

## 2013 Investment Climate Statement - Burkina Faso

### Openness to Foreign Investment

The Government of Burkina Faso (GOBF) wishes to attract more foreign direct investment (FDI) and has been implementing, over the years, reforms to make Burkina Faso more attractive to international investors. While the country is currently ranked 153 out of 185 according to the World Bank's "Doing Business 2013" report, it cited Burkina Faso as one of ten economies that made the largest strides in making their regulatory environment more favorable to business and ranked it fourth for countries "narrowing the distance to frontier between 2005 and 2011." (Note: "Frontier" is a synthetic measure based on the most business-friendly regulatory practices across nine areas of business regulation that range from starting a business to resolving insolvency.)

GOBF revised its investment code in 2010, offering tax and customs exemptions as well as exemptions and from value added tax (VAT) on operational equipment. The investment code provides additional incentives for investments in the areas of agriculture, silviculture, animal breeding, and fish farming and for companies investing at least fifty kilometers outside of the cities of Ouagadougou and Bobo-Dioulasso.

The investment code demonstrates the government's interest in attracting FDI to create industries that produce export goods and provide training and jobs for its domestic workforce. The code provides standardized guaranties to all legally established firms, whether foreign or domestic, operating in Burkina Faso. It contains four investment and operations preference schemes, which are equally applicable to all Greenfield investments, mergers, and acquisitions.

Burkina Faso's regulations governing the establishment of businesses include most forms of companies admissible under French business law, including: public corporations, limited liability companies, limited share partnerships, sole proprietorships, subsidiaries, and affiliates of foreign enterprises. With each scheme there is a corresponding set of related preferences, duty exceptions, corporate tax exemptions, and operation-related taxes.

Under the investment code, all personal and legal entities lawfully established in Burkina Faso, both local and foreign, are entitled to the following rights: fixed property, forest and industrial rights; concessions; administrative authorizations; access to permits; and participation in state contracts.

To further encourage business and investment, GOBF created the Presidential Council for Investment in December 2008. It is an advisory body chaired by the head of state whose mission it is to make recommendations on the development and implementation of policies to stimulate investment and economic growth. The inaugural meeting of the Presidential Council was held November 5-6, 2009.

To simplify the registration process for companies wishing to establish a presence in Burkina Faso, the government created eight enterprise registration centers called Centres de Formalités des Entreprises, known by their French acronym as CEFOREs. The CEFOREs are one-stop shops for company registration. On average a company can register its business in 13 days with three procedures. The CENFOREs are located in Ouagadougou, Bobo-Dioulasso, Ouahihouya, Tenkodogo, Koudougou, Fada N’Gourma, Kaya, Dedougou and Gaoua.

The government also established a Centre for Construction Facilitation (CEFAC) to improve the construction permitting process. The CEFAC has made it possible for companies to obtain and process all the paperwork required for construction permits from one office. The process requires on average 98 days and 12 procedures.

Reflecting its new status as a significant mining country, Burkina Faso is revising its 2003 mining code to better capitalize on its mineral resources and create a more favorable climate for the mining industry.

GOBF announcements for privatization bids are widely distributed, targeting both local and foreign investors. Bids are published in local papers, international magazines, mailed to different diplomatic missions, e-mailed to interested foreign investors, and published on the Internet on sites such as <http://www.dgmarket.com>. Foreign investors receive the same treatment and timetable as local investors in the bidding process. Bidding criteria, which are established and enforced by the government tenders regulation authority, Autorité de Régulation des Marchés publics (ARMP), are clear, and the process is transparent. Bid requirements are the same for all bidders. Established in July 2008, ARMP advocates free access to government tenders, equality in the bidding process, and transparency of procedures.

There are no laws or regulations specifically authorizing private firms to adopt articles of incorporation or association, which limit or prohibit foreign investment, participation, or control.

#### Burkina Faso – Economic Indices

| <b>Measure</b>               | <b>Year</b> | <b>Index/Rating</b> |
|------------------------------|-------------|---------------------|
| TI Corruption Index          | 2012        | 83/176              |
| Heritage Economic Freedom    | 2012        | 60.6/179            |
| World Bank Doing Business    | 2013        | 153/185             |
| MCC Government Effectiveness | 2012        | 76%                 |
| MCC Rule of Law              | 2012        | 95%                 |
| MCC Control of Corruption    | 2012        | 92%                 |
| MCC Fiscal Policy            | 2012        | 16%                 |
| MCC Trade Policy             | 2012        | 64%                 |
| MCC Regulatory Quality       | 2012        | 98%                 |
| MCC Business Start-Up        | 2012        | 61%                 |

|                                 |      |     |
|---------------------------------|------|-----|
| MCC Land Rights Access          | 2012 | 44% |
| MCC Natural Resource Protection | 2012 | 83% |

### **Conversion and Transfer Policies**

Burkina Faso is a member of the West African Monetary and Economic Union (WAEMU), whose currency is the CFA franc, or CFA. The CFA is freely convertible into Euros at a fixed rate of 655.957 CFA to 1 EURO. Investors should consider the advantages offered by the WAEMU, which allows CFA to be freely used between all member countries. WAEMU countries include: Senegal, Togo, Côte d'Ivoire, Mali, Benin, Guinea Bissau, Niger, and Burkina Faso.

Burkina Faso's investment code guarantees foreign investors the right to the overseas transfer of any funds associated with an investment, including dividends, receipts from liquidation, assets, and salaries. Such transfers are authorized in the original currency of the investment. Once the interested party presents the request for transfer, accompanied by all relevant bank documents, Burkinabè banks transfer the funds directly to the recipient banking institution. The GOBF is not expected in the foreseeable future to change its current remittance policy concerning purchasing foreign currency in order to repatriate profits or other earnings. Foreign exchange is readily available at all banks and most hotels in Ouagadougou and Bobo Dioulasso, Burkina Faso's second largest city.

### **Expropriation and Compensation**

The Burkinabè constitution guarantees basic property rights. These rights cannot be infringed upon except in the case of public necessity, as defined by the government. This has rarely occurred. Until 2007, all land belonged to the government, but could be leased to interested parties. The government reserves the right to expropriate land at any time for public use. In instances where property is expropriated, the government must compensate the property holder in advance, except in the event of an emergency.

In 2007, Burkina Faso drafted a national land reform policy that recognizes and protects the rights of all rural and urban stakeholders to land and natural resources; clarifies the institutional framework for conflict resolution at a local level; establishes a viable institutional framework for land management; as well as strengthens the general capacities of the government, local communities and civil society on land issues.

A rural land management law, 034/2009/AN, was adopted on June 16, 2009 by the National Assembly and promulgated by President Compaore. The new law provides for equitable access to rural lands in order to promote agricultural productivity, manage natural resources, encourage investment, and reduce poverty. It enables legal recognition of rights legitimated by customary rules and practices. In rural areas, customary land tenure rules have long governed land transactions and allocations. The new law reinforces the decentralization and devolution of

authority over land matters, and also provides for formalization of individual and collective use rights and the possibility of transforming these rights into private titles.

## **Dispute Settlement**

Over the last several years, Burkina Faso has not been involved in investment disputes with U.S. or any other foreign investors or contractors.

The Civil Code provides legal language that works to protect property and contractual rights. Government interference in the court system occurs less frequently in Burkina Faso than in most countries in Africa, and judgments from foreign courts are accepted and enforced by local courts. It should be noted, however, that the World Bank ranked Burkina Faso as 109<sup>th</sup> out of 177 in 2013 in the world for its ability to enforce contracts because of high fees, the number of required procedures, and the amount of time needed to resolve disputes.

Burkina Faso's 1995 Code of Commerce contains all applied commercial law used by the Burkinabè business community. In 2006, Burkina Faso introduced specialized commercial chambers in the general courts and in 2007 opened the Arbitration and Commercial Dispute Resolution Center (Centre d'Arbitrage et de Règlement des Litiges Commerciaux) under the auspices of the Chamber of Commerce and Industry.

Burkina Faso is a party to the Washington Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards and outlines arbitration procedures in its investment code. Burkinabè courts accept international arbitration as a means for settling investment disputes between private parties. Longstanding disputes that remain unresolved after administrative jurisdictional hearings are required to be submitted to arbitration. Burkinabè courts recognize and enforce foreign arbitral awards.

In the event that an amicable settlement of a dispute between the government and an investor cannot be reached, the investment code requires that arbitration procedures be submitted to international arbitration under the rules outlined by the 1965 Convention of the International Center for Settlement of Investment Disputes (ICSID). In cases where the enterprise of a national does not meet nationality conditions stipulated by article 25 of the Convention, the code specifies that the dispute be resolved in accordance with the dispositions of the supplementary mechanisms approved by ICSID in September 1978.

## **Performance Requirements and Incentives**

Burkina Faso has never notified the World Trade Organization (WTO) of inconsistent Trade Related Investment Measures (TRIMs). The GOBF does not require investors to purchase materials from local sources or to export a certain percentage of output. Foreign investors' access to foreign exchange is not limited to their level of exports. The GOBF does not impose "offset" requirements, which dictate that major procurements be approved only if the foreign supplier

invests in Burkinabè manufacturing, research and development, or service facilities in areas related to the items being procured.

All investment specific incentives are outlined in the revised investment code, act number 007-2010/AN. The incentives are applied uniformly to both domestic and foreign investors. Additionally, all companies that use at least 50 percent locally supplied raw materials are exempted from trading taxes and receive a 50 percent reduction in customs taxes in addition to the elimination of other duties. These companies are also eligible to waive excise duties on production equipment and spare parts.

In 2007, Burkina Faso reduced property registration fees to 12.2 percent of the property value.

The government generally encourages companies to hire Burkinabè employees, but this is not a requirement; citizens of ECOWAS countries can legally work in Burkina Faso. Other nationalities can also legally work in Burkina Faso but require employment visas/permits.

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

The rights of foreign and domestic private entities to establish and own enterprises and engage in all forms of remunerative activities are guaranteed by the constitution and the investment code. Businesses can be freely established and sold. Most public enterprises have enjoyed a monopoly in their markets. With the implementation of structural reforms, the government is liberalizing most of the monopolies. Foreign investors are encouraged to participate in the privatization of state-run enterprises.

### **Protection of Property Rights**

Burkina Faso was among a group of ten countries that demonstrate the most improvement in their International Property Rights Index (IPRI) score over the last year. According to the International Property Rights Index for 2012 Burkina Faso scores 5.0 points and is 76<sup>th</sup> of 130 in the world on international property rights issues overall. It ranks 10th in the region.

The government recognizes interests in property, both movable and fixed, and has adopted international, regional, and local laws that work to protect property. In practice, however, government enforcement of intellectual property law is lax. Despite government efforts, counterfeited goods can readily be found and purchased on the street in Ouagadougou and Bobo-Dioulasso.

As a member of ECOWAS, Burkina Faso adheres to the Treaty on the Harmonization of Business Law in Africa (OHADA). This 1993 treaty created an intergovernmental organization to encourage foreign investment and economic development in the 16 member states that have ratified it. The treaty creates institutions that harmonize laws for contracts, businesses, securities, and bankruptcies; it also established a Common Court of Justice and Arbitrage based in Abidjan,

Côte d'Ivoire. Since its inception it has adopted several uniform acts including an act relating to commercial law that entered into force in 1998.

Legal protection exists for intellectual property, patents, copyrights, trademarks, trade secrets, and semiconductor chip design. The government of Burkina Faso has issued a number of decrees to protect other forms of property. These decrees include:

- Decree No 2000-577 on the Collection and Remuneration for Duplication of Works Set on Graphic or Similar Supports
- Decree No 2000-143 on Creating the Bureau Burkinabè des Droits d'Auteur (BBDA)
- Decree No 2001-259 on Setting Up and Organizing the National Committee for the Fight against Piracy of Literacy and Artistic Works
- Decision No 01-052 on Price Fixing for Works Protected in Burkina Faso
- Decision on the Collection of Remuneration for Private Copy
- Decision No 01-053 on the Collection of Rights Payment
- Decision No 01-50 on Stamping Disks, Audio and Video Cassettes that contain Literary and Artistic Works; Decision on Protection Modalities for Delivering Import Visas on Literacy, Artistic Works, and Bank Supports.

Burkina Faso has a legal system that protects and facilitates acquisition and disposition of all property rights, including intellectual property. Burkina Faso is a member of the World Intellectual Property Organization (WIPO) and the African Intellectual Property Organization (AIPO). The national investment code guarantees foreign investors the same rights and protection as Burkinabè enterprises for trademarks, patent rights, labels, copyrights, and licenses.

In 1999, the government ratified both the WIPO Copyrights Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT). In 2002, Burkina Faso was one of 30 countries that put the WCT and WPPT treaties into force. The government has also issued several decrees and rules to implement the two treaties.

The implementation of WTO Trade-Related Intellectual Property Rights (TRIPS) agreements is under the remit of two ministries:

- Concerning copyright and related rights, the Office of Copyrights (le Bureau Burkinabè des Droits d'Auteurs, BBDA) under the Ministry of Art, Culture and Tourism has the lead.
- Concerning industrial property, it is the National Directorate of Industrial Property under the Ministry of Industry, Commerce, and Handicrafts.

These two authorities have the technical competence to identify needs. Arrangements are underway to assess the needs for the implementation of the TRIPS Agreement in Burkina Faso.

### **Transparency and Regulatory System**

The government of Burkina Faso uses transparent policies and effective laws to foster competition. According to National Assembly Law No 15-94, prices of products, goods, and services must be established according to fair and sound competition. The government believes that cartels, the abuse of a position of superiority, restrictive practices, refusal to sell to consumers, discriminatory practices, unauthorized sales, and selling at a loss are practices that distort free competition.

The government is in the process of adopting more sophisticated and transparent laws that foster competition. Although some price controls have been lifted, the price of fuel, essential generic drugs, tobacco, cotton, school supplies, water, electricity, and telecommunications are still regulated by the government.

The government does not use tax, labor, environmental, health and safety standards, or other laws and policies to impede entrance of foreign investors into the marketplace. However, Burkina's tax schedule, which is currently under review, is complex. In Burkina Faso, informal sector businesses and other small businesses with an annual turnover of CFA 15 million or less (thus roughly less than USD 29,000) pay a unique tax called the *contribution du secteur informel* or CSI. The maximum CSI tax is CFA 100,000 or roughly USD 194 per year. Businesses qualifying for CSI tax status are prohibited from bidding on state tenders.

Individual enterprises and companies in Burkina Faso with an annual turnover exceeding CFA 15 million (about USD 29,000) are subject to a complex set of taxes. These include an annual tax on industrial, commercial, and agricultural profits (IBICA), set at 27.5 percent, and a forfeit tax (IMPFIC) paid in advance each year. There is also a 25 percent tax on interest income (IRC) and a 25 percent tax on investment income (IRVM). Businesses must also pay an apprenticeship tax (TPA) on the salaries of all national and foreign employees (4 and 6 percent, respectively) and a licensing tax, which has two components - a fixed amount based on gross revenues and an 8 percent tax based on the rental value of company buildings and the value of the production equipment. Upon incorporating, companies must pay a registration tax equal to 3 percent of the company's capital. Since 1993, businesses have been required to apply a 15 percent value-added tax to products.

Non-IBICA profits are taxed 27.5 percent. Private sector employees and civil servants pay a tax (IUTS) on salaries and tips, usually by payroll deduction.

Informal regulatory processes managed by non-governmental organizations or private sector associations are rarely found. Generally, an administrative committee comprised of experts, civil

society, and various government officials reviews drafts of laws before the National Assembly adopts them or makes changes to existing laws.

Burkina Faso's legal, regulatory, and accounting systems are transparent and consistent with international norms. It adheres to the West African Economic and Monetary Union's accounting system, (Système Comptable Ouest Africain or SYSCOA). Introduced in 1998, SYSCOA allows enterprises to use the same accounting system. SYSCOA complies with international norms in force and is a source of economic and financial data.

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

The financial health of the banking system is sound. Commercial banks complied with the regional regulation to raise the minimum capital level at end-2010, and the majority of banks observed the regional prudential ratios. Developments in the financial sector were consistent with the economic recovery. The money supply in 2011 rose by 19.1 percent, reflecting the sharp increase in net foreign assets of the banking system, while credit to the economy rose substantially, mostly driven by a strong demand from the services sector.

The traditional banking sector is composed of nine commercial banks and three specialized credit institutions called, *Etablissements Financiers*. They include:

1. Banque Internationale pour le Commerce, l'Industrie et l'Agriculture du Burkina Faso (BICIA-B)
2. United Bank of Africa (UBA)
3. Société Générale de Banques du Burkina (SGBB)
4. Banque Commerciale du Burkina (Arabo- Libyen)
5. Ecobank
6. Bank of Africa (BOA)
7. Banque Sahelo-Sahélienne pour l'Investissement et le Commerce (BSIC),
8. Coris Banque International
9. Banque Atlantique

### **Competition from State Owned Enterprises**

Private enterprises are allowed to compete with public enterprises with the same terms and conditions. The bidding process is considered to be open and fair.

State Owned Enterprises (SOEs) or “strategic companies” are active in four primary areas: service providers, commercial enterprises, enterprises of a specific nature, and social security.

The primary SOEs are in the areas of: oil imports and distribution (SONABHY), water (ONEA), lottery (LONAB), mail (SONAPOST), rail equipment (SOPAFER-B), electricity (SONABEL), and social security benefits (CNSS).

Each SOE has a board of directors that is appointed and also has a parent ministry. For example, CNSS is under Ministry of Labor. The most powerful SOE is SONABHY, and its board is appointed by the President. Board members of the other SOEs are primarily appointed by the appropriate minister. Every year, all of the SOEs meet to report to the Prime Minister. While this meeting is covered in the press and general numbers are publicly available, detailed SOE budgets are not.

Burkina Faso does not have a sovereign wealth fund.

### **Corporate Social Responsibility (CSR)**

There is a general awareness of corporate social responsibility among both producers and consumers. The GOBF requires the mining companies to invest in social infrastructure, such as health centers and schools, and other projects to benefit the local populations in the areas of their mining operations. A common practice for many companies is to provide food supplies, typically rice or millet, to their workers often at the end of the year. Larger private businesses, such as the civil engineering firm, sponsor sport events like Tour du Faso and donate sporting equipment to disadvantaged communities. SOEs such as SONABHY and LONAB frequently undertake social projects.

Post is not aware that OECD's CSR principles have been embraced but it is evident that CSR is viewed favorably by the population and that many corporations engage in socially responsible projects. These projects are covered in the local press.

### **Political Violence**

Burkina Faso continues to undergo a peaceful democratization and decentralization process under the leadership of President Blaise Compaore, who has been in office since 1987 and part of the ruling group since 1984. President Compaore was reelected in November 2010 with more than 80% of the vote for what should theoretically be his last term under the current constitution. The governing party, the CDP, claims populist ideals but calls for free enterprise on the economic front. Opposition to the CDP remains severely fragmented and weak.

In February 2011, a student died in police custody in the town of Koudougou. His death prompted violent protests throughout the country until a court found three policemen guilty of manslaughter and accessory to manslaughter in August.

Military mutinies took place in several cities between March and June 2011 over the payment of certain benefits. The military fired shots in the air, looted, and destroyed public and private

properties. The GOBF restored order in June. More than 600 soldiers were dismissed since July 2011, including 300 prosecuted and currently detained for participating in the mutinies. Emergency loans and financial compensations mechanisms were also established for victims of looting and destruction. Calm has since been restored in the country.

Burkina's commercial viability is closely linked to the stability of its neighbors. The ports of Abidjan (Côte d'Ivoire) and Lome (Togo) serve as key shipping points for Burkina's imports/exports, with Lome growing in importance since the crisis in Côte d'Ivoire erupted in 2002. City ports like Cotonou (Benin) and Tema (Ghana) have also become increasingly important as alternative transshipment points for Burkinabè goods.

## **Corruption**

Although Burkina Faso means "land of the honest men", Transparency International's Corruption Perceptions Index indicates that corruption is still a problem. Burkina Faso ranked 83 out of 182 on Transparency International's Corruption Perception Index. The main challenges the country currently faces are poor access to information, a weak judiciary, limited enforcement powers of anti-corruption institutions, misappropriation of public funds, and the lack of an effective separation of powers.

The civil servants who most commonly engage in corruption include: members of the police force and gendarmerie, customs officials, political groups, justice officials, healthcare workers, educators, tax collectors, and the media.

There are several anti-corruption groups, both governmental and non-governmental, that monitor corruption in Burkina Faso. In 2001, the President established a National Ethics Committee whose main task is to "bring morality" to public life.

In November 2007 the government ratified legislation to create the Superior Authority of State Control (ASCE), an entity under the authority of the prime minister that merges the High Authority to Fight Against Corruption (HACLIC), the State Inspector General. . In addition to releasing annual reports from auditing entities, ASCE has the authority to prosecute ethics breaches in the public sector, including state civil service employees, local and public authorities, state-owned companies, and all national organizations involved with public service missions. ASCE publishes an annual report of activities, which provides details on ethic breaches and recommendations on how to resolve them. The 2010 report, published in June 2011, included 23 breaches. In December 2012, ASCE organized a workshop to validate the mechanism for monitoring and evaluation of the national anti-corruption policy and to obtain statistics on the state of corruption in Burkina Faso and devise steps to eradicate it.

In January 2008, the government established an 11 member anti-fraud squad (BNAF) focused on gold mining and issued laws that allow BNAF to regulate gold marketing and curb fraud cases.

The Autorité de Régulation des Marchés publics (ARMP), established in July 2008 to advocate for free access to government tenders, equality in the bidding process, and transparency of procedures, is the regulatory oversight body that ensures transparency in the bidding process by monitoring the execution of all government contracts. ARMP is vested with the authority to impose sanctions, initiate lawsuits, and publish the names of fraudulent or delinquent businesses. It also educates communities benefiting from public investment monies to take a more active part in monitoring contractors. ARMP works with the media to strengthen journalists' capacity to pursue investigations and ensure wide and fair coverage of suspected fraud cases. In 2012, the media has noticeably increased its coverage of high-profile corruption cases.

Private citizens have also established a non-governmental organization (NGO) called *Reseau National de Lutte contre la Corruption* (REN-LAC). This NGO looks broadly at the management of private and public sector entities. It publishes reports on the state of corruption in the country and has established a wide range of anti-corruption initiatives and tools. African Parliamentarians' Network against Corruption has a local chapter in Burkina Faso and cooperates with REN-LAC. In 2012, REN-LAC created a 24-hour hotline that allows it to gather information on alleged corrupt practices anonymously reported by citizens. REN-LAC also annually releases a report on the state of corruption in Burkina Faso. Customs, the municipal police, the judicial system, secondary education, and health institutions have topped the list as the most corrupt institutions for the last two years running.

In December 2011, the National Assembly established two commissions of inquiry into corruption: the first on the award of public contracts, the second on public subsidies in the health sector. These commissions were proposed by the Network of Parliamentarians engaged in the fight against Corruption (BURKINDI).

To commemorate International Anti-Corruption Day on December 9, 2012, ASCE, the United Nations Development Program (UNDP), BURKINDI, the African Journalists for Integrity and Transparency (RAJIT), and REN-LAC met to see who they could combine efforts to better combat corruption in Burkina Faso.

Burkina Faso has taken steps to fully adopt regional and international anti-corruption frameworks and the country ratified the UN Convention Against Corruption in October 2006. As a member of the West African Economic and Monetary Union (WAEMU), Burkina Faso has agreed to enforce a regional law against money laundering and has issued a national law against money laundering and financial crimes.

While the government has identified corruption as an obstacle to doing business, the World Bank ranked Burkina Faso as the fourth best Sub-Saharan African country in the area of corruption control, trailing only South Africa, Madagascar and Ghana. According to the 2012 Transparency International Corruption Perceptions Index, Burkina Faso has reduced its perceived levels of corruption in the public sector and improved its worldwide ranking to 83 out of 176. Its regional ranking within Sub-Saharan Africa is 5<sup>th</sup> least corrupt.

## **Bilateral Investment Agreements**

In 1961, Burkina Faso signed a cooperation treaty with France allowing funds to be transferred freely between the two countries. A trade, investment protection, and technical cooperation agreement was signed between Burkina Faso and Switzerland in 1969. This agreement provides for free transfer of corporate earnings, interests, dividends, etc., between the two countries. Burkina Faso has also signed and ratified investment promotion and mutual protection agreements with Germany, the Netherlands, Malaysia, Belgium, Guinea, Ghana, Benin, and is in the process of signing one with Italy.

The Burkinabè investment code provides the right to transfer capital and revenues secured by alien personal and legal entities, which invest in Burkina Faso in foreign currencies. Foreign investors have the right, subject to foreign exchange regulations, to transfer dividends, any returns on the capital invested, the liquidating or conclusion proceeds of assets, in the same currency used in the initial investment.

Burkina Faso has signed various multilateral investment agreements including provisions in the Lome Convention and West African Economic and Monetary Union (WAEMU). In 2002, the United States signed a Trade and Investment Framework with the West African Economic and Monetary Union (WAEMU) The framework agreement establishes a forum for the discussion of trade and investment matters between the United States, the UEMOA Commission, and the eight member states of WAEMU: Benin, Burkina Faso, Cote d'Ivoire, Guinea Bissau, Mali, Niger, Senegal and Togo.

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

Burkina Faso has not benefitted from any OPIC programs thus far. Burkina Faso is a member of Multilateral Investment Guarantee Agency (MIGA).

## **Labor**

The Burkinabè labor code is effectively enforced by a labor court. Unions are well organized and defend employee interests in industrial disputes. Workers know their rights and do not hesitate to seek redress of grievances. According to the World Bank, Burkina Faso ranked 57 out of 181 countries for the ease of hiring and firing workers in 2008. Note: The World Bank Group's Doing Business report no longer presents rankings of economies on the employing workers indicators nor includes the topic in the aggregate ranking on the ease of doing business.

The February 1, 1982 Commercial Sector Collective Agreement divides employees (laborers, craftsmen, and senior staff) into eight categories with minimum basic pay rates from 25,000 CFAF (about USD 50) per month. Conditions for the employment of workers by enterprises are provided in Decree no. 98 of February 15, 1967. An employer should ask job candidates for their

job-seeker registration card issued by the Office of Employment and Promotion, which is part of the Ministry of Labor, Employment, and Youth.

It is the GOBF's policy to increase employment opportunities for Burkinabè workers. Therefore, in professions where there are too many registered and unemployed Burkinabè, a job-seeker card will not be issued to non-nationals. When non-nationals are hired, the Director of Labor authorizes their employment contract. According to a February 15, 1967 decree, statements must be made to the Regional Inspector of Work and Social Rules before the start up of any new enterprise.

In the event of a reduction in personnel, the labor code requires the employer to first dismiss employees with the least training and seniority. The employer must advise employees of termination at least 30 days in advance. Workers terminated in a general workforce reduction have re-employment priority over other applicants for a two-year period. Employees terminated for reasons other than theft or flagrant neglect of duty have the right to termination benefits. Burkinabè workers have a reputation as hardworking and dedicated employees. There is a scarcity of skilled workers, mainly in management, engineering, and the electrical trades.

To promote local employment, the government has established three financing instruments targeted at firms interested in obtaining start-up monies. These instruments include :

- Fonds National d'Appui à la Promotion de l'Emploi – FONAPE (Employment Promotion Support Fund)
- Fonds d'Appui au Secteur Informel – FASI (Informal Sector Support Fund),
- Fonds d'Appui aux Activités Génératrices de Revenus des Femmes - FAARF (Women's Income Generating Activities Support Fund),
- Fonds d'Appui aux Initiatives des Jeunes - FAIJ (Young Initiatives Support Funds)
- Fonds Burkinabè de Développement Economique et Social – FBDES (Burkinabè Funds for Social and Economic Development).

To date, Burkina Faso has approved and ratified many conventions issued by the International Labor Organization. These conventions include Freedom for Union and Protection of Rights to Union, Abolition of Hard Labor, and the Worst Forms of Child Labor.

While unskilled labor is abundantly available in Burkina Faso, skilled labor resources are limited. Construction, civil engineering, mining, and manufacturing industries employ the majority of the formal labor force.

Burkina Faso has undertaken reforms of labor policy to make the labor market more flexible while ensuring workers rights, including workers' safety and health. In May 2008, the National Assembly adopted the new labor code to better protect workers. The revised code includes improved hiring conditions and social liberties, increased flexibility for labor agreements, limitations on damages and interest, redefinition of strike conditions, and retirement eligibility for all workers (including day laborers). Social security services include independent workers.

### **Foreign-Trade Zones/Free Ports**

There are no foreign trade zones or free ports in Burkina Faso. The Burkinabè investment code prohibits discrimination against foreigners. American firms not registered in Burkina Faso can compete for contracts on projects financed by international sources such as the World Bank, U.N. organizations, or the African Development Bank.

### **Foreign Direct Investment Statistics**

In 2011, Burkina Faso inward FDI inflows were \$7 million dollars, representing 0.5% of the gross fixed capital formation. Inward and outward FDI stocks were \$350 million and \$11 million respectively, representing 3.6% and 0.1% of the gross domestic product.

### **Burkina Faso – Largest Cross-Border Merger and Acquisition Deals 1994 – 2012**

Burkina Faso is now one of the fastest-growing gold producers in Africa. It is currently ranked fourth in production and third in exploration. Merger and Acquisitions activities have consequently increased as well.

| <b>Acquired company</b>         | <b>Industry</b> | <b>Ult. acquiring company</b> | <b>Ult. home economy</b> | <b>Value in Millions of USD</b> | <b>Year</b> |
|---------------------------------|-----------------|-------------------------------|--------------------------|---------------------------------|-------------|
| Poura Gold Mine                 | Gold ores       | International Gold Resources  | Canada                   | -                               | 1996        |
| Poura Gold Mine                 | Gold ores       | Safilo USA Inc                | United States            | -                               | 1997        |
| Banque F C I                    | Banks           | World Bank                    | United States            | -                               | 1998        |
| Societe de Travaux de Recherche | Gold ores       | Aurex AB                      | Sweden                   | 1                               | 2000        |

|                                |                                |                           |                    |       |      |
|--------------------------------|--------------------------------|---------------------------|--------------------|-------|------|
| AllianceSports LLC             | Information retrieval services | Rivals.com Inc            | United States      | -     | 2000 |
| Metorex Bukina Faso BV         | Lead and zinc ores             | Blackthorn Resources Ltd  | Australia          | 1     | 2004 |
| Axmin Ltd-Bouroum Mine         | Gold ores                      | OAO SeverStal             | Russian Federation | 3     | 2004 |
| Office National des Telecom    | Telephone communications       | Vivendi SA                | France             | 340   | 2006 |
| Phelps Dodge Exploration Corp  | Copper ores                    | Goldcrest Resources Ltd   | Canada             | -     | 2006 |
| Essakane Project               | Gold ores                      | Orezone Resources Inc     | Canada             | 200   | 2007 |
| Titao I                        | Gold ores                      | Volta Resources Inc       | Canada             | -     | 2008 |
| Banque Agricole Et Commerciale | Banks                          | Ecobank Transnational Inc | Togo               | 20    | 2008 |
| Randgold Resources Ltd         | Gold ores                      | Volta Resources Inc       | Canada             | 7     | 2009 |
| Sanu Resources Burkina SARL    | Gold ores                      | Indigo Exploration Inc    | Canada             | 1     | 2010 |
| Biaza Permit                   | Gold ores                      | Golden Rim Resources Ltd  | Australia          | -     | 2010 |
| Poura Gold Mine                | Gold Ore                       | Newmont                   | United States      | -     | 2012 |
| 25% High River Gold            | Gold Ore                       | Nord Gold                 | The Netherlands    | 1,170 | 2012 |

|            |           |                      |                |      |      |
|------------|-----------|----------------------|----------------|------|------|
| Oregold    | Gold Ore  | Amara Mining         | United Kingdom | 26.5 | 2012 |
| Avion Gold | Gold Ore  | Endeavor Mining      | Canada         | 389  | 2012 |
| Tampao     | Manganese | Pan African Minerals | Australia      | 650  | 2012 |

Burkina Faso - Greenfield FDI Projects, Announced in 2003 – 2010

| <b>Company</b>          | <b>Est. Investment (\$millions)</b> | <b>Est. Jobs Created</b> | <b>Year</b> | <b>Home Country</b> | <b>Sector</b>      | <b>Key Business Function</b>  |
|-------------------------|-------------------------------------|--------------------------|-------------|---------------------|--------------------|-------------------------------|
| Jibley Gold Exploration | 233.7                               | 1524                     | 2003        | Canada              | Metals             | Extraction                    |
| Orezone Resources       | 12                                  | 18                       | 2004        | Canada              | Metals             | Extraction                    |
| Etruscan Resources      | 242.3                               | 1667                     | 2005        | Canada              | Metals             | Extraction                    |
| Riverstone Resources    | 242.3                               | 1667                     | 2005        | Canada              | Metals             | Extraction                    |
| Comete Group            | 3.8                                 | 9                        | 2005        | Tunisia             | Business Service   | Sales, Marketing, and Support |
| Natixis                 | 9.2                                 | 16                       | 2007        | France              | Financial Services | Business Services             |
| Ridge Mining            | 242.3                               | 1667                     | 2008        | United Kingdom      | Metals             | Extraction                    |
| Ecobank                 | 9.2                                 | 16                       | 2008        | Togo                | Financial Services | Business Services             |
| Avocet Mining           | 233.7                               | 1524                     | 2009        | United              | Metals             | Extraction                    |

|                    |       |      |      |         |                       |                      |
|--------------------|-------|------|------|---------|-----------------------|----------------------|
|                    |       |      |      | Kingdom |                       |                      |
| IAMGold            | 233.7 | 1524 | 2010 | Canada  | Metals                | Extraction           |
| SEMAFO             | 204.1 | 447  | 2010 | Canada  | Metals                | Manufacturing        |
| Attijawafa<br>Bank | 9.2   | 16   | 2010 | Morocco | Financial<br>Services | Business<br>Services |

Source: United Nations Commission on Trade and Development, Foreign Direct Investment in LDCs: Lessons Learned from Decade 2000 – 2010 and the Way Forward.