botswana Telecommunications Corporation (BTC) provides landline services and competes with cellular consortiums Mascom Wireless (an affiliate of South Africa's MTN), BeMobile, and Orange for cellular service. The market is performing well with especially strong penetration and coverage. At well over 100 percent coverage due to individuals owning more than one mobile phone, Botswana has one of the highest cell phone penetration rates in Africa.

Currently only six percent of Botswana's population has internet access. This will change in the medium term as internet access via mobile devices expands. However, internet-over-mobile growth will depend on the willingness of BTC to revise its price structure and the level of control BTC chooses to exercise over switches connecting the national backbone with international undersea cables. Should BTC allow cellular providers cheap access to these critical internet points of entry, cellular internet access charges are likely to decrease as speed and reliability improve.

DSL service provided by BTC is expensive though reliable. Dedicated bandwidth, essential for some businesses, is especially expensive. The Botswana Telecommunications Authority recently ordered the BTC to reduce some of its prices but this reduction has not affected the high cost of dedicated bandwidth. There are no restrictions on the provision of voice over internet protocol by value-added network service providers. The Ministry of Communications, Science, and Technology has the authority to issue licenses for telecom services including mobile telephones, data communications, payphones, sale of telecommunications equipment, and internet services. No restrictions apply to foreign partnerships in mobile services.

The government has committed to sell up to 49 percent of its shares in the Botswana Telecommunications Corporation through an initial public offering on the Botswana Stock Exchange; the government would retain the remaining 51 percent. The IPO, originally slated to take place in 2011, is now expected to occur in mid-2012.

The government has invested \$38 million into the development of the West Africa Cable System undersea cable connecting southern and western African countries to the United Kingdom via Portugal. The cable is expected to be completed in late 2012.

### Sub-Sector Best Prospects

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Communications services, including Internet service provision, telecommunications equipment, and software are the best sub-sector prospects.

### Opportunities

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In addition to the expected services opportunities that will be generated through liberalization, the BTC has embarked on a program to upgrade the country's telecommunications infrastructure, and government tenders for the supply of equipment and services are often issued.

U.S. exports of telecommunication equipment to Botswana stood at \$1.7m in 2011, but this figure does not reflect those products exported to South Africa and imported to Botswana by South African distributors.

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Botswana Telecommunications Corporation: [www.btc.bw](http://www.btc.bw)

BTC Tenders Page: <http://www.btc.bw/tenders.html>

Botswana Telecommunications Authority: <http://www.bta.org.bw/>

Ministry of Communications, Science and Technology: [www.gov.bw](http://www.gov.bw)

Ministry of Trade and Industry: [www.mti.gov.bw](http://www.mti.gov.bw)

Department of Customs and Excise: <http://www.finance.gov.bw/customs/>

## Energy (OGS, OGM, REQ) – Leading Sector #5

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Botswana currently imports about 80 percent of its electricity from neighboring countries, but this is set to change as Botswana rapidly expands domestic energy production. The first 150MW phase of the Chinese-built 600MW Morupule “B” coal-fired power station is expected to come online in April 2012. Morupule “B” is expected to meet Botswana’s immediate energy needs. Although the domestic market for power in Botswana is small, it is nonetheless big enough to support another medium-sized power coal-fired power station in the medium term.

Power production in Botswana for export by an independent power producer is also possible, as the legal infrastructure to accomplish this is now in place, and the regional market for power is large and undersupplied.

Government-owned Botswana Power Corporation (BPC) is extending the provision of electricity to rural villages. Currently access to electricity in Botswana is 56 percent of the population and the target is to reach 80 percent by 2016. In the fiscal year 2012/2013, government intends to spend some \$12.5 million to finance rural electrification.

Despite Botswana’s potential for solar energy utilization (annual Direct Normal Irradiation equivalent of 3,000 kWh/m<sup>2</sup>/a in most parts of the country—among the highest in the world) and a national policy promoting renewable energy (with solar development enshrined in Vision 2016, NDP 10 and other documents), there have been relatively few solar developments in country. Currently, solar energy is primarily used for solar water heating and small-scale electricity generation using PV technology, the latter mainly for rural applications. A 200MW solar thermal plant is under development but is still in its early stages. BPC and the government are exploring non-grid electrification, utilizing solar PV Solar Home Systems, rechargeable lanterns and a centralized off-grid system. A medium-scale (1.3MW) project is under development in Phakalane, but solar applications tend to be at the household level.

The government has decided to authorize a feed-in tariff regime which would allow independent power suppliers to provide power to Botswana’s national grid at premium rates. Rates have not yet been published, however.

### Sub-Sector Best Prospects

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Energy equipment, solar heating systems, solar photovoltaic equipment, and engineering services are the best sub-sector prospects.

### Opportunities

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The Kalahari Gas Corporation, a private joint venture U.S.-Botswana energy company, has discovered substantial natural gas reserves in northeast Botswana. Once fully developed, the natural gas deposits could generate substantial downstream opportunities for new natural gas intensive equipment and services.

A 90MW power station outfitted with GE turbines at Orapa began producing power in 2011. The turbines are capable of operating on diesel fuel or coal bed methane. The

government has plans to support a pipeline from Mashoro gas fields to Orapa to provide Orapa with coal-bed methane gas for power production. For the time being, however, diesel is being used to fuel the plant.

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Ministry of Minerals, Energy and Water Affairs:

[http://www.gov.bw/government/ministry\\_of\\_minerals\\_energy\\_and\\_water\\_affairs.html](http://www.gov.bw/government/ministry_of_minerals_energy_and_water_affairs.html)

Botswana Export Development & Investment Authority: [www.bedia.co.bw](http://www.bedia.co.bw)

Botswana Power Corporation (BPC): [www.bpc.bw](http://www.bpc.bw)

BPC Tenders: <http://www.bpc.bw/tenders.htm>

Ministry of Trade and Industry: [www.mti.gov.bw](http://www.mti.gov.bw)

Department of Customs and Excise: <http://www.finance.gov.bw/customs/>

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## Health Care Industry (HCS, MED) – Leading Sector #6

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Botswana is facing major challenges in addressing health threats such as HIV/AIDS, malaria, and tuberculosis. To improve service delivery in the health sector, the government has attached high priority to human resources development. The government also seeks to improve health care infrastructure and provide and upgrade medical and surgical equipment. Currently there is no pharmaceutical production capacity in Botswana.

Health care accounts for roughly 15 percent of the government's recurrent budget, or \$556 million. Over the past several years, in part due to generous financial assistance from the United States under the President's Emergency Plan for AIDS Relief (PEPFAR), Botswana has made strong progress in its HIV response. Health sector improvements include the upgrading and constructing of health facilities, improving procurement and distribution of drugs, and introducing telemedicine. Botswana's Ministry of Health is planning a series of hospital infrastructure improvements and equipment upgrades, including improvements to several district medical facilities. Due to shortages of trained healthcare professionals, the government may seek to outsource several health services.

### Sub-Sector Best Prospects

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Pharmaceuticals, construction, supply of drugs for treatment of HIV/AIDS and related infections, medical and surgical equipment, and healthcare services are the best prospects.

### Opportunities

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Infrastructure improvements and equipment upgrades at several hospitals and medical facilities are planned as part of the government's infrastructure development plans. The government also intends to develop a local pharmaceutical production capacity. Some international companies have shown interest in expanding regional production capacity by opening facilities in Botswana.

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Ministry of Health: <http://www.moh.gov.bw>

Ministry of Trade and Industry: [www.mti.gov.bw](http://www.mti.gov.bw)

Department of Customs and Excise: <http://www.finance.gov.bw/customs/>

President's Emergency Fund for AIDS Relief (PEPFAR) <http://www.pepfar.gov/>

## **Textile and Apparel (TXP, TXF, TXM) – Leading Sector #7**

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Botswana's entitlement to duty-free access to the U.S. market under the African Growth and Opportunity Act (AGOA) prompted several textile firms to set up operations in Botswana, but the textile industry has not been able to take full advantage of AGOA. Many of the startups have closed over the last several years and there is currently only one company exporting textiles under the incentive scheme.

A study by the Botswana Institute for Development Policy Analysis identified the primary barrier to the growth of the textile industry as lack of efficiency in factory operations. It pointed out that while there are a number of training establishments in Botswana, none of these supply services that are specifically orientated towards industrial production. Training in skills such as industrial engineering, factory layout, work handling, quality management, operator training, supervisory training, motivational techniques, and human resource management is not available locally. In part as a result of these factors, the textile industry as a whole in Botswana has found it increasingly difficult to compete with low cost producers elsewhere.

While there is little textile and apparel product export potential for U.S. firms, the sector remains viable for the sale of equipment and fabrics necessary for production.

### **Sub-Sector Best Prospects**

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Fabrics, manufacturing equipment, textiles, and apparel are the best sub-sector prospects.

### **Opportunities**

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The Botswana government continues to support the textile and apparel industry. With more concerted effort to address non-tariff regional trade barriers, the industry has growth potential for regional exports. Once companies achieve volume by exporting regionally, they may be able to take better advantage of AGOA. Under AGOA, Botswana is categorized as a least-developed country and is eligible to source its fabrics from third countries.

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Southern Africa Global Competitiveness Hub: [www.satradehub.org](http://www.satradehub.org)

AGOA: [www.agoa.gov](http://www.agoa.gov)

Ministry of Trade and Industry: [www.mti.gov.bw](http://www.mti.gov.bw)

Botswana Unified Revenue Service: <http://www.burs.org.bw>

Although Agriculture's share of GDP currently stands at only three percent, the year-on-year growth of 10 percent in the sector recorded in the third quarter of 2011 demonstrates its growth potential. Large scale government projects to commercialize agriculture may provide needed growth and present opportunities for U.S. investors and exporters. In addition to being the source of livelihood for many citizens of Botswana who operate farms for subsistence, the sector also supplies raw materials for agro-based industries such as meat processing, tanning, milling, oil, soap and brewing.

Botswana is a net importer of food and agricultural products. Solid data on agricultural production and commodity-specific trade are scarce. However, rough figures on the country's self-sufficiency in various agricultural sectors provide a glimpse of the opportunities that may exist for U.S. agricultural products. For major cereals, Botswana produces 40 percent of the national demand and another 40 percent for fruits and vegetables. The domestic production for raw milk during 2010/2011 was 8 million liters which accounts for only 18 percent of total demand and includes fluid milk and milk powder. Botswana produces almost all of its poultry requirements and is a net exporter of beef, exporting some 90 percent of production, mainly of chilled and frozen beef to the European Union and South Africa. Recently, Botswana has experienced difficulty exporting beef to the E.U. due to inadequate quality control procedures.

Botswana's large-scale livestock sub-sector provides the bulk of the nation's agricultural output, and the beef industry is well established. Livestock and cattle raising and grazing is by far the primary agricultural product and export. It is estimated that livestock production, especially cattle, contributes 80 percent to the agricultural GDP share. In recent years the cattle population has fluctuated between 2.5 and 3 million. Livestock production exceeds domestic needs, and the country has exported range-fed beef to the European Union. The development of a modern cattle farming and slaughter industry (and the corresponding development of a market for U.S. feed stocks, ingredients and technology) is stifled by the government's ownership and monopoly of meat processing plants, exports, and livestock prices.

The crop sub-sector is dominated by the growth of cereals, principally sorghum. The government seeks to expand both rain-fed and irrigated farming, and has identified horticulture as having significant potential for diversifying agricultural production. The Ministry of Agriculture's policy is to facilitate sustainable agricultural diversification by widening the range of products, promoting value-added agricultural resources and improving marketing arrangements.

Botswana consumes about 4,000 tons of fish per year and out of this quantity, only 300 tons is produced locally and the rest of the 3,700 tons is imported from neighboring countries. Efforts to augment fish production through aquaculture, such as the construction of fish hatcheries to supply fish seed to over-fished reservoirs are being explored and may provide a niche market for incoming investors.

The Ministry of Agriculture has prepared a National Master Plan for Agricultural and Dairy Development (NAMPAADD), which is used to guide public investments in the

sector. The Botswana government has identified the agricultural sector as one of the areas that has potential to diversify the economy and create employment. Its Agriculture Hub – a Presidential initiative to develop the sector – aims to act as the catalyst for the commercialization of the agricultural sector.

The government is making efforts towards increasing access to land by potential investors and currently about sixteen state farms have been leased to both local and foreign investors to further encourage commercialization.

The Ministry of Agriculture has identified vegetable production as a priority area with potential for development in Botswana. Local horticultural production accounts for only about twenty percent of the national demand and the rest of the requirement is met from imports. It is estimated that Botswana consumers spend nearly \$27 million per year to import horticultural products.

The African Development Bank has funded the Pandamatenga Agricultural Infrastructure Project with a loan of US\$ 60 million. The funds will be used to develop an appropriate water control and drainage system for the Pandamatenga farms. The Pandamatenga area already contributes about eighty percent of the cereal produced locally and ten percent of cereal consumed locally. According to the Ministry of Agriculture, the project will contribute to national food security increasing the total crop production to 20 percent by 2016. It will also support the government's plan for increased zonal agricultural production and productivity enhancement.

USDA's Foreign Agricultural Service in Pretoria prepares more than 50 reports each year on the agricultural situation by commodity sector in South Africa. Some reports highlight opportunities for U.S. farm exports. For U.S. exporters of agricultural products, it may be useful to start with the Exporter Guide for South Africa at <http://www.fas.usda.gov/scripts/AttacheRep/default.asp>.

For other sector reports please look at "Attaché reports" off the main FAS website: [www.fas.usda.gov](http://www.fas.usda.gov)

If you are an exporter of U.S. agricultural products, please feel free to contact the Foreign Agricultural Service for further information at the following address:

Foreign Agricultural Service  
U.S. Embassy Pretoria, South Africa  
Tel: +27-12-431 4235  
Fax: +27-12-342 2264  
Email: [agpretoria@fas.usda.gov](mailto:agpretoria@fas.usda.gov)

USAID's Southern Africa Trade Hub, a regional USAID project managed from Gaborone, has an agricultural expert on staff should you wish further information about agricultural developments in Botswana and the region.

## **Sub-Sector Best Prospects**

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Grains, dairy farming, pet foods, health foods, food service, ostrich farming and processing, leather, and fish farming are the best sub-sector prospects.

## Opportunities

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Over the next five years, the government hopes to attract private sector investment in tanneries countrywide for the export of processed hides and skins, establish a poultry hatchery, breeder stock and poultry abattoirs, and pig feed production and breeder stock.

The Zambezi Agro-Commercial Development Project in the north of the country will develop agricultural production on a large commercial scale as well as infrastructure. In addition to job creation, this project intends to encourage private investment in the agricultural industry.

There is considerable potential for the development of entrepreneurial fish farming. Currently it is not conducted on a commercial scale and is confined mainly to the Chobe River and Okavango Delta.

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Ministry of Agriculture, [http://www.gov.bw/government/ministry\\_of\\_agriculture.html](http://www.gov.bw/government/ministry_of_agriculture.html)

U.S. Foreign Agricultural Service: [www.fas.usda.gov](http://www.fas.usda.gov)

Ministry of Trade and Industry: [www.mti.gov.bw](http://www.mti.gov.bw)

Botswana Unified Revenue Service: <http://www.burs.org.bw>

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## Chapter 5: Trade Regulations and Standards

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### Import Tariffs

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In general, goods imported into Botswana from outside the Southern African Customs Union - SACU (Botswana, Lesotho, Namibia, South Africa and Swaziland) attract customs duties at rates outlined in the Customs Tariff Book. Customs duties are paid against a prescribed "form SAD 500", which is a declaration form, formally known as a bill of entry. A tariff book and goods codebook is available for sale at all regional Customs and Excise offices. It is not currently available via the internet.

The Southern African Development Community (SADC) is an inter-governmental organization that promotes socio-economic cooperation and integration and political and security cooperation among the fifteen member states. The SADC Free Trade Area (FTA) was launched in August 2008. The FTA is not yet in force and SADC members are reducing their tariffs at different rates. SADC intends to complete the tariff phase-down by 2012. This will allow for free movement of goods and services produced within the region, but each member state will still have its own external tariff to non-member states of SADC.

### Trade Barriers

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Apart from restrictions on licensing for some business operations, which are reserved for Botswana companies (see Chapter 6), there are few tariff based barriers to trade with Botswana. Importers will be required to obtain an import permit from the relevant Ministry or Department.

### Import Requirements and Documentation

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With the exception of goods originating in Malawi, import permits are required for goods entering Botswana directly from outside the SACU and are obtainable from the Department of International Trade, in the Ministry of Trade and Industry. The import permits are not transferable. Permits are usually granted upon request, and Botswana's abolition of foreign exchange controls in February 1999 means there is no difficulty in obtaining sufficient foreign currency to cover transactions.

All imported goods are subject to VAT at a rate of 12%. Goods exported from Botswana are not subject to VAT. The SAD 500 is the only form required for external trade.

Many shippers report excessive delays in shipping times across SADC borders, with significant economic impacts. Although work has been done to improve transit procedures and simplify bonding requirements, progress is slow. Recently, the government committed to developing a single window for export which would allow exporters to use a single electronic platform to obtain all permits and licenses for export required from various agencies.

### **U.S. Export Controls**

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Relatively few exports require an export license. Licenses are required in certain situations involving national security, foreign policy, short-supply, nuclear non-proliferation, missile technology, chemical and biological weapons, regional stability, crime control, or terrorist concerns. License requirements are dependent upon an item's technical characteristics, the destination, the end-use, and other activities of the end-user. For information related to U.S. Export controls, please visit the U.S. Department of Commerce's website at <http://www.export.gov/exportcontrols.html>.

### **Temporary Entry**

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Equipment that is imported on a temporary basis for a given project is eligible for a general tariff rebate. All equipment warranty and non-warranty, and parts thereof imported on a temporary basis should be imported under a bond, the amount of which is equivalent to customs duties and/or the applicable VAT. The bond is valid for a limited period only, as follows: equipment attracting VAT is covered by a three (3) month bond while equipment attracting customs duties is covered by a six (6) month bond. Applicable customs duties and/or VAT become due and payable once the bond period expires. An expired bond will be called in to satisfy outstanding customs duties and/or VAT. A bond form can be collected from the headquarters of the Botswana Unified Revenue Service and lodged with any recognized commercial bank or insurance company in Botswana.

### **Labeling and Marking Requirements**

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There are specific requirements for providing information regarding preparation of goods. Law and policy prohibit the use of information that would mislead purchasers. This is applicable to pre-packaged goods that are to be delivered as such to the ultimate consumer. It also affects foods supplied to restaurants, hospitals, etc. The Botswana Bureau of Standards conducts periodic inspections to verify compliance with this compulsory standard specification.

### **Prohibited and Restricted Imports**

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Prohibited imports include habit-forming drugs and obscene literature (pornographic magazines and videotapes). Importation of certain agricultural products and plants requires approval from the Ministry of Agriculture before obtaining the import permit from the Department of Trade and Consumer Affairs. Imports of fresh pork and beef are banned; import permits are granted only on processed pork products. Poultry imports

are permitted only when there is a domestic market deficit. Imports of some vegetables, meat, and dairy products are seasonally banned.

### Customs Contact Information

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Botswana Unified Revenue Service  
website: <http://www.burs.org.bw>

Commissioner Customs & Excise: Mr. K. Morris Tel: +267 363 9503 Fax: +267 3163955.  
Fax: +267 395 1918, [kmorris@burs.org.bw](mailto:kmorris@burs.org.bw)

### Standards

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### Overview

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The Botswana Bureau of Standards (BOBS – [www.bobs.co.bw](http://www.bobs.co.bw)) is a parastatal organization that develops and implements national Botswana standards. Separate government ministries, parastatals, and private companies can develop standards specifically for their own institutions, however, only BOBS is recognized by the International Organization for Standardization (ISO) and has the authority to create national standards. The procedures used in the development of standards comply with the World Trade Organization's code of good practice for the development of standards.

Botswana's standards regime consists of compulsory and voluntary standards. Compulsory standards affect human health, safety, environment or export, which BOBS monitors to ensure compliance. BOBS enforces compulsory standards on seven products: petroleum gas, poultry feed, pre-packaged goods for consumers, cereals/sorghum grains for consumption, cattle feeds, garments, and drinking water. Voluntary standards are not binding or legally required, but compliance may increase product competitiveness.

Altogether, there are more than 600 Botswana standards that have been published for different sectors in Botswana. A standards catalogue is now available to the public at the BOBS Information Department. Any foreign entity or company that is accredited in its home country is allowed to certify products in Botswana.

### Standards Organizations

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BOBS is the sole organization that develops national standards, and it has an annual plan of standards. The National Food Control Board is the only other organization in Botswana that develops an annual plan. BOBS sends its plan annually to the ISO.

### **NIST Notify U.S. Service**

Member countries of the World Trade Organization (WTO) are required under the Agreement on Technical Barriers to Trade (TBT Agreement) to report to the WTO all proposed technical regulations that could affect trade with other Member countries.

**Notify U.S.** is a free, web-based e-mail subscription service that offers an opportunity to review and comment on proposed foreign technical regulations that can affect your access to international markets. Register online at Internet URL:

<http://www.nist.gov/notifyus/>

### **Conformity Assessment**

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Botswana has no national testing organization or conformity assessment body. The government-created National Testing System (NTS) is made up of all government, private, and parastatal laboratories. Through a Memorandum of Agreement with BOBS, these laboratories do testing for the Government whenever it is needed. Whenever BOBS receives a request for testing or calibration, the request is passed on to a relevant laboratory. However, according to the Director of Standards BOBS, has well-equipped laboratories and continues to equip others to carry out testing, though they still send some requests outside the country.

### **Product Certification**

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Any public or private body whose product satisfies all the requirements of a Botswana product standard can apply to BOBS for the product to be certified. Samples of the product are then tested to verify its conformance to the requirements of the product standard, and if the results are acceptable, the product can then obtain the BOBS certification mark.

There are benefits to product certification. The construction industry is one of the major users of standards in Botswana. The Government of Botswana has insisted that materials and products for construction must be BOBS-certified. No waivers are available for compulsory standards.

Botswana has no mutual recognition agreements (MRA's) on standards with U.S. organizations.

### **Accreditation**

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The Government requires accreditation for each sector but has no national accreditation body. Laboratory reports are sent to the accreditation boards in South Africa, Mauritius, or the United Kingdom. The SADC countries established a regional accreditation organization called the Southern African Development Committee for Accreditation Services (SADCAS).

### **Publication of Technical Regulations**

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The Government Gazette publishes proposed and final regulations. There are two ways that an interested party can comment on proposed regulations. The 1995 Standards Act stipulates that for two months prior to standardizing a product, BOBS must publish a

preliminary notice of the proposed standard in the Gazette and circulate it among countries that participate in trade of the particular product, or are affected by the standard. An interested party is able to comment or send an objection to BOBS during this period. Also, before requiring a government ministry to place a compulsory standard on a product, BOBS notifies the public of its intent. At that point, before a recommendation becomes a technical regulation, interested parties are able to comment. In the future, BOBS is considering sending each of its draft compulsory standards to all WTO members.

## **Labeling and Marking**

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There are specific requirements for providing information regarding preparation of goods. Law and policy prohibit the use of information that would mislead purchasers. This is applicable to prepackaged goods that are to be delivered as such to the ultimate consumer. It also affects foods supplied to restaurants, hospitals, etc. The BOBS conducts periodic inspections to verify compliance with this compulsory standard specification.

## **Trade Agreements**

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Recognizing the problems that its small domestic market ultimately poses for investors, Botswana continues to promote trade by pursuing free trade agreements with its neighbors as well as other developed and developing countries.

### Southern African Customs Union (SACU)

Botswana is a member of SACU along with South Africa, Lesotho, Namibia, and Swaziland. SACU comprises a duty free trading area with a common external tariff. With the exception of certain foodstuffs, import permits are not required for goods entering Botswana from other SACU members. Botswana's membership in SACU allows investors to take advantage of selling duty free in the far larger South African market. The SACU Secretariat based in Namibia is responsible for implementing the SACU Agreement as well as improving economic performance of the union's member states.

U.S.-SACU Free Trade Agreement negotiations were suspended in April 2006, largely due to divergent views on the scope for the agreement. Instead of a free trade agreement, the United States and SACU negotiated a Trade, Investment, and Development Cooperation Agreement (TIDCA) that would establish a forum for consultative discussions on a wide range of trade and investment issues. A Consultative Group will oversee the implementation of the TIDCA, and provide a framework for working on a range of interim-trade-related agreements, cooperative programs, and other trade development steps that would set the platform for future free trade agreement negotiations.

### Southern African Development Community (SADC) Free Trade Protocol

The Southern African Development Community's (SADC) objective is to pursue a common integration plan based on economic, political and trade interests. The SADC Free Trade Area (FTA), though in place, is not yet implemented. In August 2008, Botswana was one of the twelve SADC members to sign the FTA. Angola and the

Democratic Republic of Congo are yet to sign. Under the SADC FTA, tariffs and non-tariff barriers will be eliminated on substantially all trade between the members. The implementation of the FTA started in 2000 following the signing of the SADC Trade Protocol. Through the FTA, 85 percent of trade in goods produced in the region will move across borders free of customs duties. Trade liberalization has taken place at different rates. The more developed member states (South Africa, Namibia, Botswana, Swaziland and Lesotho) have reduced tariffs at a faster rate.

### World Trade Organization

Following its accession to the General Agreement on Tariffs and Trade (GATT), Botswana became a member of the World Trade Organization (WTO) in 1995.

### SADC – EU Economic Partnership Agreement

Botswana has signed an interim Economic Partnership Agreement (EPA) with the European Union (EU). The EPA provides duty and quota free access on goods to the EU markets. Negotiations need to be completed on the treatment of services and new generation issues.

### China and India

Botswana, as part of SACU, launched free trade negotiations with both China and India. SACU is now in a position to finalize the Preferential Trade Agreement (PTA) with India in 2011. The negotiating parties have exchanged lists of goods that would benefit from lower tariffs if the parties finally agree on a PTA.

### Mercosur

SACU signed a Preferential Trade Agreement (PTA) on the 16th of December 2004 with the South American customs union known as Mercosur, comprised of: Argentina; Brazil; Paraguay; and Uruguay. The agreement creates the legal framework for improved trade relations between SACU and Mercosur as well as serving as a first step toward the creation of a free trade area between the two regions.

### African Growth and Opportunity Act

Botswana is a beneficiary of the U.S. African Growth and Opportunity Act, which expands the Generalized System of Preferences and remains in effect until 2015 with the passage of the 2004 AGOA Acceleration Act. Under AGOA, more than 6,500 product categories of goods are granted duty and quota free access to the U.S. market. More information about AGOA is available on the Internet at [www.agoa.gov](http://www.agoa.gov) and from the Southern Africa Global Competitiveness Hub, located in Gaborone, on its website at [www.satradehub.org](http://www.satradehub.org).

### **Web Resources**

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Ministry of Trade and Industry: [www.mti.gov.bw](http://www.mti.gov.bw)

AGO: [www.agoa.gov](http://www.agoa.gov)

Southern Africa Trade Hub: [www.satradehub.org](http://www.satradehub.org)

Botswana International Financial Services Center: <http://www.botswanaifsc.com/>

Botswana Bureau of Standards: <http://www.bobstandards.bw>

Southern African Development Community: <http://www.sadc.int>

World Trade Organization: [www.wto.org](http://www.wto.org)

Botswana Unified Revenue Service: <http://www.burs.org.bw>

U.S. Export controls: <http://www.export.gov/exportcontrols.html>

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## Chapter 6: Investment Climate

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### Openness to Foreign Investment

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#### Overview of Investment Climate

Ranked number one in Africa on Transparency International's anti-corruption index, Botswana is a stable democratic country which has historically enjoyed among the highest economic growth rates in the world. Botswana's ranking on the annual World Bank/IFC Doing Business report was 52 out of 183 countries globally. Its score compared favorably to all other African countries except Rwanda (ranked 45), South Africa (ranked 35) and Mauritius (ranked 23).

Botswana enjoyed one of the fastest growth rates in per capita income in the world between independence in 1966 and 2006. But Botswana's economy, particularly the mining sector, is susceptible to global economic shocks. Consistent with global economic patterns, Botswana's growth slowed to 3% in 2008, expanding to 3.7% in 2009, 10.8% in 2010, and an estimated 8% in 2011. 2012 GDP is estimated to level off at 5.9%. By maintaining a sound fiscal policy and low levels of foreign debt, Botswana will continue to approach global economic downturns from a position of strength. Foreign exchange reserves were estimated to be \$8.3 billion in September 2011, representing a healthy 18 months' cover of imports of goods and services. Botswana's per capita income of roughly USD \$14,800 (IMF estimate) makes it a middle-income country.

Overall, Botswana's good economic record has been built on the foundation of using revenue generated from diamond mining to fuel economic development through prudent fiscal policies. With the prospect of somewhat lower revenues over the medium-term,

however, structural reforms to encourage greater entrepreneurship and investment will be essential to future growth.

The Government of Botswana has made strong efforts to maintain a sustainable budget by managing expenditures and diversifying revenue sources. Its policy has been to keep total public expenditure at no more than 40 percent of GDP, deficits at a maximum of 3 percent of GDP and development related expenditure at 30 percent of the total budget. Despite these achievements, a 2010 IMF report cautioned Botswana that its civil service is too large and is competing with the private sector to attract highly skilled workers. A more recent IMF report praised Botswana for the progress it has made in better prioritizing government outlays and containing the growth of the public budget. In April 2011, despite strong pressure by striking public sector workers, the Government of Botswana did not agree to workers' demands for a 16 percent wage increase on the basis that an increase of this magnitude would have worsened public debt and suggested weak fiscal and budgetary discipline.

### Investment Support

Overall, the Botswana government has made good efforts to attract foreign investors, though some regulatory barriers remain. It has launched initiatives to promote economic activity and foreign investment in specific areas, including the establishment of "hubs" to promote economic growth through agriculture, innovation, diamonds, education, health and transport. It has abolished all foreign exchange controls and instituted low corporate tax rates (15% for manufacturing enterprises). It has convened a government-wide task force to improve scores in specific areas of the World Bank's Doing Business report. 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. This typically involves, at minimum, the completion of a feasibility study.

The Botswana Export Development and Investment Authority (BEDIA) serves as the main point of contact for foreign investors and has expressed eagerness for working with established businesses seeking to expand their operations to Botswana. BEDIA will attempt to ensure that investors — in particular, those seeking to establish export-oriented manufacturing enterprises — obtain the clearances, residence permits, work permits, factory space, and land they need with minimal delays. After company start up, BEDIA continues to provide services addressing any problems encountered.

Botswana seeks to diversify the economy away from diamonds into goods such as pharmaceuticals, textiles, clothing, and leather products, commodities such as coal, and services such as tourism, financial products, business process outsourcing, and research. Requests by investors for investor support from BEDIA and other agencies will be 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. 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.

### Licensing Requirements

Foreigners wishing to invest in Botswana are required to register their enterprise under the Companies Act and are likely to be required to obtain a license given current trends in the enforcement of the Trade Act of 2008.

Under the Trade Act, a license is required to operate a variety of businesses in Botswana. These include banking, non-bank financial services, transportation, medical services, mining, energy provision, and the sale of alcohol. The Government of Botswana's justifies its license requirements on public interest grounds and notes that its requirements are consistent with international best practice.

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 of businesses requiring a license. The result is that the owner is in essence forced to choose a category in which to be licensed. In addition, some businesspeople have observed that enforcement of licenses varies widely across local government authorities. The Embassy continues to engage with the Government of Botswana to highlight this and other licensing difficulties.

Botswana reserves some business sectors solely for citizen participation 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 and has allowed the exemption to apply to supermarkets, simple specialty operations, and general trading stores. Hence, large general merchandise markets, restaurants, and the dominant grocery network — all of which are owned by foreigners — operate without restriction. Foreign investors are permitted to participate in all other sectors.

Foreign investors are given equal access to investment incentive schemes (grants and loans) for medium and large projects provided they partner with a citizen of Botswana. Foreign investors do not have access to government loans and grants designed specifically for citizen-owned contracting firms or for small enterprises, defined as those involving investments of less than Pula 75,000 (roughly USD \$10,710).

### Privatization Efforts

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). PEEPA is developing policies which will impact the extent of foreign participation in privatizing entities. The government would like to use privatization to increase foreign direct investment in the country, but there are significant concerns in government circles that the political costs of privatization are high, e.g., extensive job

losses. These concerns have created some controversy and led to delays surrounding the privatization effort.

Privatization efforts initially focused on the national airline, Air Botswana. After more than 11 years of effort and multiple attempts to reach agreement with strategic partners, the airline has still not been privatized. The planned privatization of six other state organizations, including the Botswana Telecommunications Corporation (BTC) and the National Development Bank (NDB), is behind schedule. BTC's privatization is expected to occur by mid-2012.

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 for privatizing particular parastatals remains with the relevant ministry or department which has the discretion to advance privatization at the pace and with the vigor of their choosing.

### 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. Laws prohibiting insider trading and securities fraud are still under development.

### **Conversion and Transfer Policies**

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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 the domestic capital market, 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, however. 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 Pula 10,000 (USD \$1,330). 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.

## **Expropriation and Compensation**

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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.

## **Dispute Settlement**

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The Constitution of Botswana provides for an independent judiciary. Civil law is based on the Roman-Dutch system. The courts readily enforce legal agreements related to commercial dealings. Foreign and domestic businesspeople 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.

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. During the past three years, however, the judiciary has brought the average time to conclude civil cases from more than 20 months to well under 11 months, and the speed continues to improve.

The laws of Botswana including Bills before Parliament are easily searchable and accessible through the Botswana Attorney General's Office web site ([www.laws.gov.bw](http://www.laws.gov.bw)). Note that 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.

## **Performance Requirements and Incentives**

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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.

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.

Many investors who rely on expatriate managerial and technical expertise believe immigration is a major regulatory constraint. Some have complained of unreasonable delays in the adjudication of work permits, and others have said that the immigration authorities lack the necessary skill and expertise to properly adjudicate applications for individuals who possess a particular technical skill set. The U.S. Embassy is working with the Government of Botswana to resolve these issues. These challenges may be somewhat mitigated for the investor who meets BEDIA’s criteria for assistance on matters related to compliance with regulation, including immigration.

Botswana offers foreign investors equal access to certain incentives designed to promote export-oriented industries. Current incentives include an exemption from sales tax when importing machinery and equipment required in the production of goods for export, and a drawback of import duties for purchasing raw materials to be used for the production of goods destined for export.

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.

Grants are available to the foreign investor who partners with a Botswana citizen. A venture capital fund has been established under the Citizen Entrepreneurial Development Agency (CEDA) to provide equity capital to citizens and ventures between citizens and foreign investors. Approximately USD 29 million is available in the fund.

The government has directed central government, local authorities and parastatal organizations 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 administers this program.

This presents a regulatory challenge for U.S. exporters because government is the single largest procuring entity in the country. In order for a foreign firm to qualify with the Department of Industrial Affairs as a “locally-based manufacturer or service provider” so as to be able 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.” Foreign firms may qualify as locally-based provided they go through the registration procedure and obtain the appropriate license. Since few of these procedures can be completed online, in reality this requires

the company to have, at minimum, an agent on the ground to handle such matters, which increases the cost of doing business.

For Companies Act registration purposes, enterprises are classified as follows: Micro Enterprises —less than 6 employees including owner and annual turnover of up to P 60,000; Small Enterprises — less than 25 employees and annual turnover of between P 60,000 and P 1,500,000; Medium Enterprises — less than 100 employees and an annual turnover of between P 1,500,000 and P 5,000,000; Large Enterprises —more than 100 employees and an annual turnover of P5,000,000 or more.

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 stimulation of other economic activities; and the project's effect on reducing local consumer prices.

#### **Right to Private Ownership and Establishment**

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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.

#### **Protection of Property Rights**

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The Constitution of Botswana prohibits the nationalization of private property.

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 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, BEDIA has also built factory units for lease to industrialists at affordable rental rates with the option to purchase at market value.

## **Transparency of Regulatory System**

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Bureaucratic procedures necessary to start and maintain a business tend to be open, although somewhat slow.

The Public Procurement and Asset Disposal Board (PPADB) is responsible for 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. 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.

## **Efficient Capital Markets and Portfolio Investment**

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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.

Botswana’s central bank, the Bank of Botswana, 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. The IMF reports that despite the strong recovery in 2010, inflation pressure remains contained.

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 the local entrepreneur and conservative lending policies by commercial banks. 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.

There are currently nine commercial banks operating in Botswana, and no merchant banks. All have correspondent relationships with U.S. banks. In addition, the African Banking Corporation operates a financial services institution, specializing in structured trade finance, treasury operations and investment banking.

The Botswana Stock Exchange (BSE) enjoyed impressive rates of growth between 2000 and 2006. In 2010, still reeling from the effects of the recession, the market capitalization of the domestic firms listed on the exchange fell to its lowest level since 2006. However, the 12 foreign companies listed on the exchange's Foreign Company index (of which six are mining-related operations) increased their capitalization by 23% in 2010.

The Non-Bank Financial Institutions Regulatory Authority (NBFIRA) started its operations in April 2008 and is responsible for regulating all non-banking financial entities registered in Botswana including those engaged in asset management, micro-lending, pension funds, insurance, and collective undertakings. The regulations are designed to extend know-your-customer practices to the non-bank financial sector and deter money laundering and terrorist financing. NBFIRA is also responsible for regulating the International Financial Services Centre (IFSC). 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 will assist the Botswana Police Service, Directorate on Corruption and Economic Crime, and Department of Public Prosecution to identify and investigate money laundering offenses.

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 in line with industry norms for regulation, supervision, and payments.

## **Competition from State Owned Enterprises**

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State-owned enterprises (SOEs) are majority or hundred percent owned by the Government. No law or regulation prohibits or restricts private enterprises from competing with SOEs. Private and government-owned enterprises are governed by the same business registration and licensing laws. The government has set up state-owned

enterprises to compete with the private sector when and where an opportunity arises — primarily in the financial and utilities sectors — with the stated goal of assisting in the development of local small and medium enterprises. The senior management of SOEs report to the Permanent Secretary of the relevant ministry and the board seats of the SOEs may be allocated to any executive from the government and/or the private sector. Botswana law requires SOEs to publish annual reports, and depending on how they are constituted, subject themselves to audit by professional accountants or the Auditor General. In 2011, Parliament also began to exercise oversight of the SOEs compelling Presidents and Chairmen of the SOEs to appear before a Parliamentary committee to provide reports and answer questions regarding the performance of their firms.

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. This Pula Fund 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.

### **Corporate Social Responsibility**

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Corporate Social Responsibility (CSR) is recognized and embraced by government, foreign and local firms, and customers. Major banks such as Standard Chartered and cell phone providers such as Mascom have established CSR programs and will sponsor projects and support local nonprofit concerns (e.g., Childline, SOS Children's Village, etc.). However, the CSR ethos has not taken hold in many smaller firms. The U.S. Embassy is working with the Botswana Confederation of Commerce, Industry and Manpower (BOCCIM) on the issue of CSR as well as ethical compliance.

### **Political Violence**

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

### **Corruption**

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Corruption, including bribery, raises the costs and risks of doing business. Corruption has a corrosive impact on both market opportunities overseas for U.S. companies and the broader business climate. It also deters international investment, stifles economic growth and development, distorts prices, and undermines the rule of law.

It is important for U.S. companies, irrespective of their size, to assess the business climate in the relevant market in which they will be operating or investing, and to have an effective compliance program or measures to prevent and detect corruption, including foreign bribery. U.S. individuals and firms operating or investing in foreign markets should take the time to become familiar with the relevant anticorruption laws of both the foreign country and the United States in order to properly comply with them, and where appropriate, they should seek the advice of legal counsel.

The U.S. Government seeks to level the global playing field for U.S. businesses by encouraging other countries to take steps to criminalize their own companies' acts of corruption, including bribery of foreign public officials, by requiring them to uphold their obligations under relevant international conventions. A U. S. firm that believes a competitor is seeking to use bribery of a foreign public official to secure a contract should bring this to the attention of appropriate U.S. agencies, as noted below.

**U.S. Foreign Corrupt Practices Act:** In 1977, the United States enacted the Foreign Corrupt Practices Act (FCPA), which makes it unlawful for a U.S. person, and certain foreign issuers of securities, to make a corrupt payment to foreign public officials for the purpose of obtaining or retaining business for or with, or directing business to, any person. The FCPA also applies to foreign firms and persons who take any act in furtherance of such a corrupt payment while in the United States. For more detailed information on the FCPA, see the FCPA Lay-Person's Guide at: <http://www.justice.gov/criminal/fraud/>

**Other Instruments:** It is U.S. Government policy to promote good governance, including host country implementation and enforcement of anti-corruption laws and policies pursuant to their obligations under international agreements. Since enactment of the FCPA, the United States has been instrumental to the expansion of the international framework to fight corruption. Several significant components of this framework are the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Antibribery Convention), the United Nations Convention against Corruption (UN Convention), the Inter-American Convention against Corruption (OAS Convention), the Council of Europe Criminal and Civil Law Conventions, and a growing list of U.S. free trade agreements. This country is party to [add instrument to which this country is party], but generally all countries prohibit the bribery and solicitation of their public officials.

**OECD Antibribery Convention:** The OECD Antibribery Convention entered into force in February 1999. As of March 2009, there are 38 parties to the Convention including the United States (see <http://www.oecd.org/dataoecd/59/13/40272933.pdf>). Major exporters China, India, and Russia are not parties, although the U.S. Government strongly endorses their eventual accession to the Convention. The Convention obligates the Parties to criminalize bribery of foreign public officials in the conduct of international business. The United States meets its international obligations under the OECD Antibribery Convention through the U.S. FCPA. Botswana is not a party to the Convention.

**UN Convention:** The UN Anticorruption Convention entered into force on December 14, 2005, and there are 158 parties to it as of November 2011 (see <http://www.unodc.org/unodc/en/treaties/CAC/signatories.html>). The UN Convention is the first global comprehensive international anticorruption agreement. The UN Convention requires countries to establish criminal and other offences to cover a wide range of acts of corruption. The UN Convention goes beyond previous anticorruption instruments, covering a broad range of issues ranging from basic forms of corruption such as bribery and solicitation, embezzlement, trading in influence to the concealment and laundering of the proceeds of corruption. The Convention contains transnational business bribery provisions that are functionally similar to those in the OECD Antibribery

Convention and contains provisions on private sector auditing and books and records requirements. Other provisions address matters such as prevention, international cooperation, and asset recovery. Botswana is a party to the Convention.

**OAS Convention:** In 1996, the Member States of the Organization of American States (OAS) adopted the first international anticorruption legal instrument, the Inter-American Convention against Corruption (OAS Convention), which entered into force in March 1997. The OAS Convention, among other things, establishes a set of preventive measures against corruption, provides for the criminalization of certain acts of corruption, including transnational bribery and illicit enrichment, and contains a series of provisions to strengthen the cooperation between its States Parties in areas such as mutual legal assistance and technical cooperation. As of December 2009, the OAS Convention has 34 parties (see <http://www.oas.org/juridico/english/Sigs/b-58.html>)

**Council of Europe Criminal Law and Civil Law Conventions:** Many European countries are parties to either the Council of Europe (CoE) Criminal Law Convention on Corruption, the Civil Law Convention, or both. The Criminal Law Convention requires criminalization of a wide range of national and transnational conduct, including bribery, money-laundering, and account offenses. It also incorporates provisions on liability of legal persons and witness protection. The Civil Law Convention includes provisions on compensation for damage relating to corrupt acts, whistleblower protection, and validity of contracts, inter alia. The Group of States against Corruption (GRECO) was established in 1999 by the CoE to monitor compliance with these and related anti-corruption standards. Currently, GRECO comprises 49 member States (48 European countries and the United States). As of December 2011, the Criminal Law Convention has 43 parties and the Civil Law Convention has 34 (see [www.coe.int/greco](http://www.coe.int/greco).)

**Free Trade Agreements:** While it is U.S. Government policy to include anticorruption provisions in free trade agreements (FTAs) that it negotiates with its trading partners, the anticorruption provisions have evolved over time. The most recent FTAs negotiated now require trading partners to criminalize “active bribery” of public officials (offering bribes to any public official must be made a criminal offense, both domestically and transnationally) as well as domestic “passive bribery” (solicitation of a bribe by a domestic official). All U.S. FTAs may be found at the U.S. Trade Representative Website: <http://www.ustr.gov/trade-agreements/free-trade-agreements>. Botswana has no FTA in place with the United States.

**Local Laws:** U.S. firms should familiarize themselves with local anticorruption laws, and, where appropriate, seek legal counsel. While the U.S. Department of Commerce cannot provide legal advice on local laws, the Department’s U.S. and Foreign Commercial Service can provide assistance with navigating the host country’s legal system and obtaining a list of local legal counsel.

**Assistance for U.S. Businesses:** The U.S. Department of Commerce offers several services to aid U.S. businesses seeking to address business-related corruption issues. For example, the U.S. and Foreign Commercial Service can provide services that may assist U.S. companies in conducting their due diligence as part of the company’s overarching compliance program when choosing business partners or agents overseas. The U.S. Foreign and Commercial Service can be reached directly through its offices in every major U.S. and foreign city, or through its Website at [www.trade.gov/cs](http://www.trade.gov/cs).

The Departments of Commerce and State provide worldwide support for qualified U.S. companies bidding on foreign government contracts through the Commerce Department's Advocacy Center and State's Office of Commercial and Business Affairs. Problems, including alleged corruption by foreign governments or competitors, encountered by U.S. companies in seeking such foreign business opportunities can be brought to the attention of appropriate U.S. government officials, including local embassy personnel and through the Department of Commerce Trade Compliance Center "Report A Trade Barrier" Website at [www.export.gov/Report\\_a\\_Barrier/index.asp](http://www.export.gov/Report_a_Barrier/index.asp).

**Guidance on the U.S. FCPA:** The Department of Justice's (DOJ) FCPA Opinion Procedure enables U.S. firms and individuals to request a statement of the Justice Department's present enforcement intentions under the anti-bribery provisions of the FCPA regarding any proposed business conduct. The details of the opinion procedure are available on DOJ's Fraud Section Website at [www.justice.gov/criminal/fraud/fcpa](http://www.justice.gov/criminal/fraud/fcpa). Although the Department of Commerce has no enforcement role with respect to the FCPA, it supplies general guidance to U.S. exporters who have questions about the FCPA and about international developments concerning the FCPA. For further information, see the Office of the Chief Counsel for International Counsel, U.S. Department of Commerce, Website, at [http://www.ogc.doc.gov/trans\\_anti\\_bribery.html](http://www.ogc.doc.gov/trans_anti_bribery.html). More general information on the FCPA is available at the Websites listed below.

Exporters and investors should be aware that generally all countries prohibit the bribery of their public officials, and prohibit their officials from soliciting bribes under domestic laws. Most countries are required to criminalize such bribery and other acts of corruption by virtue of being parties to various international conventions discussed above.

Botswana has a strong legislative regime to combat corruption. The major corruption investigation body is the Directorate on Corruption and Economic Crimes (DCEC). Overall, DCEC is regarded as an active and effective organization.

Corruption in Botswana occurs but most have noted that it has not been an obstacle to investment. Botswana ranks 32nd out of 183 countries in Transparency International's Corruption Perception Index for 2011. 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. In 2011, DCEC and the Botswana Confederation of Commerce, Industry and Manpower (BOCCIM) launched a business code of ethics for Botswana firms; fourteen major Botswana businesses have signed the Code.

In cases involving substantial misappropriation of money and land by government personnel, the DCEC and Attorney General have not been reluctant to investigate and prosecute officers at all levels. Corruption or "cheating for valuable consideration" is punishable by a prison term of up to 10 years, a fine of P500,000 (USD \$66,667), or both. The government typically obtains 16-20 convictions per year for corruption-related crimes. High level officials have been prosecuted.

The government bureaucracy is paid on time and is provided a living wage. 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.

Foreign investors' complaints generally focus on the inefficiency and/or unresponsiveness of mid-level and low-level bureaucrats in government. Some have observed that nepotism in government as well as the private sector is too often tolerated; this situation is not aided by the small size of the population and the chronic shortage of skilled workers. 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 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.

### **Anti-Corruption Resources**

Some useful resources for individuals and companies regarding combating corruption in global markets include the following:

- Information about the U.S. Foreign Corrupt Practices Act (FCPA), including a "Lay-Person's Guide to the FCPA" is available at the U.S. Department of Justice's Website at: <http://www.justice.gov/criminal/fraud/fcpa>.
- Information about the OECD Antibribery Convention including links to national implementing legislation and country monitoring reports is available at: [http://www.oecd.org/department/0,3355,en\\_2649\\_34859\\_1\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/department/0,3355,en_2649_34859_1_1_1_1_1,00.html) See also new Antibribery Recommendation and Good Practice Guidance Annex for companies: <http://www.oecd.org/dataoecd/11/40/44176910.pdf>.
- General information about anticorruption initiatives, such as the OECD Convention and the FCPA, including translations of the statute into several languages, is available at the Department of Commerce Office of the Chief Counsel for International Commerce Website: [http://www.ogc.doc.gov/trans\\_anti\\_bribery.html](http://www.ogc.doc.gov/trans_anti_bribery.html).
- Transparency International (TI) publishes an annual Corruption Perceptions Index (CPI). The CPI measures the perceived level of public-sector corruption in 180 countries and territories around the world. The CPI is available at: [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2009](http://www.transparency.org/policy_research/surveys_indices/cpi/2009). TI also publishes an annual *Global Corruption Report* which provides a systematic evaluation of the state of corruption around the world. It includes an in-depth analysis of a focal theme, a series of country reports that document major

corruption related events and developments from all continents and an overview of the latest research findings on anti-corruption diagnostics and tools. See <http://www.transparency.org/publications/gcr>.

- The World Bank Institute publishes Worldwide Governance Indicators (WGI). These indicators assess six dimensions of governance in 213 countries, including Voice and Accountability, Political Stability and Absence of Violence, Government Effectiveness, Regulatory Quality, Rule of Law and Control of Corruption. See <http://info.worldbank.org/governance/wgi/index.asp>. The World Bank Business Environment and Enterprise Performance Surveys may also be of interest and are available at: <http://data.worldbank.org/data-catalog/BEEPS>.
- The World Economic Forum publishes the *Global Enabling Trade Report*, which presents the rankings of the *Enabling Trade Index*, and includes an assessment of the transparency of border administration (focused on bribe payments and corruption) and a separate segment on corruption and the regulatory environment. See <http://www.weforum.org/s?s=global+enabling+trade+report>.
- Additional country information related to corruption can be found in the U.S. State Department's annual *Human Rights Report* available at <http://www.state.gov/g/drl/rls/hrrpt/>.
- Global Integrity, a nonprofit organization, publishes its annual Global Integrity Report, which provides indicators for 106 countries with respect to governance and anti-corruption. The report highlights the strengths and weaknesses of national level anti-corruption systems. The report is available at: <http://report.globalintegrity.org/>.

## **Bilateral Investment Agreements**

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Botswana and the United States entered into an investment guarantee treaty soon after independence. Botswana has bilateral trade agreements governing the duty-free entry of goods with Malawi and Zimbabwe. Botswana is also a member of the Southern African Development Community (SADC) and the Southern African Customs Union (SACU). Other members of SACU include South Africa, Namibia, Swaziland and Lesotho. SACU has announced 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. Botswana has signed an interim Economic Partnership Agreement with the EU as part of SADC. In addition, Botswana participates in the Generalized System of Preferences, and is an Africa Growth and Opportunity Act beneficiary country. It is important to note, however, that none of these agreements are specifically "investment" agreements.

Botswana's trade regime is more open than that of an average Sub-Saharan Africa country. Its 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 such barriers.

## **OPIC and Other Investment Insurance Programs**

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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 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 is itself a currency basket, comprised of the U.S. dollar, the Euro, British pound, and Japanese yen). As a result of the composition of the Pula basket, the exchange rate is heavily influenced by movements of the South African rand against the U.S. dollar.

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 annual estimated U.S. dollar value of local currency used by the U.S. Embassy in Botswana is USD 15 million.

## **Labor**

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Botswana has high unemployment (estimated at 26.2 percent in 2008) 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 productivity of the workforce as a point of frustration. The lack of trained local citizen professionals is generally resolved by the use of expatriates.

The Employment Act of 1992 provides basic guidelines for employment in Botswana. The legislation sets minimum wages, 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.

Some have observed that Botswana workers, as a whole, are both aware of their rights and not reluctant to take an employer to court if they believe these rights have been violated. Considerable expense and frustration can be avoided if an employer is careful to observe the labor laws and only fire for cause and with sufficient proof. Before a potential litigant goes to labor court, the parties must attempt mediation through the Department of Labor. If mediation fails, the parties go to one of eleven labor courts.

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, sewage services, diamond workers, veterinarians, and teachers, are not permitted to strike. The last three categories were added as essential services in the wake of the April-June 2011 public sector strike, in which 90,000 public sector workers went on strike and forced school and hospital shutdowns.

### Foreign-Trade Zones/Free Ports

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Botswana currently has no domestic free trade zones or free ports.

### Foreign Direct Investment Statistics

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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 shown a considerable increase since the establishment 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 2010 Annual Report, the latest available at the time of printing.

Level of Foreign Direct Investment in Botswana by Industry (millions of Pula)

Industry	Foreign Direct Investment	Other Investment
Mining	3,714	131
Manufacturing	98	186
Finance	3,826	1,130
Retail & Wholesale	719	255
Water, Electricity and Energy	0	569
Business Services and Real Estate	590	4
Transport and Communication	14	7
Construction	1	0
Hospitality	9	0
Public Administration	0	13,914
Other	475	67
Total	9,446	16,263

Level of Foreign Direct Investment in Botswana by Country (millions of Pula)

Source	Foreign Direct Investment	Other Investment
North and Central America	0	219
(of which) U.S.	0	219
Europe	4,992	754
(of which) U.K.	888	671
(of which) Netherlands	34	0
(of which) Luxembourg	4,017	4
(of which) other Europe	19	82
Asia Pacific	536	344
Africa	3,918	1,028

(of which) South Africa	2,337	563
Middle East	0	0
Other	0	13,917
Total	9,446	16,262

Average exchange rate USD/Pula 1:7.5

Mining and finance remain the main contributing industries to foreign direct investment in Botswana, with a representation of nearly 80 percent. Europe dominates as the principal source of direct investment (56 percent). South Africa is also a significant contributor to foreign direct investment as a result of South Africa's involvement with the financial institutions in Botswana.

The following paragraphs provide a description of the major U.S.-based investors in Botswana.

AON Botswana is the largest insurance brokerage firm in the country with more than 100 employees. It currently commands about 60% of the insurance market and provides brokerage and advisory services in all insurance disciplines. It is a wholly owned subsidiary of the AON Corporation, headquartered in Chicago. AON-Botswana has annual revenues of USD \$7 million and its primary clients are the Government of Botswana and Debswana (Government-De Beers joint venture).

Marsh Insurance is 95-percent owned by Marsh New York (of the Marsh and McLennan Insurance Companies) and operates in Gaborone.

Lazare-Kaplan Botswana is a wholly-owned subsidiary of New York-based sightholder and jewelry manufacturer Lazare-Kaplan International.

Laurelton Diamonds, a subsidiary of U.S. luxury jewelry retailer Tiffany & Co is a sightholder involved in cutting and polishing diamonds. In August 2011, Laurelton completed an additional USD 300 million diamond cutting and polishing factory in Gaborone.

The Gemological Institute of America, part of the U.S. non-profit institute of gemological research of the same name, operates an office in Botswana which offers training programs for Botswana citizens in diamond grading and grades diamonds for mining companies.

In September 2011, Hewlett-Packard opened operations in Botswana and is providing computing and connectivity services. HP is working with the Government of Botswana on e-government and data solutions for health care.

Microsoft Innovation has a relationship with the Botswana Innovation Hub and has partnered with the Hub to provide a software design and development incubator in Botswana.

Wal-Mart has obtained a majority share of South-Africa based Massmart, which owns two large local retailers: Game and Builders' Warehouse.

Additional U.S. Distributors/Agents/Franchisees operating in Botswana include: Kentucky Fried Chicken, ReMax Realtors, Colgate Palmolive, Grant Thornton Acumen, Deloitte and Touche, Federal Express, Avis, 3M, and Canon.

Among non-U.S. investors, by far the largest is the Anglo-American Corporation (De Beers), which has a 50 percent stake, along with the Government of Botswana, in the country's diamond mining company Debswana.

## **Web Resources**

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Bank of Botswana: <http://www.bankofbotswana.bw>

Citizen Entrepreneurial Development Agency: <http://www.ceda.co.bw>

Ministry of Agriculture: <http://www.moa.gov.bw>

Ministry of Trade and Industry: <http://www.mti.gov.bw>

Ministry of Finance and Development Planning: <http://www.finance.gov.bw>

Southern African Development Community: <http://www.sadc.int>

Overseas Private Investment Corporation: <http://www.opic.gov>

Botswana Central Statistics Office: <http://www.cso.gov.bw>

Botswana Public Procurement and Asset Disposal Board: <http://www.ppadb.co.bw>

Botswana Export Development and Investment Authority: <http://www.bedia.co.bw>

Botswana Development Corporation: <http://www.bdc.bw>

Botswana Telecommunications Corporation: <http://www.btc.bw>

Botswana Telecommunications Authority: <http://www.bta.org.bw>

Directorate on Corruption and Economic Crime: <http://www.gov.bw/en/Ministries--Authorities/Ministries/State-President/Department-of-Corruption-and-Economic-Crime-DCEC>

Botswana Stock Exchange: <http://www.bse.co.bw>

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## Chapter 7: Trade and Project Financing

- [How Do I Get Paid \(Methods of Payment\)](#)
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### How Do I Get Paid (Methods of Payment)

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The most common method of payment for imports from the U.S. is through Letters of Credit, bank drafts or bank transfers. There are currently no domestic credit rating agencies in Botswana.

### How Does the Banking System Operate

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Botswana's banking sector consists of a central bank (Bank of Botswana) and seven commercial banks: Barclays Bank Botswana, Standard Chartered Bank Botswana, First National Bank Botswana, Bank of Baroda Botswana Ltd., Stanbic Bank Botswana, Capital Bank, African Banking and Bank Gaborone. All seven banks are either majority or wholly foreign owned. While Barclays remains Botswana's largest bank, First National Bank Botswana, growing rapidly, has overtaken Standard Chartered as the second largest.

There are a growing number of investment and corporate finance institutions, including Investec Group, Andisa Bank, and the African Banking Corporation of Botswana, which specialize in structured trade finance, treasury operations, and investment banking. All are geared towards financing for existing and new businesses. However, a lack of adequate local corporate financing, partially as a result of over-concentration on asset-based as opposed to cash flow lending practices, has presented some problems for local and international businesses. The financial institutions are now improving the range of services they provide, including a new emphasis on small and medium-sized enterprises. In 2008 the government established the Non Banking Financial Institution Regulatory Authority to ensure that the non banking financial sector operates in an efficient and orderly manner. The newly-emerging group of international financial institutions that are entering Botswana under the umbrella of the International Financial Services Center (IFSC) should augment these efforts.

The Bank of Botswana is responsible for monetary policies, central banking services, supervision of financial institutions, issuing of bank notes, implementing exchange rate policies, administering exchange controls and foreign exchange reserves management. The bank's financial statements comply with international standards.

Short-term finance, including pre-and-post-shipment credit, is readily available through the commercial banking system at market rates of interest. Export credit insurance is available through the Botswana Export Credit Insurance (BECI) agency.

The provisions for U.S. and other foreign firms borrowing in Botswana are liberal while local banks remain highly liquid. The country's commercial banks, however, have difficulty making long-term credit available due to the short maturity nature of their deposits and small capital bases.

### **Foreign-Exchange Controls**

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There are no exchange controls in Botswana.

### **U.S. Banks and Local Correspondent Banks**

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There are currently no U.S. financial lending institutions in the country but all seven commercial banks mentioned above have correspondent relationships with U.S. banks.

### **Project Financing**

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The Botswana Development Corporation (BDC) and National Development Bank (NDB) provide local project financing. In addition, the Citizen Entrepreneurial Development Agency (CEDA) operates a Venture Capital Fund to provide equity capital to citizens as well as ventures between citizens and foreign companies.

There are no multilateral development banks in Botswana.

The Overseas Private Investment Corporation's (OPIC) finance and insurance programs are available for Botswana. U.S. Export-Import Bank resources are also available for both trade financing and project financing in Botswana.

### **Web Resources**

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Export-Import Bank of the United States: <http://www.exim.gov>

Country Limitation Schedule: [http://www.exim.gov/tools/country/country\\_limits.html](http://www.exim.gov/tools/country/country_limits.html)

OPIC: <http://www.opic.gov>

Trade and Development Agency: <http://www.tda.gov/>

SBA's Office of International Trade: <http://www.sba.gov/oit/>

USDA Commodity Credit Corporation: <http://www.fsa.usda.gov/cc/default.htm>

U.S. Agency for International Development: <http://www.usaid.gov>

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## Chapter 8: Business Travel

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### Business Customs

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Although friendly and well disposed toward Americans, Botswana business and government counterparts tend to be more reserved and formal than in the U.S. business world. The use of first names generally takes longer, and it is a good idea to wait until your contact from Botswana initiates the practice. It is best to re-confirm business meetings twenty-four hours in advance directly with the person you are to meet, if possible. Even carefully arranged meetings may sometimes start late. Business meetings may be interrupted by telephone conversations. Although odd for an American businessperson, these occurrences are not indications of a lack of respect or interest in your business proposal.

### Travel Advisory

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U.S. Department of State Travel Advisory website:  
[http://travel.state.gov/travel/cis\\_pa\\_tw/cis/cis\\_1071.html](http://travel.state.gov/travel/cis_pa_tw/cis/cis_1071.html)

### Visa Requirements

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A valid U.S. passport is required for entry into Botswana. No visa is required for U.S. citizens staying in Botswana up to 90 days.

U.S. Companies that require travel of foreign businesspersons to the United States should be advised that the issuance of a visa to the United States is not guaranteed and eligibility for a visa under U.S. law is determined by the Consular Officer. Visa applicants should go to the following link:

U.S. Embassy Gaborone Consular Section: [http://botswana.usembassy.gov/non-immigrant\\_visas.html](http://botswana.usembassy.gov/non-immigrant_visas.html)

### Telecommunications

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Botswana has a relatively modern telecommunications infrastructure, with more 20 licensed Internet service providers, three licensed mobile cellular phone operators, and a number of licensed private networks and data service providers in the country.

However, the Botswana Telecommunications Corporation maintains a de facto monopoly on most voice services, and maintains the country's fixed-line services exclusively. The high cost and inconsistent reliability of Internet service, including at the principal hotels in town, has fueled an infrastructure development initiative and discussions on further liberalization of the telecommunications industry. DSL service is available.

Promotional videotapes should be in the PAL-I format. Power runs on 220V.

## **Transportation**

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Although major roads are generally in good condition, the combination of long, tedious stretches of two-lane highways, high speed limits, and the occasional presence of large animals on the roads make for dangerous driving conditions overall. Driving at night on rural highways should be avoided. Taxis are generally available in towns. Gaborone has several 24-hour door-to-door taxi services. Major hotels provide periodic shuttle bus service to the downtown area, but arranging transfers between business appointments is often difficult. Renting a car is recommended if you have a busy appointment schedule in Gaborone. The rental agencies will provide a driver for an additional charge, an option some may wish to consider as traffic moves on the left in Botswana.

## **Language**

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English is the official language of government and business in Botswana. Setswana is the predominant indigenous language and the first language of most Batswana.

## **Health**

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Inoculations are not required for visitors to Botswana. Malaria prophylaxis is necessary for those traveling north of Mahalapye especially in the Central Kalahari, Chobe, Tuli Block, Ngamiland, and northern game parks and reserves, and the Bobirwa area in the east. Tap water in the major towns is safe to drink. Medical facilities in Gaborone and Francistown are adequate, even though in some cases there has been need to transfer patients to neighboring South Africa. In the rest of the country, they are limited. Health providers often expect immediate cash payment for health services. U.S. medical insurance is not always valid outside the country.

## **Local Time, Business Hours, and Holidays**

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For 2012, businesses will be closed in Botswana on January 1 (New Year's Day), January 2 (Public Holiday), January 3 (Public Holiday), April 6 (Good Friday), April 9 (Easter Monday), May 1 (Labor Day), May 17 (Ascension Day), July 2 (Sir Seretse Khama Day), July 16 (President's Day), July 17 (Public Holiday), October 1-2 (Botswana Day Public Holidays), December 25 (Christmas Day), December 26 (Boxing Day). Local government/business hours are commonly from 7:30-12:45 and 1:45-4:30, and local time is 7 hours ahead of Eastern Standard Time from November-April, and 6 hours ahead from May-October.

## **Web Resources**

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Government of Botswana Homepage: [www.gov.bw](http://www.gov.bw)

U.S. Embassy, Gaborone, Consular Section:  
<http://gaborone.usembassy.gov/botswana/consular.html>

U.S. Department of State Travel Advisory for Botswana:  
[http://travel.state.gov/travel/cis\\_pa\\_tw/cis/cis\\_1071.html](http://travel.state.gov/travel/cis_pa_tw/cis/cis_1071.html)

Hospitality and Tourism Association of Botswana: [www.hatab.bw](http://www.hatab.bw)

Botswana Export Development and Investment Authority: [www.bedia.bw](http://www.bedia.bw)

Botswana Confederation of Commerce, Industry, and Manpower (BOCCIM):  
<http://www.boccim.co.bw/>

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## Chapter 9: Contacts, Market Research, and Trade Events

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- [Market Research](#)
- [Trade Events](#)

### Contacts

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#### U.S. Embassy Commercial Section Contact

Organization: Embassy of the United States of America  
Contact Name and Title: Katherine Dueholm, Political/Economic  
Section Chief  
Aaron Karnell, Economic/  
Commercial Officer  
Address: P.O. Box 90, Gaborone, Botswana  
Phone: (267) 373-2354 Fax: (267) 395-  
6947 or (267) 395 7259  
E-Mail address: [commercialgabs@state.gov](mailto:commercialgabs@state.gov)  
Web Address: <http://botswana.usembassy.gov>

#### USAID Financed Trade Assistance/Capacity Building Center

Organization: Southern Africa Trade Hub  
Web Address: [www.satradehub.org](http://www.satradehub.org)

#### Local Chambers of Commerce/Business Associations

Organization: Botswana Confederation of Commerce  
Industry and Manpower (BOCCIM)  
Web Address: <http://www.boccim.co.bw/>

Organization: Botswana Exporters Association of Botswana (BEMA)  
Web Address: [www.exporters.bw](http://www.exporters.bw)

Organization: Hospitality and Tourism Association of Botswana (HATAB)  
Web Address: [www.hatab.bw/](http://www.hatab.bw/)

#### Government Agencies/Departments/Parastatals

Government Homepage: [www.gov.bw](http://www.gov.bw)

Organization: Ministry of Agriculture  
Web Address: <http://www.moa.gov.bw/>

Organization: Ministry of Trade and Industry  
Web Address: <http://www.mti.gov.bw/>

Organization: Botswana Unified Revenue Service  
Web Address: <http://www.burs.org.bw>

Organization: Ministry of Finance and Development Planning  
Web Address: <http://www.finance.gov.bw/>

Organization: Bank of Botswana  
Web Address: [www.bob.bw](http://www.bob.bw)

Organization: Botswana Exporter Development and Investment Authority (BEDIA)  
Web Address: [www.bedia.co.bw](http://www.bedia.co.bw)

Organization: Botswana Development Corporation  
Web Address: [www.bdc.bw](http://www.bdc.bw)

Organization: National Development Bank  
Web Address: <http://www.ndb.bw/>

Organization: Public Procurement and Asset Disposal Board (PPADB)  
Web Address: <http://www.ppadb.co.bw/ppadb/index.html>

Organization: Botswana Telecommunications Corporation  
Web Address: <http://www.btc.bw/>

Organization: International Financial Services Center  
Web Address: [www.ifsc.co.bw](http://www.ifsc.co.bw)

Organization: Central Statistics Office  
Web Address: <http://www.cso.gov.bw>

#### Think Tanks/Policy Organizations

Organizations: Botswana Institute for Development Policy Analysis  
Web Address: <http://www.bidpa.bw/>

#### **Market Research**

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To view market research reports produced by the U.S. Commercial Service please go to the following website: <http://www.export.gov/marketresearch.html> and click on Country and Industry Market Reports.

Please note that these reports are only available to U.S. citizens and U.S. companies. Registration to the site is required, but free of charge.

#### **Trade Events**

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The following is a list of annual or semi-annual trade events held in Botswana:

- Botswana Confederation of Commerce, Industry and Manpower (BOCCIM) Francistown Northern Trade Fair (Annual – May)
- BOCCIM National Business Conference (Bi-annual – September 2012)
- Botswana Consumer Fair (Annual - August)
- Botswana's Premier Food & Beverage Exhibition (FOBEX) – (Annual - July/August)
- Global Expo – BEDIA (Annual November)

Please click on the link below for information on global upcoming trade events.

<http://www.export.gov/tradeevents.html>

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## Chapter 10: Guide to Our Services

The U.S. Commercial Service offers customized solutions to help your business enter and succeed in markets worldwide. Our global network of trade specialists will work one-on-one with you through every step of the exporting process, helping you to:

- Target the best markets with our world-class research
- Promote your products and services to qualified buyers
- Meet the best distributors and agents for your products and services
- Overcome potential challenges or trade barriers

U.S. businesses can contact the Embassy's Commercial Section below or contact the Department of State Economic/Commercial Officer at (+267) 373-2354.

<http://botswana.usembassy.gov>

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U.S. exporters seeking general export information/assistance or country-specific commercial information should consult with their nearest **Export Assistance Center** or the **U.S. Department of Commerce's Trade Information Center** at **(800) USA-TRADE**, or go to the following website: <http://www.export.gov>

To the best of our knowledge, the information contained in this report is accurate as of the date published. However, **The Department of Commerce** does not take responsibility for actions readers may take based on the information contained herein. Readers should always conduct their own due diligence before entering into business ventures or other commercial arrangements. **The Department of Commerce** can assist companies in these endeavors.