

# The Gambia

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RISK & COMPLIANCE REPORT

DATE: May 2017

<b>Executive Summary - Gambia</b>	
<b>Sanctions:</b>	None
<b>FAFT list of AML Deficient Countries</b>	No
<b>Higher Risk Areas:</b>	<p>Non - Compliance with FATF 40 + 9 Recommendations</p> <p>Not on EU White list equivalent jurisdictions</p> <p>Corruption Index (Transparency International &amp; W.G.I.)</p> <p>World Governance Indicators (Average Score)</p> <p>Failed States Index (Political Issues)(Average Score)</p> <p>Offshore Finance Centre</p>
<b>Medium Risk Areas:</b>	Weakness in Government Legislation to combat Money Laundering
<p><b>Major Investment Areas:</b></p> <p><b>Agriculture - products:</b></p> <p>rice, millet, sorghum, peanuts, corn, sesame, cassava (manioc), palm kernels; cattle, sheep, goats</p> <p><b>Industries:</b></p> <p>processing peanuts, fish, and hides; tourism, beverages, agricultural machinery assembly, woodworking, metalworking, clothing</p> <p><b>Exports - commodities:</b></p> <p>peanut products, fish, cotton lint, palm kernels</p> <p><b>Exports - partners:</b></p> <p>China 57.3%, India 18%, France 4.6%, UK 4.1% (2012)</p> <p><b>Imports - commodities:</b></p> <p>foodstuffs, manufactures, fuel, machinery and transport equipment</p> <p><b>Imports - partners:</b></p> <p>China 27.1%, Senegal 8.4%, Brazil 8%, UK 6.3%, India 6%, Indonesia 4.1% (2012)</p>	

**Investment Restrictions:**

The Gambian government publicly espouses a liberal, open economic environment and free-market pricing, with a firm commitment to private sector participation in all sectors of the economy.

There are no laws or regulations that limit or prohibit foreign investment, participation, or control.

Formal restrictions on private-sector investment only in sensitive areas like television broadcasting and defense.



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## Section 1 - Background

The Gambia gained its independence from the UK in 1965. Geographically surrounded by Senegal, it formed a short-lived federation of Senegambia between 1982 and 1989. In 1991 the two nations signed a friendship and cooperation treaty, but tensions have flared up intermittently since then. Yahya JAMMEH led a military coup in 1994 that overthrew the president and banned political activity. A new constitution and presidential elections in 1996, followed by parliamentary balloting in 1997, completed a nominal return to civilian rule. JAMMEH has been elected president in all subsequent elections including most recently in late 2011.



## Section 2 - Anti – Money Laundering / Terrorist Financing

### FATF status

The Gambia is not on the FATF List of Countries that have been identified as having strategic AML deficiencies

### Compliance with FATF Recommendations

The initial Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in The Gambia was undertaken by the Financial Action Task Force (FATF) in 2010. According to that Evaluation, The Gambia was deemed Compliant for 3 and Largely Compliant for 9 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for 5 of the 6 Core Recommendations.

#### Sixth and seventh follow-up reports of the Gambia

The sixth follow-up report of the Gambia indicated that the country inaugurated the Board of the FIU. During the period under review, the Gambia FIU exchanged information with a third country. The Gambia did not provide enough information to attest to the effectiveness of its AML/CFT system, particularly outstanding deficiencies relating to measures for the effective implementation of UNSCRs 1267 and 1373. Outstanding matters are effective supervision of financial institutions and DNFBPs; adoption of a National AML/CFT Strategy; and ratification of the UN Convention for the Suppression of Financing of Terrorism and the UN Convention against Corruption.

In its seventh follow-up report, the Gambia indicated that a new Director of the FIU was expected to assume office in December 2013 to facilitate the operational autonomy of the FIU and enable it to perform its core functions effectively. The Gambia also indicated that there has been an upward revision of the budget of the FIU to facilitate its effective operation, as well as cater for additional staff seconded to the FIU. The follow-up report also indicated that the Gambia issued AML/CFT guidelines to DNFBPs.

However, the Gambia had not taken any actions to criminalize illicit traffic in stolen and other goods, counterfeiting and piracy of products, smuggling, insider trading and market manipulation, participation in organized criminal groups, racketeering, and illicit arms trafficking. The country does not have effective laws or procedures to freeze terrorist funds or other assets of persons designated by the United Nations Al-Qaida and Taliban Sanctions Committee in accordance with UNSCR 1267 and those designated under UNSCR 1373.

As part of efforts to address its remaining outstanding deficiencies, the Gambia should ratify the International Convention for the Suppression of Financing of Terrorism and the UN Convention against Corruption; criminalize the remaining predicate offences of money laundering; adopt effective laws and procedures to implement UNSCRs 1267 and 1373; and

confirm the appointment of the Director of the FIU before the May 2014 Plenary. The Gambia was retained on Enhanced Follow-up and directed to submit its eighth follow-up report in May 2014.

## Giaba Annual Report 2013

### Prevalence of Predicate Crimes

The Gambia lacks the capacity to monitor the full stretch of its borders. Smuggling is therefore prevalent, though the country's customs collaborate with Senegalese counterparts to address the problem. As recent seizures of cocaine and marijuana demonstrate, the country is also one of the routes for drug trafficking in West Africa.

Tourism-related human trafficking is a thriving underground business in the Gambia. It is also a source, transit and destination country for women and children subjected to forced labour and sex exploitation. The Trafficking in Persons Report 2013 reveals that the booming sex tourism industry propels the recruitment of young (sometimes under-aged) girls from nearly all ECOWAS member States by traffickers to meet the demands of European child-sex tourists.

Cross-border movement of cash is a serious challenge due to the economic activities of nationals from other countries. Because of the strict monitoring of foreign exchange transfers in Senegal, the Gambia has become very attractive for such transactions because of its more liberal policies.

The most prevalent predicate crimes in the country in 2013 were drug trafficking, corruption, tax fraud, bank fraud and fraud in other investments. According to the Country Report provided by the Gambia, the proceeds of these crimes are typically laundered through the real estate, cross-border cash movements, banks and DNFBPs.

### AML/CFT Situation

Progress in the implementation of AML/CFT measures in the Gambia has been slow. In 2012, the Gambia enacted the new AML/CFT law, reactivated the Inter-Ministerial Committee and appointed a Director for the FIU. These measures have helped to address some of the deficiencies in the country's AML/CFT regime.

However, the seventh follow-up report of the country, submitted in November 2013, shows that it has not addressed a number of the strategic deficiencies in its AML/CFT system. The most crucial of these deficiencies are the non-criminalization of the full range of predicate offences, absence of effective laws and procedures for implementing UNSC Resolutions 1267 and 1373, and lack of ratification of various instruments on counter-terrorism. In particular, the country has not ratified the key UN International Convention on the Suppression of the Financing of Terrorism.

However, the FIU received funding from the African Development Bank to support the implementation of the requirements of the Anti-Money Laundering and Combating of



Terrorism Financing Act 2012. A consultant is to be recruited to help in the process. The work schedule has also been developed.

In 2013, the FIU received 20 STRs, of which 16 are linked to money laundering. Out of this number, 10 cases were forwarded to the law enforcement agencies for investigation. In one of the cases involving suspected ML-related drug trafficking worth US\$500,000, investigations showed that the funds were genuine.

In another case involving illegal gold mining and smuggling worth US\$400,000, the Netherlands Government has sought mutual legal assistance to recover illicit funds in a commercial bank in the Gambia. Consequently, the FIU and the Financial Supervision Department of the Central Bank conducted a joint prudential visit to the bank. As reported by the country, the mutual assistance process will be completed soon to determine and detail financial trails that could be traced to several banks.

While the status of the other investigations is not known, however, and there has been neither prosecution nor conviction. The low level of reporting and the lack of prosecution and conviction in the face of real ML/TF threats are matters of concern. The main obstacles to implementation of AML/CFT measures in the country are weak law enforcement and the low capacity of regulatory authorities.

## **Conclusion**

At the November 2013 Plenary, the Gambia was called upon to demonstrate greater commitment to the implementation of its AML/CFT measures. The country was directed to address its AML/CFT strategic deficiencies and submit a follow-up report in May 2014, failing which a public statement will be published on the country. These serious measures have been taken by the Plenary because of the high risk associated with the country's low compliance level.

The Gambia therefore needs to mobilize all required resources, including political commitment at the highest level, in order to mitigate the ML/TF risks it faces. It is also in the interest of the Gambia to address these deficiencies urgently in order to avoid being blacklisted as a country not making sufficient progress to improve its AML/CFT system. The consequences of this action on the country's economy will be enormous.

## **US Department of State Money Laundering assessment (INCSR)**

The Gambia was deemed a 'Monitored' Jurisdiction by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

### **Perceived Risks:**

The Gambia is not a regional financial center, although it is a regional re-export center. The Gambia derives most of its GDP from agriculture, tourism, remittances, and the re-export trade, with most transactions conducted in cash. Goods and capital are freely and legally

traded in The Gambia, and, as is the case in other re-export centers, smuggling of goods occurs. Although The Gambia has limited capacity to monitor its porous borders, customs officials cooperate with counterparts in Senegal to combat smuggling along their common border. A lack of resources hinders law enforcement's ability to combat smuggling more effectively.

It is unclear to what extent money laundering is related to narcotics, but seizures of large amounts of cocaine and marijuana two years ago heightened concerns regarding links to international drug trafficking. The number of new banks entering the local market in the past few years - there are currently a total of 12 commercial banks operating in The Gambia - also raises possible money laundering concerns. These concerns are further heightened by the problems of persistently weak bank controls and supervision, the dominance of cash transactions, a poor know-your-customer compliance culture, and significant inflows of tourists.

DO FINANCIAL INSTITUTIONS ENGAGE IN CURRENCY TRANSACTIONS RELATED TO INTERNATIONAL NARCOTICS TRAFFICKING THAT INCLUDE SIGNIFICANT AMOUNTS OF US CURRENCY; CURRENCY DERIVED FROM ILLEGAL SALES IN THE U.S.; OR ILLEGAL DRUG SALES THAT OTHERWISE SIGNIFICANTLY AFFECT THE U.S.: NO

CRIMINALIZATION OF MONEY LAUNDERING:

"All serious crimes" approach or "list" approach to predicate crimes: List approach  
Legal persons covered: criminally: YES civilly: YES

KNOW-YOUR-CUSTOMER (KYC) RULES:

Enhanced due diligence procedures for PEPs: Foreign: YES Domestic: NO KYC covered entities: Banks and microfinance entities; money remitters and exchanges; financial instrument and securities brokers and dealers; real estate agents; bullion dealers; casinos and lottery outlets; insurance companies and intermediaries; payroll services; guarantors and safe custody services; and trust and company service providers

SUSPICIOUS TRANSACTION REPORTING (STR) REQUIREMENTS:

Number of STRs received and time frame: 21 in 2015

Number of CTRs received and time frame: Not available

STR covered entities: Banks and microfinance entities; money remitters and exchanges; financial instrument and securities brokers and dealers; real estate agents; bullion dealers; casinos and lottery outlets; insurance companies and intermediaries; payroll services; guarantors and safe custody services; and trust and company service providers

MONEY LAUNDERING CRIMINAL PROSECUTIONS/CONVICTIONS:

Prosecutions: 1 in 2015

Convictions: 0 in 2015

RECORDS EXCHANGE MECHANISM:

With U.S.: MLAT: NO Other mechanism: NO

With other governments/jurisdictions: YES

The Gambia is a member of the Inter Governmental Action Group against Money Laundering in West Africa (GIABA), a FATF-style regional body.

## **ENFORCEMENT AND IMPLEMENTATION ISSUES AND COMMENTS:**

The Gambia has criminalized all predicate offenses to money laundering and terrorism financing in accordance with international standards. The Gambia Financial Intelligence Unit (GFIU), established within the Central Bank in January 2014, has now become fully operational as an independent agency and is housed in a separate building. The Government of The Gambia has increased its budget allocation to the FIU, which has now increased its staff complement from seven to 14 as of November 2015. The FIU works closely with other law enforcement agencies, such as the Gambia Police Force and the National Intelligence Agency (NIA).

In 2014, GFIU froze several bank accounts holding a total of 17 million dalasi (approximately \$430,000) of suspicious transactions. Several arrests were made and at least one case, involving a Gambian and two foreigners, was taken before the courts in 2015. Six other cases are being actively investigated.

On July 8, 2015, The Gambia formally became a party to the UN International Convention for the Suppression of the Financing of Terrorism and the UN Convention against Corruption. Both conventions were ratified by the Gambian National Assembly a year earlier, but the UN was not properly notified.

The Gambia should provide adequate resources and capacity to its law enforcement, supervisory, and customs personnel so they are able to effectively fulfill their responsibilities. The Gambia should adopt effective laws and procedures to implement UNSCRs 1267 and 1373. Gambian authorities should investigate the country's re-export sector to determine whether it is being used to launder criminal proceeds.

### **Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):**

According to the US State Department, The Gambia does not conform with regard to the following government legislation: -

**Arrangements for Asset Sharing** - By law, regulation or bilateral agreement, the jurisdiction permits sharing of seized assets with third party jurisdictions that assisted in the conduct of the underlying investigation.

**International Terrorism Financing Convention** - States parties to the International Convention for the Suppression of the Financing of Terrorism, or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

**States Party to United Nations Convention Against Corruption** - States party to the United Nations Convention against Corruption (UNCAC), or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

### **EU White list of Equivalent Jurisdictions**

The Gambia is not currently on the EU White list of Equivalent Jurisdictions

### **World Governance indicators**

[To view historic Governance Indicators Ctrl + Click here and then select country](#)

### **Failed States Index**

[To view Failed States Index Ctrl + Click here](#)

### **Offshore Financial Centre**

The Gambia is considered to be an Offshore Financial Centre

### US State Dept Narcotics Report

No report available

### US State Dept Trafficking in Persons Report 2016 (introduction):

The Gambia is classified a Tier 3 country - a country whose government does not comply with the Trafficking Victims Protection Act's minimum standards.

The Gambia is a source and destination country for women and children subjected to forced labor and sex trafficking. Within The Gambia, women, girls, and—to a lesser extent—boys are subjected to sex trafficking and domestic servitude. Women, girls, and boys from West African countries—mainly Senegal, Sierra Leone, Liberia, Ghana, Nigeria, Guinea, Guinea-Bissau, and Benin—are recruited for commercial sexual exploitation in The Gambia. The majority of these victims are subjected to sexual exploitation by European child sex tourists. Observers believe organized sex trafficking networks use both European and Gambian travel agencies to promote child sex tourism. Many Gambian boys attend Koranic schools led by religious teachers, known as marabouts; some corrupt or unscrupulous marabouts force such boys into begging and street vending. Gambian children have been identified as victims of forced labor in neighboring West African countries, including Ghana and Senegal. Women and girls are subjected to forced labor and sex trafficking in Middle Eastern countries, including United Arab Emirates, Kuwait, and Lebanon.

The Government of The Gambia does not fully meet the minimum standards for the elimination of trafficking and is not making significant efforts to do so. During the reporting period, the government repatriated and provided services to nine victims subjected to trafficking abroad and continued to conduct sensitization campaigns in key border regions; however, the government did not complete any prosecutions, secure any convictions, or identify any victims within the country for the fourth consecutive year. Additionally, despite reports that government officials were complicit in trafficking offenses during the reporting period, the government did not investigate, prosecute, or convict any government officials complicit in trafficking offenses.

### US State Dept Terrorism Report

No report available

## International Sanctions

None Applicable

## Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	26
World Governance Indicator – Control of Corruption	22

## Corruption and Government Transparency - Report by US State Department

Corruption exists, and the government continues its efforts to combat it. On June 28, 2012, the National Assembly passed the Gambia Anti-Corruption Act aimed at fighting official corruption. The law provides for the setting up of a permanent six-member Commission mandated to investigate and prosecute all crimes of corruption committed by Gambians within and outside the country. The Commission is yet to be established.

The Criminal Code also provides a legal platform for combating corruption. For example, in May 2011, a former permanent secretary at the Ministry of Agriculture was convicted on charges of “stealing by a person in public service” for fraudulently overpaying his travel per diem entitlement. He was fined 100,000 dalasi (\$3,300). In July 2011, a former Inspector general of Police was sentenced to life in prison after being convicted on numerous charges including corruption. In December 2013 and January 2014, a former Minister of Justice and a former President of the Gambia Court of Appeal, were each sentenced to two years in prison for soliciting a bribe, an audio recording of which was later uploaded on to YouTube.

U.S. firms have not identified corruption as a serious obstacle to foreign direct investment in The Gambia. Traffic police and other junior police and immigration officers are often accused of corruption and solicitation of bribes. Accepting a bribe, irrespective of source, is a criminal act and the penalties are fines and imprisonment depending on the magnitude of the amount. Senior government officials take anticorruption efforts seriously, even though some of them have been investigated for corruption.

The police, the National Intelligence Agency and the Ministry of Justice are responsible for combating corruption.

Transparency International has a local representative in the country, and The Gambia was ranked 127 out of 174 countries in the 2013 Corruption Perceptions Index. The Gambia has signed and ratified the African Union Convention on Preventing and Combating Corruption and Related Offences, but has ratified neither the UN Convention Against Corruption nor the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

Local companies do not have internal codes or effective controls to detect and prevent bribery.



### Section 3 - Economy

The government has invested strongly in the agriculture sector because three-quarters of the population depends on the sector for its livelihood and agriculture provides for another one-fifth of GDP. The agricultural sector has untapped potential - less than half of arable land is cultivated. Small-scale manufacturing activity features the processing of peanuts, fish, and hides. The Gambia's re-export trade accounts for almost 80% of goods exports and China has been its largest trade partner for both exports and imports for several years.

The Gambia has sparse natural resource deposits and a limited agricultural base. It relies heavily on remittances from workers overseas and tourist receipts. Remittance inflows to The Gambia amount to about one-fifth of the country's GDP. The Gambia's natural beauty and proximity to Europe has made it one of the larger tourist destinations in West Africa, boosted by government and private sector investments in eco-tourism and upscale facilities. Tourism normally brings in about 20% of GDP, but suffered in 2014 from tourists' fears of Ebola virus in neighbouring West African countries. Unemployment and underemployment remain high.

Economic progress depends on sustained bilateral and multilateral aid, on responsible government economic management, and on continued technical assistance from multilateral and bilateral donors. International donors and lenders continue to be concerned about the quality of fiscal management. The IMF provided \$10.8 million in emergency financial assistance to The Gambia in April 2015 to shore up the country's finances. Relations with international donors have been tarnished by the country's human rights record.

#### **Agriculture - products:**

rice, millet, sorghum, peanuts, corn, sesame, cassava (manioc, tapioca), palm kernels; cattle, sheep, goats

#### **Industries:**

peanuts, fish, hides, tourism, beverages, agricultural machinery assembly, woodworking, metalworking, clothing

#### **Exports - commodities:**

peanut products, fish, cotton lint, palm kernels

#### **Exports - partners:**

China 47.6%, India 27.2%, France 5.9%, UK 4.9% (2015)

#### **Imports - commodities:**

foodstuffs, manufactures, fuel, machinery and transport equipment

#### **Imports - partners:**

China 34.2%, Brazil 8.1%, Senegal 6.9%, India 5.7%, Netherlands 4.8% (2015)

## Banking

Banking in The Gambia began over a 100 years. Currently there are fourteen banks within the industry of which one is an Islamic Bank and thirteen conventional commercial banks.

## Stock Exchange

The West African Regional Stock Exchange (BRVM), headquartered in Abidjan, with local offices in each of the WAEMU member countries offers additional opportunities to attract increased foreign capital and to give private investors access to more diversified sources of financing. The West African Regional Stock Exchange (BRVM), headquartered in Abidjan, with local offices in each of the WAEMU member countries offers additional opportunities to attract increased foreign capital and to give private investors access to more diversified sources of financing.

### Executive Summary

The Gambia has an active private sector and the government welcomes investment in all sectors of the economy. However, eight have been identified as "priority sectors," which attract a Special Investment Certificate (SIC) that provides a number of incentives including duty waivers. The eight sectors are agriculture, air services, energy, fisheries, Information Communication Technology (ICT), light manufacturing, river transportation and tourism.

There is a government agency dedicated to attracting foreign investment and promoting exports that provides guidelines and incentives to all investors whose portfolios qualify for a SIC. There is no legal distinction between the treatment of foreign and domestic investors but anti-Western discourse emanating from senior government officials has been of concern to many private sector operators.

The Gambia is a small market compared to some of its West African neighbors. There is a visible presence of foreign investors with significant investments in sectors including financial services where many Nigerian banks have established branches in the past 10 years. The tourism sector also continues to attract investments in hotel development with many new three- and four-star hotels. The energy sector, particularly power generation, transmission and distribution has attracted investments from Lebanon and Malaysia. There is a noticeable presence of Turkish and East Asian businessmen selling electronic goods and home appliances. There is also a growing interest in petroleum exploration particularly after the recent discoveries announced in neighboring Senegal

There are opportunities for investment in various sectors such as tourism and the hotel industry as well as agriculture for the larger West African market. There are also opportunities for cashew processing with one of West Africa's biggest cashew growers, Guinea Bissau, less than a day away by truck.

The government, however, has a poor human rights reputation that has dampened investment prospects. After passage in 2014 of a draconian law mandating life imprisonment for persons engaging in acts of "aggravated homosexuality," denying access to UN Special Rapporteurs investigating reports of torture and extrajudicial executions, and ongoing reports of arbitrary arrests of journalists, human rights advocates, and civil servants, the U.S. government on December 24, 2014 suspended The Gambia from eligibility to participate as a trade beneficiary under the provisions of the African Growth and Opportunity Act (AGOA).

As a result of U.S. expressions of concern about The Gambia's human rights record and the AGOA suspension, the government on December 29, 2014 issued a written directive to all Ministries, Government Departments and Agencies instructing that issues regarding agricultural matters and national strategic development objectives should no longer be discussed with U.S. authorities. The directive added that this information be disseminated to all Civil Servants working at the respective institutions. The practical effect of this directive has been to limit the ability of U.S. Embassy personnel to have substantive discussions with Gambian officials without their interlocutors' first receiving permission to meet. These restrictions severely limit the ability of U.S. Embassy personnel to advocate on behalf of American companies and individuals seeking to do business in The Gambia.

The country has a functioning bank system, although in May 2014, the Central Bank took control over two Nigerian-owned banks due to concerns over bad assets and issues with capital reserves. The international parent of one of those two banks recapitalized the local subsidiary and the Central Bank relinquished control. There are currently no restrictions on the conversion of funds. Investors may repatriate profits and dividends through commercial banks or licensed money transfer agencies at prevailing exchange rates. Bank customers can also open foreign currency denominated accounts (FCDs).

Gambian law provides the legal framework for the protection of private ownership of property and for adequate and prompt compensation in the event of compulsory acquisition. However, in January 2013, the Gambian government cancelled petroleum exploration, development and production licenses awarded to at least two foreign oil companies. One of the licenses was reinstated in early 2015 and there has been no public discussion of any type of settlement with the other companies. There have been several land disputes over the past year involving the government and private owners. Most remain unresolved, with private property owners having few if any legal options if their property is seized.

American companies seeking to invest in The Gambia often find it useful to work through a local lawyer.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2015	123 of 168	<a href="http://www.transparency.org/country/#GMB">http://www.transparency.org/country/#GMB</a>
World Bank's Doing Business Report "Ease of Doing Business"	2016	150 of 189	<a href="http://doingbusiness.org/rankings">doingbusiness.org/rankings</a>
Global Innovation Index	2015	111 of 141	<a href="http://globalinnovationindex.org/content.aspx?page=data-analysis">globalinnovationindex.org/content.aspx?page=data-analysis</a>
World Bank GNI per capita	2016	USD 450	<a href="http://data.worldbank.org/indicator/NY.GNP.PCAP.CD">data.worldbank.org/indicator/NY.GNP.PCAP.CD</a>

*Millennium Challenge Corporation Country Scorecard*

The Millennium Challenge Corporation, a U.S. Government entity charged with delivering development grants to countries that have demonstrated a commitment to reform, produced scorecards for countries with a per capita gross national income (GNI) of \$4,125 or less. A list of countries/economies with MCC scorecards and links to those scorecards is available here: <http://www.mcc.gov/pages/selection/scorecards>. Details on each of the MCC's indicators and a guide to reading the scorecards are available here: <http://www.mcc.gov/pages/docs/doc/report-guide-to-the-indicators-and-the-selection-process-fy-2015>.

## 1. Openness To, and Restrictions Upon, Foreign Investment

## **Attitude toward Foreign Direct Investment**

The Government of The Gambia publicly espouses a liberal, open economic environment and free-market pricing, with a firm commitment to private sector participation in all sectors of the economy.

The Government of The Gambia recognizes the potential of the private sector as an engine of growth. However, the executive branch has taken over key industries like the buying and processing of the country's principal cash crop, groundnuts, as well as more sensitive areas like television and radio broadcasting. There is no legal distinction between the treatment of foreign and domestic investors.

## **Other Investment Policy Reviews**

The Government of The Gambia is currently conducting an investment policy review with the United Nations Conference on Trade and Development (UNCTAD) for 2016. The review, with specific focus on agri-processing, manufacturing and information, communication and technology, is still in process.

## **Laws/Regulations of Foreign Direct Investment**

The Government of The Gambia's drive to attract foreign direct investment (FDI) received a jumpstart in 2002 when it set up The Gambia Investment Promotion and Free Zones Agency (GIPFZA), whose primary task was to establish and manage Free Economic Zones (FEZs) around Banjul International Airport. In July 2010, GIPFZA was restructured and transformed into the Gambia Investment and Export Promotion Agency (GIEPA) with an extended mandate to include export promotion and support for small and micro enterprise (SME) development. Under the GIEPA Act 2010, the former free economic zones are now called Export Processing Zones (EPZ) and the incentives that were provided under the now repealed GIPFZA laws have been enhanced to attract more investors. Other laws affecting foreign investment are the Companies Act of 1955 and the Business Registration Act of 2005.

The process for registering a company has now been streamlined. Under the new Single Window Business Registration procedure, a company can obtain the registration form, reserve a unique name, and obtain a tax identification number at the Ministry of Justice for a fee of GMD1000. Depending on the share capital of the company, the incorporation fee for a limited liability company ranges from GMD10,000 to GMD25,000. For further information on the laws, rules and procedures, foreign investors can visit the website of the Gambia Investment and Export Promotion Agency (GIEPA): [www.giepa.gm](http://www.giepa.gm). GIEPA is a government agency set up to promote investment, exports and entrepreneurship development.

## **Industrial Promotion**

The Government of The Gambia welcomes investment in all sectors of the economy. However, eight have been identified as "priority sectors," which attract a Special Investment Certificate (SIC) that provides a number of incentives including duty waivers and tax holidays. The eight sectors are agriculture, air services, energy, fisheries, Information Communication Technology (ICT), light manufacturing, river transportation and tourism.

The list of priority sectors and incentives for investors are available on the Gambia Investment and Export Promotion Agency (GIEPA) website - [www.giepa.gm](http://www.giepa.gm)

### **Limits on Foreign Control**

There are no limits on foreign ownership or control of businesses except in the operations of foreign exchange bureaus, television broadcasting, and defense industries; the latter two sectors are closed to all private sector participation, irrespective of nationality. An embargo on the establishment of private security companies imposed in previous years was lifted. However, security firms are required to pay the sum of GMD 1,000 (USD 21.27) for every new guard who receives induction training at the Police Training Academy.

### **Privatization Program**

The Government of The Gambia has not implemented any programs in recent years. However, when they have taken place in the past, foreign investors were encouraged to participate.

Foreign investors are encouraged to participate in privatization programs, particularly as what is known as a "strategic investor" with majority shares. In such cases, some shares are reserved for state corporations that are described as "institutional investors," some are reserved for Gambian private individuals and businesses, and a limited number of shares are reserved for the staff of the institution being privatized.

The bidding process in some cases is not made public. For example, in 2007, firms with Lebanese connections secured 50 per cent of the state-owned telecommunications and cellular phone companies and took over management of the state-owned electricity and water company (NAWEC). However, the contract with Spectrum, a little known Lebanese company that bought 50 per cent of the shares of the state-owned telecommunications company (GAMTEL) and its cellular phone subsidiary (GAMCEL), was terminated by the Government of The Gambia in November 2008.

The management contract for the state-owned electricity and water company is still in force.

### **Screening of FDI**

There is no mandatory screening of foreign direct investment, but such screening may be conducted if there is suspicion of money laundering or terrorism financing. No U.S. businesses have complained about any screening mechanism.

Foreign investors are not denied national treatment (i.e. the same treatment as domestic firms) or MFN treatment (i.e. the same treatment as the most favored foreign investor) in any sector. As part of the country's privatization program, foreign and local investors are treated equally.

### **Competition Law**

A Fair Competition Law was enacted in 2007 and a Fair Competition Commission was established in 2009. In addition, there is the Public Utilities and Regulatory Authority (PURA), which regulates the telecommunications and broadcasting, water, transportation and energy sectors.

## **2. Conversion and Transfer Policies**

### **Foreign Exchange**

There are no restrictions on the conversion of funds associated with an investment. Investors can repatriate profits and dividends through commercial banks or licensed money transfer agencies at prevailing exchange rates. There are currently 49 licensed FOREX bureaus and money transfer agencies with more than 300 branches across the country.

Most of the commercial banks in the country also offer foreign currency denominated accounts (FCDs), which were introduced by the Central Bank of The Gambia in 2001 to further facilitate international trade and foreign direct investment.

The national currency, the dalasi (GMD), has a floating exchange rate that is determined by market forces. The executive has intervened in the exchange market over the past couple of years - setting short-term fixed exchange rates and cancelling all licenses for commercial FOREX bureaus and money transfer agencies.

### *Remittance Policies*

There are no plans to tighten access to foreign exchange for investment remittances. Investors may repatriate profits and dividends through commercial banks or licensed money transfer agencies at prevailing exchange rates. Most commercial banks in The Gambia operate foreign currency denominated accounts (FCDs), which were introduced by the Central Bank of The Gambia in 2001 to further facilitate international trade and foreign direct investment.

Banks do not issue dollar-denominated government bonds, but can issue cash or drafts drawn on overseas banks. There is no limit on the inflow or outflow of funds for remittances of profits, debt service, capital, capital gains, return on intellectual property, or imported inputs. However, travelers through Banjul Airport are advised not to carry cash more than USD 10,000 or its equivalent value in other currencies.

The Gambia is a member of Inter-Governmental Action Group against Money Laundering in West Africa (GIABA). The assessment of the implementation of anti-money laundering and counter-terrorist financing (AML/CFT) measures in The Gambia was conducted by GIABA.

## **3. Expropriation and Compensation**

The Gambian Constitution of 1997 provides the legal framework for the protection of private ownership of property and only provides for compulsory acquisition by the state if this is found to be necessary for defense, public safety, public order, public morality, public health, town and country planning. Both the Constitution and the Compulsory Acquisition Act require the state to affect adequate and prompt compensation. According to local media reports, the provision has generally been respected, although the government has ignored court injunctions and torn down private property in early 2014.

However, in April 2011, the Gambian government announced it had taken control of all Libyan assets in the country, which included a number of hotels and an amusement park in reaction to the crisis in Libya. In May of the same year, a high court judge ruled that the Gambian government can take control of the assets until a United Nations backed political

force emerges from the crisis. There has been no further statement on the status of the properties even after the Transitional National Council assumed power in Libya.

In February 2008, the Government of The Gambia announced it had cancelled the license it granted to an Australian mining company, Carnegie Minerals (Gambia) Ltd., in December 2005 to extract and process heavy mineral sands containing zircon, ilmenite, and rutile. Carnegie Minerals filed a \$31 million claim against the Government of the Gambia in ICSID in 2009. In July 2015, a year-and-a-half after the Gambian government won a domestic judgment against the company in Gambia's Special Criminal Court; the ICSID found in favor of Carnegie Mineral and awarded it \$23 million in damages, including legal costs. The Government of The Gambia has not yet complied with the ruling.

In January 2014, the Government of The Gambia terminated the petroleum exploration, development and production licenses awarded to three oil companies for failure to meet license obligations. One license was subsequently reinstated, but the other cases remain unresolved.

The Government of The Gambia does not discriminate against U.S. investments, companies or representatives. However, in June 2013, the government announced a ban on the importation of frozen poultry parts, which constituted the largest U.S. export to The Gambia, worth over USD 7 million a year. The ban was lifted in November 2013, but a statement issued by the Ministry of Trade imposed a new condition that all shipments of poultry products entering the country required SGS certification that they are hormone-free. In October 2014, the government banned the importation of beef offal (liver and kidney) because of concerns over the manner in which it was handled and sold to the public. There was no distinction in the origins of these products but a significant amount of these imports come from the United States. The ban was lifted in December 2014.

Based on historical precedent, there are sectors that are at risk of appropriation by the government, including (but not limited to) agriculture, energy, and natural resources sectors. There are no laws that force local ownership. However, there have been instances of "creeping expropriation" or governmental action tantamount to expropriation as noted above in this report.

#### **4. Dispute Settlement**

##### **Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts**

The Gambia's legal system is based on English common law and there is a legal framework for enforcing property and contractual rights in courts. There is a written and consistently applied commercial law, which is found in the Companies Act. Monetary judgments can be made in both the investor's currency and local currency.

The Gambia Investment and Export Promotion Act 2010 and the Gambian legal code provide the mechanisms and legal framework for dispute settlement, either through negotiation or arbitration. Appeals against decisions of district tribunals (or the industrial tribunal in the case of labor disputes) may be lodged with the lower courts, the High Court, and the Supreme Court, which is the highest court of appeal in the country.



In principle, the judicial system is independent of the executive branch but there have been incidents of the executive interfering in judiciary matters. However, the judicial process is generally competent, fair, and reliable.

The Gambia is a member of the International Center for the Settlement of Investment Disputes (ICSID), but there is no specific legislation providing for enforcement of ICSID awards. There are no known cases of foreign courts rendering judgements affecting the government.

Problems with foreign investments can be handled by courts. The Gambia Investment and Export Promotion Act 2010 and the Gambian legal code provide the mechanisms and legal framework for dispute settlement, either through negotiation or arbitration. Appeals against decisions of district tribunals (or the industrial tribunal in the case of labor disputes) may be lodged with the lower courts, the High Court, and the Supreme Court, which is the highest court of appeal in the country. The Gambia Chamber of Commerce and Industry (GCCCI) are currently seeking funding to establish a Dispute Resolution Center to settle disputes outside of the courts system.

### **Bankruptcy**

Bankruptcy in The Gambia is covered by the Bankruptcy and Insolvency Act of 1992. Bankruptcy is not criminalized. Creditors, equity shareholders, and holders of other financial contracts may file for both liquidation and reorganization.

### **Investment Disputes**

The Gambia Investment and Export Promotion Act 2010 and the Gambian legal code provide the mechanisms and legal framework for dispute settlement, either through negotiation or arbitration. Appeals against decisions of district tribunals (or the industrial tribunal in the case of labor disputes) may be lodged with the lower courts, the High Court, and the Supreme Court, which is the highest court of appeal in the country.

The Government of The Gambia has a mixed record in accepting court rulings on investment disputes and has on some occasion honor out-of-court settlements. The last major settled dispute with foreign investors was with the Swiss group Alimenta over the assets of the Gambia Groundnut Corporation in 1998, the biggest industrial complex in the country. Its hostile takeover sparked off a protracted legal battle, which the government eventually settled out of court by paying Alimenta compensation of USD 11.2 million.

There are also domestic commercial courts presided over by high court judges that have the competence to arbitrate commercial and investment disputes. However, the government has not honored all such rulings. In 2015, for instance, it deported a German national after evicting him from a disputed property for which the country's high court had ruled in his favor.

The country's legal system is based on English common law and there is a legal framework for enforcing property and contractual rights. According to local media sources and legal experts, however, the government is known to interfere in the court system. There is no known historical precedent for the Government of The Gambia to accept the rulings of foreign courts.

The Gambia has a written and consistently applied commercial law, which is found in the Companies Act. Monetary judgments can be made in both the investor's currency and local currency.

### **International Arbitration**

The Gambia is a member of the International Center for the Settlement of Investment Disputes (ICSID), but there is no specific legislation providing for enforcement of ICSID awards. There is an Alternative Dispute Resolution (ADR) mechanism as a means for settling disputes between two private parties. The law creating the ADR mechanism was enacted in 2003 and the ADR Secretariat became fully operational in 2008.

#### *ICSID Convention and New York Convention*

The Gambia is a member of the International Center for Settlement of Investment Disputes (ICSID), but is not a signatory to the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards.

### **Duration of Dispute Resolution**

There is no set duration for local investment/commercial dispute resolution proceedings. However, cases in the lower courts may be settled quicker than those in the higher or appellate courts where sittings can sometimes be far in between.

Court decisions are generally but not uniformly applied. The government also has uneven acceptance of judgments from international arbitration. While the government has complied with the arbitration decision concerning Alimenta, there is no evidence that it has complied with the recent decision concerning Carnegie Mineral.

## **5. Performance Requirements and Investment Incentives**

### **WTO/TRIMS**

The Government of The Gambia has not notified the WTO of any measures that are inconsistent with its TRIMS obligations.

### **Investment Incentives**

The Gambia Investment and Export Promotion Agency (GIEPA) Act, signed into law in 2010, sets out the administrative and legal requirements for investing in The Gambia and makes provisions for business incentives, protection against compulsory acquisition, settlement of disputes and the transfer of funds. The ultimate objective is to promote The Gambia as an investment haven by:

- providing an attractive business environment and incentives for business activities in The Gambia;
- facilitate the securing of permissions, licenses, land, and incentives required to establish a business enterprise;
- attracting, promoting, and increasing the manufacture of goods and trade in goods and services;

- coordinating, promoting, and facilitating investment in The Gambia;
- advising government on investment policy and related matters;
- promoting and facilitating the development of exports in The Gambia;
- promoting and facilitating the development of micro, small and medium enterprises.

Investments must fulfill the following criteria to qualify for special investment certificates:

- investment outlay in fixed assets of at least USD 250,000 (within two years) or its equivalent in GMD or other freely convertible currencies at the time of application;
- investment activities targeted in one of the priority sectors as specified in Schedule 1 of the GIEPA Act, which include: agriculture, fisheries, tourism, forestry, manufacturing, energy,
- skills development, financial and offshore services, health and veterinary, river and air transportation, information technology, minerals exploration and exploitation, and communications;
- utilization of local materials, supplies and services;
- creation of employment opportunities in The Gambia;
- introduction of advanced technology or upgrading of indigenous technology;
- contribution to locally or regionally balanced socio-economic development.

The Act establishes two priority investment categories namely: a) priority sectors, which consist of the list of sectors specified in schedule 1 of the Act and b) priority areas, which consist of geographical areas specified in schedule 11, considered by Government to be in urgent need of development. Special Investment Certificate (SIC) applicants shall be granted incentives if engaged within any priority investment category as specified under the GIEPA Act. Such investments will be entitled to the following incentives:

- exemption from corporate tax, turnover tax, depreciation allowance, withholding tax on dividends for five years in the case of priority sector and for a maximum of eight years in the case of priority area;

A newly established investment enterprise that falls within a priority investment category under section 61 shall be granted import sales tax waiver in respect to the importation of:

- its manufacturing plant, construction materials, and spare parts for a period of five years from the date of signing of the investment agreement;
- raw and intermediate inputs, for a period of five years from the date of commencement of operation; and
- the product listed in the third schedule to the Custom and Excise Acts.

The Act makes no discrimination between foreign and local investors and there are no requirements that nationals own shares or that the share of foreign equity be reduced over

time. Within the Gambia Investment and Export Promotion Agency (GIEPA) Act, there are attractive incentives for export and SMEs.

Citizens of the Economic Community of West African States (ECOWAS) and other nations with a reciprocal visa abolition agreement with The Gambia do not require a visa to enter the country; whether on holiday or on a business trip not exceeding 90 days. The same rule applied to citizens of the United Kingdom and the Commonwealth until October 2, 2013 when The Gambia withdrew from membership of the Commonwealth of Nations. Citizens of the U.S. require an entry visa with at least one blank page on their passport for the stamp as per the rules and regulations of the Immigration Act.

#### *Research and Development*

There are policies or regulations that prevent American and or other foreign firms from participating in government financed and or subsidized research and development programs.

#### **Performance Requirements**

Local employment is mandated. Companies employing non-Gambians are required not to exceed 20 percent of their staff. They are also required to pay an annual expatriate quota (or payroll tax) fee of GMD 10,000 (USD 256.40) for ECOWAS citizens and GMD 40,000 (USD 1,025.64) for all other foreigners. Such foreign workers are also required by law to pay an annual registration fee of about USD 54 and a work permit fee of about USD 11.

It is not difficult to obtain visas, residence and work permits or other requirements inhibiting mobility of foreign investors and their employees. There are no tariff barriers.

#### **Data Storage**

The government does not follow "forced localization," requiring foreign investors to use domestic content in goods or technology. It is not known if foreign IT providers are required to turn over source code and/or provide access to surveillance software or turn over keys for encryption.

### **6. Protection of Property Rights**

#### **Real Property**

There are multiple overlapping land tenure systems in the country. Much of the land in the Greater Banjul area, is covered by leasehold. Most properties outside of the Greater Banjul areas are traditionally held with no title deeds. Such lands however can be easily taken over by government or declared reserved lands to be used in the future for social amenities such as schools, hospitals or office buildings. Land tenure remains an on-going issue - both the jurisdictional authority for awarding land (central government vice local leaders) and the extra-legal seizure without compensation or due process of privately held property. There are very few mortgages in The Gambia. The Department of Lands and Regional Government issues title deeds which are duly registered.

#### **Intellectual Property Rights**

The Gambia is a signatory to both the Paris Convention for the Protection of Industrial Property and the Bern Convention for the Protection of Literary and Artistic Works. In 2003, the country enacted its own Copyright Act. This law provides adequate protection for intellectual property, patents, copyrights and trademarks.

The Government has also signed and ratified both the WIPO Copyrights Treaty and WTO TRIPS agreement. However, enforcement of these regulations and treaties is sometimes inadequate due to a lack of resources and expertise. The Gambia has not yet ratified the WIPO Internet Treaties.

There have been no recent reports of the government seizing counterfeit goods despite the prevalence counterfeit goods such as toothpaste and cigarettes imported from China.

Meanwhile, the Government of The Gambia, through the National Centre for Arts and Culture, is in the final stages of launching a fully operational Collecting Society for The Gambia. A Board for the Society has been elected and it meets regularly and conducts training programs as it awaits the government's finalization of the regulations that will govern its operation.

The country is not listed in USTR's Special 301 report or the notorious market report.

Counterfeit goods such as toothpaste and cigarettes, mostly imported from China, are prevalent in the local market.

#### *Resources for Rights Holders*

Owen Clarke

Political-Economic Officer (+220) 439-2856

[PolEconBanjul@state.gov](mailto:PolEconBanjul@state.gov)

Local lawyers list: [http://banjul.usembassy.gov/public\\_services/legal-services.html](http://banjul.usembassy.gov/public_services/legal-services.html)

The World Intellectual Property Organization (WIPO) provides Country Profiles at:

<http://www.wipo.int/directory/en>

## **7. Transparency of the Regulatory System**

A Fair Competition Law was enacted in 2007 and a Fair Competition Commission was established in 2009. There is also the Public Utilities Regulatory Authority (PURA), which regulates telecommunications and broadcasting, water and sewage, transport and electricity. PURA maintains information on end-user fees of sectors it regulates. In April 2016, it ordered all mobile companies to cease offering free calls past midnight due to its concerns that those promotions congest the cellphone networks.

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

There are no policies in place that impede the free flow of financial resources in the product and factor markets. On the contrary, the authorities facilitate the free flow of resources to support the government's growth agenda.

Foreign investors can acquire credit on the local market at prevailing interest rates if they are able to provide the requisite collateral or guarantee. There are limited credit instruments

available to the private sector because the only money market instruments available are the government treasury bills.

Capital market investment is also very low because, among other reasons, there is no formal stock market such as a stock exchange for trading equity securities. Only one Gambian bank, Trust Bank Limited, is listed on the Ghana Stock Exchange.

The estimated total assets of the country's 12 commercial banks at the end of December 2015 were GMD 29.3 billion (about USD 697.6 million). In May 2014, the Central Bank took over two Nigerian-owned banks - Keystone and Access - apparently in response to the banks' failures to maintain minimum capital reserves. However, within a week, the owners of Access injected USD 12.5 million into the Bank to recapitalize it and free it from Central Bank control.

### **Money and Banking System, Hostile Takeovers**

The country has a functioning bank system with 12 commercial banks. The majorities are Nigerian-owned, but two are sub-regional, two are Gambian-owned, and one British-owned. Most of the banks offer foreign currency denominated accounts (FCDs).

In May 2014, the Central Bank, which regulates and monitors the banking sector, took over two Nigerian-owned banks - Keystone and Access - apparently in response to the banks' failures to maintain minimum capital reserves.

However, within a week, the owners of Access injected USD 12.5 million into the Bank to recapitalize it and free it from Central Bank control.

The estimated total assets of the country's 12 commercial banks at the end of December 2014 were GMD 29.3 billion (about USD 697.6 million).

There are no restrictions on a foreigners opening a bank account. Most of the banks offer foreign currency denominated accounts (FCDs) to their customers, making it possible to withdraw or make payments in foreign currencies.

### **9. Competition from State-Owned Enterprises**

Private enterprises are allowed to compete with public enterprises under the same terms and conditions with respect to access to markets, credit, and other business operations, such as licenses and supplies.

However, public enterprises often have material advantages and there is a general conception in the public that the president's own diversified companies (e.g., Kanilai Bakery, one subsidiary of KGI) enjoy privileges that independent private companies do not. KGI reportedly utilizes government employees and resources regularly.

State-owned enterprises are active in tourism, aviation, maritime services, public transport, power generation, telecommunications, road building, and housing.

### **OECD Guidelines on Corporate Governance of SOEs**

All SOEs have a Board of Directors which is appointed by their line ministry. Members of the Board usually comprise of key stakeholders in the sector and some government officials who

serve as ex-officio members. Management reports to the line ministry, which has final responsible to approve Board decisions.

All SOEs are required to submit their annual report and audited accounts to the National Assembly.

SOEs adhere to the OECD Guidelines on Corporate Governance.

### **Sovereign Wealth Funds**

There is no Sovereign Wealth Fund in The Gambia.

## **10. Responsible Business Conduct**

Generally speaking, the notion of responsible business conduct is not well known in The Gambia and only some state-owned enterprises and some private companies such as banks and mobile phone companies adopt it as a policy.

In most cases, their understanding is allocating funds to support various charitable causes such as supporting schools and health projects, disaster relief, and environment enhancement. However, the banks and mobile phone companies often use such donations for publicity and marketing reasons. These firms are often viewed favorably by the Gambian public.

### **OECD Guidelines for Multinational Enterprises**

Foreign and local enterprises are encouraged to follow CSR principles such as the OECD Guidelines for Multinational Enterprises and the United Nations Guiding Principles on Business and Human Rights.

## **11. Political Violence**

Compared to the rest of West Africa, The Gambia has generally benefited from a stable political climate since independence in 1965. A bloody coup attempt in 1981 was put down by the Senegalese army after the former President invoked a mutual defense agreement between the two countries. The country's only successful coup d'état occurred in July 1994 and was accompanied by minimal violence.

President Jammeh took power in 1994 was elected president in 1996 and again in October 2001, which foreign observers (Commonwealth, EU, U.S., etc.) deemed generally free, fair, and transparent, albeit with shortcomings such as voter intimidation and the use of state resources to create an uneven playing field. As a result, the U.S. Government lifted section 508 sanctions in April 2002.

In March 2006, an aborted coup attempt led to several arrests of military officers and civilians. Many of the alleged high-profile coup leaders, including former Chief of Defense Staff Lieutenant General Lang Tombong Tamba are in prison serving life sentences.

In November 2011, President Jammeh was elected for a fourth consecutive time with 72 percent of the vote. Voter turnout exceeded 83 percent. National Assembly elections were held in March 2012 and local government elections took place in April 2013. The Independent Election Commission (IEC) oversees elections, including special elections to fill

vacancies The IEC Chairman was replaced on April 7. The next presidential election is December 1.

On December 30, 2014, a group of foreign-based dissidents launched an attack on State House (the presidential palace) in an apparent attempt to overthrow the government. In the ensuing fighting, three of the attackers were killed: U.S. army reservist Captain Njaga Jagne (a dual national), former Gambian Presidential Guard Commander; Lieutenant Colonel Lamin Sanneh, who was resident in the US; and former Gambian gendarmerie officer Alhagie Nyass, who was based in the United Kingdom. At least six other Gambian army officers were arrested. On April 2, 2015, a military press release reported that six individuals who were brought before a court martial received life imprisonment and death sentences.

On April 14 and April 16, 2016, a group of opposition members and sympathizers carried out a peaceful demonstration that was violently put down by the government. Several individuals were arrested and at least one opposition member reportedly died while in police custody. Approximately 38 protesters were arraigned before the Banjul High Court on seven counts, including conspiracy, rioting, and incitement of violence. As of late April, the arrested protesters remained in police custody.

There have been no incidents of politically motivated damage to projects or installations. Various political parties are active, but there is no indication that civil disturbances are likely because of this. Relations with the country's neighbors are generally peaceful; however, The Gambia's relationship with Senegal is strained, most recently due a prolonged border closure as a result of an exponential increase in the tariff for Senegalese commercial vehicles entering The Gambia. Skirmishes along Gambia's southern border with Senegal have occurred in the past, but this violence and instability generally does not cross the border into The Gambia.

## **12. Corruption**

Corruption exists, and the government continues its efforts to combat it. On June 28, 2012, the National Assembly passed the Gambia Anti-Corruption Act aimed at fighting official corruption. The law provides for the setting up of a permanent six-member Commission mandated to investigate and prosecute all crimes of corruption committed by Gambians within and outside the country. On March 6, 2015 President Jammeh said the Commission would soon commence.

The Criminal Code also provides a legal platform for combating corruption. For example, in May 2011, a former permanent secretary at the Ministry of Agriculture was convicted on charges of "stealing by a person in public service" for fraudulently overpaying his travel per diem entitlement. He was fined GMD 100,000 (USD 3,300). In July 2011, a former Inspector general of Police was sentenced to life in prison after being convicted on numerous charges including corruption. In December 2013 and January 2014, a former Minister of Justice and a former President of the Gambia Court of Appeal, were each sentenced to two years in prison for soliciting a bribe, an audio recording of which was later uploaded on to YouTube. In the 2014, several officials of the Ministry of Agriculture and the Department of Fisheries were arrested and charged with various counts of corruption. The trials are still ongoing.



U.S. firms have not identified corruption as a serious obstacle to foreign direct investment in The Gambia. Traffic police and other junior police and immigration officers are often accused of corruption and solicitation of bribes. Accepting a bribe, irrespective of source, is a criminal act and the penalties are fines and imprisonment depending on the magnitude of the amount. Senior government officials take anticorruption efforts seriously, even though some of them have been investigated for corruption.

The police, the National Intelligence Agency and the Ministry of Justice are responsible for combating corruption.

#### *UN Anticorruption Convention, OECD Convention on Combatting Bribery*

The Gambia was ranked 123 out of 168 countries in Transparency International's 2014 Corruption Perceptions Index. The Gambia has signed and ratified the African Union Convention on Preventing and Combating Corruption and

Related Offences, but has neither ratified the UN Convention against Corruption nor the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

Local companies do not have internal codes or effective controls to detect and prevent bribery.

The Gambia ratified the UN Anticorruption Convention in May 2014 but has not yet signed the OECD Convention on Combatting Bribery.

#### *Resources to Report Corruption*

Contact at government agency or agencies are responsible for combating corruption:

Commanding Officer, Fraud & Commercial Crime Unit  
Gambia Police Force  
Police Headquarters,  
ECOWAS Avenue,  
Banjul,  
The Gambia (+220) 4223015 / 4222307  
E-mail address not available.

No international, regional, or local NGO operating as "watchdog" organizations monitoring corruption are known to exist in the country.

### **13. Bilateral Investment Agreements**

The Gambia has bilateral investment agreements with Mauritania, Morocco, the Netherlands, Switzerland, and the United Kingdom. However, only the agreement with Switzerland has gone into force.

The Gambia does not have a bilateral investment treaty with the United States.

#### **Bilateral Taxation Treaties**

The Gambia does not have a bilateral taxation treaty with the United States.

#### 14. Foreign Trade Zones/Free Ports/Trade Facilitation

The GIEPA Act provides for Export Processing Zones (EPZ) to be established in separate selected areas to which special customs territory status shall be conferred as well as for the establishment of single factory EPZs for which GIEPA will be the regulator.

The aim of the EPZ is to provide a conducive business environment for export oriented investment enterprises through the provision of additional incentives, simplifying the import-export procedures and facilitating the acquisition of land, permits and licenses.

An area measuring 164 hectares at Banjul International Airport has been designated an Export Processing Zone (EPZ) and the first phase of this USD 6 million project was completed in December 2005. An area of almost 9 hectares has been fully developed with factory space, access roads and electricity. The July 22 Business Park, as it is called, is designated as a mixed-use EPZ to allow both free zone and non-free zone activity. It is currently occupied by a garment, diaper and tissue manufacturing company. There are also some bonded warehouses at the Banjul port which have not yet been designated as EPZs.

An investor operating within an export processing zone that exports at least eighty percent of its output is exempted from the payment of:

- import or excise duty and sales tax on goods produced within or imported into an export processing zone unless the goods are entered for consumption into the customs territory;
- import duty on capital equipment;
- corporate or turnover tax;
- withholding tax on dividends;
- municipal tax;

An investment enterprise located outside an export processing zone that exports at least thirty percent of its output is entitled to the following incentives:

- a ten percent corporate or turnover tax concession for five years;
- financial planning services and advice;
- participation in training courses, symposia, seminars and workshops on export promotion;
- export market research;
- advertisement and publicity campaigns in foreign markets;
- product design and consultancy.

Incentives for investors in the EPZ are valid for maximum period of ten years.

Foreign-owned firms have the same investment opportunities as local companies. However, an American investor locally registered as Zain Group Limited, who approached GIPFZA for agricultural land in 2010 (during the period of its transition to the new agency GIEPA), had to wait six months before the land was finally allocated. When the company's workers moved in

to survey the 25 hectares of land near the village of Siffoe, some villagers asked them to leave saying it was their traditional land. Zain Group was then offered an alternative site to grow vegetables for export but the company decided to leave the country.

## 15. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

Economic Data	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) (\$M USD)	N/A	N/A	2014	850.9	<a href="http://data.worldbank.org/country/gambia">http://data.worldbank.org/country/gambia</a>
Foreign Direct Investment	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA IMF; Eurostat; UNCTAD, Other:
U.S. FDI in partner country (\$M USD, stock positions)	N/A	N/A	N/A	N/A	N/A
Host country's FDI in the United States (\$M USD, stock positions)	N/A	N/A	N/A	N/A	N/A
Total inbound stock of FDI as % host GDP	N/A	N/A	N/A	N/A	N/A

\*This data was not available.

Table 3: Sources and Destination of FDI

Data normally provided by GIEPA was not provided to the U.S. Embassy due to the restriction imposed by the government's December 29, 2014 directive, which was discussed in the Executive Summary.

Table 4: Sources of Portfolio Investment

Data normally provided by GIEPA was not provided to the U.S. Embassy due to the restriction imposed by the government's December 29, 2014 directive, which was discussed in the Executive Summary.

## Section 5 - Government

### Chiefs of State and Cabinet Members:

For the current list of Chief of State and Cabinet Members, please access the following - [Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments](#)

### Legal system:

mixed legal system of English common law, Islamic law, and customary law

### International organization participation:

ACP, AfDB, AU, C, ECOWAS, FAO, G-77, IBRD, ICAO, ICRM, IDA, IDB, IFAD, IFC, IFRC, ILO, IMF, IMO, Interpol, IOC, IOM, IPU, ISO (correspondent), ITSO, ITU, ITUC (NGOs), MIGA, NAM, OIC, OPCW, UN, UNAMID, UNCTAD, UNESCO, UNIDO, UNMIL, UNOCI, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO

## Section 6 - Tax

### Exchange control

There are no exchange controls in effect.

### Treaty and non-treaty withholding tax rates

For further information - <http://www.gambia.gm/>-

## Methodology and Sources

### Section 1 - General Background Report and Map

(Source: [CIA World Factbook](#))

### Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
<a href="#">FATF List of Countries identified with strategic AML deficiencies</a>	Not Listed	AML Deficient but Committed	High Risk
<a href="#">Compliance with FATF 40 + 9 recommendations</a>	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
<a href="#">US Dept of State Money Laundering assessment (INCSR)</a>	Monitored	Concern	Primary Concern
<a href="#">INCSR - Weakness in Government Legislation</a>	<2	2-4	5-20
<a href="#">US Sec of State supporter of / Safe Haven for International Terrorism</a>	No	Safe Haven for Terrorism	State Supporter of Terrorism
<a href="#">EU White list equivalent jurisdictions</a>	Yes		No
<a href="#">International Sanctions UN Sanctions / US Sanctions / EU Sanctions</a>	None	Arab League / Other	UN , EU or US
<a href="#">Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network</a>	>69%	35 – 69%	<35%
<a href="#">World government Indicators (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Failed States Index (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Offshore Finance Centre</a>	No		Yes

### **Section 3 - Economy**

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: [CIA World Factbook](#))

### **Section 4 - Foreign Investment**

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: [US State Department](#))

### **Section 5 - Government**

Names of Government Ministers and general information on political matters.

(Source: [CIA World Factbook](#) / <https://www.cia.gov/library/publications/world-leaders-1/index.html>)

### **Section 6 - Tax**

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: [OECD Global Forum on Transparency and Exchange of Information for Tax Purposes](#) [PKF International](#))

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