
II. TRADE POLICY REGIME: FRAMEWORK AND OBJECTIVES

1. Ghana is a unitary republic. After eleven years under military rule, Ghana returned to a parliamentary democracy in 1992 with the creation of the Fourth Republic. Parliament is comprised currently of 200 members, who are elected by universal suffrage every four years. The Head of State, the President, is also elected by popular vote every four years. The President heads the Government and appoints ministers, subject to parliamentary approval. These ministers comprise the Cabinet.

(1) THE INSTITUTIONAL FRAMEWORK

2. A new Constitution, based on the U.S. model, was adopted by referendum in April 1992. This separates the powers among the President, Parliament, and an independent judiciary. The President is limited under the Constitution to serving two consecutive terms of office. A new president was to be elected at the elections scheduled for December 2000, when parliamentary elections were to be held concurrently.

3. Executive power is vested constitutionally with the President and legislative authority with the unicameral Parliament. Ghana comprises ten administrative regions divided into 110 districts, each with its own District Assembly. The body of law consists of Acts passed by Parliament and given assent by the President. The Cabinet initiates and formulates most legislative proposals. Relevant ministers also issue administrative regulations in accordance with powers conferred to them under specific legislation. All laws and regulations are published in the *Government Gazette*.

4. The judicial system is based on common law, principles of equity, customary (traditional) law and the Constitution. The highest court is the Supreme Court. Below this are the Court of Appeal and the High Court of Justice. There are also Circuit and District Community Courts.

(2) STRUCTURE OF TRADE POLICY FORMULATION AND IMPLEMENTATION

5. The principal agencies in charge of trade policy formulation and implementation have not changed greatly since the previous Trade Policy Review of Ghana in 1992. The main ministries involved are Trade and Industry, Finance, and Food and Agriculture. Other ministries whose policy decisions indirectly affect trade include Communications; Lands and Forestry; Mines and Energy; Tourism; Environment, Science and Technology; Roads and Transport; and Foreign Affairs. The Ministry of Finance has final responsibility for setting tariff policy and duty levels. The Customs, Excise and Preventive Services (CEPS), under the Ministry of Finance, is responsible for collecting import duties as well as implementing customs procedures and controls.

6. A number of other important sector-specific statutory authorities and agencies provide trade-related functions. These include the Ghana Export Promotion Council, the Ghana Free Zones Board, the Cocoa Marketing Board (COCOBOD), the Precious Minerals Marketing Corporation, the Fisheries Monitoring, Control, Surveillance and Enforcement Unit, the Timber Export Development Board, the Forest Products Inspection Bureau, the Minerals Commission, and the Ghana Tourism Board. A number of activities are also dominated by state enterprises, such as the oil and petroleum sector, where the Ghana National Petroleum Corporation and the Ghana Oil Company play a major role. Foreign investment is promoted and monitored by the Ghana Investment Promotion Centre. Standards are the responsibility of the Ghana Standards Board, and quarantine regulations are handled by the Plant Quarantine Board and the Plant Protection and Regulatory Service. The Divestiture Implementation Committee is concerned with the privatization of state-owned enterprises. Major efforts are currently being directed at improving trade policy formulation and coordination within Ghana.

7. The Bank of Ghana, the Central Bank, manages the country's monetary and exchange rate policies. It has statutory powers to conduct monetary policy, by "proposing to the Government measures which are likely to have a favourable effect on the balance of payments, movements of prices, the state of public finance and the general development of the national economy and monetary stability".¹ Final authority for monetary policy therefore ultimately rests with the Government. The Bank has powers to determine the exchange rate (Exchange Control Act of 1961). A principal factor undermining effective monetary management in Ghana has been the lack of Central Bank independence.² Until 1992, the Bank was, *de jure* and *de facto*, under the authority of the Ministry of Finance, and the Government appointed or dismissed the Governor. Since then, the Constitution has provided four-year terms for governors and removal only in exceptional circumstances, and then by a stringent parliamentary process. A new Bill, seeking to review the Bank of Ghana Act of 1963 to give the Central Bank statutory independence in the management of monetary policy, was recently placed before Parliament.³

8. The Bank plays an important advisory role to the Government on monetary and banking matters, and on economic policy in general. It is also a major source of economic statistics on the Ghanaian economy. The Ghana Statistical Service has limited resources, and this impairs the preparation of reliable statistics, which hampers policy formulation and evaluation. The Bank produces important regular public reports and commentaries on the state of the economy.

9. Ghana has no independent statutory body to review or advise the Government on economic and trade policies, including the provision of government assistance to industry. However, most economic policy advice to the Government comes from the Central Bank, the Ministries of Finance and Trade and Industry, and the private sector represented by the Private Enterprise Foundation. Other policy advice comes from the IMF and the World Bank. The privately funded Centre for Policy Analysis (CEPA) provides independent published research on issues relating to Ghana's economic policies and performance. Similar economic commentary and analysis is published by the Institute of Statistical, Social and Economic Research (ISSER) at the University of Ghana.

10. The private sector has established a close working relationship with the Government, mainly through the Private Enterprise Foundation and the Ghana National Chamber of Commerce and Industry. The National Development Planning Commission held a National Economic Forum in September 1997. The key policy issues of the Forum were the reduction of inflation and unemployment, and its aim was to achieve a national consensus between public and private sector participants. In March 1997, a Forum on "Policy Dialogue: Towards a Re-Energized Partnership for Rapid Economic Growth" was held involving all stakeholders interested in Ghana's development.

(i) Trade laws and regulations

11. Ghana is continuing to review and amend or replace many of its trade laws and regulations aimed at updating them to reflect trends in the multilateral trading system. A legislative review of laws was initiated in 1992 by the Law Reform Commission; the review was subsequently carried out by the Attorney-General Department.

12. Rationalizing trade legislation will improve the predictability of Ghana's foreign trade regime and inject greater confidence in traders and investors. Much of the trade legislation has already been updated, while other laws are being changed. For example, intellectual property legislation is being

¹ Section (3)(e) of the Bank of Ghana Act of 1963.

² Ministry of Trade and Industry (2000), Part 1. See also Sowa (undated).

³ The 1997 National Development Forum recommended that the Bank of Ghana Act be reviewed to make it consistent with appropriate levels of Central Bank independence.

revised to conform with the WTO TRIPS Agreement. The main legislation regulating foreign trade is the Export and Import Act of 1995, and the Customs, Excise and Preventive Service (Management) Law of 1993 (Table II.1).

13. The Government sees reforming legislation as an essential means of establishing an enabling environment in which the private sector can expand and prosper.

Table II.1
Main trade-related laws

Legislation	Area
Export and Import Act 1995, Customs, Excise and Preventive Service (Management) Law, 1993; Customs, Excise and Preventive Service (Management)(Rates, Duties and Other Taxes) Act, 1994	Imports and exports
Value Added Tax Act, 1994	Taxation of imports and exports
Free Zone Act, 1995	Establish free zones to encourage exports
Ghana Export Promotion Council Decree, 1969	Establish Ghana Export Promotion Council
Ghana Investment Promotion Centre Act, 1994	Establish Ghana Investment Promotion Centre
Ghana Standards Board (Food, Drugs and Other Goods) General Labeling Rules, 1992; Ghana Standards (Certification Mark) Rules, 1970; Seeds (Certification and Standards) Decree, 1972; Food and Drugs Law, 1992	Standards
Animals (Control of Importation) Ordinance, 1952; Economic Plants Protection Decree, 1979, Prevention and Control of Pests and Diseases of Plants Act, 1965	Quarantine
Forest Products Inspection Bureau Law, 1985; Forest Protection Decree, 1974; Timber Export Development Board Law, 1985; Trees and Timber Decree, 1974; Forestry Commission Act, 1993	Forestry
Fisheries Law, 1991; Fisheries Commission Act, 1993	Fisheries
Cocoa Board Law, 1983; Ghana Cocoa Board (Reorganization and Indemnity) Law, 1985; Cocoa Duty Decree, 1974; Grains Development Board Act, 1970	Agriculture
Minerals and Mining Law, 1989, Minerals and Mining (Amendment) Act, 1994; Petroleum Decree, 1973; Ghana National Petroleum Corporation Law, 1983; Petroleum (Exploration and Production) Law, 1984; Precious Minerals Marketing Corporation Law, 1989; Small-Scale Gold Mining Law, 1989; Petroleum Income Tax Law, 1987	Mining and oil
Ghana Civil Aviation Authority Law, 1983; Ghana Ports and Harbours Authority Law, 1986; Merchant Shipping Act, 1963; Ghana Shippers' Council Decree, 1974	Air transportation and shipping
Copyright Law, 1985; Merchandise Marks Act, 1964; Patent Law, 1992; Protocol on Patents and Industrial Designs Within the Framework of the Industrial Property Organization for English-Speaking Africa (ESARIPO)(Ratification) Law, 1985; Textile Designs (Registration) Decree, 1973; Trade Marks Act, 1965; United Kingdom Designs (Protection) Ordinance, 1951	Intellectual property protection
Bank of Ghana Law, 1992; Banking Law, 1989; Financial Institutions (Non-Banking) Law, 1993; Insurance Law, 1989; Exchange Control Act, 1961; Securities Industry Law, 1993; Stock Exchange Act, 1990	Banking and investment
Ghana National Procurement Agency Decree, 1976; Ghana Supply Commission Law, 1990	Government procurement
Environmental Protection Agency Act, 1994	Environment
Divestiture of State Interests (Implementation) Law, 1993; National Board for Small-Scale Industries Act, 1981	Privatization and small industry

Source: Ministry of Trade and Industry (1995), *Ghana Laws of Trade and Industry* Volumes 1 and 2.

(3) POLICY OBJECTIVES

14. The Government remains committed to trade and investment liberalization as part of its long-standing Economic Recovery Programme begun in the early 1980s. It recognizes the increasing role that market-opening measures can play in improving the economy's competitiveness and achieving export diversification. The need for private-sector-led development, by redirecting resources away from the public sector, is also recognized, and privatization efforts appear to have accelerated recently. The Government is continuing to formulate a coherent trade policy aimed at further outward orientation and improved trade performance.

15. The authorities regard private investment, both domestic and foreign, as an important catalyst for growth. Therefore, the Government is keen to remove administrative obstacles to investment, to improve the transparency of investment policies, and to create an atmosphere designed to promote business confidence.

16. A major objective of the Government's reform programme is to implement sustainable management policies with regard to its key natural resources, such as forests, marine, mineral, and agricultural commodities. Economic self-reliance is to be achieved through implementation of policies aimed at promoting sustainable development. Implementing effective control over the exploitation of such resources, and encouraging greater domestic processing are seen as important government priorities.

17. As required in the Constitution, the Government has formulated a plan for the long-term economic and social development of Ghana.⁴ The Government's long-term development objective under its 1995 National Development Policy Framework is to become a middle-income country by 2020 as envisaged in Ghana's "Vision 2020". To achieve this, a medium-term Co-ordinated Programme of Economic and Social Development Policies for the period 1996-2000 was formulated. A series of rolling five-year plans developed by the National Development Planning Commission is envisaged. Economic growth is to be based on establishing an open and liberal market economy that will encourage private investment, both foreign and domestic. The Plan requires achieving a long-term average annual growth rate of 8%. According to the Plan, this will require a major change in the economy's structural composition. Agriculture's share of GDP is expected to fall to below 20% and industry's to rise to 37% by 2020, with services (excluding electricity, gas, water, and construction) increasing to 45% of GDP. Macroeconomic stability is also to be promoted. At the same time, it is planned to remove income disparities, especially between rural and city dwellers, and to reduce population growth to 2% annually by 2020.

18. The medium-term growth strategy, as contained in the Medium-Term Development Plan (1996-2000), was to achieve 8% annual growth in 2000 and to raise average income per head to just over US\$500. Trade liberalization and greater reliance on the private sector are seen as fundamental to improving Ghana's living standards. The major objectives of trade policy are to develop an open, outward-looking and export-oriented economy that generates rapid rates of growth. The Government is especially keen to promote non-traditional exports as a means of economic diversification away from traditional commodities.

19. Industrial development policies embodied within Ghana's Vision 2020 were recently released.⁵ The primary objective of Ghana's Industrial Development Strategy is to achieve high

⁴ Article 36, clause 5 of the Constitution states that "... within two years after assuming office, the President shall present to Parliament a co-ordinated programme of economic and social development policies, including agricultural and industrial programmes at all levels and in all regions of Ghana".

⁵ Ministry of Trade and Industry (2000), Part 1, "Industrial Development an Analytical Framework".

growth in output and sustained job creation. The strategy requires higher investment in manufacturing; updated technology and manufacturing techniques; and improved labour skills for value-added production. These could be achieved if macroeconomic certainty is assured. Policy actions needed to ensure macroeconomic certainty include budgetary reforms aimed at ensuring fiscal and monetary control, without placing undue pressure on interest rates; central bank independence and inflation targeting; and a more market-determined exchange rate.

20. Other policy actions seen necessary to overcome bottlenecks in Ghana's industrial development include adequate finance and credit; sufficient adjustment support; enlarged markets; improved infrastructure (physical and human); and good governance.

21. Ghana's industrial development strategy is based on removing bottlenecks to private industrial development.⁶ The Ministry of Trade and Industry's policy framework is that tariffs should not be used as a major revenue source, but need to be "structured to afford a reasonable level of effective protection to domestic industry". Tariffs on raw materials, and capital and replacement goods should also be lowered so that local manufacturers can access inputs and maintenance equipment at competitive prices. In addition, the duty-drawback scheme needs to be revised so that it is "cash-flow neutral" to manufacturers, and customs control over undocumented trade improved, especially through ECOWAS countries. The Ministry's policy also proposes that an independent Industrial Finance Institution be established to provide subsidized loans to viable activities.

22. The Government is committed to the promotion and development of micro and small enterprises as instruments for delivering the development objectives of Vision 2020. The overall purpose of the policy is therefore geared towards the creation of an enabling environment that encourages a vibrant, productive, and competitive micro and small-scale enterprise sector across the country.⁷

23. Under the Trade and Investment Reform Program (TIRP), Ghana's international competitiveness, and identifying the factors and policies undermining it are to be monitored and reported annually. This report, involving both private and public sector inputs, is to be submitted to the Inter-Ministerial Committee on Competitiveness, which is responsible for overseeing the TIRP. A Technical Committee, comprising a number of ministries, agencies, and research institutes will prepare the report.⁸ The output of the TIRP is expected to assist in developing a policy agenda for public discussion at a future forum on competitiveness. The project is to cover macroeconomic policy and its effects on competitiveness, as well as the impact of trade and labour policies. It is intended to review and update analyses of the effects that trade restrictions, such as tariffs and quotas, have on the competitiveness of non-traditional exports. It will also examine the structure of effective protection provided by trade barriers, and will examine how tariff reforms can be implemented as a means of reducing trade distortions and promoting competitiveness in a revenue-neutral manner, so as not to aggravate fiscal imbalances and macroeconomic stability.⁹

⁶ Ministry of Trade and Industry (2000), Part 2, "A Policy Framework".

⁷ Government of Ghana (2000b).

⁸ These are the National Development Planning Commission, Private Enterprise Foundation, Ministry of Finance, Bank of Ghana, Ministry of Trade and Industry, Ministry of Agriculture, Ghana Statistical Service, Centre for Policy Analysis, Institute for Statistical, Social and Economic Research, and Sigma One Corporation (a private consulting firm).

⁹ Preliminary evidence suggests that tariff reforms in Ghana have had a significant impact on production incentives at the company level by generating a lower and more uniform level of effective protection. Manufactured exports have reacted positively to these reforms. Overall efficiency and productivity

(4) TRADE AGREEMENTS AND ARRANGEMENTS

(i) Multilateral agreements

24. Ghana is a founding member of the WTO. WTO Agreements have not been directly incorporated into Ghana's domestic law. Hence, private individuals cannot invoke the provisions of the WTO Agreements before national courts. Ghana has observer status in the Agreement on Trade in Civil Aircraft, and is neither a signatory, nor an observer, to the Agreement on Government Procurement. The status of Ghana's notifications to the WTO is given in Table II.2.

Table II.2
Selected notifications to the WTO as at 31 October 2000

WTO Agreement	Description of requirement	Periodicity	Document number of latest notification
Agriculture (Art. 10 and 18.2)	Export subsidies (outlays and quantities)	Annual	G/AG/N/GHA/1, 25 September 2000
Anti-dumping (Art. 18.5)	Laws and regulations	Once by March 1995, then changes	G/ADP/N/1/GHA/1, 6 May 1999
Anti-dumping (Art. 16.4)	Anti-dumping actions taken	Every six months (preliminary or final anti-dumping actions)	G/ADP/N/22/Add.1/Rev. 5, 25 October 2000
Anti-dumping (Art. 16.5)	Details of competent authority	Once, and then changes	G/ADP/N/14/Add.10, 19 April 2000
Import Licensing Procedures (Art 7.3)	Questionnaire; rules and information concerning procedures for the submission of applications	Annual for questionnaire; rules and information once, then changes	G/LIC/N/3/GHA/1, 5 May 1999
Preshipment Inspection (Art. 5)	Laws and regulations that put the Agreement into force	Once, then changes only	G/PSI/N/1/Add.8, 28 September 1999
Subsidies (Art. 32)	Laws and regulations	Once by March 1995, then changes	G/SCM/N/1/GHA/1, 6 May 1999
Subsidies (Art. 25)	Specific subsidies granted	Annual	G/SCM/N/3/GHA, 23 September 1996
Subsidies (Art. 25.11)	Countervailing duty actions taken	Every six months when measure is taken	G/SCM/N/7/Add.1/Rev.9, 27 October 2000
Safeguards (Art. 12)	Laws and regulations	Once by March 1995, then changes	G/SG/N/1/GHA/1, 24 September 1996
Technical Barriers to Trade (Art. 10.1 and 10.3)	Enquiry points	Once, and then changes	G/TBT/ENQ/16, 25 April 2000
Customs Valuation (Arts. 20.1 and 22.1)	Delay in commencement of provisions and changes in laws	Once on delay, then changes only	G/VAL/2/Rev.9, 3 November 1999
GATS (Art. 3.4)	Details of enquiry points	Once, then changes	S/ENQ/61, 20 July 1999
TRIPS (Art. 69)	Details of enquiry points	Once, then changes	IP/N/3/Rev. 4, 22 June 2000
TRIMs (Art. 6.2)	Details of enquiry points	Once, then changes	G/TRIMS/N/2/Rev. 8, 19 July 2000

Source: WTO documents.

25. As a developing country, Ghana benefited from transitional periods to implement commitments under various WTO Agreements. For example, Ghana notified the delayed application of the Agreement on Customs Valuation for five years, until 2000.¹⁰

appear to have been slowly increased due to resources shifting into activities with comparative advantage (Biggs and Shah, 1997).

¹⁰ G/VAL/2/Rev.9, 3 November 1999.

26. Ghana extends MFN treatment to all its trading partners. Duty-free tariff preferences are provided on a range of products imported from other ECOWAS members. Non-WTO members are also granted MFN treatment. Ghana abolished the trade embargo against South Africa in 1994.

27. The Government is keen to ensure that domestic legislation conforms with its WTO commitments. A priority area for change is intellectual property protection, where new legislation is being implemented. Customs valuation also requires change and is receiving priority. However, Ghana, like other developing countries, has experienced difficulties in implementing WTO commitments, which has heavily strained its limited institutional and human resource capacities. Ghana believes that an imbalance exists in some of the WTO Agreements, such as TRIPS. It also feels that there has been a lack of full implementation by developed countries of the "special and differential" provisions for developing countries, and insufficient transitional periods allowed for them in the agreements.¹¹ It is the view of the Government that Ghana, along with other developing countries, should have the flexibility to use certain measures for developmental purposes, and be able to extend current transitional periods, and request new periods that better reflect its limited capacities. Ghana is also concerned about the possible inclusion on the WTO agenda of issues that are considered not to be trade-related, such as labour standards, environment, and investment.

28. As a member of the African Group within the WTO, Ghana supported the proposals made on the Group's behalf by Kenya, in the lead-up to the 1999 WTO Ministerial Conference; these covered the interaction of trade and competition policy; technical assistance; the customs valuation agreement; and the TRIPS Agreement.¹²

29. Ghana has never been involved directly in a dispute under the WTO dispute settlement mechanism. Along with other ACP countries, it was a third-party participant in a dispute raised by Ecuador, Guatemala, Honduras, Mexico, and the United States against the EC's Regime for the Importation, Sale and Distribution of Bananas. In their joint submission to the Appellate Body on the Panel Decision of 9 July 1997, ACP participants endorsed the EC's views. They also disagreed with certain of the legal findings and conclusions of the Panel, and requested the Appellate Body to take into consideration several issues directly relevant to them.¹³

30. Ghana is a member of the United Nations and other multilateral institutions, such as UNCTAD, the International Monetary Fund, the World Bank, and the African Development Bank.

(ii) Regional agreements

The ACP-EC Partnership Agreement (Cotonou Agreement)

31. Ghana is a signatory to the Cotonou Agreement (successor to the Lomé Convention) between the European Union (EU) and 71 countries in Africa, the Caribbean and the Pacific (ACP).¹⁴ This extends non-reciprocal trade preferences to all ACP States. The parties to the Agreement are currently awaiting a decision by WTO Members following their request for a waiver from obligations under Article I:1 of GATT 1994 (MFN treatment), for the period up to 31 December 2007, by which

¹¹ WTO document WT/MIN (99)/ST/95, 2 December 1999.

¹² WTO documents WT/GC/W/299-302, 6 August 1999.

¹³ WTO document WT/DS27/AB/R, 9 September 1997.

¹⁴ The Cotonou Agreement was signed on 23 June 2000. The fourth Lomé Convention had expired at the end of February 2000. The trade provisions of the Cotonou Agreement continue the provisions of the Lomé Convention with regard to access to the EU markets, including protocols on beef and veal, and sugar. The existing Lomé trade provisions are to continue until 31 December 2007.

time, new WTO-compatible trading arrangements are to be concluded.¹⁵ During this period the EU is to enter negotiations with ACP countries aimed at establishing partnership agreements on a bilateral basis or between the EU and regional groupings (Regional Economic Partnership Agreements).

32. Ghana's exports to the EU benefit from duty-free treatment on industrial and processed agricultural products (on a non-reciprocal basis), subject to a safeguard clause and rules of origin.¹⁶ Commodities covered by the EU Common Agricultural Policy are excluded from preferential treatment. According to the Ghanaian authorities, trade preferences have been important for the development of Ghana's exports, including the recent growth of non-traditional exports, such as canned tuna.

33. Ghana has also received substantial financial assistance from the EU under these arrangements. The EU provides support to ACP States through the European Development Fund (EDF), the main assistance arm of the EU; the European Investment Bank for commercial loans; the Stabilisation of Export Earnings Scheme (STABEX), which currently covers 49 agricultural products and is aimed at reducing the effects of price or quantity fluctuations on export earnings; SYSMIN, a financing facility for minerals; and development projects funded under the National Indicative Programme (NIP).

Economic Community of West African States (ECOWAS)

34. Ghana is a founding member of ECOWAS; the treaty was signed in May 1975.¹⁷ This agreement provides for trade and investment liberalization among members. Non-tariff barriers, such as licences, quotas, prohibitions, and administrative barriers, were to be eliminated, as of 1994, on all goods originating within ECOWAS. Tariffs on finished industrial goods were to be progressively reduced and eliminated according to several criteria under the Trade Liberalization Scheme established in 1990. These criteria include the level of industrial development of each member and the transportation problems affecting island and land-locked countries. Based on these, ECOWAS countries were divided into three groups, each with a different programme of tariff reductions. Ghana, along with Côte d'Ivoire, Nigeria, and Senegal were to have eliminated tariffs by 1996 by reductions of 16.6% per year over six years.¹⁸ However, none of these targets have been fully achieved. Ghana extends duty-free tariff treatment to certain unprocessed products and many industrial goods imported from eligible enterprises located in the Community, as specified in the Second Schedule of its Customs Tariff (Table AII.1). Ghana also allows duty-free preferential access

¹⁵ WTO document G/C/W/187. The full text of the new ACP-EC Partnership Agreement was communicated to WTO Members in WTO document G/C/W/187/Add.3 of 14 April 2000.

¹⁶ The rules of origin require that qualifying products be either "wholly obtained or significantly worked or processed" in one or more ACP States. The latter definition is based on the product being sufficiently modified in the ACP State for it to be classified under a different four-digit HS tariff item.

¹⁷ The other ECOWAS members are Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Gambia, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, the Niger, Nigeria, Senegal, Sierra Leone, and Togo.

¹⁸ Cape Verde, Gambia, Guinea-Bissau, Burkina Faso, Mali, Mauritania, and the Niger were to have eliminated tariffs within ten years, or by 2000, by annual reductions of 10%. The other group of Benin, Guinea, Liberia, Sierra Leone and Togo were to have removed tariffs over eight years, by 1998, by reducing duty rates annually by 12.5%.

for many nominated handicrafts and local speciality products.¹⁹ All tariff preferences are subject to rules of origin requirements.²⁰

35. The Revised ECOWAS Treaty of 1993 includes among its objectives the establishment of a common market involving, *inter alia*, the removal of obstacles to the free movement of persons, goods, services, and capital, as well as the right of residence and establishment. Members were committed to achieving this within five years following the creation of an envisaged customs union, which was to have been established by 2000. Unimpeded capital movements among ECOWAS members were to have been ensured by the establishment of a Capital Issues Committee to oversee the removal of controls on such transfers.²¹

OAU

36. Ghana is also a member of the Organization of African Unity (OAU) and has ratified the Treaty Establishing the African Economic Community (AEC). This agreement provides for the creation of a pan-African economic and monetary union over a 34-year period, and is an extension of the Lagos Plan of Action adopted in 1980, which envisaged an African common market by 2000. However, no measures have been adopted under this Treaty.

(iii) Bilateral agreements

37. Ghana maintains bilateral trade agreements with a number of countries. According to the Government, by the year 2000, it had signed agreements with Malaysia, Czech Republic, Turkey, Trinidad and Tobago, Jamaica, Côte d'Ivoire, Egypt, Cuba, Republic of South Africa, and the United States. These agreements have been ratified except for those with Trinidad and Tobago, Jamaica, and the Republic of South Africa. Ghana has also started negotiations on agreements with Burkina Faso, Romania, Slovakia, Tunisia, Morocco, Greece, Zimbabwe, Lebanon, Nigeria, Libya, Belarus, and Equatorial Guinea; negotiations with Romania and Greece are at an advanced stage.

38. Ghana previously maintained bilateral trade agreements involving countertrade with former centrally planned European economies, such as Russia, Bulgaria, German Democratic Republic, Poland, Romania, and Hungary, as well as Cuba. Following the changes in these economies, Ghana has been phasing out the arrangements and attempting to negotiate new agreements without countertrade provisions. A number of bilateral clearing accounts under these former arrangements are still active; on-going arrangements are aimed at settling the remaining amounts either with goods or by convertible currency.

(iv) Generalized System of Preferences (GSP) and Global System of Trade Preferences (GSTP)

39. Ghana benefits from GSP treatment from industrialized countries. It is also a signatory of the GSTP among developing countries, and as such provides and receives preferential tariff access over a

¹⁹ Since January 1990, handicrafts appearing on a list established by the Community are duty free provided they are accompanied by a certificate of origin issued by the competent authority designated by the exporting country. In Ghana, this is the Ministry of Trade and Industry.

²⁰ A finished product has Community origin if at least 60% of the raw materials used in its manufacture come from members or if the value added is at least 35% of the ex-works cost price excluding tax. Products must be approved according to the scheme adopted by the ECOWAS Council of Ministers.

²¹ Removal of capital controls was to be in accordance with a timetable, determined by the ECOWAS Council of Ministers, that would ensure that Community nationals could acquire stocks and other securities or invest in other Member States.

range of products and countries. Ghana receives GSTP preferences on such products as salt, horticultural products, cashew nuts, textiles, wood and wood products, aluminium and aluminium products, and cocoa and cocoa products. Products on which it extends preferences include medical equipment, carpets, jute fibre and yarn, and newsprint. Ghana has negotiated GSTP preferences with India, Bangladesh, and the Islamic Republic of Iran, amongst others.

(v) Other agreements and arrangements

40. Ghana is one of 34 African countries designated as eligible for special access to the United States, under the African Growth and Opportunity Act contained in the U.S. Trade and Development Act of 2000. This also establishes a high-level dialogue on trade and investment via the U.S.-Sub-Saharan Africa Trade and Economic Forum. African beneficiaries will receive GSP treatment (exempt from the competitive needs limitations) in the U.S. market until the end of September 2008, and will qualify for an expanded list of GSP products (beyond that available to other countries).²² To be eligible, African countries must make progress in establishing a market-based economy; developing political pluralism and the rule of law; eliminating barriers to U.S. trade and investment; protecting intellectual property; combatting corruption; protecting human and worker rights; and removing certain practices of child labour.²³ All eligible African countries are entitled to unlimited duty-free and quota-free access to the U.S. market for apparel made from U.S. fabric, yarn or thread.²⁴ However, a Special Rule for Lesser Developed Beneficiary Countries provides Ghana, and 27 other eligible African countries with a per capita GNP below US\$1,500 in 1998, the same unlimited access to the U.S. market for apparel made from non-U.S. fabric. This rule applies until end-September 2004.²⁵

(5) FOREIGN INVESTMENT POLICIES AND PROCEDURES

(i) Regulatory framework

41. Foreign direct investment in Ghana is monitored by the Ghana Investment Promotion Centre, established in 1994 to administer the Ghana Investment Promotion Centre Act. All FDI, except in minerals, oil and gas, and the free zones, are subject to this legislation.²⁶ Moreover, additional sector-specific regulations apply to foreign investment in certain sectors, such as fishing, forestry, and certain services, like banking, insurance, and real estate. The Act applies to foreign investments through acquisitions, mergers, and take-overs, as well as new investments and portfolio investment. Ghana no longer screens foreign investment. The Centre registers foreign investments (within five days) and promotes it by providing certain incentives. Attracting FDI is an integral part of the Government's market-opening measures and efforts to promote economic growth. Under the Act,

²² U.S. authorities have released a list of additional products for public comment, and are in the process of determining the final coverage of goods. The initial list covered almost 1,900 additional tariff lines on items such as footwear, luggage, handbags, and watches.

²³ See African Growth Opportunity Act [Online]. Available at: www.agoa.gov/index.html.

²⁴ The legislation also provides for growth in U.S. apparel imports made from fabric and yarn produced in beneficiary African countries, from 1.5% of total U.S. apparel imports to 3.5%, over an eight-year period.

²⁵ The apparel benefits took effect from October 2000. However, the countries must have in place an effective visa system to prevent illegal trans-shipment and use of counterfeit documentation, as well as effective enforcement and verification procedures. Countries must also be beneficiary developing countries under the U.S. GSP scheme.

²⁶ Investment in minerals and mining is regulated mainly by the Minerals and Mining Law of 1989, as amended by the Minerals and Mining Amendment Act, 1994. Exploration and mining of oil and gas is governed by the Petroleum (Exploration and Production) Law, 1984.

investment is defined to also include portfolio investments, i.e. shares and securities traded on the Ghana Stock Exchange.²⁷

42. The legislation reserves a few activities for Ghanaians. These are petty trading, operation of taxi services (except when a non-Ghanaian has a minimum fleet of ten vehicles), pool betting businesses, lotteries (except soccer pools), beauty salons, and barber shops. Non-Ghanaians cannot engage in small-scale mining. Outside these areas, FDI is subject to minimal financial requirements. The minimum capital for foreign investors is US\$10,000 in joint ventures, and US\$50,000 for projects wholly owned by foreigners. Trading companies, whether partly or fully foreign-owned, require a minimum foreign equity of US\$300,000 and must employ at least ten Ghanaians.²⁸ Foreign investors are therefore not required to engage local partners. Exceptions include fishing, where non-Ghanaians may own a maximum of 75% of the interest in a tuna-fishing vessel. A limit of 40% foreign ownership also applies to insurance companies. There is also compulsory local participation in the mineral and oil sectors whereby the Government acquires a 10% equity in ventures at no cost. Controls also apply to portfolio investment. Total foreign holdings of a publicly listed company on the stock exchange cannot exceed 75%.²⁹

43. Ghana does not impose performance requirements on foreign investors establishing commercial presence, and they do not have to meet local-content requirements. Moreover, the minimum foreign capital limits do not apply to enterprises established solely for export trading (defined as export of goods of Ghanaian origin). However, all investors, foreign and domestic, with free-zone status must export at least 70% of their output. Conditional performance targets also applied to the second licence issued for basic telecommunications.

44. Ghana's laws recognize the right of foreign and domestic private entities to own and operate business enterprises. Entrepreneurs, irrespective of nationality, can establish a business in Ghana under the provisions of the Companies Code (1963), the Partnership Act (1962), and the Business Name Act (1962).

(ii) Investment incentives and promotion

45. Incentives in the form of exemption from import duties and related charges are automatic under the Ghana Investment Promotion Centre Act. In order to accommodate changes in technology and specialist equipment, the Centre is given the power to grant import duty exemptions to investors in respect of equipment that is not identified and listed (Section (24) of the Act). The incentives available to investors – both domestic and foreign – are specified in the IRS (Internal Revenue Services Code) (Taxes) and in the Customs Harmonized Code (Tariffs). The Centre also has discretion over whether to grant additional incentives for special investments, with approval from the President (Section (25)), and in addition can specify priority investment areas as well as prescribe applicable incentives and benefits (Section (26)).

46. The investment incentives include exemption from tariff and other duties on imported plant, machinery, and equipment falling with Chapters 82, 84, 85 and 98 of the Customs Schedule.³⁰ Other incentives include accelerated depreciation provisions and a reduced company tax rate of 8% for firms

²⁷ The reason for this inclusion is to extend the protection given under the investment regime to portfolio investments. However, it is the Stock Exchange that handles portfolio investments.

²⁸ These capital requirements may be provided either by remitting convertible foreign currency into a domestic bank or by importing goods on the project to this value.

²⁹ A single foreign investor cannot own more than 10% of any listed company.

³⁰ Any enterprise may apply to the Centre to have tariffs and duties eliminated on other plant, machinery, and equipment falling outside these chapters.

exporting non-traditional products, and 25% for income from licenced hotels. Tax holidays of five years apply to certain activities, such as general farming, fisheries, aquaculture, livestock, and real estate. Investments in rural banks and cattle ranching are exempted from income tax for ten years. Location incentives also apply.³¹ Investors are also entitled to an automatic immigration quota tied to the value of the investment: investments of US\$10,000 receive an immigration quota for one person.³²

47. Between its inception in 1994, and end 1999, the Investment Promotion Centre registered 972 investment projects, with investments totalling US\$1.5 billion.³³ Just over one quarter of total investment was in wholly foreign-owned ventures. The main sources of foreign investment are the United Kingdom, China, India, the United States, Germany, Lebanon, and the Republic of Korea. Most investment involves projects located in the Greater Accra region. Some 70% of total investments are in operation; around 14% of registered investments have been abandoned or cannot be traced. Registered investment projects are expected to have generated employment of 8,616 in 1999, compared with 12,248 in 1998 and 11,534 in 1995. About 95% of these jobs accrue to Ghanaians.

48. Ghana's investment legislation and the Constitution provide for guarantees against expropriation and nationalization. The State may only acquire an enterprise if it is in the national interest for a public purpose, and then only on payment of fair and adequate compensation. Disputes are to be resolved by reference to the rules of arbitration of the United Nations Commission of International Trade Law, or where relevant, within the framework of bilateral investment agreements. Ghana maintains Investment Promotion and Protection Agreements with a number of countries (Table II.3). These are seen as complementing the investment legislation as a means of attracting foreign investment. The Ghana Arbitration Centre was established in 1996 to facilitate arbitration and to bolster investor confidence. Ghana is also a member of the Multilateral Investment Guarantee Agency (MIGA) of the World Bank.

Table II.3
Investment promotion and protection agreements

Party to the Agreement	Status	Enforcement date	Duration
United Kingdom, and Northern Ireland	Signed & ratified	25 October 1991	10 years
Federal Republic of Germany	Signed & ratified	28 October 1998	10 years
Romania	Signed	n.a.	10 years
The Netherlands	Signed & ratified	7 January 1991	15 years
Switzerland	Signed & ratified	16 June 1993	10 years
Bulgaria	Signed	n.a.	10 years
China	Signed & ratified	26 November 1990	10 years
Denmark	Signed & ratified	6 January 1995	10 years
France	Signed	n.a.	10 years
India	Awaiting signing	n.a.	10 years
Belgium	Awaiting signing	n.a.	10 years

Table II.3 (cont'd)

³¹ Manufacturing industries located in cities other than Accra receive a 25% tax rebate. A 50% tax rebate is paid if located outside regional capitals.

³² The immigration quota increases to two for investments of from US\$10,000 to US\$100,000, and to four for investments exceeding US\$500,000.

³³ The total number of projects registered by the Centre had increased to 1,118 as at September 2000. These comprised projects on services (300), manufacturing (288), tourism (127), building and construction (99), agriculture (83), and others (232).

Party to the Agreement	Status	Enforcement date	Duration
Republic of Korea	Under negotiation	n.a.	10 years
Malaysia	Signed & ratified	18 April 1997	10 years
Yugoslavia	Awaiting signing	n.a.	10 years
South Africa	Signed	n.a.	10 years
Canada	Under negotiation	n.a.	n.a.
Australia	Under negotiation	n.a.	n.a.
Pakistan	Under negotiation	n.a.	n.a.
Israel	Under negotiation	n.a.	n.a.
Côte d'Ivoire	Signed	n.a.	10 years
Egypt	Signed	n.a.	10 years
Italy	Signed	n.a.	10 years
Turkey	Under negotiation	n.a.	10 years
United States	Signed	n.a.	10 years
Cuba	Signed	n.a.	10 years

n.a. Not applicable.

Source: Government of Ghana.

49. Under the legislation, foreign investors are also guaranteed "unconditional transferability", in freely convertible currency, of dividends or net profits; payments to service a foreign loan; fees and charges for registered technology transfer; and remittance of proceeds on sale or liquidation of the enterprise.