

**ANNEX 1 - BOTSWANA**

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## 1 ECONOMIC ENVIRONMENT

### 1.1 Main Features of the Economy

1.1. Botswana, a landlocked country in Southern Africa, is a middle-income country with an income per capita of US\$7,385 in 2014 (Table 1.1). Supported by the discovery of diamonds in 1967, Botswana's economy has been one of the fastest growing in Africa. However, despite a record of good governance and solid economic growth supported by prudent macroeconomic and fiscal management, Botswana continues to have high levels of poverty and inequality and generally low human development indicators. Poverty rates have remained unchanged since 2008, with some 19% of the population living below the poverty line in 2013 (most recent data); they are especially high in rural areas. The Gini coefficient for Botswana stands at over 0.60, indicating a skewed income distribution.<sup>1</sup> Although education expenditure is among the highest in the world in terms of GDP percentage (around 8% of GDP in 2008-09) and the provision of primary education is nearly universal and free, these efforts have not generated the skilled labour required for Botswana to diversify its economy. There is still persistent unemployment; although the unemployment rate has decreased somewhat, from 21.8% in 2008 to some 20% in 2013 (most recent data), it remains high and attaining the objectives of poverty elimination and income inequality remains a challenge. The HIV/AIDS pandemic has further exacerbated the situation; Botswana has one of the highest HIV/AIDS adult prevalence rates in the world<sup>2</sup>, contributing to education and health outcomes below those of countries in the same income group.

1.2. Botswana has attempted to foster sustainable economic growth by promoting the diversification of its economy, increasing competition, and enhancing the role of the private sector. However, efforts until now have not been successful, as Botswana continues to rely heavily on the mining sector, specifically on diamond exports. Nonetheless, the 2015 Budget Speech made clear that economic growth and economic diversification remain Botswana's economic priorities and the authorities recognize that economic growth is required to eradicate poverty, decrease unemployment and improve equality. One of the challenges faced has been the low level of total factor productivity, especially labour productivity. In this regard, the Government intends to improve productivity by further investing in education, and is envisaging a labour market reform to allow for a more efficient market and thus tackle the persistently high unemployment. In addition, public sector reform, focused on improving the performance of state owned enterprises (SOE), would help reduce their reliance on public resources and liberate resources which could be invested in the infrastructure required to foster development.

**Table 1.1 Selected macroeconomic indicators, 2008-14**

	2008	2009	2010	2011	2012	2013	2014
GDP at current prices (Pula million) <sup>a</sup>	75,867	72,316	93,390	105,071	110,763	124,122	141,942
GDP at current prices (US\$ million) <sup>a</sup>	11,113	10,107	13,747	15,365	14,537	16,291	15,813
Real GDP growth rate at constant 2006 prices (%) <sup>a</sup>	3.9	-7.8	8.6	6.2	4.3	5.8	4.4
Nominal GDP per capita (US\$) <sup>a</sup>	5,804	5,181	6,916	7,588	7,047	7,031	7,385
Population (million)	1.9	2.0	2.0	2.0	2.1	2.1	2.1
Unemployment, total (% of total labour force)	21.8	18.4	17.9	17.8	17.7	20.0	..
<b>GDP distribution by type of economic activity (at 2006 constant )<sup>a</sup></b>	(% of GDP)						
Agriculture	2.4	2.8	2.9	2.1	2.2	2.1	1.9
Mining	28.3	16.8	18.6	17.0	15.1	15.8	18.9
Manufacturing	6.5	7.5	7.1	7.3	7.3	7.0	6.7
Water & electricity	1.4	1.4	1.4	1.1	0.7	0.5	0.4
Construction	6.0	7.4	6.9	8.0	8.7	8.6	8.1

<sup>1</sup> World Bank's World Development Indicator database. Viewed at: <http://databank.worldbank.org/data/views/variableselection/selectvariables.aspx?source=world-development-indicators>.

<sup>2</sup> Some 22% of the population aged 15-45 is living with HIV/AIDS. Online information. Viewed at: <http://www.unaids.org/en/regionscountries/countries/botswana/>.

	2008	2009	2010	2011	2012	2013	2014
Services	55.5	64.1	63.0	64.4	66.0	66.0	63.9
Trade, hotels & restaurants	16.2	18.6	18.4	19.5	19.7	19.8	19.8
Transport & communication	4.9	6.2	5.8	5.9	6.2	6.1	6.1
Finance & business services	14.1	15.8	15.9	16.0	16.9	16.9	16.1
General government	14.1	15.9	15.6	15.6	15.2	15.2	14.5
Social & personal services	6.2	7.6	7.3	7.4	7.9	8.0	7.6
<b>GDP by type of economic activity (at constant 2006 prices)<sup>a</sup></b>	(Annual % change)						
Agriculture	2.0	6.4	16.7	-22.9	10.2	2.0	-0.3
Mining	-8.0	-46.2	22.7	-2.3	-7.0	10.6	4.5
Manufacturing	-2.6		3.9	11.4	3.7	2.2	0.4
Water & electricity	6.6	-5.2	10.2	-13.9	-36.7	-27.2	-18.5
Construction	0.8	12.3	3.6	23.1	14.4	3.8	2.8
Trade, hotels & restaurants	18.0	3.9	9.3	14.0	5.5	6.3	7.1
Transport & communication	10.2	14.8	4.7	8.8	9.5	3.7	7.4
Finance & business services	11.7	1.5	11.5	7.7	11.0	5.5	3.1
General government	0.2	2.8	8.4	7.0	2.1	5.5	5.2
Social & personal services	15.2	11.3	6.2	8.3	12.2	6.0	4.2
<b>GDP by type of expenditure (at constant 2006 prices)<sup>a</sup></b>	(Annual % change)						
Real GDP	3.9	-7.8	8.6	6.2	4.3	5.8	4.4
Gross domestic expenditure	13.6	3.9	13.5	4.6	8.1	1.5	6.8
Final consumption	13.8	4.9	7.4	7.2	5.5	8.7	2.3
Government final consumption	5.0	3.0	3.7	5.0	13.6	14.2	-1.9
Household final consumption	17.3	5.5	8.6	7.9	2.9	6.7	4.0
Gross fixed capital formation	3.3	9.5	9.2	12.2	17.0	-6.8	15.3
Exports of goods and services	-2.5	-37.7	16.0	27.5	4.2	30.0	0.6
Imports of goods and services	17.5	-10.9	6.5	19.2	28.7	1.6	-5.8
<b>Prices and interest rates</b>							
Inflation (%)	12.6	8.2	6.9	8.5	7.5	5.9	4.4
Prime lending rate (%)	16.5	11.5	11.0	11.0	11.0	10.0	9.0
Deposit rate (Pula denominated deposits, %)	7.2	4.1	3.7	3.4	3.1	2.8	2.6
<b>External sector</b>	(% of GDP, unless otherwise indicated)						
Pula/US\$ (annual average)	6.8	7.2	6.8	6.8	7.6	8.4	9.0
Real effective exchange rates (Percentage change: (-) depreciation)	-0.4	12.5	8.3	-1.0	-3.3	-4.2	-5.2
Nominal effective exchange rates (Percentage change: (-) depreciation)	-7.9	4.2	4.5	-4.6	-7.8	-7.4	-7.3
Current account	1.3	-6.5	-2.6	3.1	-1.9	10.2	22.5
Exports of goods and services	49.4	41.6	40.6	50.1	48.2	58.3	66.4
Imports of goods and services	52.1	54.2	47.7	53.7	62.4	56.1	53.1
Gross official reserves (includes gold, current US\$ billion)	9.1	8.7	7.9	8.1	7.6	7.7	..
Months of imports of goods and services	16.1	17.8	13.2	11.6	10.5	11.3	..
	2008/ 09	2009/ 10	2010/ 11	2011/ 12	2012/ 13	2013/ 14	
<b>Public finance (central government) (% of GDP)<sup>b</sup></b>							
Revenue	40.9	39.1	33.1	36.0	36.9	38.5	..
Tax	36.5	34.9	30.7	33.2	34.2	34.8	..
of which:							
Customs & excise (SACU revenue)	10.4	10.3	6.4	7.9	12.6	10.4	..
Mineral revenue <sup>c</sup>	13.7	11.8	12.5	14.8	10.7	14.5	..
Non-mineral income tax	6.2	7.2	6.7	5.7	6.0	5.9	..
Non-tax	3.6	3.2	2.0	2.3	2.3	3.4	..
Grants	0.8	1.0	0.3	0.5	0.4	0.3	..
Expenditure	47.2	51.4	39.8	36.1	36.1	32.8	..
Recurrent	32.1	33.5	28.1	26.9	28.4	26.1	..
Development	15.4	16.9	11.8	9.3	7.3	7.0	..
Net Lending	-0.3	1.0	0.0	-0.1	0.3	-0.3	..
Surplus/Deficit	-6.3	-12.3	-6.8	-0.2	0.8	5.7	..

	2008/ 09	2009/ 10	2010/ 11	2011/ 12	2012/ 13	2013/ 14	
Total external debt (at the end of March)	2.8	12.1	13.0	13.2	13.5	12.2	..
Total domestic debt (at the end of March)	4.8	6.1	6.4	7.0	5.6	5.5	..
Total government debt (at the end of March)	7.7	18.2	19.5	20.2	19.4	17.7	..

.. Not available.

a The figures for 2010-14 are provisional.

b The fiscal year runs from 1 April to 31 March.

c Mineral royalties and dividends are included under mineral tax, hence they form part of tax revenue. This differs from Ministry of Finance and Development Planning publications where these are shown separately under non-tax revenue.

Source: Bank of Botswana (2015), *Botswana Financial Statistics, Issue*, February; Bank of Botswana, *Annual Reports 2011, 2012 and 2013*; Statistics Botswana (April 2015), *Gross Domestic Product, Fourth Quarter of 2014 (No. 2015/1)*; IMF online information, "International Financial Statistics". Viewed at: <http://elibrary-data.imf.org/DataExplorer.aspx>; IMF World Economic and Financial Surveys, Regional Economic Outlook: Sub-Saharan Africa, October 2014 and April 2015; and World Bank's World Development Indicator database. Viewed at: <http://databank.worldbank.org/data/views/variableselection/selectvariables.aspx?source=world-development-indicators>.

## 1.2 Recent Economic Developments

1.3. During the period 2008-14, real GDP grew at an annual average rate of 4.5%. Real GDP growth slowed to around 4% in 2012 after two years of strong post-crisis growth, mainly as a result of a significant contraction in activity in the mining sector due to continued subdued global demand (affecting both volumes and prices). However, the economy bounced back in 2013, with real GDP growing by 5.8%, before contracting again in 2014 (4.4%) as a result of a slowdown in the mining sector; the economy is estimated to grow at 4.9% in 2015 (Table 1.1). Economic growth in Botswana is determined to a large extent by developments in the mining sector, which remains the largest sector of the economy, accounting for 18.9% of GDP in 2014. The continued strength of the diamond industry, which led to overall mining growth of 10.6% in 2013, has been the main driver of recent growth. Growth in the non-mining sectors has been erratic, with some sectors such as electricity and water contracting for several years, which has undermined growth prospects in other sectors of the economy. Botswana's ongoing problems regarding power and water supply, which include unreliable domestic electricity production and reliance on rainfall, continue to be major constraints to attaining sustainable economic growth having, in addition, a negative impact on potential investors' perceptions.

1.4. The central government recorded an overall surplus in FY 2012/13 and FY 2013/14. The budget surplus was achieved through reining in of current expenditure, higher mining revenues and an increase in SACU revenues, in addition to a decline in development expenditures, as the Government decided to cut spending on new projects.<sup>3</sup> Botswana's 2014/15 Budget emphasizes tight fiscal management and a need to continue to rebuild fiscal buffers in the face of vulnerabilities in the country's two main revenue sources (diamonds and the SACU customs pool), while highlighting the importance of economic growth to address Botswana's development challenges. The government projects a surplus of 1% of GDP in 2014/15 as revenues are expected to be robust (up 10.5% from the previous fiscal year), sustained by higher revenue from minerals (up 15%) and continued strong revenue from the SACU customs pool (up 16.7%). However, in the medium term, the authorities recognize the need for a shift toward a greater emphasis on expanding the domestic revenue base and reducing the heavy reliance on SACU transfers, which reached a peak of almost 35% of revenue (10.4% of GDP) in 2013/14.<sup>4</sup> According to the authorities, this is to be achieved through, *inter alia*, improving the efficiency of the public sector, including public enterprises.

1.5. The Bank of Botswana's monetary policy objective is to achieve price stability, defined as a sustained level of inflation within the medium-term objective range of 3% to 6%. Monetary policy is also formulated with a view to safeguard the stability of the financial sector. The Bank has

<sup>3</sup> Information provided by the authorities.

<sup>4</sup> Ministry of Finance and Development Planning (2013).

adopted a broadly neutral monetary stance. Monetary policy is implemented through the use of open market operations to attain market interest rates consistent with the monetary stance, with the Bank and lending rates remaining stable. However, it seems that in 2013 the Bank adopted a more expansionary monetary policy, causing market interest rates to fall. Inflation has maintained a downward trend since 2008, when it stood at 12.6%, but it remained above 6% until 2013, when it fell to 5.9% before continuing to decline to 4.4% in 2014, remaining well within the Bank of Botswana's 3%-6% objective range (Table 1.1). Inflationary pressures dampened in 2014 against a background of weak demand, modest wage growth, small or no increases in administered prices and government levies. The amendments to the VAT Act that came into effect in 2015 extended the range of goods that are zero-rated; this will provide for lower prices on goods that comprise approximately 5% of the CPI basket, which could lead to a short-term reduction in headline inflation (Section 3).<sup>5</sup>

1.6. The exchange rate policy aims at supporting the competitiveness of domestic industries, and is intended to contribute to the national objectives of economic diversification and employment creation. The authorities consider that this may be partly achieved by maintaining a stable real effective exchange rate (REER) of the Pula against a basket of currencies of Botswana's major trading partner countries. Since 2011, the Central Bank has been applying a downward-crawl regime, to allow for a gradual nominal depreciation of the Pula (Table 1.1). This has also resulted in a real depreciation. Botswana recognizes that REER stability alone is not enough to ensure the competitiveness of local producers. Competitiveness can only be achieved through an increase in productivity, which in turn requires structural reforms, such as the rationalization of the public sector to allow the private sector to grow.

1.7. Botswana ran a deficit in its current account of the balance of payments for several years during the period under review, but in recent years (2013–14) the current account registered a surplus (Table 1.2). The current account's erratic behaviour during the period under review reflects overall external instability, triggered by a lack of export diversification, which leaves the economy vulnerable to diamond price fluctuations (Table 1.2). For instance, the current account's improvement observed in 2014 is a result of an increase in exports, driven almost exclusively by the growth in diamond exports, and a decrease in imports.

1.8. Botswana is a net importer of services. Imports of services increased during the period under review, boosted mainly by demand for transport, but also for communication, and business, professional and technical services.<sup>6</sup> Current transfers have increased almost every year since 2008, mainly as a result of an upsurge of SACU receipts. The capital account remained just balanced for most of the review period, while the financial account recorded some surpluses in 2008, 2009, 2011 and 2012 due to an increase in foreign direct investment (FDI) flows; nevertheless FDI flows have been volatile while portfolio investment has declined since 2009. Foreign reserves accounted for 11.3 months of imports in 2013.

**Table 1.2 Balance of payments, 2008-14**

(US\$ million)

	2008	2009	2010	2011	2012	2013	2014
<b>A. Current account</b>	<b>149</b>	<b>-658</b>	<b>-357</b>	<b>477</b>	<b>-283</b>	<b>1,668</b>	<b>3,563</b>
Merchandise	-380	-1,317	-1,001	-701	-2,297	11	1,529
Exports	4,838	3,353	4,601	6,461	5,923	8,249	9,153
Imports	5,218	4,671	5,603	7,162	8,220	8,238	7,624
Services	83	42	25	140	227	345	586
Transportation	-57	-85	-81	-153	-115	-84	-14
Credit	22	17	35	31	37	81	47
Debit	79	102	116	185	152	165	61
Travel	284	433	482	548	560	624	701
Credit	514	666	780	865	857	886	977
Debit	230	233	298	317	297	262	276
Other services	-143	-307	-376	-256	-218	-195	-102
Credit	114	163	167	335	187	277	328
Debit	257	470	543	591	405	472	430

<sup>5</sup> The goods exempt from VAT as of 1 January 2015 include: unprocessed fruit and vegetables, cereals which were not already covered, milk, bread flour and brown bread (Bank of Botswana, 2015b).

<sup>6</sup> UNCTAD-ITC-WTO Trade in Services database.

	2008	2009	2010	2011	2012	2013	2014
Income	-755	-239	-550	-113	44	-376	-295
Compensation of employees	3	-14	-17	-20	-13	7	-5
Investment income	-758	-226	-533	-93	57	-383	-291
Current transfers	1,200	857	1,170	1,151	1,744	1,687	1,744
Private	1	-15	-50	52	64	100	41
Credit	90	22	38	265	215	231	108
Debit	89	37	88	213	151	131	67
Government	1,199	872	1,220	1,099	1,680	1,587	1,703
Credit	1,238	916	1,258	1,175	1,731	1,630	1,724
Debit	39	44	38	76	51	43	21
<b>B. Capital account</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>C. Financial account</b>	<b>733</b>	<b>276</b>	<b>-363</b>	<b>1,028</b>	<b>200</b>	<b>-959</b>	<b>-110</b>
Direct investment	617	202	218	1,385	480	314	350
Portfolio investment	539	-332	-402	-214	-175	-1,245	-79
Other investment	-424	406	-178	-143	-104	-29	-381
<b>D. Net errors and omissions</b>	<b>220</b>	<b>-260</b>	<b>-243</b>	<b>-1,002</b>	<b>-31</b>	<b>-549</b>	<b>-2,182</b>
<b>Overall balance (A through D)</b>	<b>1,101</b>	<b>-641</b>	<b>-959</b>	<b>503</b>	<b>-113</b>	<b>160</b>	<b>1,271</b>
<b>E. Reconciliation/Financing</b>	<b>-1,101</b>	<b>641</b>	<b>959</b>	<b>-503</b>	<b>113</b>	<b>-160</b>	<b>-1,271</b>
Change in the level of reserves	-1,491	1,504	1,040	-1,383	125	-1,008	-1,264
Valuation adjustments	390	-863	-81	879	-12	848	-7

Source: Bank of Botswana. Information provided by the Authorities.

### 1.3 Trade and Foreign Direct Investment Performance

1.9. Like the other BNLS countries Botswana is highly dependent on international trade: exports and imports of goods and services accounted for 95% of GDP in 2008 and for 110% of GDP in 2014. However, the country's contribution in 2013 to total world exports was 0.04% and the same for imports. In 2013, Botswana ranked 102<sup>nd</sup> among world merchandise exporters and 111<sup>th</sup> among importers.<sup>7</sup>

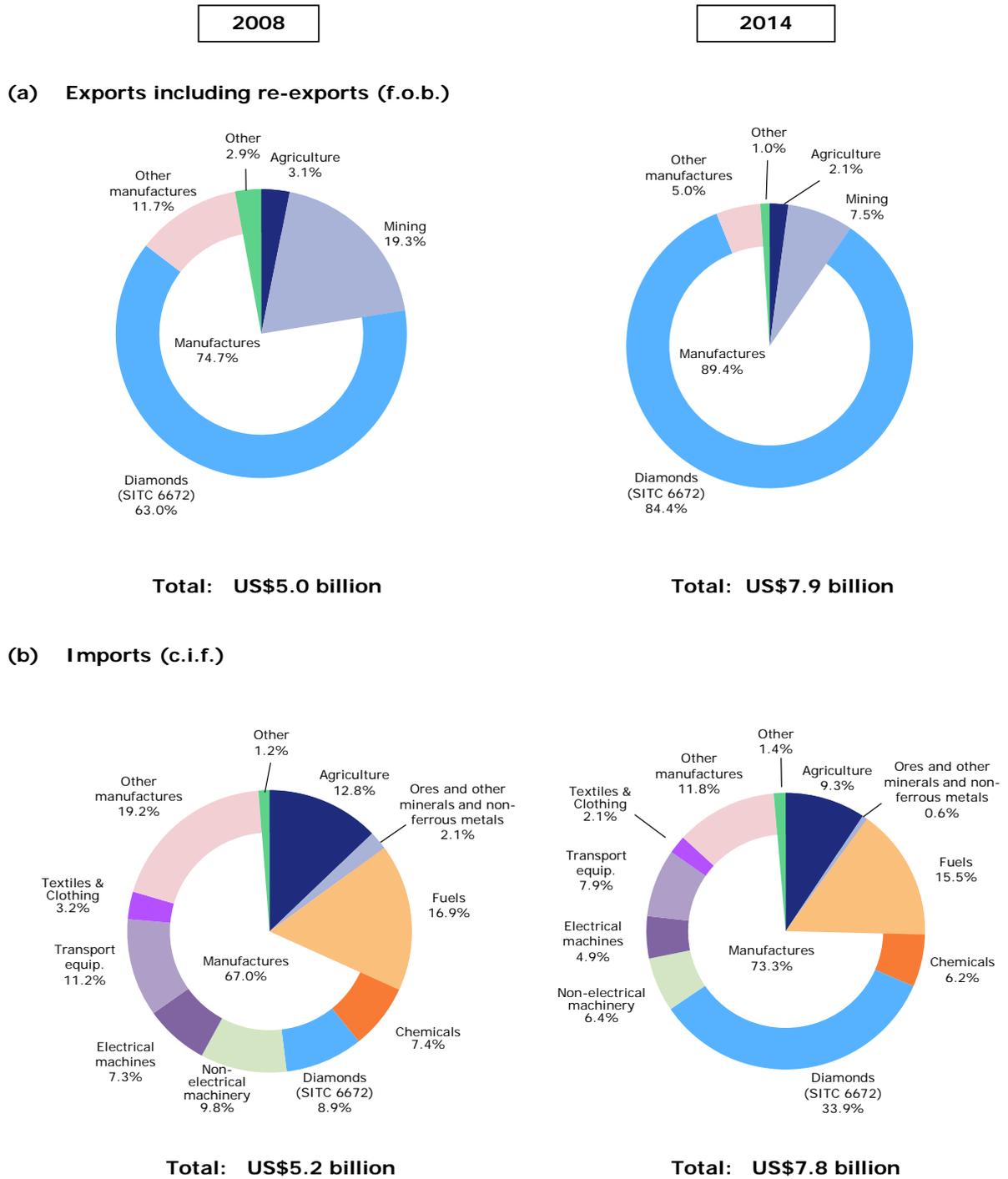
1.10. Botswana's trade patterns have not changed substantially since the last Review in 2009. Botswana remains heavily dependent on exports of diamonds, which accounted for 63.0% of total merchandise exports (including re-exports) in 2008, increasing to 84.4% in 2014 (Chart 1.1). This increase may be partly attributed to the transfer of major functions of the Diamond Trading Company (DTC) from London to Gaborone. Since 2012, aggregation of rough diamonds has been undertaken in Botswana, and this has resulted in an increase in re-exports as local production traded in London was re-exported into Botswana, and also in an increase in imports of diamonds to be beneficiated in Botswana (from 8.9% of total imports in 2008 to 33.9% in 2014). Exports of other manufactured products, such as clothing, have decreased despite the preferential access to the U.S. market under the African Growth and Opportunity Act (AGOA), apparently due to the phase out of an incentive programme (Table A1.3).<sup>8</sup> Exports of primary products, which include traditional products, such as beef, copper-nickel and soda ash have also fallen during the period under review. Beef exports declined because of an outbreak of food and mouth disease, which led to the closure of some international markets (Section 4).

1.11. Merchandise exports remained concentrated in Europe and Africa (mainly South Africa) up to 2013, albeit with some changes. The share of exports to Europe increased, while those destined for Africa declined substantially from 25.5% in 2008 to 15.6% in 2013, mainly as a result of South Africa's decrease in importance as a market; possibly due to the Government's efforts to diversify export markets (Chart 1.2). However, as a result of moving the diamond trade from London to Gaborone, as of 2014 other destinations such as Asia (24.1%) – mainly India (14.9%) – and the Middle East (13.1%) became increasingly important; while Europe and Africa, on the other hand, became less important markets (Table A1.1).

<sup>7</sup> WTO Country Profiles. Viewed at: [https://www.wto.org/english/res\\_e/booksp\\_e/trade\\_profiles14\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/trade_profiles14_e.pdf).

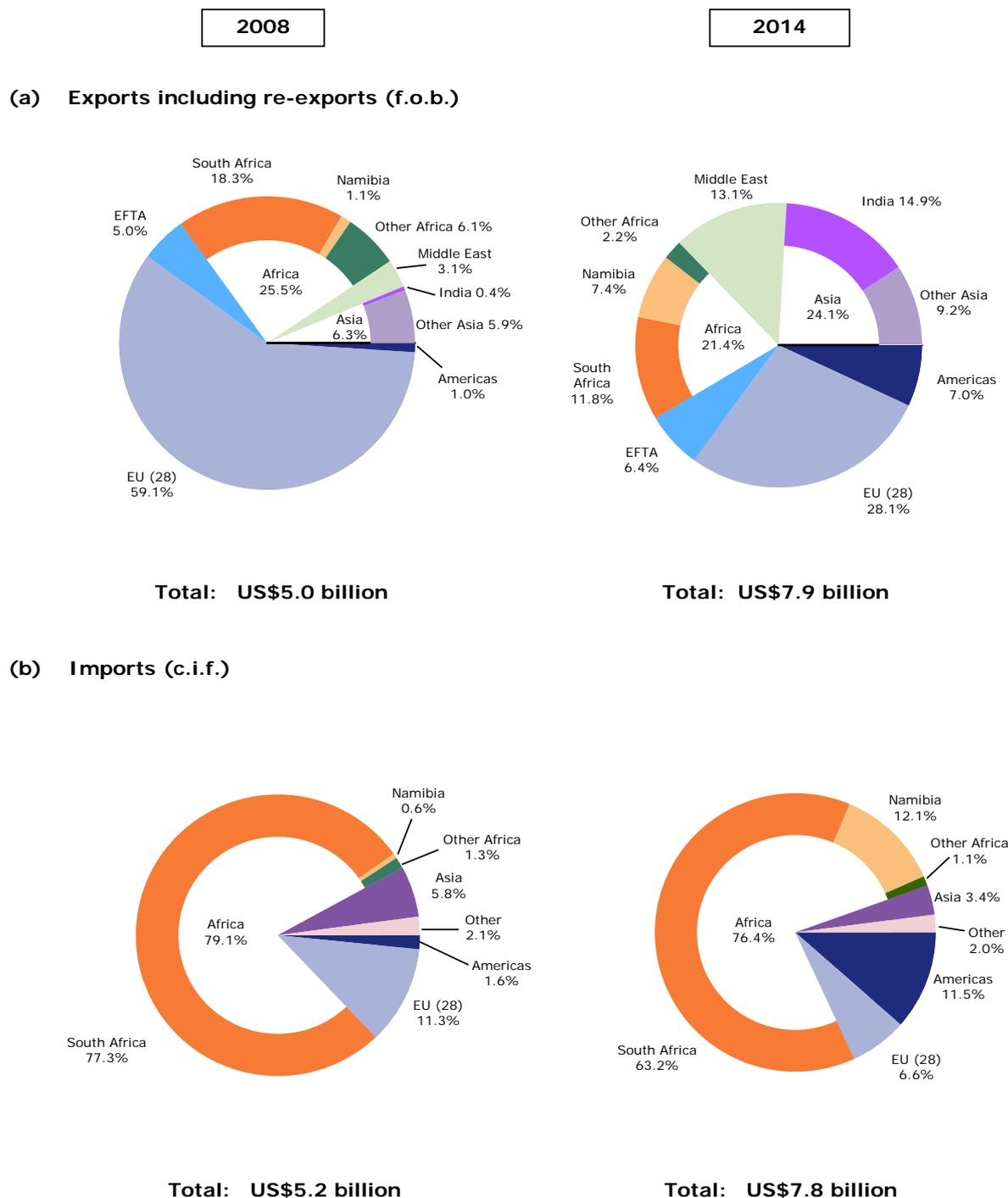
<sup>8</sup> Bank of Botswana (2013).

Chart 1.1 Product composition of merchandise trade, 2008 and 2014



Source: WTO Secretariat calculations, based on UNSD Comtrade database, SITC Rev.3.

Chart 1.2 Direction of merchandise trade, 2008 and 2014



Source: WTO Secretariat calculations, based on UNSD Comtrade database.

1.12. Total merchandise imports amounted to US\$7.8 billion in 2014. Manufactured products accounted for some 73.3% of total imports in 2014, an increase since 2008 (Chart 1.1). Imports of diamonds have seen a major increase, due to the recent changes in the diamond trade, as mentioned above (Table A1.4). Imports of machinery and transport equipment continue to be high (19.2% of total merchandise imports in 2014) because of the ongoing mining and infrastructure projects. Botswana remains a net food and fuel importer (Table A1.4) (Section 4). Notwithstanding a decline in its share, South Africa remains the major source of imports, accounting for 63.2% of

the total in 2014. Imports from other African countries such as Namibia have increased since 2008 (Table A1.2).

1.13. Foreign direct investment (FDI) declined significantly as a result of the global financial crisis but resumed thereafter (Table 1.3). The stock of FDI was US\$3.3 billion at the end of 2013. Foreign direct investment is concentrated in the mining and banking sectors (Section 4).

**Table 1.3 Foreign direct investment, 2008-13**

	2008	2009	2010	2011	2012	2013
	<b>(US\$ million)</b>					
<b>Flow</b>						
Direct investment in Botswana	521	129	136	1,093	147	188
Direct investment abroad	-91	6	1	-10	9	-0.3
<b>Stock</b>						
Direct investment in Botswana	2,272	2,698	2,938	3,508	3,540	3,337
Direct investment abroad	865	980	1,017	861	842	750
	<b>(% of GDP)</b>					
<b>Flow</b>						
Direct investment in Botswana	4.7	1.3	1.0	7.1	1.0	1.2
Direct investment abroad	-0.8	0.1	0.0	-0.1	0.1	0.0
<b>Stock</b>						
Direct investment in Botswana	20.4	26.7	21.4	22.8	24.3	20.5
Direct investment abroad	7.8	9.7	7.4	5.6	5.8	4.6

Source: UNCTADstat database. Viewed at: <http://unctad.org/en/Pages/Statistics.aspx>.

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## 2 TRADE AND INVESTMENT REGIME

### 2.1 Institutional and Legal Framework

2.1. The Constitution of Botswana, which dates to 1966, established a parliamentary system.<sup>1</sup> The Parliament consists of the President and the National Assembly. The government is divided into three branches: the executive, the legislative and the judicial.

2.2. The executive branch consists of the President, the Vice-President, the Cabinet and the Attorney General. The President is the head of state and assumes office through elections that take place every 5 years. The President, who may hold office for a maximum of 2 consecutive periods, is elected by the National Assembly from amongst its members. The President appoints the Vice-President and the Cabinet from members of the National Assembly.<sup>2</sup> The Attorney General is also appointed by him.<sup>3</sup>

2.3. The legislative is comprised of the President and the National Assembly. The President is an ex officio member of Parliament and is entitled to speak and vote in all proceedings.<sup>4</sup> The National Assembly consists of 57 members elected by the people, and 4 that are specially elected.<sup>5</sup> These 4 members are elected by secret ballot from amongst 4 candidates nominated by the President and 4 candidates nominated by the elected members of the National Assembly. The core function of the legislative is to enact laws but it is also in charge of controlling public finances, through the approval of the National Budget, and of scrutinizing government.<sup>6</sup> In addition to the legislature, the *Ntlo ya Dikgosi* ("House of Chiefs"), which comprises 35 traditional leaders, advises the Parliament regarding traditional matters.

2.4. The judicial branch is composed of the High Court and the Court of Appeals.<sup>7</sup> There are also specialized parallel courts and other subordinate courts. The court of first instance is the High Court; it has unlimited original jurisdiction to hear and resolve any civil or criminal proceedings. The Court of Appeal is the highest court of the land.

2.5. Botswana's legal system consists of Roman-Dutch and customary law; the latter is administered by the customary courts. Botswana's legislation may take one of three forms: acts of parliament, delegated or subsidiary legislation, and autonomic legislation. Acts of parliament are the principal source of law in Botswana; they must be consistent with the Constitution, the supreme law of the country.<sup>8</sup> Acts are initiated through a bill drafted in the National Assembly at the request of the relevant ministry; thereafter the draft is submitted for discussion and if necessary amended. Once approved by the National Assembly, bills are presented to the President for assent, which he or she may withhold. If sanctioned it becomes an Act, but it needs to be gazetted to have the force of law.<sup>9</sup>

2.6. Subsidiary or delegated legislation is issued under the direction of subordinate bodies under specific powers delegated to them by Parliament. Subsidiary legislation is usually in the form of proclamations, regulations and orders. Autonomic legislation is issued by an autonomous, specialized body that has been given the power to create laws to regulate itself, for instance, the Law Society of Botswana.

2.7. For international agreements to be implemented they need to be approved by the Cabinet and by the National Assembly.

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<sup>1</sup> Constitution of Botswana Chapter 01:01, section 57.

<sup>2</sup> Constitution of Botswana Chapter 01:01, section 50(3).

<sup>3</sup> Constitution of Botswana Chapter 01:01, section 51(1).

<sup>4</sup> Constitution of Botswana Chapter 01:01, section 58(1).

<sup>5</sup> Constitution of Botswana Chapter 01:01, section 58(2)(b).

<sup>6</sup> Constitution of Botswana Chapter 01:01, section 118.

<sup>7</sup> Constitution of Botswana Chapter 01:01, sections 95(1) and 99(1).

<sup>8</sup> Constitution of Botswana Chapter 01:01, sections 87(7) and 86.

<sup>9</sup> Constitution of Botswana Chapter 01:01, section 87(5).

## 2.2 Trade Policy Formulation and Objectives

2.8. The Ministry of Trade and Industry is responsible for the formulation and implementation of trade policy, along with other stakeholders, through the National Committee on Trade Policy and Negotiations (NCTPN), which consists of representatives of different ministries, parastatals, the private sector, academic and research institutions, and non-governmental organizations (Table 2.1).<sup>10</sup> The NCTPN is supported by various technical committees in charge of trade policy formulation, which in turn have representatives of different ministries and the private sector. These committees meet on a quarterly basis and their recommendations are passed to the NCTPN. The NCTPN is in charge of coordinating the formulation and implementation of trade policy and of ensuring its consistency with Botswana's international commitments.<sup>11</sup> The private sector and public enterprises are represented in this process by the Botswana Confederation of Commerce, Industry and Manpower (BOCCIM) and the Botswana Exporters and Manufacturing Association (BEMA).

**Table 2.1 Main institutions involved in trade policy formulation and implementation**

Institutions	Trade related function
<b>Development of policy</b>	
<b>Ministry of Trade and Industry</b>	
National Committee on Trade Policy and Negotiations (NCTPN)	Provides a forum for consultations regarding the formulation of trade policy and of Botswana's position in trade negotiations
Department of International Trade	Develops, implements and monitors trade policy; Responsible for negotiation and implementation of multilateral, regional and bilateral trade agreements
Department of Industrial Affairs	Develops and reviews policies, programmes and strategies aimed at diversifying the economy, creating employment and stimulating local entrepreneurship
Cabinet	Approves and endorses trade policy
<b>Implementation of policy</b>	
Ministries (e.g. Ministry of Trade and Industry, Ministry of Agriculture and Ministry of Finance and Development Planning)	Implements trade policy and the trade agreements
Parastatals (e.g. Botswana Investment Trade Centre (BITC))	Implements trade policy by facilitating specific policy objectives (e.g. export promotion and FDI facilitation)
<b>Evaluation and review</b>	
Ministry of Trade and Industry National Committee on Trade Policy and Negotiations (NCTPN) Parliamentary Committee on Foreign Affairs, Trade and Security (PCFATS)	Reviews trade policy every five years or whenever it deems necessary

Source: Ministry of Trade and Industry (2009), *National Trade Policy for Botswana*, Gaborone, July. Viewed at: [http://www.mti.gov.bw/webfm\\_send/182](http://www.mti.gov.bw/webfm_send/182).

2.9. Botswana sees trade policy as a means to achieve its overall economic policy objective of sustainable growth, economic and export diversification, and social inclusion. More specifically, its overall trade objective is to increase and improve market access and international competitiveness for its exports through reduced transaction costs, investment in education and improved infrastructure.<sup>12</sup> Botswana's trade policy is defined largely by its membership of SACU, as well as other regional arrangements, such as SADC. However, within the framework of these arrangements, Botswana has developed several policies which outline its national trade policy. These include: the National Development Plan 10 (NDP10), the National Trade Policy (2009), the Industrial Development Policy (2014), the Economic Diversification Drive (2011), the National Export Strategy (2010), the Special Economic Zones Policy (2010) and the Citizen Economic Empowerment Policy (2012). All these instruments seem to share the same goals and objectives regarding trade and economic policy and in certain instances they overlap.

<sup>10</sup> Ministry of Trade and Industry (2009).

<sup>11</sup> Ministry of Trade and Industry (2009).

<sup>12</sup> Ministry of Trade and Industry (2009).

## 2.3 International Trade Relations

### 2.3.1 WTO

2.10. Botswana is a founding Member of the WTO.<sup>13</sup> Botswana provides MFN treatment to all Members and other trading partners.

2.11. Botswana is not an observer to the Committee on Government Procurement, nor is it a signatory to the Information Technology Agreement.

2.12. In the last Ministerial Conference, Botswana recognized the importance of the conclusion of the Doha Round especially for small economies and restated its commitment to the work programme of the WTO.<sup>14</sup>

2.13. Botswana has not participated in any trade disputes.

2.14. During the period under review, Botswana submitted a number of notifications (Table A2.1). However, some remain outstanding, particularly those related to import licensing.

### 2.3.2 Regional trade agreements

2.15. During the period under review, Botswana renegotiated a bilateral trade agreement with Zimbabwe and together with other African countries finalized the negotiations of an EPA with the EU. Botswana is also participating in the negotiations of the different regional integration processes with the Southern African Customs Union (SACU), SADC and SADC-EAC-COMESA (Main Report). Botswana is currently implementing the SADC Trade Protocol.<sup>15</sup> The negotiations on the SADC Protocol on Services have been concluded and the protocol was adopted in August 2012 but has not yet been implemented (Main Report).

2.16. As a member of SACU, Botswana is a signatory to the SACU-MERCOSUR Preferential Trade Agreement of 2004, the SACU-USA Trade, Investment and Development Cooperation Agreement (TIDCA) of 2007<sup>16</sup>, and the SACU-EFTA FTA, which entered into force in 2008 (Main Report).<sup>17</sup>

2.17. The EPA negotiations between the EU and the SADC EPA Group concluded in mid-July 2014. This agreement will replace the interim EPA, signed by the EU and by Botswana, Lesotho, Mozambique and Swaziland in 2009, which was never ratified. The recently concluded agreement has not yet been signed.<sup>18</sup>

2.18. Botswana, together with the other SACU members, is negotiating a Preferential Trade Agreement (PTA) with India.<sup>19</sup>

2.19. Botswana has bilateral agreements with Zimbabwe and Malawi. The trade agreement with Zimbabwe was initially signed in 1956 and amended in 1988 and 2010.<sup>20</sup> The agreement provides for duty-free access to goods that are either wholly originated in either country or meet a local content requirement of 25%. Manufacturers are required to produce for a period of three months before starting to export to enable customs to confirm local content requirements. The amended agreement allows accumulation to confer origin, recognizes waste and scrap as inputs in the manufacturing processes, and grants an exemption to the three-month "production requirement".<sup>21</sup> The Botswana-Malawi Customs Agreement was signed in 1956; it has not since been renegotiated but is at present being evaluated. The agreement allows duty-free access to goods grown, produced and manufactured in Botswana and Malawi. Although Botswana has not signed a large number of bilateral and regional trade agreements, the overlap in concessions

<sup>13</sup> Online information. Viewed at: [https://www.wto.org/english/thewto\\_e/countries\\_e/botswana\\_e.htm](https://www.wto.org/english/thewto_e/countries_e/botswana_e.htm).

<sup>14</sup> Statement by Hon Dorcas Makgato-Malesu, Minister of Trade and Industry, Ninth Session of the WTO Ministerial Conference 3-6 December 2013.

<sup>15</sup> Online information. Viewed at: <http://www.sadc.int/about-sadc/integration-milestones/free-trade-area/>.

<sup>16</sup> Online information. Viewed at: <http://www.state.gov/r/pa/ei/bgn/1830.htm>.

<sup>17</sup> Online information. Viewed at: <http://www.mti.gov.bw/tradeagreements>.

<sup>18</sup> European Commission (2015).

<sup>19</sup> Online information. Viewed at: <http://www.mti.gov.bw/tradeagreements>.

<sup>20</sup> UNCTAD (2006).

<sup>21</sup> Online information. Viewed at: <http://www.mti.gov.bw/content/botswana-zimbabwe-agreement>.

becomes evident as preferences under these two agreements and the SADC Protocol on Trade are very similar. Hence, trade between Botswana and Malawi is currently mainly undertaken through the SADC Protocol on Trade, except in cases where the rules of origin under the agreement between Botswana and Malawi are easier to comply with.

2.20. Botswana is a beneficiary of the African Growth and Opportunity Act (AGOA). Botswana exports mainly textiles and apparel under AGOA.<sup>22</sup> According to the authorities, exports under this preferential system have fluctuated over the years mainly due to supply-side constraints. Botswana still benefits from Generalized System of Preferences schemes from, *inter alia*, Norway.<sup>23</sup>

#### 2.4 Investment Regime

2.21. Botswana does not have a specific foreign investment law; foreign investment is regulated by an array of laws. General investment restrictions, reservations, licensing requirements and incentives are all regulated by different legal instruments and policies.<sup>24</sup> These include: the Industrial Development Act, the Trade Act, the Companies Act, the Companies Amendment Act, the Companies Regulations, the Co-operative Societies Act, the Companies and Intellectual Property Authority Act and the Registration of Business Names Act.<sup>25</sup> Sectoral laws also stipulate the requirements and restrictions regarding investment in specific sectors (Section 4).<sup>26</sup> In addition, Botswana imposes a series of reservations on foreign investment which are outlined in several documents. The citizen reservation requirements affect foreign investors' decisions, as they are perceived to be discriminatory and non-transparent especially if reservations are not well-defined and/or change often.

2.22. According to the authorities, Botswana is committed to having transparent investment policies that accord the same treatment to all investors. However, the myriad of laws and regulations that regulate FDI, together with the administrative and bureaucratic bottlenecks that exist to obtain licences and permits, considerably compromise the country's competitiveness to attract FDI. The consolidation of all regulations and policies related to FDI would clarify Botswana's FDI regime. It would also help to make foreign investment rules more understandable and predictable, thus creating a more favourable environment for domestic and foreign investment, which would in turn allow the Government to attain the objectives outlined in its Investment and Private Sector Development Strategies. The NDP10 also deems that foreign and domestic investment need to increase to attain higher sustainable rates of growth (Section 1).<sup>27</sup>

2.23. A number of activities are reserved for citizens of Botswana or are restricted for foreign investors. Under the Industrial Development (Amendment) Regulations (2008), small-scale manufacturing is reserved for citizens of Botswana or companies wholly owned by citizens of Botswana, as is small-scale mining (Section 4).<sup>28</sup> Establishments that sell liquor, other than bars linked to hotels, are also reserved for citizens of Botswana or companies wholly owned by citizens of Botswana.<sup>29</sup> Similarly, the Trade Act (2003) lists several activities that are reserved for citizens of Botswana or for companies wholly owned by citizens of Botswana. However, despite these restrictions, medium and large enterprises<sup>30</sup> operating as joint ventures between citizens and

<sup>22</sup> Online information. Viewed at: <http://agoa.info/profiles/botswana.html>.

<sup>23</sup> Information provided by the authorities.

<sup>24</sup> Online information. Viewed at: <http://www.mti.gov.bw/webfm>, and <http://www.mti.gov.bw/licenses>.

<sup>25</sup> Online information. Viewed at: <http://www.mti.gov.bw/webfm>.

<sup>26</sup> For instance, investment in the financial sector is regulated by the Banking Act, the Non-Bank Financial Regulatory Authority Act or the Botswana Stock Exchange Act. In the mining sector investors need to apply for a mining licence, which is regulated by the Mines and Minerals Act; while in the energy sector a company needs to apply for an independent power producer licence, regulated by the Electricity Supply Act (Amendment of 2007).

<sup>27</sup> Investment Strategy for Botswana: 2009–2016 and Private Sector Development Strategy.

<sup>28</sup> Activities included under this reservation are manufacturing of: school uniforms, school furniture, burglar bars, protective clothing, cement bricks and baked earth (mud) bricks, peanut butter, floor polish, traditional leather products and traditional crafts, traditional sour milk, candles, ice, and fencing material; baking bread and making confectionery; bottling water; milling sorghum; packaging; and meat processing (Industrial Development (Amendment) Regulations (2008) and Mines and Minerals Act (1999)).

<sup>29</sup> The Liquor Act 2003.

<sup>30</sup> Micro enterprises are those with fewer than 6 employees and an annual turnover of up to P 100,000. Small enterprises are those with fewer than 25 employees and an annual turnover of P 100,001-P 1,500,000. Medium enterprises are those with 25-100 employees and an annual turnover of P 1,500,001-P 5,000,000. (Trade Act (Size of Enterprises) Order, 2011).

foreigners are allowed to engage in these reserved activities, provided that 51% of the company is held by citizens (or otherwise subject to approval by the Minister of Industry and Trade).<sup>31</sup>

2.24. A foreign investor is required to either register its company under the Registration of Business Names Act or incorporate it under the Companies Act, and obtain the required licences to operate in Botswana.<sup>32</sup> Licences are required to manufacture or sell manufactured products; these are issued by the relevant licensing committee or the Industrial Licensing Authority for an indefinite period. A licensee would require a new licence to manufacture (sell) a new product or to change the location of its enterprise. Permission is also required to transfer the licence. The Minister of Trade and Industry may decide that licences, for a particular activity (or in a prescribed area of the country), will only be issued to nationals or to companies wholly owned by citizens of Botswana.<sup>33</sup> In contrast, the Minister may prescribe that licences to undertake activities reserved for citizens, carried out by medium or large enterprises may be issued to joint-ventures between citizens and foreigners, provided that 51% of the company is held by citizens.<sup>34</sup>

2.25. Botswana registered companies providing specific financial services may seek IFSC certification to obtain fiscal incentives (Box 2.1). The Minister may grant IFSC certification for other operations on a case-by-case basis.<sup>35</sup> There are no requirements to have resident shareholders in an IFSC accredited company, but the Companies Act (2004) requires that at least one director resides in Botswana. IFSCs are allowed to hire experts from outside Botswana but are required to employ qualified nationals.

2.26. Land in Botswana is divided into three categories (freehold, state and tribal). Land, no matter its category, can be put to any use. Freehold land, which amounts to 3% of Botswana's land area, is the only type of land that can be purchased by (or transferred to) foreign nationals, without government approval, except if it is agricultural land. State-owned land accounts for 27% of Botswana's total land. Foreign-owned companies registered in Botswana can lease this type of land. This land is allocated through an application process or on a first-come-first-served basis by the Ministry of Lands and Housing. Leases are renewable and are granted for 50 years for commercial purposes and 99 years for residential use. The Government has set aside land for investors, which is managed by the Botswana Investment Trade Centre (BITC). Tribal (communal) land can be leased for 50 years for commercial, agricultural, and industrial use and it accounts for 70% of the country.<sup>36</sup> The use of tribal land may be granted to a foreigner subject to the Minister of Lands and Housing's approval.

2.27. The BITC was established in 2011 to, *inter alia*, attract FDI.<sup>37</sup> In addition to promoting Botswana as an investment destination, the BITC functions as a "one-stop shop" to facilitate investment procedures, such as the acquisition of licences and permits, and access to industrial and commercial land.<sup>38</sup> To attract FDI, Botswana has established a number of "hubs" and is in the process of establishing Special Economic Zones.<sup>39</sup>

<sup>31</sup> Activities included under this reservation are: auctioneers, bookshops, boutiques, car washes, cleaning services, curio shops, department stores, distributors, dry cleaning, fresh produce, funeral parlours, furniture shops, general clothing, general dealers, hair dressers, hardware, laundromats, motor dealers, petrol stations, rental services, restaurants, supermarkets/chain stores, take-away restaurants, wholesale, and workshops.

<sup>32</sup> The Industrial Development Act 2007.

<sup>33</sup> In accordance with the Trade Regulations (2011) licences have been reserved for citizens of Botswana or for companies that are wholly owned by citizens of Botswana for the following activities: auctioneers, agents, car washes, cleaning services, curio shops, dry cleaners, florists, fresh produce, funeral parlours, general dealers, general clothing, general hire services, laundromats, petrol filling stations, takeaways, hair or beauty parlours, and internet cafes or copy shops.

<sup>34</sup> Micro enterprises are those that with less than 6 employees and an annual turnover of up P100, 000. Small enterprises are those with less than 25 employees and an annual turnover of P 100,001–P 1,500,000. Medium enterprises have 25-100 employees and an annual turnover of P 1,500,001 to P 5,000,000 (Trade Act (Size of Enterprises) Order, 2011).

<sup>35</sup> Activities eligible for IFSC certification include: banking and finance operations transacted in a foreign currency, securities trading denominated in a foreign currency, insurance and related activities, activities that exploit intellectual property, and accounting and financial administration services.

<sup>36</sup> Adams (undated).

<sup>37</sup> BITC resulted from a merging of the Botswana Export Development and Investment Authority (BEDIA) and the Botswana International Financial Services Centre (IFSC).

<sup>38</sup> BITC, through the one-stop shop system, assists with: registering companies and businesses; processing trade and business licences; getting entry visas, work and residence permits; securing connection

2.28. Botswana also provides fiscal incentives and grants to attract FDI (Box 2.1). Some incentives are granted only to companies that have IFSC certification<sup>40</sup>, others are sector-specific or provided on a case-by-case basis. The Minister of Finance and Development Planning may grant tax relief under Development Approval Orders. Tax incentives provided under these orders may include tax holidays for income tax for up to 5 years; they are granted on a case-by-case-basis depending on the projects' prospects of benefiting the economy or contributing to the economic advancement of Botswana's nationals (Section 3). According to the authorities, Development Approval Orders are rarely used; at present only two projects are beneficiaries under these orders. The tax regime for diamond projects may also be negotiated on a case-by-case basis (Section 4).<sup>41</sup> Foreign investors also have access to grants, through the Citizen Entrepreneurial Development Agency (CEDA), provided that they partner with nationals.<sup>42</sup>

### Box 2.1 Botswana investment incentives, 2014

#### Specific fiscal incentive

IFSC certified companies are entitled to:

A corporate tax rate of 15% until 2020

Exemption from withholding taxes on interest, dividends and management fees

Exemption from VAT and capital gains tax

A tax rebate of 200% on income tax on training costs

Tax exemption on income derived from the disposal of shares in IFSCs

Credits for withholding taxes in other jurisdictions

Collective investment undertakings (CIUs) (a pass-through fund management mechanism) managed by IFSC are taxed exempt.

Companies accredited to an Innovation Hub are entitled to: a corporate tax rate of 15%

Manufacturing companies are entitled to:

A corporate tax rate of 15%

Import machinery and equipment duty-free

Manufacturing companies registered under Schedule 470.03 are entitled to import raw materials duty-free, provided that 100% of output is exported outside the CCA. Companies that sell some of their produce within the CCA pay duty only on those raw materials used to manufacture those goods sold within the CCA (Section 3).

Source: SADC online information. Viewed at: [www.sadc.int/files/8813/9323/6319/Botswana.doc](http://www.sadc.int/files/8813/9323/6319/Botswana.doc); and <http://www.bitc.co.bw/incentives-investors>.

2.29. Botswana has signed several bilateral investment treaties; however, there are only two in force (with Germany and Switzerland).<sup>43</sup> It has also signed double taxation agreements with Barbados, France, India, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Sweden, United Kingdom, the Russian Federation and Zimbabwe.<sup>44</sup> Similar agreements have been signed with China, Ireland, Swaziland and Zambia but are awaiting ratification; while others with Belgium, Lesotho, Luxembourg and Malawi have been concluded but have not yet been signed.<sup>45</sup> Botswana is a member of the Multilateral Investment Guarantee Agency and of the International Centre for the Settlement of Investment Disputes.<sup>46</sup>

to utilities (e.g. power, water, telecommunications); registering for income tax and VAT; obtaining construction permits; allocation of BITC factory space (subject to availability); ensuring compliance with environmental requirements; and opening bank accounts (information provided by the authorities).

<sup>39</sup> BITC (undated).

<sup>40</sup> For more information on IFSC certification please refer to the online information. Viewed at: <http://www.bitc.co.bw/incentives-investors>.

<sup>41</sup> Companies that mine other minerals are taxed according to the Twelfth Schedule to the Income Tax Act; the tax regime is not negotiated (Income Tax Act (Chapter 52:01). Online information. Viewed at: [http://www.botswanaifsc.com/docs/income\\_tax\\_act.pdf](http://www.botswanaifsc.com/docs/income_tax_act.pdf)).

<sup>42</sup> Online information. Viewed at: <http://www.ceda.co.bw/objectives>.

<sup>43</sup> Online information. Viewed at: <http://investmentpolicyhub.unctad.org/IIA/CountryBits/26>.

<sup>44</sup> Online information. Viewed at: <http://www.bitc.co.bw/incentives-investors>, and information provided by the authorities.

<sup>45</sup> Information provided by the authorities.

<sup>46</sup> Online information. Viewed at: <http://www.miga.org/whoware/index.cfm?stid=1789> and <https://icsid.worldbank.org/apps/ICSIDWEB/about/Pages/Database-of-Member-States.aspx>.

### 3 TRADE POLICIES AND PRACTICES BY MEASURE

#### 3.1 Measures Directly Affecting Imports

##### 3.1.1 Customs procedures and requirements

3.1. Customs procedures in Botswana continue to be regulated by the Customs and Excise Duty Act (as amended) and by the Customs and Excise Duty Regulations (as amended).<sup>1</sup> The Customs and Excise Duty Act is currently under review to develop new regulations.

3.2. The documents required for customs clearance are the same as those specified in the previous Review. These are: the customs declaration, commercial invoice, bill of lading, certificate of origin (for goods covered by preferential trade agreements), and packing list. Depending on the nature of the product, a technical conformity/health/veterinary certificate and/or an import licence or permit may also be required. Declarations of origin are required for goods subject to preferences or to anti-dumping and countervailing duties or to safeguard measures.

3.3. Importers, need to register as a business or a company, under the Companies Act, and obtain a trading licence under the Trade Act. If an individual, rather than a registered company, seeks to import, they require a hawker's/street vendor licence. In addition to the trading licence, all importers are required to register with the Customs and Excise Division of the Botswana Unified Revenue Service (BURS) and importers with an annual turnover of at least P 30,000 (in 2015) are required to obtain a Trader Identification Number (TIN) from Customs in order to facilitate the payment of taxes and the import procedures.<sup>2</sup> The use of clearing agents is not compulsory in Botswana.<sup>3</sup> There are no nationality restrictions to become a clearing agent; however, as to perform any other business clearing agents need to be licensed.

3.4. Botswana continues to use UNCTAD's Automated System for Customs Data (ASYCUDA), a risk-based inspection system, to clear customs. The customs declaration form is processed electronically but the supporting documents must be submitted in paper format.

3.5. Botswana operates a post-clearance audit system to verify import (and export) declarations. Nevertheless, imported goods, including those originating in any of the SACU countries, may be subject to inspection using a risk-based system, based on the importer's profile and profile of imports; the selectivity parameters are reviewed from time to time. Products are checked to ensure compliance with sanitary and technical requirements, and to enforce intellectual property rights (IPRs). Customs has the authority to stop any goods from entering Botswana if they do not comply with the country's SPS and TBT regulations or if they infringe IPRs. Goods infringing any of these requirements or IPRs may be placed under embargo, destroyed or otherwise disposed of. If after an investigation it is determined that there was no infringement, goods are returned to the importer. Customs performs inspections on behalf of, *inter alia*, the Departments for Animal Health and Protection, Water Affairs, Wildlife and National Parks and the Botswana Police Service.

3.6. Administrative decisions by Customs can be appealed in Court within three months of the decision. According to the authorities, there have not been many cases of such appeals. Since 2009 there have been three appeals to decisions taken by Customs mainly related to the searching of warehouses and the seizure of smuggled cigarettes.<sup>4</sup>

3.7. Schedule 8 of Botswana's Customs and Excise Duty Regulations stipulate the ports of entry and exit into the national territory. In general these entry (and exit) points can be used for any type of goods, with the exception of the airfields located in Orapa and Jwaneng, which can only be

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<sup>1</sup> Customs and Excise Duty Act, Amendment, Act 31, 2004; Customs and Excise Duty Regulations S.I. 127, 2004; S.I. 88, 2005; and S.I. 49, 2006.

<sup>2</sup> The amount of the annual turnover may be reviewed from time to time.

<sup>3</sup> Information provided by the authorities.

<sup>4</sup> Information provided by the authorities.

used for the importation (and exportation) of goods consigned (to) by the Orapa and Jwaneng mines from (or to) any place within or outside the Common Customs Area.<sup>5</sup>

3.8. Imported goods may be kept in licensed bonded warehouses for a period of up to five years. Such warehouses may be licensed either for the storage of goods (known as customs and excise storage warehouses) or for the manufacture of goods (known as customs and excise manufacturing warehouses); a warehouse may be licensed both as a storage and a manufacturing warehouse provided that both activities are separated.<sup>6</sup> Sorting, packing and/or repacking in a customs and excise storage warehouse may be allowed if such activities are required to preserve the goods, sell them locally or export them. Duties and the VAT will only become due and payable when goods are entered for home consumption. An appropriate bill of entry filled out in the prescribed manner must be used to clear goods from a bonded warehouse. Customs duties and sales tax could also be charged if, during any of the Customs' routine inspections, the stocks stored in a warehouse are found to be less or greater than the quantity allowed in such warehouses.

3.9. Botswana does not apply pre-shipment inspection.

### 3.1.2 Customs valuation

3.10. The Customs and Excise Duty Act and its Regulations, as amended, set the customs valuation procedures in Botswana. According to these Regulations, the value of imported goods at the time of entry for home consumption should be the transaction value. If the transaction value cannot be ascertained at the time of entry, the customs value will be assessed according to the WTO Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 and any of its Interpretative Notes.<sup>7</sup>

### 3.1.3 Rules of origin

3.11. Botswana applies non-preferential and preferential rules of origin.<sup>8</sup>

3.12. The non-preferential rules of origin indicate that goods are produced or manufactured in a particular territory if: (a) at least 25% of the production cost of the good is accounted for by materials originating and work performed in that territory; (b) the last process in the production or manufacturing has taken place in that territory; and (c) any other process as prescribed by the Minister of Industry and Trade has taken place in that territory. According to the authorities, the Minister has never used this faculty. The Minister may also, by regulation, increase or reduce the percentage of local content needed to determine origin in regard to any imported product from a particular territory.<sup>9</sup>

3.13. Preferential rules of origin are determined by the Southern Africa Development Community (SADC) and Botswana's bilateral trade agreements with Malawi and Zimbabwe. The general criteria to confer origin under SADC are: wholly produced goods, change in tariff heading, regional value content and substantial transformation. The SADC Trade Protocol also provides for specific rules of origin and for more lenient rules of origin for SADC least developed countries (LDCs) (i.e. Malawi, Mozambique, Tanzania and Zambia (MMTZ)) for textiles and garment products (HS Chapters 50–63) shipped to the Southern African Customs Union (SACU). The SADC Trade Protocol also allows for the *de minimis* rule, which provides relief when a product does not qualify

<sup>5</sup> Schedule 8 of the Customs and Excise Duty Regulations (28 March 1974, as amended). Viewed at: [http://www.burs.org.bw/phocadownload/Revenue\\_laws/CAP%2050-03%20Customs%20and%20Excise%20Duty%20Act%20Subsidiary%20Legislation.pdf](http://www.burs.org.bw/phocadownload/Revenue_laws/CAP%2050-03%20Customs%20and%20Excise%20Duty%20Act%20Subsidiary%20Legislation.pdf).

<sup>6</sup> Part IV of the Customs and Excise Duty Regulations, 1974 (S.I. 36 of 1974) (as amended up to S.I. 49 of 2006).

<sup>7</sup> Information provided by the authorities.

<sup>8</sup> Origin of Goods Customs and Excise Duty Regulations, 1974 (S.I. 36 of 1974) (as amended up to S.I. 49 of 2006).

<sup>9</sup> The authorities are not aware of any incidents or circumstances under which the Minister increased or reduced the percentage of local content.

as originating only because some non-originating material of little value fails to meet the minimum percentage in terms of value criteria.<sup>10</sup>

3.14. Under the Botswana-Malawi Trade Agreement, origin is granted only to goods wholly obtained and manufactured in either country, with the exception of spirits.<sup>11</sup>

### 3.1.4 Tariffs

3.15. Botswana applies the import duties stipulated by the SACU Agreement (please refer to the Main Report).

3.16. At the time of the Uruguay Round, Botswana bound its entire tariff schedule, with the exception of some agricultural goods, soda ash and small tractors, at the same levels as that of South Africa (Table A3.1). All tariff lines were bound at *ad valorem* rates. On 16 tariff lines, the 2015 MFN applied tariff rates appear to be higher than the bound rate (Table 3.1). Some of these are specific to Botswana; these relate to dairy products.

**Table 3.1 Tariff lines where the applied MFN rate might be higher than the bound rate, 2015**

Tariff code	Product descriptions	MFN applied rates		Bound rates (%)	
		Specific duty	AVE <sup>a</sup>		
			2014	2015	
<b>Specific to Botswana</b>					
04039010	Buttermilk, curdled milk and cream	450c/kg with a maximum of 96%	88.0	14.0	20.0
ex 04052000	Dairy spreads	500c/kg with a maximum of 79%	25.3	5.9	20.0
ex 04052000	Dairy spreads	500c/kg with a maximum of 79%	25.3	5.9	37.0
04029100	Milk and cream, not containing added sugar or other sweetening matter	450c/kg with a maximum of 96%	14.0	24.0	20.0
04029910	Milk and cream, in aerosol containers	450c/kg with a maximum of 96%	96.0 <sup>b</sup>	96.0 <sup>b</sup>	20.0
04029990	Milk and cream, other than in aerosol containers	450c/kg with a maximum of 96%	96.0 <sup>b</sup>	96.0 <sup>b</sup>	20.0
04069011	Cheddar, imported from Switzerland	500c/kg with a maximum of 95%	95.0 <sup>b</sup>	95.0 <sup>b</sup>	20.0
<b>Botswana (and Namibia, South Africa and Swaziland)</b>					
12119020	Basil, borage, hyssop, mint, rosemary, rue and sage, neither ground nor crushed	0.45c/kg	0.01	0.01	0.0
12119030	Basil, borage, hyssop, mint, rosemary, rue and sage, ground or crushed	4c/kg	0.2	0.1	0.0
ex 16010090	Sausages and similar products, of meat (other than pâté de foie gras and foie gras)	40% or 240c/kg	40.0	40.0	37.0
ex 16010090	Sausages and similar products, of meat (other than pâté de foie gras and foie gras)	40% or 240c/kg	40.0	40.0	60.0
19059010	Gluten bread	3.6c/kg with a maximum of 25%	0.1	0.1	0.0
20060040	Sweet corn ( <i>zea mays var. saccharata</i> )	30% or 7.25c/kg	30.0	30.0 <sup>b</sup>	22.0
22021010	Waters, containing added sugar or other sweetening matter or flavoured, in sealed containers holding 2.5 l or less	4.36c/l	0.4	0.4	0.0

<sup>10</sup> Rules of Origin Exporters Guide Manual. Viewed at: [http://www.sadc.int/files/9613/5413/6410/3\\_Rules\\_of\\_Origin\\_Exporters\\_Guide\\_Manual.pdf](http://www.sadc.int/files/9613/5413/6410/3_Rules_of_Origin_Exporters_Guide_Manual.pdf).

<sup>11</sup> Online information. Viewed at: <http://www.mitc.mw/index.php?Itemid=530>.

Tariff code	Product descriptions	MFN applied rates			Bound rates (%)
		Specific duty	AVE <sup>a</sup>		
			2014	2015	
22021090	Waters, containing added sugar or other sweetening matter or flavoured, in sealed containers holding more than 2.5 l	3.3c/l	0.5	0.7	0.0
ex 73202010	Helical springs	30.0	n.a.	n.a.	15.0
ex 73202010	Helical springs	30.0	n.a.	n.a.	30.0
ex 84212330	Oil or petrol-filters for internal combustion engines	16.0	n.a.	n.a.	15.0
ex 84212330	Oil or petrol-filters for internal combustion engines	16.0	n.a.	n.a.	30.0
84501290	Other machines, with built-in centrifugal drier	30.0	n.a.	n.a.	20.0
84502010	Household or laundry-type washing machines	30.0	n.a.	n.a.	0.0
85285190	Other monitors, of a kind solely or principally used in an automatic data processing system	25.0	n.a.	n.a.	0.0

n.a. Not applicable.

a *Ad valorem* equivalents (AVEs) for 2014 and 2015 were estimated based on South Africa's data on imports for 2013 and 2014 at the HS 8-digit level. Where trade data was not available (i.e. for tariff lines HS 04029910, HS 04029990, HS 04069011 and HS 20060040), only the *ad valorem* part of the mixed duty rates was used.

b The *ad valorem* part is used for mixed duty rates if no AVEs are estimated.

Source: WTO Secretariat calculations based on tariff information from the South African Revenue Service (SARS); and WTO, CTS database.

3.17. Botswana does not apply MFN tariff rate quotas. However, under the EFTA-SACU Agreement preferential tariff rate quotas apply to some meats and cheddar cheese originating in Switzerland. According to the authorities, Botswana has never administered any tariff rate quotas under this agreement.

#### 3.1.4.1 Other duties and charges

3.18. Imports into Botswana are subject to the excise duties and levies that are imposed as a result of being party to the Customs Union. These include: specific excise duties on locally manufactured or imported goods; *ad valorem* excise duties on locally manufactured or imported goods; environmental levies; fuel levy; road accident fund levy and ordinary levy (please refer to the Main Report).<sup>12</sup>

3.19. Article 26 of the SACU Agreement allows members to provide temporary protection to infant industries for a maximum of 8 years, through the imposition of additional duties. Revenues from these additional duties must be deposited in the Common Revenue Pool. Under this provision, Botswana has levied an additional duty of 40% on imports of UHT milk since 2008, which will be eliminated by 2016.<sup>13</sup>

3.20. Botswana also charges a flour levy at a rate of 15% on imports of wheat flour to protect the milling industry in order to promote its development.<sup>14</sup> The levy will be gradually phased-out over a period of ten years starting in 2015.<sup>15</sup>

<sup>12</sup> Schedules to the Customs and Excise Act, 1964 (Tariff Book). Viewed at: <http://www.sars.gov.za/Legal/Primary-Legislation/Pages/Schedules-to-the-Customs-and-Excise-Act.aspx>.

<sup>13</sup> Information provided by the authorities.

<sup>14</sup> This levy is imposed as per the authority granted to the Minister of Trade by The Control of Goods, Prices and Other Charges Act.

<sup>15</sup> Information provided by the authorities.

3.21. The internal taxes levied by Botswana on imports and domestic goods and services remain mostly unchanged since the last Review in 2009. These are: the value-added tax, fuel levy, alcohol levy, and a copyright levy. In 2013, Botswana introduced a tobacco levy.

3.22. VAT is applied both on domestic and imported goods and services, including from other SACU members. The major changes regarding the application of VAT since the last Review were: an increase in the standard rate from 10% to 12% in 2010, and the removal of some food items from the list of items that were zero-rated and their inclusion in the list of goods that are exempt.<sup>16</sup> Up to 2014, zero-rate VAT goods included: staple foods (brown bread, rice, milk, sorghum or maize meal, millet grain and meal, wheat grain, maize cobs, flour, sugar, Setswana beans, and some vegetables and fruits); fuel (petrol, unleaded petrol, diesel oil and illuminating paraffin); fertilizers, pesticides, and farming tractors; and international transport services.<sup>17</sup> Domestic passenger transport services; financial, educational and medical services; long-term residential letting; and the supply of prescription drugs are amongst the services that are exempt from VAT.<sup>18</sup> In addition, since 2015: staple foods and farming equipment, have been exempt from VAT.<sup>19</sup>

3.23. Imports and domestic sales of petroleum products (i.e. petrol and diesel) are subject to a fuel levy of P 0.12 per litre of petrol and P 0.07 per litre of diesel.<sup>20</sup> The levy is collected at point of entry and finances the National Petroleum Fund (NPF) that is used to stabilize the price of oil products in the domestic market.

3.24. Domestically produced and imported liquor are subject to a levy of 30% which was increased to 50% in 2013 and to 55% in 2014.<sup>21</sup> The value used to assess the intoxicating liquor levy for locally produced items is the price paid or payable for the alcoholic beverages when sold for home consumption to any buyer, inclusive of the import duty but exclusive of VAT; and for imported items, it is the value used to assess customs duties plus the duty paid or payable on the goods transport and insurance costs, exclusive of VAT. Revenue from this levy is credited to the Levy on Alcoholic Beverages Fund to promote activities aimed at combating alcohol abuse. The levy is not charged on products that are exported directly by the manufacturer or from a bonded warehouse.

3.25. The Ministry of Health introduced a tobacco levy of 30% in 2014. The base to calculate the levy on domestically produced tobacco products is the purchase/invoice price and for imported products it is the landed cost plus the applied import duty. The revenue collected is used to finance anti-tobacco initiatives and other related activities.<sup>22</sup>

3.26. Botswana charges a copyright levy on imported and locally manufactured carrier media.

#### 3.1.4.2 Tariff and tax exemptions

3.27. The 2002 SACU Agreement stipulates that all members need to apply the same rebates<sup>23</sup>, refunds<sup>24</sup> or drawbacks<sup>25</sup> of customs duties on imported goods. There are, however, some

<sup>16</sup> Value Added Tax (Amendment) Act, 2015 and Value Added Tax (Exemption) Regulations. Viewed at: <http://www.burs.org.bw/index.php/tax/value-added-tax>.

<sup>17</sup> First Schedule Zero-Rated Supplies (Chapter 50:03 Value Added Tax).

<sup>18</sup> Second Schedule Exempt Supplies (Chapter 50:03 Value Added Tax).

<sup>19</sup> 2014 Budget Speech. Viewed at:

<http://www.parliament.gov.bw/phocadownload/ContentArchives/Budget-Speech/2014budgetspeech.pdf>.

<sup>20</sup> Information provided by the authorities.

<sup>21</sup> Goods subject to the intoxicating liquor levy are: traditional African beer powder, beer made from malt, wine of fresh grapes, including fortified wines; vermouth and other wine of fresh grapes flavoured with plants or aromatic substances; other fermented beverages; mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included; undenatured ethyl alcohol of 80% volume or higher; ethyl alcohol and other spirits, denatured, of any strength; undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% volume; spirited liqueurs and other spirituous beverages; and compound alcoholic preparation of a kind used for manufacturing beverages. (Control of Goods (Intoxicating Liquor (Levy)) Regulations (section 3(2)(d)) (31 October 2008) and Statutory Instrument No. 151 of 2014)

<sup>22</sup> Online information. Viewed at: <http://www.gov.bw/en/Ministries--Authorities/Ministries/MinistryofHealth-MOH/News/TOBACCO-LEVY/>.

<sup>23</sup> Part of the duty or all of the duty is reduced or remitted subject to compliance with certain conditions.

<sup>24</sup> Repayment of all or part of the duty paid at the time of importation.

country-specific rebates. In general, Botswana applies the tariff exemptions and other concessions that are stipulated in the Schedules to the Customs and Excise Act of 1964, which are: the Industrial Rebate of Customs Duty; the General Rebate of Custom Duties; the Specific Drawbacks and Refunds of Custom Duties; Fuel levy and Environmental Levy; and Refunds and Rebates of Excise Duties, Fuel Levy and Environmental Levy<sup>26</sup> (Main Report). Other country-specific rebates are those for wheat (HS1011) (excluding durum wheat) and dairy products (HS 04), which are used only by Botswana, Lesotho, Namibia, and Swaziland (BLNS). However, the use of these rebates has to be allowed by the agricultural authorities of the four BLNS countries.

3.28. Concessions applied by SACU countries (including Botswana) include rebates that affect specific industries and those that are more general and apply to imports by diplomats (based on reciprocal treatment), special events such as international exhibitions, relief in cases of natural disasters and famines, and to goods being re-imported into Botswana or goods sent abroad for processing or repair that are re-imported.<sup>27</sup> Industrial rebates (Schedule 3) are available to stimulate selected industries such as: food and beverages; textile and clothing; pharmaceuticals; pulp and paper; wood and articles of wood; and vehicles. These rebates allow for imported raw materials, usually not available locally, to enter the SACU territory, at a reduced rate of duty, if they are to be used in one of the specific scheduled industries. The rate of the rebate varies according to product; however, in many instances it is as high as 100%. Rebated inputs can be used either to manufacture products to be sold in the SACU market, upon payment of duties, or for export outside the SACU region. According to the authorities, during the period under review only two firms in the textile industry benefited from industrial rebates. All duly registered and licensed businesses may benefit from the existing rebates.<sup>28</sup>

3.29. Goods imported for a specific purpose or under different customs regimes may also be exempt from VAT. As a result, goods imported, *inter alia*, (1) for the relief of distress of persons in cases of famine or other natural disaster; (2) under any technical assistance agreement; (3) to fulfil obligations under any multilateral international agreement to which Botswana is a party; or (4) for welfare or charitable purposes, are exempt from VAT.<sup>29</sup> In addition, imported or locally manufactured articles sent abroad for processing or repair, provided they retain their essential character, and are returned to the same exporter, are exempt from VAT. Goods that are temporarily exported for outward processing are also exempt from VAT when re-imported and so are goods temporarily admitted for processing, repair, cleaning or reconditioning or to be exported in the same state at a later stage.

### 3.1.5 Import prohibitions, restrictions, and licensing

3.30. Imports may also be subject to non-tariff barriers including prohibitions, permits and quotas, imposed on grounds of, *inter alia*, health, safety, morality or security, but also for self-sufficiency reasons and to comply with requirements imposed by agreements to which Botswana is a signatory or to comply with UN resolutions. In fact, the Minister may by regulation prohibit or restrict the importation of any goods, if he or she considers any such prohibition or restriction necessary for public interest.<sup>30</sup>

<sup>25</sup> Part or all of the duty paid on the imported goods is refunded to the importer once the imported goods are used to manufacture a product that is exported out of the customs union.

<sup>26</sup> Schedules to the Customs and Excise Act, 1964 (Tariff Book). Viewed at: <http://www.sars.gov.za/Legal/Primary-Legislation/Pages/Schedules-to-the-Customs-and-Excise-Act.aspx>.

<sup>27</sup> The authorities indicated that during the period under review the most commonly used rebates were under Schedule 4 of the Customs and Excise Tariff Book namely for the following tariff headings: 405.00 (exemptions for cultural items), 406.00 (exemptions for diplomatic use), 408.00 (exemptions for trophies), 409.00 (exemptions for re-imported goods), 410.00 (exemptions for goods used for industrial and commercial purposes), 412.00 (general rebates), 414.00 (imported goods for special sporting events), 460.00 (temporary rebates apply to several goods), 470.00 (goods that are temporarily admitted for repair), 480.00 (goods that are temporarily admitted for specific purposes), and 490.00 (goods temporarily admitted subject to exportation).

<sup>28</sup> Information provided by the authorities.

<sup>29</sup> For the complete list of imports exempt from VAT please refer to the Third Schedule (Exempt Imports) of Chapter 50:03 (Value Added Tax).

<sup>30</sup> Prohibitions and restrictions, Chapter 50:01, Customs and Excise Duty.

3.31. Import prohibitions apply to such goods as narcotic drugs, obscene material, and environmentally hazardous products, such as toxic or radioactive waste, mainly to protect health, safety and morality. Imports of semi-precious stones and certain plants are also prohibited.<sup>31</sup>

3.32. Imports of several agricultural products require a permit, unless imported in small quantities (e.g. 10 kg to 25 kg) (Table 3.2). These import permits are required to promote local production of basic products. Occasionally, Botswana links the use of trade policy instruments to domestic policy considerations. For instance, import restrictions are relaxed when there are supply shortages and vice-versa. As a result, in some cases (e.g. horticultural products) permits might not be granted when the domestic supply is deemed sufficient, which results in a ban on imports.<sup>32</sup> According to the authorities, this ban lasts for a pre-determined period which is publicly communicated by the Ministry of Agriculture.

3.33. Import permits for other agricultural goods seem to be issued at all times<sup>33</sup>, but are only authorized if the applicant submits proof that a specific amount has already been purchased in Botswana. This is the case for imports of maize grain, of which 30% must be purchased locally; maize meal, samp, maize rice or animal feed for poultry and livestock, of which 70% must be purchased locally; and sorghum grains (50%) and sorghum meal, sorghum rice or any other processed sorghum products (70%).<sup>34</sup> Imports of agricultural products also require sanitary and phytosanitary clearance prior to obtaining the permit; both are obtained from the Ministry of Agriculture. Unless cancelled or revoked, import permits for dried grains and grains products are valid for 1 month, while permits for horticultural products are valid for 7 days from the date of issuance and may be renewed; however, when renewing an import permit, the Ministry may vary the conditions attached to it and may impose additional conditions. Import permits cannot be transferred nor sold.<sup>35</sup>

**Table 3.2 Import restrictions**

Products	Type of restriction/objective	Legal instrument
Animal feed for poultry and livestock; bananas; beetroot; butternuts; cabbage; carrots; fresh milk; green pepper; maize; maize products; mangoes; onions; oranges; potatoes; pulses; pumpkin; sorghum; sorghum products; sweet potatoes; tomatoes; water melon; wheat and wheat flour	Import permit/food security	Control of Goods (Import and Export of Agricultural Products) Regulations (under section 3) (25 November 1985) First Schedule Restricted Agricultural Imports (reg. 3(1)) Control of Goods (Restriction on Importation of Wheat Flour) Regulations (under section 3) (29 March 1985) Control of Goods (Import Control) Regulations (under section 3) (3 April 1987)
Eggs and poultry Meat	Import permit/food security	Control of Goods (Importation of Eggs and Poultry Meat) Regulations (under section 3) (7 December 1979)
Sugar	Import permit/food security	Control of Goods, Prices and Other Charges (Restriction on Importation of Pre-packed Refined Sugar) Regulations, 2008
Pre-packed refined sugar	Import permit/food security	Control of Goods, Prices and Other Charges (Restriction on Importation Of Pre-packed Refined Sugar) Regulations (section 3) (1 March 2006)
Bread loaves and pie pastries	Import permit/food security	Control of Goods, Prices and Other Charges (Restriction on the Importation of Bread Loaves and Pie Pastries) Regulations (under section 3) (14 October 2003)

<sup>31</sup> These include: agate, amethyst, Botswana pink, jade, rose quartz, carnelian, chalcedony, crystal quartz, tourmaline, jasper, tanzanite, garnet, moss agate, tiger's eye, sodalite, aquamarine, azurite and malachite. (Online information. Viewed at: <https://botswana.visahq.com/customs/#!/import-regulations>.) The First Schedule of the Plant Protection Regulations lists all plants that are prohibited from importation.

<sup>32</sup> Control of Goods, Prices and Other Charges (Restriction on the Importation of Bread Loaves and Pie Pastries) (Import and Export of Agricultural Products) Regulations (under section 3) (14 October, 2003).

<sup>33</sup> Control of Goods (Import and Export of Agricultural Products) Regulations.

<sup>34</sup> Control of Goods (Import Control) Regulations (under section 3) (3 April 1987).

<sup>35</sup> Control of Goods (Import Control) Regulations (under section 3) (3 April 1987).

Products	Type of restriction/objective	Legal instrument
Hormones and oestrogens, anabolic steroids, zeranol (resorcylic acid lactones), antibiotic feed additives and animal feed containing antibiotics, and all other products used for the purpose of growth promotion in animals	Import permit/health	Control of Goods (Animal Feed Additives and Growth Promoters) Regulations (under section 3) (12 August 1977)
Firearms and ammunition	Import permit/security reasons	Arms and Ammunition Act
Boats	Import permit/security reasons	Fish Protection Act
Second-hand goods motor vehicles and clothing	Import permit/environmental and health reasons	Control of Goods, Prices and Other Charges Act (goods refer to both new and second-hand)
Cigarettes with a mass of more than 2 kg per 1,000 cigarettes are prohibited	Import prohibition/health	Prohibitions and restrictions, Chapter 50:01, Customs and Excise Duty

Source: WTO Secretariat.

3.34. In addition to the import permit, milk imports, including from other SACU members, were also subject to import quotas established on a quarterly basis by a Milk Importation Committee comprising producers and processors. According to the authorities, these quotas were removed in 2011.

3.35. Up to 2008, imports of sugar, except for a maximum of 12.5 kg for personal consumption, could only be undertaken by the Botswana Development Corporation, which held a monopoly up to 2008.<sup>36</sup> Since then imports of sugar have been allowed in quantities higher than 50 kg.<sup>37</sup>

3.36. Import permits are generally required for imports of industrial products originating outside SACU, with the exception of goods originating in Malawi and Zimbabwe. Permits are issued by the Ministry of Trade and Industry, in order to, *inter alia*, promote the development of an industry<sup>38</sup> (Chart 3.1).<sup>39</sup> Industries are chosen according to Botswana's industrial development priorities and the SADC Industrial Strategy.

3.37. Applications for an import permit for industrial goods are made to the Ministry of Trade and Industry. To apply for a permit, the person needs to: hold a valid traders licence; be a citizen of Botswana or hold a resident permit authorizing him or her to carry on business in Botswana; or be a company registered and carrying on business in Botswana. The application must be accompanied by proof of payment of the required fee (i.e. P 50 for processed goods and P 100 for bread loaves and pie pastries).<sup>40</sup> Unless cancelled or revoked, import permits for industrial products are valid for a period of 6 months; however, when renewing an import permit, the Ministry may vary the conditions attached to it and may impose additional conditions. Import permits cannot be transferred nor sold.<sup>41</sup>

<sup>36</sup> Control of Goods (Importation of Sugar) Regulations (under section 3) (1 January 1985).

<sup>37</sup> Control of Goods, Prices and Other Charges (Restriction on Importation of Pre-packed Refined Sugar) Regulations, 2008 and Statutory Instrument No. 86 of 2008 Restriction on the Importation of Pre-packed Refined Sugar.

<sup>38</sup> Control of Goods, Prices and Other Charges Act.

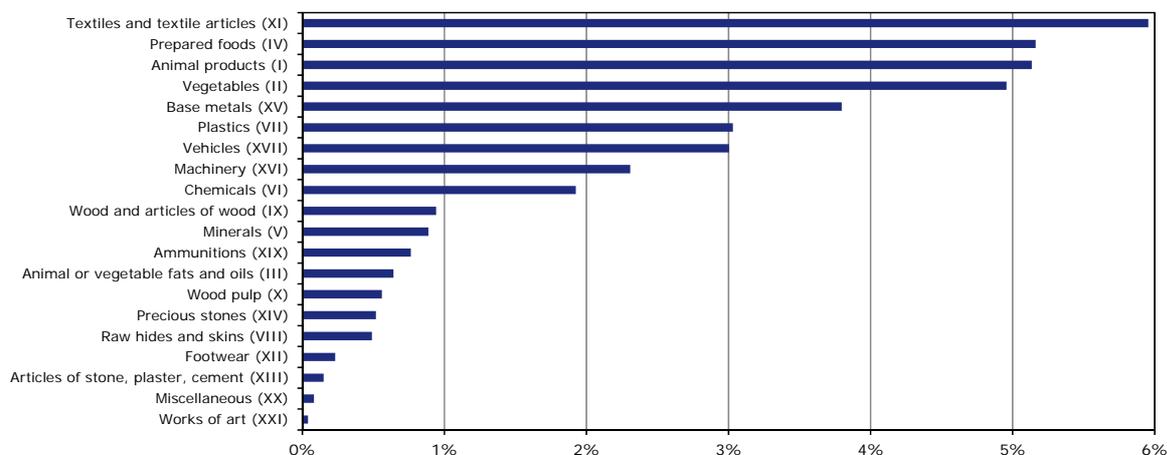
<sup>39</sup> Information provided by the authorities.

<sup>40</sup> Control of Goods (Import Control) Regulations (under section 3) (3 April 1987).

<sup>41</sup> Control of Goods (Import Control) Regulations (under section 3) (3 April 1987).

**Chart 3.1 Import control by HS section**

(% of total lines)



Note: The 2014 tariff is based on HS 12 nomenclature consisting of 7,322 tariff lines (at 8-digit tariff line level).

Source: WTO Secretariat estimates, based on Schedule 1 of the Control of Goods (Import Control) Regulations (under section 3).

### 3.1.6 Anti-dumping, countervailing, and safeguard measures

3.38. As a result of its SACU membership, Botswana must apply anti-dumping, countervailing or safeguard measures resulting from investigations conducted by the International Trade Administration Commission (ITAC) of South Africa on behalf of Botswana and the other SACU members. In 2010, Botswana notified to the WTO that it had not established an authority competent to initiate and conduct investigations to impose anti-dumping or countervailing measures.<sup>42</sup> However, in 2013, Botswana enacted the Botswana Trade Commission Act, 2013, which calls for the establishment of the Botswana Trade Commission (BTC), which will be responsible for amongst others, trade remedies.

3.39. According to Botswana's legislation, if the Minister of Trade and Industry deems that a country: (a) has imposed on any goods originating in Botswana any duty, charge or restriction which is not imposed upon like goods produced or manufactured in other countries; or (b) has discriminated against goods originating in Botswana in such manner as to place them at a disadvantage in comparison with goods that originate in a third territory, the Minister may impose additional duties on goods originating from that country.<sup>43</sup> Under any of these circumstances, the Minister of Trade and Industry can ask ITAC to undertake an investigation on behalf of Botswana. However, once the Botswana Trade Commission is established, it will undertake the investigations.

3.40. During 2009-14, Botswana did not invoke the special agricultural safeguard.<sup>44</sup>

### 3.1.7 Standards and other technical requirements

3.41. Standards and technical regulations are developed in accordance with the Standards Act No. 16 of 1995 (Chapter 43:07) following, as far as possible, internationally accepted standards and quality control procedures. Standards and technical regulations are applied to ensure the protection of human, animal and plant life and health, and are not intended to be overly burdensome or to restrict trade.<sup>45</sup>

<sup>42</sup> WTO documents G/ADP/N/193/BWA, 19 April 2010 and G/SCM/N/202/BWA, 25 January 2010.

<sup>43</sup> Discrimination by other countries, Customs and Excise Duty Regulations, 1974 (S.I. 36 of 1974) (as amended up to S.I. 49 of 2006).

<sup>44</sup> WTO documents G/AG/N/BWA/8, 14 July 2010; G/AG/N/BWA/12, 6 March 2012; G/AG/N/BWA/15, 28 August 2012; G/AG/N/BWA/18, 13 February 2014; and G/AG/N/BWA/21, 9 December 2014.

<sup>45</sup> Ministry of Trade and Industry (2009).

3.42. The Botswana Bureau of Standards (BOBS) is responsible for developing standards and coordinating quality assurance activities. BOBS is the national enquiry point under the WTO TBT Agreement and the national notification authority.<sup>46</sup>

3.43. Botswana standards are based on standards developed by other national, regional and/or international standardization bodies, and are adopted as they are or adapted to Botswana's cultural, climatic, industrial or economic environment. According to the authorities, there were no major changes related to the process of standardization in Botswana during the period under review. Standards are developed in seven stages: identification of the need, proposal, drafting, technical committee review, public comment (validation), approval, and publication in the Standards Catalogue.<sup>47</sup> Standardization projects are initiated through requests from interested parties, which include: members of the technical committees, government departments, industrial groups, research institutes, and consumer or professional bodies. Draft standards are reviewed by the technical committees and circulated for public comment for 2 months. Once comments are incorporated, the draft standard is sent to the Technical Advisory Committee for approval. Standards are reviewed on a regular basis every five years to detect whether it is necessary to adapt them to new realities. Following the review, a standard may be confirmed without change, go forward for revision or be withdrawn.<sup>48</sup>

3.44. Technical regulations usually apply to products and services that are likely to affect the health and safety of people and animals, and the environment.<sup>49</sup> According to the authorities, the procedures to develop standards and technical regulations are the same. However, for a standard to become a technical regulation a notice has to be issued in the Gazette and thereafter needs to be mentioned in the Standards (Import Inspection) Regulations (SIIR), which are updated as required when new technical regulations come into force. Any standard can be declared a "compulsory standard", either in the original notice or in a subsequent notice. In this case, at least 2 months before making a recommendation for a standard to become "compulsory", BOBS must publish a preliminary notice in the Gazette setting forth as precisely as possible the details of the "compulsory standard", and inviting those interested to comment within a month of the publication of the preliminary notice.

3.45. BOBS is in charge of implementing the Standards (Import Inspection) Regulations (SIIR) of 2008 (last amended in 2013). The main purpose of the Regulations is to control the quality of the prescribed imports as listed in the regulations. Imports of all commodities listed in the SIIR, referred to as regulated products, must comply with the required specifications and require certificates of compliance from the country of origin. Some of the products that are subject to import inspection under the SIIR include: electrical plugs, adaptors, socket outlets, electric irons, milk (raw and pasteurized), yoghurt, pulses, canned fish, cattle feeds and chicken feeds.<sup>50</sup> If upon arrival to Botswana, these goods do not have a certificate of compliance, they will not be allowed to enter until samples have been tested by BOBS to ascertain their quality or compliance with the requirements. Once tested, if products are found to be non-compliant with the relevant technical requirements referred to in the SIIR, the product might be re-exported or disposed of in Botswana. BOBS may revoke a certificate issued under the SIIR where subsequent testing of a product which has already been released into the market reveals that the quality of the product does not meet the relevant prescribed "compulsory" standard.

3.46. Botswana has inspectors that undertake regular checks to ensure technical regulations are complied with. Violations of "compulsory standards" are liable to a fine of P 5,000 and imprisonment of three years.

3.47. Botswana's conformity assessment infrastructure continues to be limited: there are 5 accredited testing laboratories in Botswana. BOBS has submitted applications for accreditation of

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<sup>46</sup> WTO document G/TBT/2/Add.97, 30 October 2007.

<sup>47</sup> The Standards Catalogue is available online at: <http://www.bobstandards.bw/Pages/Published-Standards.aspx?mnusub=23&pid=18&mp=0&sp=18>.

<sup>48</sup> The list of withdrawn standards is available online at: <http://www.bobstandards.bw/Pages/Withdrawn-Standards.aspx?mnusub=26&pid=18&mp=0&sp=18>.

<sup>49</sup> The list of the technical regulations applied at present is available online at: <http://www.bobstandards.bw/Pages/Prescribed-Standards.aspx?mnusub=27&pid=18&mp=0&sp=18>.

<sup>50</sup> The list of regulated products is available online at: <http://www.bobstandards.bw/Pages/Regulated-Products.aspx?mnusub=53&pid=46&services=bob&sp=46>.

17 test methods. Botswana recognizes foreign test results from accredited testing laboratories. Botswana has not signed any mutual recognition agreements.

3.48. Botswana has several laws and regulations prescribing labelling requirements (Table 3.3). Requirements stipulated in these laws are mandatory. Provisions apply to both locally produced and imported goods and affect mainly pre-packaged foods, food additives, and tobacco and cigarettes. BOBS also stipulates general requirements regarding labelling, presentation and advertising of goods for sale.

**Table 3.3 Botswana labelling legislation, 2014**

Legislation
Customs and Excise Duty Regulations, 1974 (as amended)
Standards (Import Inspection) Regulations (SIIR), 2003 (as amended)
Labelling Control of Goods (Marking of Goods) Regulations, 1974
Labelling of Prepackaged Foods Regulations
Labelling of Food Additives Regulations

Source: WTO Secretariat.

3.49. In general, food products have to be clearly marked and labelled, including price, content, name and address of manufacturer, country of origin, lot identification, date marking of food additives, and instructions on keeping and use. The presentation, the language and the size of the letters of the labels are also prescribed by legislation. The importation, distribution, or sale of food that is not marked and labelled as prescribed by law is considered an offence liable to fines of P 1,000 to P 7,000 and to imprisonment for 3 to 6 months, depending if it is the first offence or a subsequent offence.

3.50. There are special provisions regarding sizes and types of containers which may be used by a manufacturer for the packing of cigarettes and cigarette tobacco.<sup>51</sup> Imports of cigarettes are not allowed unless they have been packed in the prescribed manner and a stamp impression has been made on their containers.

### 3.1.8 Sanitary and phytosanitary requirements

3.51. The institutions in charge of adopting and implementing sanitary and phytosanitary regulations have remained largely unchanged since the previous Review. The Ministry of Agriculture (through the Departments of Crop Production and Veterinary Services) is responsible for adopting and implementing sanitary and phytosanitary measures. The Ministry of Health continues to be responsible for food safety and is advised by the National Food Control Board.<sup>52</sup> The Board comprises government officials from a number of ministries, including the Ministries of Health, Agriculture, and Commerce and Industry, as well as, other stakeholders representing the BOBS, the food industry and consumers.

3.52. The Ministry of Agriculture is the national enquiry point and notification authority on SPS matters.<sup>53</sup> During the period under review, Botswana did not make any notifications regarding the adoption of SPS measures, nor was it able to actively participate in the WTO SPS Committee. According to the authorities this is due to Botswana's lack of capacity in this area. Nevertheless Botswana recognizes the importance of protecting human, animal and plant health, thus it has a vast body of legislation (Table 3.4). The proper enforcement of these laws and the implementation of practices aimed at improving sanitary conditions in the country are necessary for Botswana to attain food security, one of their main goals, as well as to take full advantage of international trade opportunities, especially as an exporter of meat products. In this regard, one of Botswana's major achievements since the previous Review has been that in 2013 certain zones were declared free of foot-and-mouth disease (FMD) by the OIE.<sup>54</sup>

<sup>51</sup> Customs and Excise Duty Regulations, 1974 (S.I. 36 of 1974) (as amended up to S.I. 49 of 2006).

Viewed at: <http://www.wipo.int/edocs/lexdocs/laws/en/bw/bw020en.pdf>.

<sup>52</sup> Food Control Act of 1993.

<sup>53</sup> Information provided by the authorities.

<sup>54</sup> Information provided by the authorities.

Table 3.4 SPS legislation

Legislation
<p><b>Plant Protection Act (Chapter 35:02)</b> An Act to prevent the introduction, spread and establishment of plant pests; to facilitate trade in plants; to enable Botswana to comply with its international obligations; and to provide for matters incidental thereto. Plant Protection Regulations (section 29) - 17 July 2009</p>
<p><b>Diseases of Animals Act (Chapter 37:01)</b> An Act to provide for the prevention and control of diseases of animals; to regulate imports, exports and movement of animals; to provide for the quarantine of animals in certain circumstances; and to provide for matters incidental to and connected with the foregoing. Diseases of Stock (Quarantine and Compensation) Regulations (Chapter 37:01) - 31 December 2008 Diseases of Stock (Poultry) Regulations (Chapter 37:01) - 31 December 2008 Movement of Stock (Restriction) Order (Chapter 37:01) - 01 January 1976 Foot-and-Mouth Disease (Conveyance of Products) Order (Chapter 37:01) - 31 December 2008 Disease of Stock Regulations (Chapter 37:01) - 31 December 2008 Stock Diseases (Semen) Regulations (Chapter 37:01) - 31 December 2008 Declaration of Foot and Mouth Disease (Infected Area) Order (S.I. No. 3 of 2003) Diseases of Animals (Livestock Identification and Trace-back) Regulations (Chapter 37:01) - 31 December 2008 Diseases of Animals (Prohibition of use of Anabolic Hormones and Thyrostatic Substances) Regulations (Chapter 37:01) - 31 December 2008 Diseases of Animals (BSE Control (Removal of Specified Risk Material)) Regulations (Chapter 37:01) - 31 December 2008 Diseases of Animals (Declaration of Stock-Free Zones) Order (Chapter 37:01) - 31 December 2008 Diseases of Animals (Muzzling) Order (Chapter 37:01) - 31 December 2008 Diseases of Animals (Stock Feed) Regulations (Chapter 37:01) - 31 December 2008 Prohibition of Sale of Imported Cattle to the Botswana Meat Commission for Export to the European Union Regulations (Chapter 37:01) - 31 December 2008 Diseases of Animals (Inoculation) Order (Chapter 37:01) - 31 December 2008</p>
<p><b>Livestock and Meat Industries Act (Chapter 36:03)</b> An Act to re-enact, with some amendments, the Livestock and Meat Industries Act, to regulate the slaughter of domestic livestock, farmed game, wild game and poultry for human consumption; to control the operation of abattoirs, slaughter slabs, cold storage facilities, meat processing plants, cutting premises, canning plants; and to govern marketing, grading and inspection of livestock, livestock products and other matters related thereto. This Act prohibits the operation of an abattoir unless the abattoir is registered with the Director of the Department of Animal Health and Production. Livestock and Meat Industries (Meat Inspection and Control of Red Meat Abattoir) Regulations (Chapter 36:03) Livestock and Meat Industries (Poultry Abattoir) Regulations (Chapter 36:03) Grading of Carcasses Regulations (Chapter 36:03) Livestock and Meat Industries (Producers' Agents) Regulations</p>
<p><b>Veterinary Surgeons Act (Chapter 61:04)</b> An Act to provide for the registration and control of veterinary surgeons and for other matters incidental thereto and connected with the practice of veterinary surgery and veterinary medicine.</p>
<p><b>Importation of Bees Act (Chapter 49:02)</b> An Act to prevent the introduction of the disease amongst bees known as "foul brood". This Act introduces measures to prevent the spreading of a disease affecting bees. It prohibits the importation of bees without the written permission of the President and the importation of specified material relating to bees altogether. The Act sets out powers of authorized officers in relation with inspection of consignments, apiaries or places where honey or beeswax is sold and defines the regulation-making powers of the President.</p>
<p><b>Food Control Act (Chapter 65:05)</b> To ensure the provision of clean, safe, and wholesome food to consumers. This Act makes provision for the establishment of the National Food Control Board and provides for the control of the supply of wholesome food and pure water to the public. The National Food Control Board shall advise the Minister on food quality and food safety and shall perform such other functions as may be assigned by the Act. The Minister shall appoint public analysts for purposes of this Act and local administration councils shall appoint authorized officers. The Act further contains provisions relative to warranties regarding the quality of food to be given by food producers or distributors, the duty of an authorized officer to guarantee the supply of clean water to the public, the suitability of premises used for food, and the regulation-making powers of the Minister. The Act also defines offences in relation to food production and distribution.</p>
<p>Labelling of Food Additives Regulations (Chapter 65:05) Labelling of Prepackaged Foods Regulations (Chapter 65:05) Marketing of Foods for Infants and Young Children Regulations (Chapter 65:05)</p>
<p><b>Public Health Act (Chapter 63:01)</b> An Act to make the notification of certain diseases compulsory and to control such diseases; makes provision regarding diseases subject to the International Health Regulations; prevents the introduction of diseases into Botswana; regulates sanitation and housing; provides for the protection of foodstuffs and of water supplies; and generally makes provision for public health.</p>

Source: FAO online information. Viewed at: <http://www.fao.org/countryprofiles/index/en/?iso3=BWA>.

3.53. The Plant Protection Act (Chapter 35:02) and its regulations stipulate provisions to contain and eradicate plant diseases and pests in Botswana and to prevent them from entering the country. According to the Act, phytosanitary measures applied by Botswana are based on international standards or on a pest risk analysis. The First Schedule of the Act lists all pests subject to quarantine requirements in Botswana. In addition, Botswana designates certain places as plant quarantine stations, where plants or plant products may be kept for phytosanitary observation, research, inspection, testing, treatment, detention or destruction; and requires that imported material be kept or cultivated at a plant quarantine station or any other location, and kept under supervision for as long as it deems necessary. The owner or user of any land or premises, who knows or suspects of a pest subject to quarantine, should notify the authorities. If the existence of a pest can be determined the premises will be quarantined and, where necessary, infected plants will be destroyed if treatment has failed.

3.54. In order to protect plant health, imports of plants and other plant-related material require an import permit and the importation of some plant products is prohibited.<sup>55</sup> Import permits are issued by the Division of Plant Protection under the Department of Crop Production. Efforts to establish the National Plant Protection Organization (NPPO) have been undermined by resource constraints. Imports also require an original phytosanitary certificate issued in the country of origin. If the imported articles are not accompanied by the required documentation they are re-exported or destroyed. In addition, imported plants and plant products are subject to inspection at approved ports of entry and may be disinfected and destroyed if necessary.<sup>56</sup>

3.55. Disease prevention and control continues to be based on the Diseases of Animals Act of 1977 (as amended). As in the case of plants and plant products, any person who suspects or has reason to suspect that animals are affected by a disease needs to report it immediately, and as far as possible keep the animals separated. If an area is declared as infected no animals should be moved from or into that area, without being previously disinfected and granted a written permission from a veterinary officer. The Director of Veterinary Services is required to issue an import (export) permit for any animal, animal product, or other pathogenic agent capable of causing diseases in animals. In addition Botswana applies strict controls at the borders including, *inter alia*, quarantine, testing and inoculation of suspected animals. As part of the disease control strategy, the country is divided into fenced-off control zones. These are: the OIE-recognized FMD-free area (no buffalo may enter) and the livestock-free areas (no livestock may enter). The principle is to separate livestock and buffalo, vaccinate cattle at risk and keep them separate from OIE-recognized FMD-free cattle. The movement of animals is also controlled. There are quarantine points for the movement of animals.

3.56. Botswana does not have regulations on biotechnology or genetically modified organisms.

## 3.2 Measures Directly Affecting Exports

### 3.2.1 Export procedures and requirements

3.57. Exporters, like importers, need to register as a business or a company under the Company Act, and obtain a trading licence under the Trade Act (for registered businesses or companies); while individuals need a hawker's/street vendor licence prior to engaging in any commercial activity (Section 2).

3.58. An export declaration form in electronic format together with other supporting documents (e.g. invoice, bill of lading, packing list and insurance documents) is required for all commercial exports.<sup>57</sup> Additional documents such as certificates of origin and sanitary and phytosanitary permits are required according to the product and the destination. Other types of certificates to ensure that Botswana is complying with requirements stipulated in international conventions to which it is a signatory might also be needed when exporting. Exports (and re-exports) of plants and plant products also require phytosanitary certificates, issued by the Division of Plant Protection, these are only issued after a physical inspection is undertaken to ascertain that the consignment meets the importing country's documentary and sanitary requirements. The

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<sup>55</sup> Products prohibited from entering Botswana are listed in the First Schedule to the Plant Protection Regulations, 17 July of 2009.

<sup>56</sup> The Fourth Schedule to the Plant Protection Act lists the approved ports.

<sup>57</sup> Customs and Excise Duty Regulations, 1974 (S.I. 36 of 1974) (as amended up to S.I. 49 of 2006).

certificate may be withdrawn where sanitary conditions have changed. Exports of livestock and animal products also require a sanitary certificate issued by the Director of the Veterinary Service.<sup>58</sup>

3.59. Rough diamonds exported from Botswana need to have a valid Kimberley Process Certificate issued by the Ministry of Minerals, Energy, and Water Resources (Diamond Office). Imports of rough diamonds must also have valid Kimberly Process Certificates issued by the exporting country.

3.60. Most exports from Botswana do not require permits or licences, but certain exceptions apply in agriculture, including basic goods, and hides and skins.<sup>59</sup>

### 3.2.2 Export taxes, charges, and levies

3.61. Goods and services exported from Botswana are VAT zero-rated.

3.62. Exports of live cattle or cattle slaughtered at the Botswana Meat Corporation, municipal abattoirs, private abattoirs, and butchers are subject to a levy of P 30 per head.<sup>60</sup> The revenue collected from this levy will be credited as fiscal revenue.

3.63. Levies on the export of hides and skins, bonemeal, bloodmeal and carcass meal are in place.<sup>61</sup> However, according to the authorities levies on hides and skins have not been charged since 2010.

### 3.2.3 Export prohibitions, restrictions, and licensing

3.64. Export permits issued by the Department of Agribusiness Promotion at the Ministry of Agriculture are required for the following products: animal feed for poultry and livestock, sorghum grains and sorghum products, maize grain and maize products, millet grains and millet products, wheat grain and wheat products, pulses (castor beans and groundnuts), sunflower seed and basic foods and vegetables not exceeding a specific quantity stipulated by law.<sup>62</sup> Permits are issued to a holder of a valid trading licence, who could either be a citizen of Botswana, a resident foreign national or a company or firm registered and carrying on business in Botswana. Permit applications must be accompanied by the trading licence and certificate of incorporation; and a sanitary and phytosanitary permit and/or Botswana Bureau of Standards (BOBS) Certificate.

3.65. Exports of sugar used to require a permit. Permits were also required for exports of sugar to South Africa if the amount exported exceeded 25 kg per month; a permit would allow exports of a maximum of 100 kg per month.<sup>63</sup> However, according to the authorities, exports of sugar have been liberalized.

3.66. An export permit issued by the Agricultural Resources Board is also required to export grapple plant (*Harpagophytum procumbens*) or any part thereof.<sup>64</sup>

3.67. The exportation of wild animals or their products (trophy or meat) is prohibited unless accompanied by an export permit issued by the Department of Wildlife and National Parks.

<sup>58</sup> Control of Livestock Industry Act of 1941 (as amended).

<sup>59</sup> Online information. Viewed at: <http://www.gov.bw/en/Ministries--Authorities/Ministries/MinistryofAgriculture-MOA/Tools--Services/Services--Forms/Hides-and-skins-services/>.

<sup>60</sup> The Cattle Export and Slaughter Levy Act 10 of 2005.

<sup>61</sup> According to the KPMG Botswana Fiscal Guide 2012/13 these charges are still in force (KPMG, 2013).

<sup>62</sup> The products and quantities listed in the Second Schedule (of Specified Agricultural Products and Quantity) of the Control of Goods, Prices and Other Charges: Subsidiary Legislation are: bananas (20 kg per person); beetroot (10 kg per person); butternuts (10 kg per person); cabbage (30 kg per person); carrots (10 kg per person); fresh milk (2 litres per person); green pepper (10 kg per person); maize (25 kg per person); maize products (25 kg per person), mangoes (10 kg per person); potatoes (20 kg per person); pulses (25 kg per person); pumpkin (10 kg per person); onions (15 kg per person); oranges (15 kg per person); sorghum (25 kg per person); sorghum products (25 kg per person); sweet potatoes (10 kg per person); tomatoes (10 kg per person); watermelon (10 kg per person) and wheat (25 kg per person) (Control of Goods, Prices and Other Charges: Subsidiary Legislation).

<sup>63</sup> Control of Goods (Sugar Exportation) Regulations (under section 3) (14 September 1979).

<sup>64</sup> Control of Goods (Export of Grapple Plant) Regulations (under section 3) (5 May 1978).

3.68. Exports of unprocessed semi-precious stones are prohibited to ensure, according to the authorities, value addition through processing in Botswana.

### 3.2.4 Export support and promotion

3.69. Botswana notified the WTO Committee on Agriculture that it did not provide any export subsidies to agricultural products during financial years 2009/10 to 2013/14.<sup>65</sup>

### 3.2.5 Fiscal incentives

3.70. Imported goods (including packing containers) re-exported and thereafter returned to or brought back by the exporter or any other party, without being subject to any process of manufacture or manipulation are exempt from the full duty less any rebate, refund and drawback granted previously.<sup>66</sup>

3.71. Goods (including packing containers) produced or manufactured in Botswana, which are exported and thereafter returned to or brought back by the exporter, without having been subjected to any process of manufacture or manipulation are exempt from the import duty less the amount of any rebate, refund and drawback granted previously.<sup>67</sup>

3.72. Duty rebates and drawback are provided in Botswana to stimulate production and exports by reducing the costs of inputs. Rebate item 470 is a SACU industrial incentive programme which covers all goods produced exclusively for export outside SACU. Registered companies are exempted from duty on raw materials used in the manufacturing, processing, finishing, equipping or packaging of goods exclusively for export. Exporters must register with Botswana Unified Revenue Services (BURS) as a user of the rebate item to obtain a "rebate permit", which is issued by the Minister of Trade and Industry.<sup>68</sup> Goods imported, under such permits, may also be exempt from VAT.<sup>69</sup>

3.73. Specific drawbacks and refunds of custom duties are in place, whereby exporters can claim refunds on customs duties and the fuel levy paid on specific inputs imported for the manufacturing of specific products to be exported. This claim needs to be submitted within a period of six months from the time of export and must be accompanied by evidence that the final product has effectively been exported.<sup>70</sup> The drawback is only available to certain industries: foodstuffs, textiles and clothing, chemicals and allied products, base metals and machinery.

3.74. The Duty Credit Certificate (DCC) Facility for textiles and clothing, which was extended to companies exporting outside the SACU area, was phased out in 2010 by a SACU Council decision.<sup>71</sup> Unlike other rebates, the amount of the duty for which a company could have been granted a credit under DCC was calculated as a given percentage of the value of the exported goods, as opposed to the actual rate of customs duty or sales tax. In 2010, the percentage of the sales value of proven exports was 25% for clothing and accessories; 17.5% for household textiles; 12.5% for fabrics and other textiles, and 8% for yarn.<sup>72</sup>

3.75. In addition to the DCC, at the time of the last Review Botswana operated another industry-specific import duty credit scheme linked to export performance, the Motor Industry

<sup>65</sup>WTO documents G/AG/N/BWA/9, 14 July 2010; G/AG/N/BWA/11, 6 March 2012; G/AG/N/BWA/14, 28 August 2012; G/AG/N/BWA/17, 13 February 2014; and G/AG/N/BWA/22, 9 December 2014.

<sup>66</sup> Schedule 4 of the Schedules to the Customs and Excise Act, 1964 (Tariff Book). Viewed at: <http://www.sars.gov.za/Legal/Primary-Legislation/Pages/Schedules-to-the-Customs-and-Excise-Act.aspx>.

<sup>67</sup> Schedule 4 of the Schedules to the Customs and Excise Act, 1964 (Tariff Book). Viewed at: <http://www.sars.gov.za/Legal/Primary-Legislation/Pages/Schedules-to-the-Customs-and-Excise-Act.aspx>.

<sup>68</sup> Online information. Viewed at: <http://www.gov.bw/en/Ministries--Authorities/Ministries/Ministry-of-Trade-and-Industry-MTI/Tools--Services/Services--Forms/?FromPageID=1886&FromPageType=1&pid=1&ClearSearch=true>.

<sup>69</sup> For the complete list of imports exempted from VAT please refer to Third Schedule (Exempt Imports) of Chapter 50:03 (Value Added Tax).

<sup>70</sup> Schedule 5 (Specific Drawbacks and Refunds of Customs Duties and Fuel Levy) of the Schedules to the Customs and Excise Act, 1964 (Tariff Book). Online information. Viewed at: <http://www.sars.gov.za/Legal/Primary-Legislation/Pages/Schedules-to-the-Customs-and-Excise-Act.aspx>.

<sup>71</sup> Information provided by the authorities.

<sup>72</sup> Online information. Viewed at: <http://www.finance.gov.bw/customs/webpages/pfmat/dccf.htm>.

Development Programme (MIDP), designed to promote exports to non-SACU markets. According to the authorities, this programme was eliminated in 2012.

### 3.2.6 Export promotion

3.76. Up to 2012, export promotion in Botswana fell under the responsibility of the Botswana Export Development and Investment Authority (BEDIA). In 2012, BEDIA and the Botswana International Financial Services Centre (IFSC) were merged to create the Botswana Investment and Trade Centre (BITC). One of BEDIA's mandates was to identify markets for locally manufactured products and promote Botswana products in foreign markets.<sup>73</sup> BEDIA conducted overseas market research aimed at finding export markets for Botswana-made products, including investigating opportunities in markets that have trade agreements with Botswana, so as to maximise benefits. Thereafter, BEDIA arranged participation in regional and international exhibitions, and facilitated contacts between buyers and sellers.

3.77. The BITC absorbed BEDIA's export promotion role and it also promotes Botswana as the leading destination for investment in Africa with the aim of accelerating economic growth and diversification, employment creation and export development. The BITC is also in charge of the national brand and hence is accountable for the development, implementation and monitoring of the Nation Brand strategies and plans.

3.78. The Export Development Programme (EDP) launched in 2007 by BEDIA is now implemented by the BITC. The EDP aims at increasing exports of products and services to contribute to the diversification of the economy and the export base by training companies to become exporters. The goal is to train selected companies to improve product design, quality and productivity. Targeted sectors for the EDP are textiles and garments, meat and meat processing, jewellery making, furniture, arts and crafts, services, leather and leather products, glass and glass products and chemicals. However, companies in other sectors will also be considered.<sup>74</sup>

### 3.2.7 Export finance, insurance, and guarantees

3.79. Botswana does not have an entity dedicated to providing financing for export activities. There are, however, institutions which provide general financing for businesses, namely, the Citizen Entrepreneurial Development Agency (CEDA), the National Development Bank (NDB) and the Botswana Development Corporation (BDC).

3.80. The Government encourages financial institutions in both the public and private sectors to provide export insurance facilities to support export development. However, at present only the Export Credit Insurance and Guarantee Company Botswana (Pty) Ltd (BECI), a subsidiary of Botswana Development Corporation Limited (BDC), provides export credit insurance that covers both commercial and political risks.<sup>75</sup> BECI offers insurance against non-payment by foreign buyers resulting from commercial risk (default and insolvency) and from political risk (transfer delays, strikes, war, and other import restrictions that would prevent entry to the importing country). It covers up to 85% of commercial risks and up to 90% of political risks. Exports of goods and services are both eligible. Exports covered in 2009-14 included: batteries, beef, cans, industrial clothing, metal products, packaged food, paper bags, and PVC pipes. BECI has reinsured political risk since 1997<sup>76</sup>, while commercial risks are reinsured by the private reinsurance market.

## 3.3 Measures Affecting Production and Trade

### 3.3.1 Incentives

3.81. In general Botswana does not provide industry specific incentives, with certain exceptions for mining and agriculture and, as of 2009, for the textiles and clothing industry. Incentives are mainly granted to diversify the economic and export base, and to support local citizens.

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<sup>73</sup> Export Enterprise Development online information. Viewed at: <http://www.proudlyafrican.info/Botswana/BEDIA.aspx#>.

<sup>74</sup> Online information. Viewed at: <http://www.bitc.co.bw/export-development-programme>.

<sup>75</sup> Online information. Viewed at: <http://www.beci.co.bw/>.

<sup>76</sup> Export Credit Re-Insurance Act, 1997 (No. 12 of 1997).

3.82. A Special Support Programme for the Textile and Clothing Industry was introduced in 2010 as a result of the financial crisis in 2009. The assistance was initially provided for 2 years and thereafter extended until September 2014.<sup>77</sup> The Programme's objective was to retain jobs by preventing the closure of companies and improve the industry's competitiveness, through the provision of subsidies to pay wages of nationals employed in the industry.

3.83. The Minister of Finance and Development Planning can enter into a tax agreement with any taxpayer. The agreement has to be approved by the National Assembly, and it can provide for tax deductions, tax holidays or exemptions. For instance, investors in diamond mines may negotiate such agreements (Sections 2.4 and 4.2.1).

3.84. In addition, the Minister of Finance and Development Planning grants Development Approval Orders on a case-by-case basis. These orders offer, *inter alia*, tax incentives (e.g. tax holidays for 5-10 years) for specific projects (Table 3.5). The extent of relief can take any form and is entirely negotiable. The approved projects must benefit the economy or contribute to the economic advancement of citizens. At present only 2 projects are granted incentives under the Development Approval Orders.<sup>78</sup>

3.85. In 2005, the Business and Economic Advisory Council (BEAC) recommended the development of Special Economic Zones (SEZs). The main objective of the SEZs is to diversify Botswana's economy and export base. However, the laws and regulations governing the development and operation of the SEZs have not been enacted. Botswana Investment Trade Centre (BITC) is the interim Special Economic Zones Authority.

3.86. Botswana's policy on SEZs aims to attract domestic and foreign investors through the provision of fiscal incentives and to minimize red tape for enterprises located within these zones. The fiscal incentives include: exemption or reduction of corporate tax and exemptions from all other local taxes; duty-free importation of raw materials, capital goods, and intermediate inputs; no restrictions on capital and profit repatriation; exemption from foreign exchange controls; and no export charges. According to the authorities, the incentives package granted to both national and foreign investors is consistent with Botswana's international trade obligations.<sup>79</sup>

**Table 3.5 Fiscal incentives**

Taxation
Development Approval Orders: zero corporate tax can be available to investors for a period of 5 to 10 years (subject to approval)
Subject to approval, manufacturing companies pay a corporate tax rate of 15% (instead of 22%)
Companies established in the Botswana Innovation and Diamond Hubs pay a corporate tax rate of 15% (instead of 22%)
Companies established in the International Financial Service Centre pay a corporate tax rate of 15% (instead of 22%)
Citizen training expenditure: Companies are allowed to deduct 200% as an allowable expense from their income after training their employees at a Botswana accredited institution. The employee needs to be a Botswana

Source: Taxation in Botswana. Viewed at: <http://www.gov.bw/en/Ministries--Authorities/Ministries/Ministry-of-Finance-and-Development-Planning1/Parastatals121/Understanding-Financing/>.

3.87. SEZs are considered areas outside the customs territory; hence goods produced within the SEZs will be subject to import duties, taxes and other charges paid by importers into the domestic and regional markets. Goods going into the SEZs from domestic and regional customs areas will be treated as exports. Likewise, goods going from the SEZs areas into the domestic and regional customs areas will be treated as imports.

3.88. Botswana has also created six specialized institutions called "hubs", which are currently at different stages of development to facilitate the development of a specific sector. These are: the Agricultural Hub (2008), the Botswana Innovation Hub, the Diamond Hub, the Education Hub, the

<sup>77</sup> Online information. Viewed at: <http://www.gov.bw/en/Ministries--Authorities/Ministries/Ministry-of-Trade-and-Industry-MTI/Tools--Services/Services--Forms/?FromPageID=1886&FromPageType=1&pid=1&ClearSearch=true>.

<sup>78</sup> Information provided by the authorities.

<sup>79</sup> Ministry of Trade and Industry (2010b).

Health Hub (2008) and the Transport Hub (2008). According to the authorities, the "hubs" only facilitate establishment; they are not a mechanism to provide incentives.

3.89. The Citizen Entrepreneurial Development Agency (CEDA), created in 2001 to promote citizen entrepreneurship, *inter alia*, provides funding and collateral for SMMEs so that they can have access to financial resources. CEDA provides loans ranging from P 500 to P 4 million at preferential rates to Botswana nationals (Table 3.6). CEDA also has a credit guarantee scheme for SMEs, offers mortgages for Botswana entrepreneurs, and provides training and mentoring to CEDA-financed citizen-owned businesses. CEDA also finances large scale projects and businesses. This was, up to August 2013, done through the Venture Capital Fund, which was then phased out. During 2009-14, CEDA issued 1,882 loans which amounted to P 1,548.4 million.

3.90. In 2007 CEDA started operating the Young Farmers' Fund, which provides subsidized loans and training to young agricultural producers.

**Table 3.6 CEDA's assistance, 2014**

	Small/micro scale projects	Medium scale projects/medium businesses	Large scale projects/large businesses
Beneficiaries	100% citizen-owned projects	100% citizen-owned projects	100% citizen-owned projects Joint ventures with foreigner investors/technical partners
Loan limit	Minimum P 500 - maximum P 500,000	Minimum P 500,001 - maximum P 4 million	Minimum P 4,000,001 - maximum P 30 million
Interest rate (annual)	5%	7.5%	Prime rate
Repayment period	Maximum 5 years	Loans of P 500,001 to P 2,000,000 repayment within a maximum period of 12 years Loans of P 2,000,001 to P 4,000,000 repayment within a maximum period of 15 years	Maximum 15 years
Grace period	Not applicable	Not applicable	Maximum 48 months without interest
Number of loans issued (2009-2014)	1,212	658	12
<b>Total (2009-2014)</b>	<b>P 350 million</b>	<b>P 1,020.4 million</b>	<b>P 178 million</b>

Source: Information provided by the authorities.

### 3.3.2 Competition policy and price controls

3.91. A major change in Botswana since the previous Review has been the enactment of the Competition Law of 2009 and the issuance of the Competition Regulations in 2011. The Competition Policy of 2005 is still in place. The Competition Law covers all areas of the economy, with some exceptions. The law applies across all sectors to a number of practices such as: agreements related to intellectual property rights holders; enterprises operating on the basis of statutory monopoly; any practice relating to exports of goods from Botswana; conduct designed to achieve a non-commercial socio-economic objective; and collective bargaining by unionized workers.<sup>80</sup> Sectors which have specific regulatory bodies are also covered by the law.

3.92. The Ministry of Trade is in charge of monitoring the implementation of Botswana's Competition Policy. In accordance with the Competition Law, a Competition Authority was established to implement the Competition Policy and enforce the Act. The Competition Authority is responsible for preventing anticompetitive practices in the economy, even in areas where there is another regulator such as the Civil Aviation Authority, the Botswana Communications Regulatory Authority (BOCRA), the Non-banking Financial Institution Regulatory Authorities (in charge of non-banking financial institutions), and the Bank of Botswana (financial institutions). These

<sup>80</sup> Section 3(3) of the Competition Law.

institutions have memoranda of understanding (MoUs) with the Competition Authority and the Act provides for the establishment of a consultation mechanism between the Authority and sector regulators. The determination of the Authority is final on any competition issue arising in sectors under the jurisdiction of a regulator. The Competition Commission, established in 2010, is the governing and adjudicative body of the Competition Authority.

3.93. Implementation of competition policy is still incipient in Botswana. The Competition Authority is conducting some research on its own initiative to determine whether there are any anti-competitive practices that need to be addressed in certain sectors of the economy (e.g. poultry, retail and cement). The Authority can take initiative to conduct an investigation and prosecute transgressions of the Competition Act. Where the Authority determines that a prohibited practice has been established, it must refer the matter to the Commission, which decides on the sanctions or directions that the enterprises need to take to redress the practice. The Commission has the faculty to impose penalties.<sup>81</sup> Parties aggrieved by a decision of the Competition Authority or of the Commission have the right to appeal to the High Court.

3.94. The law prohibits certain horizontal and vertical agreements<sup>82</sup>, while other such agreements may be prohibited only following an investigation by the Authority to determine if the agreement prevents competition in a specific market.<sup>83</sup> In the case of horizontal agreements, an investigation will be initiated if the parties to the agreement together supply or acquire 10% or more of the goods or services in any market in Botswana; in the case of vertical agreements, the investigation is initiated if any of the parties individually supply or acquire, at either one of the two levels of the market to which they are linked by the agreement, 10% or more of goods or services of the market.<sup>84</sup> Exemptions may be granted for the public interest. The Authority may grant an exemption from the prohibition (of an agreement) if the agreement is expected to benefit the public by promoting exports and employment; if the agreement occurs within the context of the citizen empowerment initiative; or if the agreement enhances the effectiveness of the Government's development programmes, including the industrial development and privatization programmes. However, the Authority has not issued any such exemptions.

3.95. The abuse of a dominant position is also prohibited by the law following a determination through an investigation. The Authority may consider an enterprise (or enterprises) to be in a dominant position if it supplies or acquires at least 25% of the goods or services in the market; or if three or fewer enterprises supply or acquire at least 50% of the goods or services in the market. However, notwithstanding these thresholds, the Authority may initiate an investigation into the conduct of any enterprise where the Authority has reasonable grounds to suspect that: its conduct has caused or is likely to cause serious or irreparable harm to the market or to consumers; or if one or more enterprises have sufficient market power as to allow them to set prices and/or adjust production without any constraint from competitors. However, as in the case of vertical and horizontal agreements, in determining whether an abuse of dominant position has occurred, the Authority will take into account whether the conduct: promotes exports and employment in Botswana; advances the strategic or national interest in relation to a particular economic activity; provides social benefits which outweigh the effects on competition; occurs within the context of a citizen empowerment initiative; enhances the competitiveness of small and medium-sized enterprises; or enhances the effectiveness of any development programme. The authorities indicated that cases of abuse of dominance have been investigated but did not reach the prosecution stage as the alleged abusive conduct could not be determined.

3.96. Mergers have to be notified to the Authority depending upon a threshold: if the combined annual turnover of the merging enterprises in Botswana exceeds P 10,000,000; the combined assets in Botswana of the merging enterprises exceeds P 10,000,000; or the enterprises concerned would, following implementation of the merger, supply or acquire at least 20% of a

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<sup>81</sup> The Commission might require an enterprise to: terminate or amend an agreement; cease or amend a practice or course of conduct, including conduct in relation to prices; observe specified conditions in relation to the continuation of an agreement or conduct; supply goods or services, or grant access to facilities, either generally or to named parties; separate or divest itself of any enterprise or assets; or provide the Commission with specified information on a continuing basis.

<sup>82</sup> These agreements include: directly or indirectly fixing a purchase or selling price; dividing markets; bid rigging; restraints on production or sale; concerted practice; or agreements that involve resale price maintenance.

<sup>83</sup> Part V of the Competition Act, 2009.

<sup>84</sup> Section 3 of the Competition Regulations, 2011.

particular good or service in Botswana.<sup>85</sup> Mergers above these thresholds cannot be implemented unless permitted. However, the Minister may allow the merger or may prescribe an alternative system of merger review if the merger is in the public interest. The authorities indicated that this has not yet happened. The Authority may revoke the decision to approve a merger, if the decision was based on materially incorrect or misleading information.

3.97. The Consumer Protection Act of 1998 is still in force. The Consumer Protection Unit of the Department of Trade and Consumer Affairs, at the Ministry of Trade and Industry, is mandated to protect consumers against unfair business practices as stipulated in the Act.<sup>86</sup> The Department is in charge of investigating unfair practices, mediating, and negotiating on behalf of consumers. Remedies regarding consumer protection are not very stringent; usually they consist of compensation or replacement of goods.<sup>87</sup> In addition to the Consumer Protection Act, there are other pieces of legislation that also deal with consumer matters and their implementation falls under the responsibility of other agencies.<sup>88</sup>

### 3.3.2.1 Price controls and administered prices

3.98. In general, product prices are not regulated by Government, except where there exists evidence of monopolistic exploitation of consumers or where Government has itself granted a monopoly.<sup>89</sup> Nevertheless, the Control of Goods, Prices, and Other Charges Act of 1973, which is still in force but under review, allows the Minister of Trade and Industry to regulate and control the wholesale and retail prices of strategic goods. Under this Act, Botswana sets a maximum retail price for petroleum products.<sup>90</sup> Other goods and services subject to administered prices include: water; electricity; train, certain bus and taxi fares; certain mail and parcel deliveries; and telephone installation and certain telephone tariffs.<sup>91</sup>

### 3.3.3 State trading, state-owned enterprises and privatization

#### 3.3.3.1 State trading

3.99. The intervention of the State in Botswana's economy continues to be important. For instance, Botswana's two major export products (beef and diamonds) are traded by state-owned or invested companies. The Botswana Meat Commission (BMC), which is 100% state-owned, has a statutory monopoly on beef exports and Debswana, the diamond mining company (50% state ownership), holds a de facto monopoly over exports of rough diamonds.

3.100. In 1997, Botswana notified to the WTO that it had no state-trading enterprises within the meaning of Article XVII:4(a) of the GATT 1994.<sup>92</sup> Since then, Botswana has not made any notifications pursuant to Article XVII:4(a) of the GATT 1994.

#### 3.3.3.2 State-owned enterprises and privatization

3.101. The Privatization Policy launched in 2000 outlines the strategies, principles and procedures to be followed to restructure and privatize identified public sector institutions in Botswana. Thereafter, the Privatization Master Plan of 2005 was developed, and later revised to align it with the National Development Plan (NDP10) and the Government's economic diversification reform strategy. This revision resulted in the Privatization Master Plan II, with the main objective of identifying services and public enterprises that are suitable for privatization during the period 2014 to 2019, as well as to enhance the rationalization of parastatal enterprises. The Plan defines privatization as "all measures and policies aimed at strengthening the role of the private sector in

<sup>85</sup> Section 20 of the Competition Regulations, 2011.

<sup>86</sup> Online information. Viewed at: <http://www.mti.gov.bw/customercomplaints>.

<sup>87</sup> Information provided by the authorities.

<sup>88</sup> These include: the Food Control Act, Public Health Act, Hire Purchase Act, Standards Act and the Trade Act.

<sup>89</sup> The Revised National Policy on Incomes, Employment, Prices and Profits, Government Paper No. 1 of 1990.

<sup>90</sup> Control of Goods, Prices, and other Charges (Petroleum Prices) Regulations (section 3) (1 July 2000) and WTO (2009).

<sup>91</sup> Information provided by the authorities.

<sup>92</sup> WTO document G/STR/N/1/BWA, 7 February 1997.

the economy". Privatization methods, according to the draft Plan, will include sale of assets or shares of public enterprises, management of public enterprises or public functions/services, leasing of government assets, commercialization, outsourcing of public services, and concessions through public-private partnerships.<sup>93</sup>

3.102. A key element of Botswana's privatization policy is the promotion of citizen participation in the ownership of national firms through the reservation of shares from privatized agencies, as stated in the Citizen Economic Empowerment Policy (CEE Policy).<sup>94</sup> Foreign participation in privatization is encouraged and any restrictions on foreign ownership are to be decided on a case-by-case basis.

3.103. Over the years, the parastatal sector in Botswana has grown both in number and complexity, hence the need to review the role that they play in the country's development. As a result, in 2009, the Public Enterprises Evaluation and Privatization Agency (PEEPA) revised the Rationalization Strategy, which had been developed in 2006. The objective was to address issues of overlapping mandates, improve the efficiency in service delivery and reduce the costs to Government associated with maintaining parastatals with similar mandates. As a result of this strategy, several mergers have taken place. For instance, as has already been mentioned, the Botswana Export Development and Investment Authority (BEDIA) and Botswana International Financial Services Centre (IFSC) were merged and a new entity, the Botswana Investment and Trade Centre (BITC), was formed and started operating in 2012. The merging of Botswana Postal Services (BPS) and the Botswana Savings Bank (BSB) has not been finalized, but the legislation transforming these two institutions into a limited liability company has been approved.<sup>95</sup> The holding company providing postal, courier and banking services is expected to start operating during the 2015/16 financial year.

3.104. Despite Botswana's efforts to disinvest and rationalize the participation of the Government in the economy, there are a number of state-owned enterprises in operation (Table 3.7). Some of the enterprises that provide public utilities and other services have a *de facto* or *de jure* monopoly.<sup>96</sup> Since the last Review in 2009, there have been some changes regarding public ownership in the different sectors. Some of the most important changes have been the divestiture in 2010 of 49% of the State's shares in Botswana Telecommunications Corporation; the approval in 2011 of a model for the privatization of the National Development Bank; the leasing of 99,000 hectares of the Banyana (Pty) Limited's cattle ranch, and the placement of the Government's shares in Botswana Building Society into the Botswana Privatization Assets Holdings (BPAH) company. A Strategy for Private Sector Participation in the Electricity Supply Industry and Botswana Power Corporation was developed and the Ministry of Minerals, Water and Energy Resources is at present considering the modalities for its implementation. In contrast, however, in 2013, in order to ensure the supply of petroleum products, a national oil company, Botswana Oil Limited, was created and started operating.<sup>97</sup> The Government has also initiated the construction of a fuel storage facility with a capacity of 150 million litres of fuel, which will allow an increase in fuel reserves from the current 18 days to 60 days and hence avoid disruptions of oil and petroleum supplies, which have affected the manufacturing, agriculture and transport sectors.

3.105. The performance of the parastatals during the period reviewed has been mixed. Some of them, like the Botswana Telecommunications Corporation, the Botswana Development Corporation, the National Development Bank and the Botswana Savings Bank, recorded net profits, while others such as the Botswana Power Corporation (BPC) and the Botswana Meat Commission recorded significant losses; thus, subsidies to these organizations have grown substantially over the years. Therefore, in order to reduce the burden on public finances and allow parastatals to

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<sup>93</sup> The privatization methods outlined in the 2000 Privatization Policy include: commercialization, corporatization, management contracts, franchising, leases, concessions, joint ventures, and stock market flotation.

<sup>94</sup> Government Paper No. 1 of 2012.

<sup>95</sup> These pieces of legislation are: The Botswana Communications Regulatory Authority Act aimed at corporatizing Botswana Postal Services (BPS) and the Botswana Savings Bank (BSB) Transition Act which allows BSB to be transformed into a limited liability company.

<sup>96</sup> A parastatal in Botswana is a public entity created by the State (by Act of Parliament) to achieve a specific social or economic goal determined by Government.

<sup>97</sup> 2014 Budget Speech. Viewed at: [www.finance.gov.bw](http://www.finance.gov.bw).

continue having a positive impact on economic growth, Botswana intends to continue its policy of privatization and restructuring of state-owned enterprises.<sup>98</sup>

**Table 3.7 State participation in parastatals and commercial enterprises, 2015**

	State participation, 2015 (%)	Main activities	Privatization scenario
<b>Non-financial enterprises</b>			
Air Botswana	100	Air transport services	Planned management contract, then divestiture
Banyana Pty Ltd.	100	Commercial cattle ranch	Part of the ranch has already been leased and the leasing of the rest is planned
BCL Limited	100	Copper/nickel mining	None
Tati Nickel Mining Company (Pty) Ltd.	15	Nickel mining	None
Botswana Agricultural Marketing Board	100	Import/export, marketing, and storage of selected agricultural products; and sale of agricultural services and inputs	Planned divestiture
Botswana Housing Corporation	100	Property development	None
Botswana Meat Commission	100	Cattle abattoir; canning and tanning; beef export; and transport	Planned outsourcing of non-core services
Botswana Postal Services	100	Postal services and Courier services	Ongoing restructuring through merger with Botswana Savings Bank
Botswana Power Corporation	100	Electricity generation, transmission, and distribution	Planned restructuring
Botswana Railways	100	Rail transport services	Planned restructuring
Botswana Telecommunications Corporation	100	Telecommunication services	Ongoing divestiture through an IPO
Botswana Fibre Networks Ltd. (Bofinet)	100	Network	None
Botswana Vaccine Institute	100	Production and marketing of vaccines	Completed corporatization and partial divestiture
Debswana Diamond Mining	50	Diamond mining and coal mining (commercial joint venture)	None
Okavango Diamond Company (ODTC)	100	Diamond mining	None
DTC Botswana	50	Diamond sorting, valuation, cutting, and polishing (commercial joint venture)	None
Soda Ash Botswana Ltd.	50	Soda ash and salt mining (commercial joint venture)	None
Water Utilities Corporation	100	Provision of water to urban centres	Planned restructuring
Botswana Oil Limited	100	Supply of petroleum products	None
<b>Financial institutions</b>			
Botswana Building Society	25	Property finance	Planned divestiture
Botswana Development Corporation	100	Development finance	Planned restructuring
Botswana Motor Vehicles Accidents Fund	100	Insurance services	None

<sup>98</sup> 2014 Budget Speech. Viewed at: [www.finance.gov.bw](http://www.finance.gov.bw).

	State participation, 2015 (%)	Main activities	Privatization scenario
Botswana Savings Bank	100	Banking services	Ongoing restructuring through merger with Botswana Postal Services
Government Employees Motor Vehicle and Residential Property Advance Scheme	100	Loan guarantee fund	Planned management contract
Guaranteed Loans Insurance Fund	100	Insurance fund	Completed management contract
National Development Bank	100	Development finance	Planned divestiture

Source: Information provided by the Botswana authorities.

3.106. The Public Enterprises Evaluation and Privatization Agency (PEEPA) started drafting guidelines to be used by Government to monitor and oversee the performance of parastatals. The oversight responsibility of parastatals will be decentralized to line Ministries. Furthermore, the Government is considering the adoption of the Privatization Master Plan II. The main objective of the Plan is to identify services and public enterprises that are suitable for privatization during 2015-20, as well as to enhance guidance for the rationalization of parastatals.

### 3.3.4 Government procurement

3.107. Botswana's public procurement policy, legislation and institutional framework have not changed substantially since the previous Review. The policy's main objectives are, *inter alia*, to ensure value for money, transparency, and accountability. However, at the same time, the policy seeks to promote the economic empowerment of citizens of Botswana through reservation and preference schemes in accordance with the Economic Diversification Drive Strategy (EDD Strategy) and the Citizen Economic Empowerment Policy (CEE Policy), which intend to ensure that procuring entities support local manufacturers and service providers.<sup>99</sup> In general terms, the procurement policy is in practice used as an instrument to promote the use of locally produced goods and services.

3.108. Botswana is not an observer to the Committee on Government Procurement.

3.109. The Public Procurement and Asset Disposal Act (PPAD Act) of 2001, and the Public Procurement and Asset Disposal Regulations of 2006 continue to regulate procurement by central government entities. Procurement at local level is governed by the Local Authority Procurement and Asset Disposal Act (LAPAD Act); while procurement for parastatals is handled through their own procurement procedures, which are vetted by the Public Procurement and Asset Disposal Board (PPADB) to ensure that they conform to the principles of procurement in accordance with the PPAD Act. The law covers procurement of works, services, and supplies.

3.110. The Public Procurement and Asset Disposal Board (PPADB), an independent body appointed by the Minister of Finance and Development Planning, manages public procurement at the central government level. The Board sets up different committees to assist with public procurement and the assets disposal process. These are: the Ministerial Tender Committees (MTCs), District Administrative Tender Committees (DATCs), Special Procurement and Asset Disposal Committee and other committees set up on an ad hoc basis. The PPADB examines the performance of these Committees on a yearly basis to assess whether their financial thresholds can be adjusted. As a result, the thresholds for MTCs and DATCs were increased in 2014.

3.111. The procurement methods used by Botswana have not changed since the previous Review. These are: (i) open domestic bidding; (ii) open international bidding; (iii) restricted domestic bidding; (iv) restricted international bidding; (v) quotation proposal procurement; (vi) micro procurement; and (vii) direct procurement (Table 3.8). The tender method is selected by PPADB according to the thresholds.

<sup>99</sup> Ministry of Trade and Industry (2011); and Government of Botswana (2012).

**Table 3.8 Procurement methods**

Method	Description/requirements
Open domestic bidding	Used for tenders exceeding a value of P 150,000.
Open international bidding	No threshold for open international bidding. Special permission required from the Board.
Restricted domestic bidding	Bids are solicited from a limited number of potential suppliers. Restricted domestic bidding is used where the supplies, works or services are available only from a limited number of providers; or where there is insufficient time for an open bidding procedure due to an emergency situation.
Restricted international bidding	This method is used when: works, services or supplies are only available from a limited number of service providers; there is insufficient time for open bidding in an emergency or urgent situation; and under exceptional circumstances justifying departure from an open bidding method upon approval of the PPADB.
Quotation proposal procurement	Used for procurement of a value between P 30,000 and P 150,000. Bids sought from at least five suppliers. This method is used when there is not enough time to use an open or restricted bidding procedure due to an emergency situation.
Micro procurement	Used for procurement of a maximum value of P 30,000 (and a special dispensation of P 500,000 for CMS). Suppliers are selected without competition, there is no bidding documentation, written bid, or signed contract.
Direct procurement	The supplier is selected without competition. Used when: there is an emergency situation; there is only one provider; an existing contract is extended and additional supplies, works or services need to be compatible with existing ones; or it is advantageous to purchase from the original supplier to ensure continuity.

Source: Information provided by the authorities.

3.112. The most commonly used procurement method in Botswana is the open domestic bidding method, which is used for tenders exceeding a value of P 150,000.<sup>100</sup> Tenders are published in the Botswana Government Gazette, in local newspapers and on the Government's central website. Pre-qualification is sometimes used under open bidding procedures to obtain a shortlist of bidders with proven capability to perform the contract.

3.113. Participation of foreign companies registered in Botswana is allowed in open domestic tenders but reservations/preferences provided for in the Economic Diversification Drive (EDD) Strategy and the Citizen Economic Empowerment (CEE) Policy apply (Table A3.2). Open international bidding may be used in place of open domestic bidding where: the outcome of the project may be improved by the participation of foreign bidders; non-resident foreign bidders would increase value for money; or the technical complexity of the project requires the participation of non-resident foreign bidders. The procuring entities need permission from the Board to use the open international bidding method; there is no threshold for open international bidding. International bidders not domiciled in Botswana do not need to register with the PPADB. When contracts are awarded to foreign firms, Botswana offers those firms incentives, in the form of price preferences, to sub-contract Botswana.<sup>101</sup>

3.114. Bid evaluation, which falls under the responsibility of procuring entities, is based on one of the following methods: (i) quality- and cost-based selection; (ii) quality-based selection; (iii) fixed-budget selection; (iv) least-cost selection; and (v) qualification selection. For works, the quality and cost method, or the least-cost methods are used; for supplies, the least-cost method; and for services, any of the above methods may be used. Following the bid evaluation, the procuring entity makes a recommendation to PPADB or its Committees depending on the threshold for adjudication and approval based on an assessment of cost and technical merit, and citizen participation considerations (reservation and preference schemes). Award decisions by PPADB are published in the *Government Daily News* and on the PPADB website.<sup>102</sup>

<sup>100</sup> Information provided by the authorities; however, Botswana does not collect data on the value of procurement awarded using the different methods of procurement.

<sup>101</sup> Government of Botswana (2012).

<sup>102</sup> WTO (2009).

3.115. There is an Independent Complaints Review Committee which deals with complaints by bidders, including tender awards. Administrative decisions may subsequently be challenged before the High Court. Numerous PPADB decisions have been challenged in court. There is also the Suspension and Delisting Disciplinary Committee, which is in charge of investigating any complaints made to the Board. Once the investigations are complete, the Disciplinary Committee submits recommendations to the Board for a decision. The decision may involve: reprimanding the contractor; suspending the contractor for a specific period of time from participating in government procurement and asset disposal; or removing the company concerned from the PPADB registration system.

3.116. Botswana has reservation and price preference schemes in place under the CEE Policy and the EDD Strategy. Botswana citizen-owned companies benefit from a reservation for supplies, services and works ranging from P 720,000 to P 75 million. The price preference margin over foreign companies is in the range of 2%-10% for works and services, and of 5-15% for supplies. Price preferences may also be capped to meet the dual objectives of citizen empowerment and value for money in government procurement.<sup>103</sup>

3.117. In 2010, the EDD strategy replaced the local procurement policy (LPP) and the Use of Locally Manufactured Goods and Services Programme. The EDD Strategy stipulates that central government, local authorities and parastatal organizations should purchase all their products and services from locally based manufacturers and service providers, provided that the goods and services are competitively priced and meet tender specifications in terms of quality standards as certified by the Botswana Bureau of Standards (BOBS) or other recognized certifying bodies.<sup>104</sup> The programme provides preference margins based on the firm's turnover; these were revised in 2010.<sup>105</sup> All manufacturing enterprises and service providers can apply for registration to participate in the programme at the Ministry of Trade and Industry provided that they: are registered in Botswana; possess a valid, relevant licence/registration certificate; and operate in Botswana.

3.118. Under the local procurement policy (LPP) implemented until 2010, the government set aside a portion (up to 30%) of its annual supply purchases by the central government for LPP eligible firms. These companies could also participate in the remaining 70% through open competitive tenders. Supplies purchased under the LPP had to be filled by local manufacturing firms.<sup>106</sup> Products to be purchased under the LPP were published in advance each year by the Department of Industrial Affairs. Eligible companies wishing to tender for LPP procurement had to register annually with that Department. Both domestic and foreign-owned firms operating in Botswana were eligible under the LPP. In order to qualify, manufacturing companies had to have a minimum local content of 25% and either: employ between 10 and 200 people or have an annual turnover ranging from P 200,000 to P 500,000.

3.119. In 2013, Botswana introduced the Local Procurement Scheme (LPS) designed to facilitate economic development in rural areas using public procurement in line with the CEE Policy in order to empower women, young people and people with disabilities, mainly in the rural areas.<sup>107</sup> The Scheme introduced preferences for tenders within the District Administrative Tender Committees (DATCs) thresholds (i.e. from P 2 million and P 4.5 million). The Scheme requires that 20% of the contract be reserved for disadvantaged groups (i.e. women, young people and people with disabilities) in all tenders above P 30,000, and provides a price preference of up to 15%.

### 3.3.5 Intellectual property rights

3.120. Botswana has continued to strengthen its intellectual property regime. Since its last Review in 2009, Botswana has adopted new legislation to protect industrial property and it continues to be party to a number of WIPO-administered intellectual property conventions,

<sup>103</sup> Information provided by the authorities.

<sup>104</sup> Government of Botswana (2010).

<sup>105</sup> For firms with a turnover of up to P 5 million the preference margin is 15%; for firms with a turnover of more than P 5,000,001 and up to P 19,999,999 the preference margin is 10%, and for firms with a turnover of P 20,000,000 and above the preference margin is 5%.

<sup>106</sup> Government of Botswana (2012).

<sup>107</sup> This is in line with the dispositions of section 66(3) of the PPAD Act which allows for the imposition of reservations and preferential treatment to attain economic and social objectives.

including as of 2013 the Beijing Treaty on Audiovisual Performances<sup>108</sup> (Table 3.9 and Table 3.10). The Companies and Intellectual Property Office (CIPA) established in 2011, which replaced the Office of the Registrar of Companies and Intellectual Property (a Department within the Ministry of Trade and Industry), is in charge of implementing intellectual property laws and acts as Botswana's national IPR enquiry point.<sup>109</sup>

**Table 3.9 Intellectual property treaties to which Botswana is a party, 2014**

Treaties	Entry into force
Beijing Treaty on Audiovisual Performances	20 November 2013
Hague Agreement Concerning the International Registration of Industrial Designs	5 December 2006
Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks	5 December 2006
WIPO Copyright Treaty	27 January 2005
WIPO Performances and Phonograms Treaty	27 January 2005
Patent Cooperation Treaty	30 October 2003
Berne Convention for the Protection of Literary and Artistic Works	15 April 1998
Convention Establishing the World Intellectual Property Organization	15 April 1998
Paris Convention for the Protection of Industrial Property	15 April 1998

Source: WIPO.

**Table 3.10 Main intellectual property legislation, 2014**

Subject	Legislation (date of entry into force)
Industrial property	Industrial Property Act (Date of Commencement) Order, 2012 (2012)
	Industrial Property Act, 2010 (Act No. 8 of 2010) (2010)
	Industrial Property Regulations, 2012 (S.I. 70 of 2012) (2012)
	First Schedule Relating to Industrial Property Rights Application Forms & Second Schedule Relating to Fees (2010)
Copyright	Copyright & Neighbouring Rights Act, 2000 (Act No. 6 of 2006) (2006)
	Copyright & Neighbouring Rights Regulations, 2007 (2008)
Enforcement	Customs and Excise Duty Regulations, 1974 (S.I. 36 of 1974) (as amended by S.I. 49 of 2006) (2006)

Source: WTO notifications and WIPO.

### 3.3.5.1 Copyright

3.121. The Copyright and Neighbouring Rights Act (Chapter 68:02) 2006, is the main piece of legislation protecting copyright and neighbouring rights in Botswana. This Act is administered by the Copyright Office of Botswana, a department of the Companies and Intellectual Property Authority (CIPA), formerly the Registrar of Companies and Intellectual Property (ROCIP). The Copyright Society of Botswana (COSBOTS) established in 2008, began operating in 2010 to, *inter alia*, grant licences with the agreement of copyright owners for, *inter alia*: (i) the adaptation of works, performances and sound recordings, or (ii) the use of works for publicity purposes. COSBOTS also sets rates for royalties, in accordance with international standards, and collects royalties from users of copyright/protected works and distributes them to the appropriate owners of copyright.<sup>110</sup>

3.122. The law protects: literary and artistic works; musical works with or without accompanying words; photographic works; audiovisual works; speeches, lectures, addresses, sermons and other oral works; works of drawing; dramatic works; stage productions; illustrations; works of applied art; sketches and three-dimensional works relative to geography, topography, architecture or science; and computer programs<sup>111</sup>; and derivative works.<sup>112</sup> Databases or compilations of data are also protected as derivative works. Authors and holders of copyright enjoy both economic and

<sup>108</sup> WTO document IP/N/1/BWA/2, 18 July 2013.

<sup>109</sup> WTO document IP/N/3/BWA/1, 19 August 2014.

<sup>110</sup> Copyright Society of Botswana (COSBOTS) online information. Viewed at: <http://www.cosbots.com/index.php/homemain>.

<sup>111</sup> Copyright and Neighbouring Rights Act, section 3(1).

<sup>112</sup> These include translations, adaptations, arrangements and other transformations or modification of works.

moral rights. Performers also enjoy both economic and moral rights; thus they have the exclusive rights to broadcast, and to make fixations and reproductions.<sup>113</sup>

3.123. Under the Act, original works are protected by mere creation, irrespective of its mode or form of expression, as well as of its content, quality and purpose. Registration is not a precondition for protection. However, the law stipulates that the Copyright Office must maintain a register of works published in Botswana and a database on copyright matters and on authors and their works, which seems equivalent to a registration (deposit) of literary and artistic works (section 22B of the Copyright and Neighbouring Rights Act).

3.124. The period of copyright protection varies according to the type of work. In general, copyright is protected for the life of the author and 50 years after his/her death. The law also provides for exemptions or limitations to exclusive rights, which include, *inter alia*, reproduction for private use, teaching or for public information, and importation for personal purposes. The scope of protection in Botswana also extends to foreign works (Table 3.11).

**Table 3.11 Copyright protection**

<b>Copyright Protection</b>
Authors are protected for the life of the author plus 50 years after death.
Joint authorship: copyright is protected for the lifetime of the last surviving author and for 50 years after his or her death.
Collective work (other than a work of applied art) and audiovisual work are protected for 50 years from the date on which the work was made, first made available to the public, or first published, whichever date is the latest.
Works of applied art are protected for 25 years from the making of the work.
Performers are protected for fifty years following the year in which the performance was fixed in a phonogram or in which it took place.
Broadcasting organizations are protected for a period of 50 years from the year in which the broadcast took place.
Producers of sound recordings are protected for 50 years from the year of publication or the year of fixation of the sound recording.
<b>Scope of the application</b>
The work of authors who are nationals of, or have their habitual residence in Botswana
Works first published in Botswana, and works first published in another country and also published in Botswana within thirty days of their first publication, irrespective of the nationality or residence of their authors
Audiovisual works whose producer has his or her headquarters or habitual residence in Botswana
Works of architecture erected in Botswana and other artistic works incorporated in a building or other structure located in Botswana
Works that are protected in Botswana by virtue of and in accordance with any international convention or other international agreement to which the country is party
Performers who are nationals of Botswana
Performers who are not nationals of Botswana but whose performances: <ul style="list-style-type: none"> <li>• take place on the territory of Botswana;</li> <li>• are incorporated in sound recordings that are protected under the Botswana Copyright Act; or</li> <li>• have not been fixed in a sound recording but are included in broadcasts that can be protected under the Botswana Copyright Act</li> </ul>
Sound recordings: <ul style="list-style-type: none"> <li>• sound recordings produced by nationals of Botswana</li> <li>• sound recordings first fixed in Botswana</li> <li>• sound recordings first published in Botswana</li> </ul>
Broadcasts: <ul style="list-style-type: none"> <li>• broadcasts of broadcasting organizations whose headquarters are situated in Botswana</li> <li>• broadcasts transmitted from transmitters situated in Botswana</li> </ul>
Performers, producers of sound recordings and broadcasting organizations protected by virtue of and in accordance with any international convention or other international agreement to which Botswana is party

Source: Copyright and Neighbouring Rights Act (Chapter 68:02).

3.125. The Copyright and Neighbouring Rights Act (Chapter 68:02) requires that all sound and audiovisual recordings made available to the public for commercial purposes in Botswana have a security device or hologram affixed to them. The security device (hologram) is sold for P 0.30 at the Copyright Office either in Gaborone or Francistown. A duly accredited owner of the work or an importer may purchase the device; accreditation costs P 40. The Copyright Office may issue an

<sup>113</sup> Sections 23-25 of the Copyright and Neighbouring Rights Act (Chapter 68:02).

accreditation certificate to an importer, only if the applicant has a valid authorization from the owner of the copyright, permitting the importation of such works into Botswana.<sup>114</sup>

3.126. A (copyright) levy is imposed on all imported and locally manufactured blank sound and audiovisual carriers, compact discs and equipment that can be used to copy protected materials.<sup>115</sup> The levy is at present 1%-2% of the sales price. It is collected by the Department of Customs and Excise and is deposited in a Levy on Technical Devices Fund to compensate right-holders for the unauthorized copying of their works, as well as for training, and to implement public awareness campaigns, and to fund projects that promote creativity.<sup>116</sup>

3.127. The Act provides for civil remedies, criminal sanctions and other remedies for protecting copyright holders in the case of copyright infringement. Civil remedies include: impounding or destruction of works or sound recordings imported without authorization; payment of damages; awarding of punitive damages. Criminal proceedings can also be brought against those who conduct acts that contravene provisions of the Act. Copyright infringements are prescribed as criminal offences subject to penalties of imprisonment and/or fines, of up to ten years and P 20,000 for the first offence, and of up to ten years and from P 30,000 to P 5 million for subsequent convictions.

3.128. The magistrates' courts and the High Court are the competent courts responsible for the adjudication of matters concerning copyright and related rights. However, the law provides for the establishment of a Copyright Arbitration Panel, which is responsible for settling disputes under the Act (section 33A). Foreign natural and legal persons enjoy the same right as nationals to take action in the courts of Botswana.

3.129. Customs is the authority responsible for combating piracy at the borders. Customs officials can act ex officio at the borders in cases of copyright infringement. They are entitled to impound copies of works or sound recordings suspected of being made or imported without the authorization of the owner of any right protected in the Act, as well as being entitled to impound the packaging, the implements that could be used, and the documents, accounts or business papers referring to such copies. Any goods imported into the country that are in contravention of the provisions of the Copyright Act may be placed under embargo or destroyed.

### 3.3.5.2 Industrial property rights

3.130. Industrial Property Act No. 14 of 1996, last amended in 1997 (Industrial property (Amendment) Act No. 19) was replaced by the Industrial Property Act 2010 which came into effect in 2012.<sup>117</sup> This Act, like the former law, provides protection for patents, trademarks, industrial designs and utility models, and introduces protection to layout designs of integrated circuits, geographical indications, and traditional knowledge and handicrafts. The law also provides protection of industrial property against unfair competition. Protection against unfair competition complements the protection of inventions, industrial designs, trademarks and geographical indications and it is particularly important for the protection of knowledge, technology or information not protected by a patent.<sup>118</sup> New regulations (Industrial Property Regulations 2012) implementing the provisions of the new Act, were also introduced. These regulations introduced new forms for the protection of each intellectual property right covered under the Act and increased the fees stipulated in the Industrial Property Act of 1996 by 50%. CIPA is now in charge of implementing and administering the Act.

#### 3.3.5.2.1 Patents

3.131. The most important changes introduced by the 2010 Act regarding patents are: a new provision on parallel imports; a pre-patent grant opposition procedure and the possibility for Botswana to process international patent applications filed under the Patent Cooperation Treaty (PCT).

<sup>114</sup> Section 35E of the Copyright and Neighbouring Rights Act (Chapter 68:02).

<sup>115</sup> Section 35G of the Copyright and Neighbouring Rights Act (Chapter 68:02).

<sup>116</sup> Information provided by the authorities, and WTO (2009), Trade Policy Review - SACU.

<sup>117</sup> WTO document IP/N/1/BWA/2, 18 July 2013.

<sup>118</sup> WIPO online information. "Understanding Industrial Property". Viewed at: [http://www.wipo.int/edocs/pubdocs/en/intproperty/895/wipo\\_pub\\_895.pdf](http://www.wipo.int/edocs/pubdocs/en/intproperty/895/wipo_pub_895.pdf).

3.132. Patent protection is for 20 years from the filing date. After formal examination of the patent application and within 18 months from the date of filing, the Registrar of Marks, Patents and Designs (the Registrar) publishes the patent application in the Journal for public inspection.<sup>119</sup> Thereafter, the patent application is subject to substantive examination, which is undertaken by any institution appointed by the Chief Executive Officer, including designated foreign or regional industrial property authorities. Usually the examinations are undertaken by the African Regional Intellectual Property Organization (ARIPO); this could take 18-24 months. The patent application procedure is the same for nationals as for foreign nationals. Before the granting or refusal of a patent, an applicant for a patent may, upon payment of a fee, convert his or her application for a patent into an application for a utility model certificate.<sup>120</sup> This conversion can be done only once.<sup>121</sup> Patent holders have exclusive rights over making, selling and importing products; these rights are enforceable in the courts. There are specific limited exceptions to exclusive rights, such as experimental acts relating to a patented invention and right of prior use done in good faith. The right to a patent may be transferred by cession, assignment, testamentary disposition or by operation of law.

3.133. The patentee, in addition to any other rights, remedies or actions available to him or her, has the right to institute court proceedings against any person who infringes the patent

3.134. The Government, upon payment of an adequate remuneration to the patentee<sup>122</sup>, may grant a compulsory licence either on grounds of public interest or if a court determines the exploitation of the invention is anti-competitive and constitutes an abuse of the patent.<sup>123</sup> Public interest covers national security, nutrition, health or the development of other vital sectors of the national economy. The exploitation of patented inventions under compulsory licensing is only allowed for the supply of the domestic market. Compulsory licences may also be issued if the patent has been insufficiently used in Botswana, or is not being "supplied on reasonable terms", as determined by the High Court. During the period under review, Botswana did not issue any compulsory licences.

3.135. The Act also allows for licences to be issued to a government agency or any authorized person for the importation of patented products such as generic pharmaceutical products from any legitimate alternative foreign source without the approval of the patentee either on grounds of public interest or if the patented product is not supplied in sufficient quantities to fulfil the demand or on reasonable terms. The importation of the patented product by a government agency or any authorized institution should be solely for public non-commercial use within Botswana, except where paragraphs 1 or 3 of Article 31bis of the TRIPS Agreement could apply. Botswana has not issued any such licences.<sup>124</sup>

3.136. Remedies available to the right holder include damages, profits derived from the infringement, injunctions restraining the illegal activity, and destruction of illegal works. Criminal penalties comprise fines of between P 2,000 and P 5,000 and/or imprisonment of six months to two years.

3.137. During the period under review 68 applications were filed. Botswana granted 16 patents, of which 14 to non-residents (Table 3.12). All patents are in force.<sup>125</sup>

<sup>119</sup> The 2010 Act stipulates that a Journal of marks, patents, designs, geographical indications and traditional knowledge should be created (Section 5(e) of the Industrial Property Act, 2010).

<sup>120</sup> Fees are listed in the Second Schedule of the Industrial Property Regulations, 2012 (published on 31 August 2012).

<sup>121</sup> Utility model certificates are granted to protect new and industrially applicable inventions for seven years from the date of filing.

<sup>122</sup> In the determination of adequate remuneration the Minister takes into account the economic value of the exploitation of the patented invention and the need for the elimination of anti-competitive practices (section 31(2) of the Industrial Property Act 2010).

<sup>123</sup> The law does not define what constitutes an abuse of the patent. The High Court of Botswana or an administrative body will make a determination of what constitutes abuse of the patent (information provided by the authorities).

<sup>124</sup> Information provided by the authorities.

<sup>125</sup> Information provided by the authorities.

**Table 3.12 Patents, 2009-14**

Patents	2009	2010	2011	2012	2013	2014	Total
Filed	12	15	9	14	9	9 <sup>a</sup>	68
Examined	12	15	9	14	9	0	59
Granted	2	4	6	1	3	0	16
Residents	0	1	1	0	0	0	2
Non-residents	2	3	5	1	3	0	14

a These patents are still under substantive examination.

Source: Information provided by the authorities.

3.138. The provisions that apply to patents are also applicable to utility models; however, a utility model certificate expires 7 years after the date of filing of an application. As in the case of a patent, an applicant may upon payment of a prescribed fee convert the application for a utility model certificate into an application for a patent. The conversion of the application can be done only once.

### 3.3.5.2.2 Industrial designs

3.139. Protection of industrial designs is granted under the Industrial Property Act of 2010, which introduced the possibility of international registration of industrial designs under the Hague Agreement. Registered new industrial designs are protected for 15 years (5 years initially, renewable twice). Application for the registration must be filed with the Registrar using the prescribed forms and with payment of the required fees. An applicant for registration who is not the creator needs to provide proof of his/her authority to apply for the registration; otherwise, the application cannot be accepted. The Registrar undertakes a substantial examination of the application prior to granting the right of protection.<sup>126</sup> The owner of a design has exclusive rights of use.<sup>127</sup> The owner has to grant consent for third parties to make, import or sell an article that bears the design or a design not substantially different from the one registered. The law does not include provisions for issuing compulsory licences.

3.140. The owner of a registered design has the right to institute court proceedings against any person exploiting the design without his/her consent. The court may grant relief by way of damages, profits derived from infringements, injunctions against illegal activity, and destruction of infringing products.

3.141. During the period under review 34 applications were filed; 13 industrial designs were registered, of which 2 to non-residents (Table 3.13). All industrial designs are in force.<sup>128</sup>

**Table 3.13 Industrial designs, 2009-14**

Designs	2009	2010	2011	2012	2013	2014	Total
Filed	n.a.	n.a.	7	12	12	10	34
Examined	n.a.	n.a.	7	12	12	10	34
Registered	n.a.	n.a.	0	6	3	4	13
Residents	n.a.	n.a.	0	6	1	4	11
Non-residents	n.a.	n.a.	0	0	2	0	2

n.a. Not applicable.

Source: The Companies and Intellectual Property Authority.

<sup>126</sup> Please refer to section 49 of the Industrial Property Act, 2010 for more details regarding this examination.

<sup>127</sup> If two or more persons have made the design jointly, the right belongs to them jointly. If the design is made by two or more persons separately, the person whose application bears the earliest date shall have the right to the design; unless priority is claimed.

<sup>128</sup> Information provided by the authorities.

### 3.3.5.2.3 Layout designs and integrated circuits

3.142. The Industrial Property Act of 2010 introduced the protection of layout designs of integrated circuits.<sup>129</sup> Original layout designs of integrated circuits are protected upon registration. Protection is granted for 10 years from the date of filing an application for registration or from the first commercial exploitation wherever it occurs; the protection lapses 15 years after the creation of the layout design. Protection confers on the owner the right to reproduce, import, sell or distribute a layout design for an integrated circuit for commercial use. On grounds of public interest, the law allows the Minister of Trade and Industry to grant permission to persons other than the owner to import any product covered by the integrated circuit of the layout design.<sup>130</sup> This provision has not been used.<sup>131</sup>

### 3.3.5.2.4 Trademarks

3.143. Marks, collective marks and trade names continue to be protected under Botswana's industrial property legislation. Important changes since the previous Review include: the introduction by the Industrial Property Act of 2010 of a new provision that allows for the reinstatement of lapsed marks upon providing compelling reasons and the introduction of the international registration of marks under the Madrid Protocol.<sup>132</sup>

3.144. The exclusive right to a mark is acquired by registration with the Registrar, who will undertake a substantial examination of the application and take into consideration any opposition to the registration of such mark.<sup>133</sup> Marks can only be registered if they are capable of distinguishing goods and services of an enterprise. The law also protects well-known marks by preventing registration of identical or confusingly similar marks. If a geographical indication was registered as a mark prior to the protection of geographical indications in Botswana the mark will continue to be protected by law.

3.145. Registration of the mark confers on the owner an exclusive right over the use of the mark for 10 years after the filing date of the application for registration. Protection can be renewed indefinitely for consecutive periods of 10 years upon written request and payment of the renewal fee. A mark may be removed from the register if it has not been used in Botswana for a continuous period of three years after registration; however, an owner that loses its rights on grounds of non-use can request the reinstatement of its rights. The authorities noted that during the period under review this has not happened.

3.146. Foreign applicants are required to submit applications to the Registrar through a local agent. Applications are published for a three-month opposition period; it takes five months to register a trademark in Botswana.

3.147. The owner of the mark, as is the case for other industrial rights, is allowed to institute proceedings against anyone infringing his or her rights. The court may grant relief by way of damages, profits derived from infringements, injunctions against illegal activity, or the destruction of the infringing products. Criminal penalties also apply to illegal use of trademarks.<sup>134</sup>

3.148. During the period under review 6,333 applications were filed; 3,926 trademarks were registered, of which 3,230 to non-residents (Table 3.14). All trademarks are in force.<sup>135</sup>

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<sup>129</sup> Part VII of the Industrial Property Act of 2010.

<sup>130</sup> Examples of public interest include: supply of the product covered by the right is not sufficient to meet local demand in Botswana, the quality of the product is substandard or the price is abusive (section 73 of the Industrial Property Act of 2010).

<sup>131</sup> Information provided by the authorities.

<sup>132</sup> Part IX of the Industrial Property Act of 2010.

<sup>133</sup> The rights conferred by registration are listed in section 81 of the Industrial Property Act of 2010.

<sup>134</sup> Section 134(6) of the Industrial Property Act, 2010.

<sup>135</sup> Information provided by the authorities.

**Table 3.14 Trademarks, 2009-14**

Trade marks	2009	2010	2011	2012	2013	2014	Total
Filed	966	1,070	989	1,168	1,073	1,067	<b>6,333</b>
Examined	966	1,070	989	1,168	1,073	1,067	<b>6,333</b>
Registered	912	401	989	361	391	872	<b>3,926</b>
Residents	106	54	194	55	103	184	<b>696</b>
Non-residents	806	347	795	306	288	688	<b>3,230</b>

Source: The Companies and Intellectual Property Authority.

### 3.3.5.2.5 Geographical indications

3.149. Protection has been granted to geographical indications in Botswana since 2012; prior to that date geographical indications were protected as marks. As in the case of trademarks, geographical indications need to be registered to be protected. Applications are examined by the Registrar and opposition to registration is allowed under the law. The owner of the registered right has the right to prohibit third parties from using the geographical indication and to institute court proceedings against any person infringing his or her right. However, the right conferred by registration of a geographical indication may not be invoked to prevent a national or domiciliary of Botswana, who has previously used the geographical indication to identify wines or spirits, to continue its use if the geographical indication has been used continuously for at least 10 years prior to 15 April 1994 or in good faith after that date. In 2014, an application for a geographical indication was filed; it is still under investigation.<sup>136</sup>

### 3.3.5.2.6 Traditional knowledge and handicrafts

3.150. Traditional knowledge needs to be registered for it to be protected in Botswana. Traditional knowledge can be registered if it has not been disclosed to the public or, if it has been disclosed, such disclosure has not led to any commercial or industrial exploitation in Botswana. Traditional knowledge may be registered by a local practitioner, a representative of any local community or any individual. Applicants can opt to keep all or parts of the elements of traditional knowledge under secrecy.

3.151. The Registrar must publish in the Journal (of marks, patents, designs, geographical indications and traditional knowledge) a notice of the registration of traditional knowledge which should contain, *inter alia*, a summary of the registered traditional knowledge if available and the identification of the local community or communities that created it. The law provides for the possibility of invalidating the registration.

3.152. The rights over traditional knowledge may be exercised in different ways. Where traditional knowledge is collectively owned, rights over it can be exercised and enjoyed collectively in accordance with cultural practices. Local communities that have registered individually for similar or identical elements of traditional knowledge have the option to exercise and enjoy their rights over the traditional knowledge individually. An applicant community which is comprised of individuals from different countries, including Botswana, shall have the right to register and acquire rights over traditional knowledge in Botswana and in the other countries.

3.153. The exclusive rights conferred over traditional knowledge depend upon the matter being protected, which could be a product; a domesticated animal, cultivated plant or micro-organism; a design or object (including handicrafts); or a name, symbol or distinctive sign of a religious, spiritual, cultural or economic nature.<sup>137</sup> The protection of registered traditional knowledge expires when it loses its value as an element of cultural identification; as a result of abandonment by its owner or owners; or as a result of non-use or use in a distorted manner by third parties of which the owner or owners are aware.

3.154. The rights of local communities over registered traditional knowledge may not be assigned, ceded or transferred in any manner. However, the Minister of Trade and Industry may, on grounds

<sup>136</sup> Information provided by the Companies and Intellectual Property Authority.

<sup>137</sup> Section 121 of the Industrial Property Act of 2010.

of public interest, after hearing any local community that owns traditional knowledge, authorize the scientific, commercial or industrial exploitation of that knowledge or any element of it. The local community or any other owner of the knowledge can initiate proceedings concerning the protection or infringement of rights over traditional knowledge. The Court may order the infringing party to pay to the local community a prescribed amount.

## 4 TRADE POLICIES BY SECTOR

### 4.1 Agriculture

4.1. Agriculture remains one of the most important economic activities in Botswana. It plays a significant role in providing employment and investment opportunities to the Botswana, especially the rural population, and it is also an important supplier of raw materials for agro-based industries. The sector comprises the crops and livestock subsectors with production (in both subsectors) taking place under two farming systems: communal (traditional sector) and commercial. The dominant subsector is livestock, mainly beef cattle production and small stock (goats); while arable farming is primarily subsistence. Agriculture is characterized by cyclical performance mainly due to erratic rainfalls. The arable subsector has been more sensitive to climatic changes than the livestock subsector. On average, the performance of both subsectors has been worse than expected; with the arable subsector having a poorer performance.

4.2. Even though the sector's contribution to GDP has decreased over the years from over 40% in 1966 to 2.4% in 2014, it remains the mainstay of the rural economy where it is the major source of livelihood. In addition, the livestock subsector's contribution to exports is significant; meat and meat products accounted for 70.3% of the country's agricultural exports (Table 4.1).

**Table 4.1 Principal indicators for agriculture, forestry and fishing, 2008-14**

	2008	2009	2010	2011	2012	2013	2014
Contribution to GDP (%, at current basic prices) <sup>a</sup>	2.8	3.3	3.2	2.8	2.9	2.6	2.4
Contribution to GDP (%, at 2006 constant basic prices) <sup>a</sup>	2.4	2.8	2.9	2.1	2.2	2.1	1.9
Growth rate at 2006 prices (%)	2.0	6.4	16.7	-22.9	10.2	2.0	-0.3
Estimated number of paid employees in agriculture (% of total paid employees) <sup>b</sup>	3.0	3.1	3.2	3.2	3.1	..	..
<b>Exports (including re-exports)</b>							
Agriculture (US\$ million) <sup>c</sup>	154	178	243	139	131	180	163
Top 5 exports by HS 4-digit (% of total agriculture) <sup>d</sup>							
0202 Meat of bovine animals, frozen	21.7	27.5	24.9	19.8	35.6	41.4	39.5
0201 Meat of bovine animals, fresh/chilled	37.0	36.1	40.2	14.0	13.7	22.7	30.8
1704 Sugar confectionery (not incl. cocoa)	7.8	8.1	9.1	17.0	14.7	8.5	9.1
1302 Vegetable saps and extracts	0.0	0.9	0.9	2.6	2.6	1.5	2.7
0102 Live bovine animals	0.1	0.0	0.0	7.7	2.3	2.7	1.8
Top 5 exports (% of total exports)	2.1	3.7	3.9	1.4	1.5	1.8	1.7
Total agricultural exports (% of total exports)	3.1	5.2	5.2	2.4	2.2	2.4	2.1
Growth rate at current prices (%)	2.2	16.0	36.3	-43.0	-5.7	37.9	-9.5
<b>Imports</b>							
Agriculture (US\$ million) <sup>c</sup>	620	618	699	761	719	750	690
Top 5 imports by HS 4-digit (% of total agriculture) <sup>d</sup>							
1005 Maize (corn)	1.3	1.4	1.4	2.3	2.8	6.6	6.9
1701 Cane or beet sugar and chemically pure sucrose	5.3	6.8	6.3	6.3	6.8	6.4	6.3
1001 Wheat and meslin	3.6	4.8	3.8	2.8	0.6	5.2	6.0
2009 Fruit juices and vegetable juices	5.0	4.5	4.9	4.6	4.1	4.3	4.6
0402 Milk and cream	3.0	3.1	3.5	4.1	4.7	4.3	4.4
Top 5 imports (% of total imports)	2.1	2.7	2.5	2.1	1.7	2.7	2.5
Total agricultural imports (% of total imports)	11.9	13.1	12.4	10.5	9.0	10.1	8.8
Growth rate at current prices, %	18.9	-0.3	13.1	8.9	-5.5	4.3	-8.0

.. Not available.

a The figures for 2010-14 are provisional.

b Based on the month of September for each year, except for 2011 (June).

c WTO definition.

d Based on the 2014 values.

Source: WTO Secretariat calculations, based on Bank of Botswana (2015a), Botswana Financial Statistics, Issue (February 2015); Statistics Botswana (April 2015), *Gross Domestic Product, Fourth Quarter of 2014 (No. 2015/1)*; data provided by the authorities; and UN Comtrade.

4.3. Arable land accounts for some 5% of Botswana's total territory; most of the soil is poor and there is inadequate rainfall. The area cultivated varies from year to year, as the country is prone to drought on a regular basis.<sup>1</sup> There is also a disparity between the planted and harvested area; the harvest depends on the rainfall. Notwithstanding the adverse climatic and soil conditions, the long-standing focus on traditional rain-fed arable farming and the slow adoption of modern farming methods have contributed to a decline in yields. As a result, Botswana continues to be a net food importer. Food accounts for a large share of imports of agricultural products, with grains (maize, wheat and meslin) accounting for 12.9% of agricultural imports in 2014, followed by sugar (Table 4.1). The deficit in food trade was about US\$466 million in 2008 and stood at US\$527 million in 2014.

4.4. Botswana's agricultural policy is implemented by the Ministry of Agriculture within the framework of the National Development Plan 10 (NDP10) and the Vision 2016, which identify sustainable growth in the agricultural sector as a key to eradicating poverty. Agriculture remains the main source of income in rural areas, and thus plays a major role in contributing to the achievement of poverty reduction targets.

4.5. The 1991 National Policy on Agricultural Development is still in place but is currently under review. The Policy's objectives include: attaining food security<sup>2</sup>, diversifying the production base, boosting productivity, increasing employment, and protecting the environment. In 2010, a review of the agricultural policies called for public policy to focus mainly on the provision of infrastructure and extension services, but it also recognized the need to continue supporting the sector through economy-wide schemes such as the provision of grants, low interest loans and support services to the local industry, provided by the Citizen Entrepreneurial Development Agency (CEDA) and the Local Enterprise Authority (LEA)<sup>3</sup>; and at the sectoral level, through a number of programmes targeted at different agricultural subsectors, for instance: the National Master Plan for Arable Agriculture and Dairy Development (NAMPAAADD) (2002 to date); the Integrated Support Programme for Arable Agricultural Development (ISPAAD) (2008 to date) and the Agricultural Policy and the Livestock Management and Infrastructure Development (LIMID) (1997 to date).<sup>4</sup>

4.6. SPS related issues continue to pose a challenge for Botswana, hence the proper enforcement of SPS measures and the implementation of practices aimed at improving sanitary conditions in the country are necessary for Botswana to attain food security, one of the country's main goals, as well as to take full advantage of international trade opportunities, especially given Botswana's reliance on meat exports. The Ministry of Agriculture, through the Departments of Veterinary Services and of Crop Production, is responsible for prevention and control of diseases and pests through the implementation of SPS legislation and movement of goods including import/export control.

4.7. As a SACU member, Botswana applies the Union's CET. Regarding tariff bindings Botswana adopted South Africa's bindings, with some exceptions mainly regarding agricultural products (e.g. dairy products, wheat, maize, rice, oil and cotton) (Main Report and Section 3). All tariff lines were bound at *ad valorem* rates. The 2015 MFN applied tariff rates on some dairy products appear to be higher than the bound rate (Table 3.1).

4.8. The 2002 SACU Agreement stipulates that all members need to apply the same rebates, refunds or drawbacks of customs duties on imported goods (Main Report). There are, however, some country-specific rebates. For instance Botswana, applies specific rebates on wheat (HS 1011) (excluding durum wheat) and dairy products (HS 04). These rebates can only be used if it is allowed by the agricultural authorities of the four BLNS countries. In addition, a number of agricultural products and farming inputs and implements are either exempted from VAT or zero-rated.

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<sup>1</sup> Online information. Viewed at:

<http://www.fao.org/ag/AGP/AGPC/doc/Counprof/Botswana/botswana.htm>.

<sup>2</sup> According to Botswana's agricultural policy, food security is concerned with access to food at affordable prices, irrespective of the source of such food. Thus, imports play an important role as a source of supply.

<sup>3</sup> A Young Farmers Fund (YFF) offered by CEDA was also launched in 2006 to issue loans at lower interest rates and longer repayment periods than the regular CEDA programme.

<sup>4</sup> Online information. Viewed at: <http://www.moa.gov.bw/?nav=agricpolicy>; and <http://www.moa.gov.bw/?nav=supportschemes>.

4.9. Temporary protection to infant industries for a maximum of 8 years, through the imposition of additional duties, is also allowed under the SACU Agreement. Under this provision Botswana has levied an additional duty of 40% on imports of UHT milk since 2008, to be eliminated by 2015.<sup>5</sup> Botswana also charges a flour levy at a rate of 15% on imports of wheat flour to protect the milling industry. This levy has been imposed under the Control of Goods, Prices and Other Charges Act as an internal measure to develop the industry; according to the authorities, it will be phased out over a 10-year period starting in 2015.

4.10. During 2009-14, Botswana did not invoke the special agricultural safeguard.<sup>6</sup>

4.11. Botswana applies import/export restrictions on certain agricultural products to develop the sector and on food security grounds.<sup>7</sup> These restrictions are imposed under the Control of Goods, Prices and Other Charges Act (Chapter 43:08). Prior to obtaining an import/export permit from the Ministry of Agriculture, imports/exports of agricultural products require sanitary and phytosanitary clearance.

4.12. Imports of several agricultural products require a permit, unless imported in small quantities for personal consumption (e.g. 10 kg to 25 kg) (Table 3.2). These permits are required to promote local production of basic products; hence the products subject to import permits vary according to the circumstances.<sup>8</sup> Permits are not granted when domestic supply is deemed sufficient, to ensure that local farmers can sell their produce; they are granted only when there are shortages in the domestic markets.<sup>9</sup> Import permits for grains, such as maize, maize meal, sorghum grains and sorghum meal, will only be issued upon proof of local purchase.<sup>10</sup> Imports of sugar are allowed in quantities higher than 50 kg.<sup>11</sup>

4.13. Most exports from Botswana are neither subject to restrictions nor require permits or licences, but certain exceptions apply in agriculture, including cattle, basic goods, and hides and skins.

4.14. Exports of live cattle and meat can only be undertaken by the Botswana Meat Corporation; they are otherwise prohibited unless authorized by the Minister.<sup>12</sup>

4.15. Export permits issued by the Department of Agribusiness Promotion at the Ministry of Agriculture are required for the following products: animal feed for poultry and livestock, sorghum grains and sorghum products, maize grain and maize products, millet grains and millet products, wheat grain and wheat products, pulses (castor beans and groundnuts), sunflower seed, and basic foods and vegetables not exceeding a specific quantity stipulated by law. Permits are issued to a holder of a valid trading licence, who could either be a citizen of Botswana, a resident foreign national or a company or firm registered and carrying on business in Botswana. Permit applications must be accompanied by the trading licence and certificate of incorporation; in addition to a sanitary and phytosanitary permit and/or Botswana Bureau of Standards (BOBS) Certificate.

4.16. Exports of sugar from Botswana require a permit. Permits used to also be required for exports of sugar to South Africa if the amount exported exceeded 25 kg per month; a permit allowed exports of a maximum 100 kg per month. However, according to the authorities, exports of sugar have been liberalized.

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<sup>5</sup> Information provided by the authorities.

<sup>6</sup> WTO documents G/AG/N/BWA/8, 14 July 2010; G/AG/N/BWA/12, 6 March 2012; G/AG/N/BWA/15, 28 August 2012; G/AG/N/BWA/18, 13 February 2014; and G/AG/N/BWA/21, 9 December 2014.

<sup>7</sup> Information provided by the authorities.

<sup>8</sup> Notices regarding the imposition of such permits are published on the Ministry of Agriculture's web page. Viewed at: <http://www.moa.gov.bw/>.

<sup>9</sup> Control of Goods, Prices and Other Charges (Restriction on the Importation of Bread Loaves and Pie Pastries) Regulations (under section 3) (14 October, 2003).

<sup>10</sup> In the case of maize grain 30% needs to be purchased locally, 70% in the case of maize meal, 50% for sorghum grain and 70% for sorghum meal.

<sup>11</sup> Control of Goods (Importation of Sugar) Regulations (under section 3) (1 January 1985); Control of Goods, Prices and Other Charges (Restriction on Importation of Pre-Packaged Refined Sugar) Regulations, 2008; and information provided by the authorities.

<sup>12</sup> Botswana Meat Commission (BMC) Act.

4.17. An export permit issued by the Agricultural Resources Board is also required to export grapple plant (*Harpagophytum procumbens*) or any part thereof and Phane (*Gonimbrasia belina*).<sup>13</sup>

4.18. Botswana notified the WTO Committee on Agriculture that it did not provide any export subsidies to agricultural products during financial years 2009/10 to 2013/14.<sup>14</sup>

4.19. Exporters are entitled to duty drawback on inputs imported to be used in the production of exports. Export credit insurance is available through the Botswana Export Credit Insurance and Guarantee Company Botswana (Pty) Ltd (BECI). Export credit insurance is essential to stimulate non-traditional exports and diversify export markets.

4.20. The National Development Plan 10 (NDP10) identified the agricultural sector as one of the areas that have potential to promote the diversification of the economy, to create employment, especially in rural areas, and to promote exports. As a result, the Agricultural Hub was established in May 2008 to promote commercialization and diversification of the sector.<sup>15</sup>

4.21. Agricultural support is aimed at increasing agricultural productivity and is targeted at low-income farmers. There are four main support programmes currently in place, as well as other programmes related to the provision of, *inter alia*, pest and disease control, extension and advisory services, and marketing and promotion services. These programmes have been notified to the WTO.<sup>16</sup> Amongst these programmes the most important is the Integrated Support Programme for Arable Agricultural Development (ISPAAD) which provides financing for low-income farmers to purchase inputs including the purchase of animals.<sup>17</sup> Total domestic support has continued to increase during the period under review. Moreover, as reported at the time of the last Review in 2009, government support to agriculture is substantial, especially if compared with agricultural GDP (Table 4.2).

**Table 4.2 Government expenditure on agriculture, 2009/10-2013/14**

(Million Pula)

	2009/10	2010/11	2011/12	2012/13	2013/14
Total domestic support	114	344	175	355	580
"Green Box" <sup>a</sup>	104	111	145	103	259
Special and Differential Treatment - "Development Programmes" <sup>a</sup>	10	233	29	251	320
of which: ISPAAD	n.a.	209	0.4	201	261
Government expenditure (agriculture, forestry and fishing)	1,185	1,107	1,289	1,538	1,750
Government expenditure (agriculture, forestry and fishing), as a share of:					
Total government expenditure (%)	3.0	2.9	3.3	3.8	4.2
Agricultural GDP, current prices (%)	55.5	51.0	45.0	53.4	59.3
Total domestic support, as a share of:					
Total government expenditure of agriculture, forestry and fishing (%)	9.6	31.1	13.5	23.1	33.1
Agricultural GDP, current prices (%)	5.3	15.9	6.1	12.3	19.7
Total GDP, current basic prices (%)	0.2	0.4	0.2	0.3	0.5

n.a. Not applicable.

a Measures exempt from the reduction commitment.

Source: WTO Secretariat's notifications; and Statistics Botswana (April 2015), *Gross Domestic Product, Fourth Quarter of 2014 (No. 2015/1)*; and IMF online information, "International Financial Statistics". Viewed at: <http://elibrary-data.imf.org/DataExplorer.aspx>.

<sup>13</sup> Agricultural Resources Conservation Act No. 35:60.

<sup>14</sup> WTO documents G/AG/N/BWA/9, 14 July 2010; G/AG/N/BWA/11, 6 March 2012; G/AG/N/BWA/14, 28 August 2012; G/AG/N/BWA/17, 13 February 2014; and G/AG/N/BWA/22, 9 December 2014.

<sup>15</sup> Online information. Viewed at: <http://www.moa.gov.bw/?nav=agrichub>.

<sup>16</sup> WTO documents G/AG/N/BWA/13, 27 March 2012; G/AG/N/BWA/16, 15 January 2013; G/AG/N/BWA/19, 14 February 2014; and G/AG/N/BWA/20, 9 December 2014.

<sup>17</sup> For more details on this programme please refer to: Ministry of Agriculture (2013).

4.22. In 2007, CEDA started operating the Young Farmers' Fund, which provides subsidized loans and training to young agricultural producers.

4.23. The livestock subsector continues to be heavily protected. In general imports of beef are restricted or prohibited<sup>18</sup>; while the Botswana Meat Commission (BMC) continues to operate as a monopoly for the export of beef and other meat products. There are, however, privately owned abattoirs that slaughter to supply the domestic market. The BMC Act also prohibits the export of live cattle. According to the authorities, the price of livestock and livestock products is determined by market forces.

4.24. The livestock subsector has been driven largely by the international beef market including the EU and South Africa. The EU market is of great importance to Botswana. The suspension of Botswana beef exports to the EU in 2011 resulted in a substantial decrease in exports and highlighted the need to strengthen SPS-controls and food-safety systems, which are closely tied to livestock movement, traceability and identification. Botswana depends on an effective animal identification and trace-back system to access lucrative beef export markets that demand identification and trace-back to ensure food safety. Thus, to improve traceability Botswana changed the livestock identification and trace-back system (LITS) to a digital ear-tag system. This technology enables the Department of Veterinary Services to trace and individually identify livestock in any district.

4.25. Botswana's beef exports have seen a significant rebound in 2013, following two years of consecutive dwindling after the suspended beef imports from Botswana in early 2011. Exports of beef reached US\$113.8 million in 2014, compared with the US\$66 million recorded in 2012.<sup>19</sup> Botswana is also making efforts to diversify its beef exports beyond the traditional markets (the EU, SACU members and other neighbouring countries), towards alternative markets such as Kuwait, Saudi Arabia and Dubai.<sup>20</sup>

4.26. The other market in which there is substantial intervention is the grain market. The Botswana Agricultural Marketing Board (BAMB), established in 1974, has the mandate to provide a market for locally grown crops such as cereals, pulses/beans and oilseeds, and ensure an adequate supply to meet customer requirements at affordable prices.<sup>21</sup> In addition to set purchase and sale prices, BAMB is authorized to import or export<sup>22</sup>, transport, store, process and sell any "scheduled" produce. The Act also requires BAMB to stabilize prices through the Stabilization Fund, which is financed with public funds. Currently BAMB sets producer prices based on monthly prices posted by the South African Futures Exchange, adjusted for transport costs, moisture, impurities and mark-up. The Government subsidizes the transport costs incurred by BAMB as a result of operating in remote areas of the country. BAMB also holds grain reserves to stabilize the market, which are estimated to cover 3 months (some 30,000 MT) of domestic consumption of sorghum, and 3 months (some 30,000 MT) of maize.

## 4.2 Mining and Energy

### 4.2.1 Mining

4.27. Mining continues to dominate Botswana's economy contributing some 25% to GDP in 2014. The sector absorbs less than 6% of the labour force, as mining is a capital-intensive activity which relies heavily on foreign direct investment. In 2012, it absorbed 72% of total FDI (latest available information).<sup>23</sup> Botswana is the world's largest producer (by value) and exporter of diamonds. Exports of diamonds accounted in 2014 for 84.5% of total exports (Table A1.3). In addition to diamonds, Botswana produces other minerals, which are mainly for export (Table 4.3). Exports of mining products accounted for 92.7% of total exports in 2014. Given Botswana's reliance on diamonds and other primary products, the Government launched the Economic Diversification

<sup>18</sup> Information provided by the authorities.

<sup>19</sup> Based on information provided by the authorities.

<sup>20</sup> Information provided by the authorities.

<sup>21</sup> Act of Parliament, No. 2 of 1974.

<sup>22</sup> As per Statutory Instrument No. 66 of 2005.

<sup>23</sup> Bank of Botswana (2013).

Drive (EDD) initiative in 2011, with the main objective of diversifying the economy and its export base away from diamonds, into other sectors.<sup>24</sup>

**Table 4.3 Principal indicators for mining, 2008-14**

	2008	2009	2010	2011	2012	2013	2014
Contribution to GDP (%, at current basic prices) <sup>a</sup>	29.2	15.9	27.1	27.0	21.8	24.5	25.3
Contribution to GDP (%, at 2006 constant basic prices) <sup>a</sup>	28.3	16.8	18.6	17.0	15.1	15.8	18.9
Growth rate at 2006 prices (%)	-8.0	-46.2	22.7	-2.3	-7.0	10.6	4.5
Estimated number of paid employees in mining (% of total paid employees) <sup>b</sup>	6	5.3	5.6	6	5.7	..	..
<b>Exports (including re-exports)</b>							
Mining (US\$ billion) <sup>c</sup>	4.2	2.8	4.0	5.0	5.3	7.0	7.3
Top 5 exports by HS 4-digit (% of total mining) <sup>d</sup>							
7102 Diamonds	74.4	77.1	81.1	88.3	88.7	89.9	91.6
710231 Non-industrial: unworked	66.9	69.2	69.1	73.8	74.9	77.4	79.9
710239 Non-industrial: other	7.3	7.7	11.5	14.2	13.2	11.3	11.2
7501 Nickel mattes	16.1	15.1	12.9	7.0	6.2	6.0	4.6
2603 Copper ores and concentrates	3.5	2.7	1.1	1.5	1.8	1.8	1.8
7108 Gold	2.4	2.7	1.5	1.6	1.6	0.8	0.6
2501 Salt	0.4	0.6	0.5	0.3	0.3	0.3	0.4
Top 5 exports (% of total exports)	82.3	79.8	81.9	84.6	88.4	91.2	91.7
Mining exports (% of total exports)	84.9	81.3	84.3	85.6	89.5	92.3	92.7
Growth rate at current prices, %	-4.1	-33.2	40.9	27.2	6.2	30.7	5.0
<b>Imports</b>							
Mining (US\$ billion) <sup>c</sup>	1.1	1.0	1.4	1.7	2.8	2.6	3.2
Top 5 imports by HS 4-digit (% of total mining) <sup>d</sup>							
7102 Diamonds	40.9	37.9	47.6	51.9	77.2	76.6	83.3
710231 Non-industrial: unworked	40.3	37.0	45.6	47.7	75.2	73.3	63.7
710210 Unsorted	0.0	0.0	0.0	0.0	0.2	0.0	15.8
710239 Non-industrial: other	0.6	0.9	2.0	4.2	1.9	3.2	3.8
2523 Portland cement	5.5	7.7	6.6	5.0	2.6	2.4	2.0
3102 Mineral or chemical fertilizers, nitrogenous	1.1	0.7	1.1	0.9	1.0	1.6	1.3
7308 Structures	5.9	4.8	4.7	6.9	1.6	1.2	1.0
3105 Mineral or chemical fertilizers	0.4	0.8	0.5	0.3	0.3	0.4	0.6
Top 5 imports (% of total imports)	11.7	10.6	14.8	14.9	28.8	29.2	35.9
Mining imports (% of total imports)	21.7	20.5	24.5	22.8	34.9	35.6	40.7
Growth rate at current prices, %	77.9	-14.1	42.9	19.6	68.7	-5.4	20.5
<b>Memo:</b>							
Diamonds (% of total exports)	63.2	62.7	68.4	75.6	79.4	82.9	84.9
Diamonds (% of total imports)	8.9	7.8	11.7	11.8	26.9	27.3	33.9

.. Not available.

a The figures for 2010-14 are provisional.

b Based on the month of September for each year, except for 2011 (June).

c WTO definition of "minerals and metals".

d Based on the 2014 values.

Source: WTO Secretariat calculations, based on Bank of Botswana (2015a), Botswana Financial Statistics, Issue (February 2015); Statistics Botswana (April 2015), *Gross Domestic Product, Fourth Quarter of 2014 (No. 2015/1)*; data provided by the authorities; and UN Comtrade.

4.28. As at mid-2015, Botswana did not have a specific mining policy. In general, policies related to mining in Botswana aim at: encouraging prospecting, developing new mines, and promoting opportunities to create linkages with the rest of the economy to expand value-added activities, especially through downstream processing of minerals. However, the policy framework for exploration, mining and mineral processing in Botswana is reviewed continuously to, *inter alia*, render the sector more competitive to stimulate investment; to encourage linkages with the rest of the economy to expand value addition activities, and thus generate more employment; and to safeguard the environment.

4.29. Mineral rights in Botswana are vested in the State and it is the Minister of Minerals, Energy and Water Resources (MMEWR) who ensures that mineral resources are exploited in the most

<sup>24</sup> Ministry of Trade and Industry (2011).

efficient, beneficial and timely manner. The departments in charge of the sector within the MMEWR include the Mineral Affairs Division, which has the primary responsibility of advising the Ministry on all matters concerning minerals policy<sup>25</sup>; the Department of Geological Survey; and the Department of Mines, which is in charge of implementing the legislation.<sup>26</sup> The Diamond Hub was established in 2008, to coordinate the different activities related to the diamond sector such as: the trading of rough and polished diamonds, cutting and polishing, and the manufacturing of jewellery.<sup>27</sup>

4.30. Mining and its ancillary activities are regulated by the Mines and Minerals Act of 1999, the Diamond Cutting Act of 1979, and the Precious and Semi-Precious Stones Protection Act of 1969, which have not undergone major amendments since the previous Review in 2009. The Mine and Minerals Act provides for security of tenure; a stable progressive fiscal regime that lessens the burden on marginal mines; clear licensing procedures; and environmental obligations that relate to international best practice.

4.31. Botswana provides for the following mineral concessions: prospecting licences, retention licences, mining licences, and minerals permits for small-scale mining operations (Table 4.4). The terms of any new application, renewal, transfer or amendment of a mining licence for diamonds must be negotiated regarding technical, financial and commercial aspects of the proposed project including government participation.<sup>28</sup>

**Table 4.4 Mining licensing framework, 2015**

Type of licence and permits	Requirements for obtaining the licence or permit (including for foreign nationals)	Fees	Reservations for nationals	Rights granted by the different licences or permits/duration of licence or permit
Prospecting licences	Adequate financial standing and technical competence. Adequate prospecting programme. Proposed prospecting area cannot overlap with existing prospecting, retention and mining areas.	P 5 per km <sup>2</sup> subject to a minimum of P 500 for industrial minerals and P 1,000 for other minerals	none	Drill boreholes and make the excavations necessary for prospecting. Build temporary structures necessary for prospecting. Licence valid for up to 3 years. It can be renewed twice each time for a period of up to 2 years.
Retention licences	Similar to the requirements for obtaining a mining licence. Copy of feasibility study for the period and the area that is to be retained with the details of prospecting work.	Annual charge P 5,000 per km <sup>2</sup> . increasing annually by P 5,000 per km <sup>2</sup>	none	Retain area for future mining. Carry on prospecting operations in the assigned area including the removal of minerals samples for analysis. Licence issued for a period of up to 3 years, renewable for up to 3 years.
Mining licence	Adequate mining programme, proposed mining area not overlapping with existing mining areas, adequate financial resources and guarantee from parent company, proposed financial plan submitted as part of the feasibility study.	Annual charge of P 100 per km <sup>2</sup>	none	Mine only the mineral to which the licence relates. Build the necessary structures for mining. Prospect within the mining area. Licence issued for a period of up to 25 years with provisions for multiple renewals, each of up to 25 years.

<sup>25</sup> Online information. Viewed at: <http://www.mmewr.gov.bw/department/?dept=mad>.

<sup>26</sup> Online information. Viewed at: <http://www.mmewr.gov.bw/department/?dept=dom>.

<sup>27</sup> Online information. Viewed at: <http://www.bitc.co.bw/diamond-hub>.

<sup>28</sup> Section 51 of the Mines and Minerals Act of 1999.

Type of licence and permits	Requirements for obtaining the licence or permit (including for foreign nationals)	Fees	Reservations for nationals	Rights granted by the different licences or permits/duration of licence or permit
Mineral permits for small-scale mining operations	Satisfactory mining programme.	Annual charge of P 100 per km <sup>2</sup>	Exploitation of industrial minerals is reserved for nationals	Mine only the mineral to which the permit relates. Disposal of recovered minerals. Build temporary structures necessary for mining. Permit issued for a period of up to 5 years, with provision for multiple renewals, each of up to 5 years.

Source: Mines and Minerals Act.

4.32. The mining sector is the major source of government revenue accounting for 38% of total fiscal receipts in 2013/14, mainly in the form of taxes, royalties and dividends from diamonds (Table 4.5). Royalties on mining products have not changed since the previous Review. Royalties for diamonds are 10% of gross market value, 5% for precious metals (e.g. gold, platinum, etc.), and 3% for all others minerals. Mining companies are taxed using a variable income tax rate based on a formula, with a minimum rate of 22% equivalent to that of the standard corporate rate. Deferral of royalty payments may be granted in certain instances to assist struggling companies. The tax regime for diamond projects may also be negotiated on a case-by-case basis.<sup>29</sup>

**Table 4.5 Tax and non-tax revenue from diamond industry, 2008/09-2014/15**

(P million and fiscal year)

Source of revenue	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
Mineral tax	3,451	2,360	2,949	5,136	3,262	6,190	4,149
% of total mineral rev.	33.9	26.0	24.5	32.5	27.0	33.6	24.1
Mineral royalties and dividends	6,731	6,729	9,111	10,687	8,814	12,253	13,094
% of total mineral rev.	66.1	74.0	75.5	67.5	73.0	66.4	75.9
Total mineral revenue	10,182	9,088	12,060	15,823	12,076	18,443	17,243
% of total fiscal revenue	33.4	30.3	37.8	41.1	29.0	37.7	..

.. Not available.

Source: Information provided by the authorities.

4.33. Diamonds accounts for the bulk of all mineral revenue in Botswana. Debswana Diamond Company Pty Ltd (Debswana), a joint venture (50:50) between the Government and De Beers, is the largest diamond mining company in Botswana, producing some 90% of all diamonds, 70% of the country's exports, and 50% of tax revenues. The company is also the largest private-sector employer; in 2014, it employed 4,734 people. Debswana, whose mining licences are valid until 2029, operates four mines (i.e. Orapa, Letlhakane, Damtsha, Jwaneng).<sup>30</sup> Even though Debswana holds a dominant market position, there are no restrictions prohibiting other companies from mining or marketing diamonds. There are 4 other diamond mining companies operating in Botswana.<sup>31</sup>

<sup>29</sup> Companies that mine other minerals are taxed according to the Twelfth Schedule to the Income Tax Act; the tax regime is not negotiated (Income Tax Act (Chapter 52:01)). Online information. Viewed at: [http://www.botswanaifsc.com/docs/income\\_tax\\_act.pdf](http://www.botswanaifsc.com/docs/income_tax_act.pdf).

<sup>30</sup> The licences were renewed in 2004-06 and for a maximum period of 25 years.

<sup>31</sup> These are: Boteti Mining (Karowe Mine), Gem Diamonds Botswana (Ghaghoo Diamond Mine), DiamonEx Botswana (Lerala Diamond Mine) and Firestone Diamonds (BK 11 Mine). Lerala Diamond Mine and BK 11 Mines have been under maintenance since 2012.

4.34. The sorting and valuing of diamonds is also highly concentrated and state participation is significant. The most important sorting company is the Diamond Trading Centre Botswana (DTCB), which is owned 50:50 by De Beers and the Government of Botswana.<sup>32</sup> There is another 100% government-owned diamond trading company called Okavango Diamond Company which markets 14% of Debswana's diamond production. Rough diamonds are mainly exported; however, there is US\$800 million worth of the production that is sold locally. Local diamond manufactures (i.e. cutting and polishing factories) buy diamonds either from the domestic rough diamond trading companies or import them. The establishment of DTCB, in 2006, has promoted the local beneficiation of diamonds and hence the increase in imports of diamonds.<sup>33</sup> Imports of diamonds have increased since 2009 from 7.7% of total imports to 18.9% of total imports in 2014. Since DTCB's establishment the number of diamond cutting and polishing factories has also increased from 4 in 2004 (prior to DTCB's establishment) to 20 in 2014. In 2014, DTCB sold US\$936 million rough diamonds to the local industry for cutting and polishing. The industry is also becoming an important source of employment. In 2014 employment in the diamond cutting and polishing factories stood at 3,774 people.

4.35. Imports of diamonds are subject to a zero per cent tariff.<sup>34</sup> Imports/exports of rough diamonds require a valid Kimberley process certificate issued by the importing/exporting country.

4.36. The mining sector is the largest consumer of electricity in the country and is the second largest consumer of coal after power generation.

#### 4.2.2 Energy<sup>35</sup>

4.37. The Ministry of Minerals, Energy and Water Resources (MMEWR), through the Department of Energy (DoE), is responsible for formulating and implementing the national energy policy. The policy is aimed at providing affordable and sustainable energy to promote social and economic development. Specific programmes and projects are carried out by the DoE in conjunction with two parastatals: the Botswana Power Corporation (BPC) and Botswana Oil Limited (BOL).

4.38. Energy access and capacity is of particular concern; Botswana is highly dependent on imports to meet its energy requirements. Dependence has resulted in high costs not only in terms of foreign currency outflows and high prices of energy products, but also because of the unreliability of energy supply due to supply disruptions. Energy constraints have had a negative impact on Botswana's economic development prospects. As a result, the National Development Plan 10 (NDP 10) proposed a departure from relying on "least cost" imported energy sources to becoming self-sufficient.<sup>36</sup> However, this would require not only the completion of domestic power projects currently under way, but also further investment as the latter will not produce enough energy to meet demand.<sup>37</sup> In order to attract investment, the Government of Botswana is in the process of establishing Botswana Energy and Water Regulatory Agency (BEWRA), an independent regulator, aimed at "creating a level playing field in the sector".<sup>38</sup>

4.39. Botswana relies mainly on imports of energy sources, especially petroleum products and electricity, to meet local demand. However, it has abundant indigenous energy resources: coal reserves (200 billion tonnes), sunshine (3,200 hrs at 21 MJ/m<sup>2</sup>), biogas (2.2 million cattle, 3 kg dung/LSU/day), and fuel wood (200 tonnes/annum), which remain underutilized. Solar energy is mainly used for water heating and lighting. Small photovoltaic (PV) systems have been installed in households and government institutions where there is no connection to the electricity grid. However, poor quality and lack of maintenance of solar water heating and PV systems has led to non-performance. The contribution of bioenergy to the energy mix is also minimal; biodiesel

<sup>32</sup> Debswana sells 86% of its diamond production through De Beers Global Sightholder Sales (DBGSS) (information provided by the authorities).

<sup>33</sup> DTCB was established in 2006 but was opened officially in 2008. Online information. Viewed at: <http://www.dtcbotswana.com/faqs.php>.

<sup>34</sup> Tariff information provided by the South African Revenue Service (SARS).

<sup>35</sup> This section is based on online information. Viewed at: <http://www.reegle.info/policy-and-regulatory-overviews/bw>; Ministry of Minerals, Energy and Water Resources (2009); OECD (2013); and information provided by the authorities.

<sup>36</sup> Information provided by the authorities.

<sup>37</sup> OECD (2013).

<sup>38</sup> World Bank (2012), and information provided by the authorities.

production stands at 15,000 litres/month; while no guidelines have been developed to promote production and utilization of bio-energy.<sup>39</sup>

4.40. Petroleum products are the main source of primary energy supply (54%), followed by coal (29%), electricity (17%), and wood<sup>40</sup>; the contribution of renewable energy is insignificant. Net energy supply and final consumption is also dominated by petroleum products (64%), followed by electricity (18%) and coal (18%). The transport subsector is the main consumer of energy (49%), followed by mining and quarrying (28%) and households (7%). The services sector consumes 7% of total energy while agriculture consumes 2%.<sup>41</sup>

#### 4.2.2.1 Electricity

4.41. Electricity demand stood at 681 MW in 2014 and is expected to grow up to 1,017 MW by 2025. Currently (mid-2015), Botswana produces about 67% of the electricity that it requires through the state-owned Botswana Power Corporation (BPC), and imports the rest from the Southern African Power Pool. Botswana's installed generating capacity stands at 892 MW, which is supplemented by imports (200 MW) from South Africa. There are also two diesel power plants (Orapa power plant (90 MW) and Matshelegabedi Alstom Power Rentals plant (70 MW)), which are used for emergencies.

4.42. In 2013, electricity imports amounted to US\$239.9 million. Imports from South Africa accounted for 89.5% of total electricity imports.<sup>42</sup> Botswana has not exploited the regional energy market by concentrating trade almost exclusively on South Africa to the exclusion of the other SADC members. Botswana is developing alternate routes and sources of alternative energy to diminish the reliance on South Africa.

4.43. Access to commercial electricity is low. Most of the population depend on biomass. Wood remains a major source of energy for rural and low-income urban communities and is mainly used for cooking, space heating, and lighting. However, the percentage of the population with access to electricity has increased from 49% in 2008 (43% in rural areas) to 65% in 2014.<sup>43</sup>

4.44. The Electricity Supply Act was amended in 2007 to allow independent power producers and suppliers to enter the electricity market. However, there is still no private sector participation in Botswana's electricity sector. State-owned BPC continues to be responsible for electricity generation, transmission, distribution, and supply. BPC is a vertically integrated national power utility with monopoly power. Moreover, currently (mid-2015) there are no specific plans to unbundle the power utility.<sup>44</sup>

4.45. Electricity tariffs are set and adjusted by MMEWR. Tariffs are usually adjusted on an annual basis. The tariffs comprise three charges: a fixed charge, which is the same for all but domestic consumers; an energy charge, which varies according to consumers; and a demand charge which is levied on medium and large businesses. Tariffs nearly doubled during the period under review (Table 4.6). Electricity prices are significantly affected by the cost of transport and electricity transmission as most of the electricity is imported. The costs are further increased due to the small size of the domestic market and the dispersion of the population.

<sup>39</sup> Information provided by the authorities.

<sup>40</sup> The contribution of wood even though significant is difficult to account for. However, it seems that fuelwood is the main cooking fuel for rural households (53% of rural households and 13% of urban households with a national average of 49.1%) (Sustainable Energy for All Initiative, undated).

<sup>41</sup> These figures are estimates hence they do not add up to 100% (information provided by the authorities).

<sup>42</sup> Information provided by the authorities.

<sup>43</sup> No information was provided on access to electricity in rural areas in 2014.

<sup>44</sup> Online information. Viewed at: <http://www.energy.gov.bw/electricity.php>.

**Table 4.6 Electricity tariffs, 2009 and 2014**

	Fixed charge (P/month)		Energy charge (P/kWh)		Demand charge <sup>a</sup> (P/kW/month)	
	2009	2014	2009	2014	2009	2014
Domestic consumers	11.11	21.98	0.4000	0.7167	n.a.	n.a.
Small business	29.74	66.53	0.4579	0.8313	n.a.	n.a.
Medium business	29.74	66.53	0.2348	0.4814	56.21	135.04
Large business	29.74	66.53	0.2117	0.4340	52.91	127.11
Government	29.74	66.53	0.5935	1.3481	n.a.	n.a.
Water pumping	29.74	66.53	0.4669	0.9721	n.a.	n.a.

n.a. Not applicable.

a The demand charge is calculated on the basis of the actual demand or 90% of the peak demand recorded in the previous 12 months, whichever is greater.

Source: Information provided by the authorities.

#### 4.2.2.2 Petroleum

4.46. In 2014, Botswana consumed some 1.2 billion litres of liquid fuels (petrol, diesel, and illuminating paraffin) and 18 million litres of aviation fuels; on average, on a yearly basis, demand for petroleum has increased by approximately 5%.<sup>45</sup>

4.47. Botswana relies solely on imports to supply its demand for petroleum fuels. About 95% of the petroleum products are imported from South Africa and the remaining from Namibia and/or Mozambique. Limited supply routes have led to periodic bottlenecks in fuel supply compromising Botswana's security of fuel supply. This has also been exacerbated by inadequate internal strategic storage capacity and the long-distance travel to supply petroleum products throughout the country.<sup>46</sup> Distribution is also hindered by limited infrastructure (e.g. road and rail) and large distances which increase costs. In addition, low levels of consumption in remote rural areas render deliveries unprofitable, discouraging companies from distributing.

4.48. In the petroleum subsector, several local subsidiaries of multinational oil companies and indigenous oil companies are responsible for the transportation, distribution, and retailing of petroleum fuels. Petroleum fuel prices are determined by the MMEWR. Imports and domestic sales of petroleum products (i.e. petrol and diesel) are subject to a fuel levy of P 0.12 per litre of petrol and P 0.07 per litre of diesel.<sup>47</sup> The levy is collected at point of entry and finances the National Petroleum Fund (NPF) that is used to pay petroleum retailers the difference between the administered price set by the Government for consumers and the prevailing international fuel prices. The price of LPG is not regulated.

#### 4.2.2.3 Coal

4.49. Botswana's vast coal resources are estimated to be some 200 billion tonnes, which represent significant development opportunities. Annual coal consumption (raw coal) stands at around 1.6 million tonnes (Mtpa). However, to meet energy requirements, demand for coal could rise up to 2.55 Mtpa. As at mid-2015, only one coal mine (Morupule Coal Mine) was being exploited; it has a production capacity of about 3.2 million tonnes per year, but at mid-2015 production amounted to only some 2 million tonnes. About 75% of the mined coal is used for power generation; the rest is used in different industries (e.g. abattoirs, breweries and soap production) or exported. Exports are hampered by inadequate transport infrastructure.

4.50. Botswana is promoting wider use of coal to substitute imports and to replace fuel wood with domestic coal; however, efforts have been unsuccessful. The National Coal Roadmap, which outlines Botswana's plans to develop the coal industry, regards the exploitation of coal as critical

<sup>45</sup> Information provided by the authorities.

<sup>46</sup> The strategic storage capacity is approximately 16 days of national consumption against the preferred minimum strategic storage capacity of 60 days. Commercial buffer stock currently stands at less than 5 days of national consumption against the preferred minimum of 14 days cover (information provided by the authorities).

<sup>47</sup> Information provided by the authorities.

to meet socio-economic and energy needs and achieve economic diversification away from diamonds. Further exploitation of the available resources would, in principle, allow Botswana to use coal to generate electricity for domestic consumption and export the surplus to other SADC members. However, major challenges include: the lack of appropriate transport infrastructure for exports and the environmental impact, including carbon emissions.<sup>48</sup>

### 4.3 Services

#### 4.3.1 Financial services

##### 4.3.1.1 Banking

4.51. The Botswana banking industry is an increasingly important sector of the economy, both in its own right and in terms of the role it plays in the development of other sectors. Over the 2009-14 period the sector grew in real terms by 7% a year on average, while overall real economic growth averaged 4.2% a year over this period. Over this period, the banking sector's share of GDP increased, from 13.4% in 2009 to 14.3% in 2014.

4.52. Botswana's banking system is well-capitalized and profitable with relatively low non-performing loans and average returns on equity of around 27% in 2014 (Table 4.7). Despite the subsector's high level of profitability and rapid growth, it remains relatively small for the size of the economy: total assets of commercial banks amounted to P 68 billion at end-2014, about half of GDP. The customer base is small, with viable commercial banking limited mainly to the urban areas and larger villages. Therefore, Botswana has put special emphasis on enhancing greater financial deepening and inclusion. As a result, even if annual growth in commercial bank credit fell from 23.6% in December 2012 to 14.2% in December 2014, mainly because of a slowdown of the non-mining sector, credit to households continued to grow at a high rate.<sup>49</sup> This increase in credit to households reflects greater financial deepening, with the intermediation ratio increasing from 82% in 2013 to 87.6% in 2014, as well as greater inclusion, both of which are important to promote economic development. However, the soaring of consumer credit could pose potential vulnerabilities for the financial sector in the future, especially in periods of slow growth in incomes. At present the default ratios from household credit are low suggesting a low risk for the system. The spread between deposit and the lending rates was within the range of 7.4 and 6.4% during 2009-14.

**Table 4.7 Financial soundness and prudential standards of licensed banks, 2009-13<sup>a</sup>**

(%)

Financial soundness indicators	Prudential standard	2009	2010	2011	2012	2013	2014
Capital adequacy	>15	19.0	22.8	20.4	20.2	19.3	18.9
Liquid asset ratio	>10	49.9	41.4	24.4	20.5	15.3	14.5
Profitability (return on assets)	Positive	2.8	3.0	3.3	3.2	3.0	2.3
Profitability (return on equity)	Positive	40.7	34.6	35.2	31.9	27.4	19.1
Asset quality (non-performing loans/total loans)	>2.5	5.4	3.4	3.2	2.6	5.3	3.6
Intermediation (advances/deposits)	>50	52.4	53.1	64.7	72.9	81.3	87.6
Deposit interest rate		4.10	3.72	3.37	3.14	2.80	2.58
Lending interest rate		11.50	11.00	11.00	11.00	10.03	9.00

a The figures are generated from the monthly and quarterly returns submitted by banks; they represent the average for all registered banks.

Source: Bank of Botswana (2013), *Banking Supervision Annual Report 2013*; and Bank of Botswana (2015a), *Botswana Financial Statistics*, Issue (February 2015). Viewed at: <http://www.bankofbotswana.bw/content/2009110615035-botswana-financial-statistics>.

4.53. The global financial crisis and its aftermath had little direct impact on the Botswana banking system mainly because of the structure of the banks' balance sheets, which had limited foreign

<sup>48</sup> Ministry of Minerals, Energy and Water Resources (undated); and online information. Viewed at: <http://www.miningweekly.com/article/botswanas-burgeoning-coal-industry-has-potential-but-challenges-remain-2014-02-21>.

<sup>49</sup> At about 24% in 2013, latest figure available.

exposure, bank profitability, and the level of regulatory oversight. The basic structure of the Botswana banks' balance sheet was sound and there has traditionally been relatively little use of wholesale markets or offshore funding sources, hence the banks have not been vulnerable to outflows of funds and therefore credit was not constrained because of a lack of funds. The Bank of Botswana also played an important role in shielding the banks from the crisis, as it has maintained an effective risk-based regulatory and supervisory system that has prevented banks from taking on excessive risks.

4.54. The banking sector in Botswana is regulated by the Banking Act of 1995 and the Banking Regulations of 2003. These pieces of legislation did not undergo major changes since the previous Review in 2009; however, the Banking Act is currently under review with a view to adapting it to changing supervisory and regulatory requirements. Botswana also has legislation to avoid money laundering and counter the financing of terrorism.<sup>50</sup>

4.55. Privately-owned financial institutions need to be licensed by the Bank of Botswana.<sup>51</sup> The Banking Act lists the criteria to obtain a licence (Box 4.1). Applications for a banking licence to operate in Botswana are considered on merit, taking into account the likely impact of any new financial institution on the existing domestic financial sector and its potential contribution to Botswana's development. The BOB's main concerns when granting a licence are to ensure that any new entrant to Botswana's financial sector is adequately capitalized, well managed, and pursues business strategies that are sound and responsive to local needs, such as providing both advisory services and credit to small-scale entrepreneurs and enabling access to banking services by the unbanked. BOB's objective is to guarantee the financial stability of the system through ensuring that only sound and reputable banks operate in the country.<sup>52</sup> The award of a new banking licence, changes to the conditions of an existing licence, or the revocation of a licence, is announced through press releases issued by the BOB.

#### Box 4.1 Licensing requirements for banks

The basic requirements for a banking licence application to be considered complete and acceptable for processing include the following:

The applicant must be a company limited by share capital and incorporated in Botswana.

The statutory minimum start-up capital is P 5 million.

The prudential capital adequacy ratio is 15%.

The parent company of the bank that is applying needs to demonstrate willingness and the ability to provide additional financial support as and when required to the institution incorporated in Botswana.

The applicant must demonstrate adequate managerial capacity; this includes the appointment of "fit and proper" persons.

If the parent company of the applicant is a foreign bank, the foreign bank must be subject to adequate home supervision, and the consent of the parent's home supervisor for the subsidiary to operate in Botswana must be provided.

The proposed ownership and organizational structure must be acceptable to the Bank of Botswana, and the structure must be such that it allows for effective consolidated supervision.

The applicant must submit a business plan that includes the strategic objectives of the bank, a set of five-year financial projections, a plan for the establishment of branches, products to be provided, and a demonstration of the ability to enhance effective competition.

The application fee (currently P 16,800, VAT inclusive) is non-refundable.

Source: Bank of Botswana.

4.56. Botswana does not seem to have any market access limitations, such as on the number of foreign banks, maximum foreign equity participation, or the number of foreign nationals that can be employed. However, foreign banks are only authorized to operate as locally incorporated subsidiaries. Foreign bank branches are not allowed to provide banking services in Botswana.

4.57. Subsidiaries of foreign financial institutions may be licensed only if the home supervisory authority gives a report that it is satisfied with the prudential management and overall financial soundness of the applicant; and the BOB is satisfied by both the supervisory and regulatory regime of the home supervisory authority. In addition, the BOB confirms the prudence of the applicant's operations regarding its business plan, internal controls, accounting and other records,

<sup>50</sup> Banking (Anti-Money Laundering) Regulations of 2003.

<sup>51</sup> The Banking Act (Chapter 46:04, section 4).

<sup>52</sup> Online information. Viewed at:

<http://www.bankofbotswana.bw/assets/uploaded/licensing%20policy.pdf>.

staffing and management arrangements. Once a foreign subsidiary is licensed, supervision is a shared responsibility between the Bank, as "host supervisor", and the relevant "home supervisor".<sup>53</sup>

4.58. The financial institutions that can be licensed under the Banking Act of 1995 are: commercial banks, discount houses, credit institutions, investment/merchant banks, and representative offices. Each type of institution can undertake a specific set of activities (without discrimination between domestic and foreign providers).

4.59. Licensed commercial banks may conduct conventional commercial banking business<sup>54</sup>; they cannot undertake non-bank financial activities, either directly or indirectly. At present, there are 11 commercial banks licensed and operating in Botswana; mainly foreign owned. The top four commercial banks (Barclays Bank of Botswana, Standard Chartered Bank of Botswana, Stanbic Bank of Botswana, and First National Bank of Botswana) account for about 81% of total bank assets. All banks have substantial foreign ownership as, according to the authorities, the aim is to facilitate the entry of new banks in order to promote competition and efficiency in the sector to stimulate financial intermediation. Foreign ownership has had some advantages for Botswana's financial system; as most of the banks are part of large, well-capitalized international banking groups, which has provided stability, as well as access to capital, resources and management expertise. There have also been gains with regard to access to technology, which allows services to reach the underserved population in the rural areas, and improved efficiency. However, the subsidiaries of banking groups may be affected by decisions taken by the parent company, hence indirectly affecting Botswana's financial system. This was the case in the aftermath of the 2008 financial crisis; even though Botswana's banks fared quite well, they were affected by the credit-tightening decisions in the parent company.

4.60. Discount houses are licensed to deal in short-term money market instruments readily convertible into cash. They are restricted from engaging in certain activities, including: buying and selling of foreign exchange; granting loans to the public; buying or selling goods for other institutions or the general public; and acquiring or holding shares in other financial institutions or any other business. Credit institutions, also licensed under the 1995 Act, are mainly involved in asset-based financing. The primary services that these institutions offer are, *inter alia*, credits and loans to purchase equipment (hire purchase and leasing), and credit to purchase stocks, money market instruments and transferable securities. Under special circumstances, as provided by the BOB, credit institutions may accept deposits (of more than P 5,000 for more than six months) and provide property financing.

4.61. Investment or merchant banks are institutions licensed for the purpose of assisting with the issuance, purchase and trading of securities, managing financial assets and providing financial advice. Currently no merchant banks operate in Botswana. Under the provisions of the Banking Act, the Bank of Botswana may grant permission for a foreign bank to open a representative office in Botswana. While such an office may undertake activities on behalf of the parent bank, it cannot conduct banking business. Currently there are no representative offices operating in Botswana.

4.62. The BOB has direct supervisory responsibilities over the financial system including direct oversight over the banks. Banking institutions have to submit statutory returns to BOB providing a detailed breakdown of their assets and liabilities.<sup>55</sup> This is to ensure the solvency of the individual institutions and, therefore, the stability of the financial system as a whole. Prudential supervision in Botswana follows conventional practice; it is risk based. Supervisory regulations and practices evolve in line with international norms. The Bank of Botswana has adopted the Basel II/III Capital Requirements Directive, which is envisaged to be fully implemented by mid-2015.<sup>56</sup> Besides capital adequacy requirements, there are also regulatory requirements relating to: reserve asset holdings; minimum liquid asset holdings; concentration of lending; foreign currency exposure; significant changes of shareholding; and appointments of Board Members and the Chief Executive

<sup>53</sup> Online information. Viewed at:

<http://www.bankofbotswana.bw/assets/uploaded/licensing%20policy.pdf>.

<sup>54</sup> These include: acceptance of deposits and savings; extension of credit; sale and purchase of commercial paper, securities and other negotiable instruments; dealing in foreign exchange and any other operations authorized by law or under customary banking practice.

<sup>55</sup> The Banking Act of 1995.

<sup>56</sup> Information provided by the authorities.

Officer. The Bank of Botswana is also in charge of implementing competition policy in the banking sector; it has a MoU with the Competition Authority. Although to date there have not been any anti-competitive practices in the banking sector, the BOB continues to closely monitor market conduct. In addition, BOB monitors if bank charges are a fair reflection of the services offered to consumers. In addition, banks are required to clearly communicate customer complaints procedures at the bank.

4.63. Botswana did not undertake any commitments on banking services under the GATS.

#### 4.3.1.2 Insurance

4.64. The insurance subsector as at 30 September 2014 comprised 3 non-life reinsurers and 21 insurers (9 life and 12 non-life), many of which are foreign-majority owned. In addition, there are 45 licensed insurance brokerage firms, 208 corporate agents and 2,383 individual agents (natural persons) which are now referred to as Representatives. In 2013, Botswana Life Insurance Limited dominated the life insurance market holding 72% of gross written premiums. Total assets in the insurance industry amounted to P 19,558 billion in 2013 compared to P 20.368 billion in the previous year.

4.65. The Insurance Industry Act of 1987, which is under review, still regulates the domestic insurance industry, while the offshore industry is regulated by the International Insurance Act of 2005. There are no insurance companies licenced under the International Insurance Act yet. The Non-Bank Financial Institutions Regulatory Authority (NBFIRA), established in 2008, is the national regulator for non-bank financial institutions in fields such as insurance, pensions, unit trusts and stock market operations. The insurance industry comprises insurers, reinsurers, brokers, agents, insurance surveyors, risk managers, loss adjusters and claims settlement agents. However, detailed regulation and monitoring is only carried out by NBFIRA on insurance companies, brokers and agencies. NBFIRA introduced new insurance prudential rules in 2012 and has since adopted the principles of a risk-based supervisory approach.

4.66. The Insurance Industry Act stipulates that only locally registered companies can be licensed. According to the authorities, licensing requirements are the same for nationals and foreigners.<sup>57</sup> Branches of foreign insurers are not permitted. The statute prohibits composite insurers and therefore insurance companies offer one class of business, which is either life or non-life. Licences for all companies transacting insurance business must be renewed on an annual basis.

4.67. Foreign-based reinsurers may only be used once NBFIRA grants permission if there is no local capacity to provide reinsurance. At present (mid-2015) foreign-based life re-insurers are allowed to trade with Botswana licensed life insurers; however, in the case of non-life reinsurance – since in the past 5 years NBFIRA licensed 3 non-life reinsurers – all non-life (short term) insurance business written in Botswana needs to be placed with the domestically licensed re-insurers.

4.68. The Insurance Industry Act and its Regulations provide that all classes of insurance bought by Botswana residents or Botswana resident companies must be placed with Botswana licensed insurers. The only compulsory insurance in Botswana is the workers compensation insurance, which is regulated by the Workers Compensation Act.

4.69. The current (mid-2015) minimum capital requirement for insurers and re-insurers is P 2 million. However in the proposed Insurance Industry Bill, an increase of the minimum capital requirement stands at P 5 million for non-life insurers and P 10 million for both life insurers and reinsurers and could be higher due to the currently adopted Risk Based Supervision Model, which dictates that the capital must be matched with the insurance risk being absorbed.

4.70. Botswana did not undertake any commitments on insurance services under the GATS.

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<sup>57</sup> For details of the licensing requirements for each type of insurance business please refer to the online information. Viewed at: <http://www.nbfira.org.bw/services>.

### 4.3.2 Telecommunications

4.71. Together with transport and postal services, telecom services contributed to 5.5% of GDP in 2014 (Table 1.1).

4.72. During the period under review, Botswana's telecom subsector continued to grow driven by the mobile telecom services (Table 4.8). The mobile penetration rate increased significantly as did the mobile broadband penetration rate. The fixed broadband penetration rate remained, however, very low hampered by, *inter alia*, computer and high bandwidth prices, low speed, and an energy shortage.<sup>58</sup> The fixed telephone penetration rate showed a modest increase.

**Table 4.8 Selected telecom indicators, 2009-14**

Indicator	2009	2010	2011	2012	2013	2014
Penetration rate (per 100 inhabitants)						
Fixed-telephone subscriptions	7.0	7.0	7.5	8.0	8.6	8.4
Mobile-cellular subscriptions	96.0	120.0	146.0	153.8	160.6	168.43
Fixed-broadband subscriptions	0.5	0.6	0.8	0.9	1.0	1.64
Mobile-broadband subscriptions	..	..	..	..	74.1	..
Households with a computer (%)	..	..	..	..	13.5	..
Households with Internet access (%)	..	..	..	..	10.6	..
Individuals using the Internet (%)	6.1	6.0	8.0	11.5	15.0	..

.. Not available.

Source: ITU ICT Eye online information. Viewed at: <http://www.itu.int/net4/itu-d/icteye/>.

4.73. Public telecom services are provided by state-owned Botswana Telecommunications Corporation Ltd. (BTCL) and private operators Mascom Wireless Botswana and Orange Botswana.

4.74. All public telecom operators are authorized to supply any type of basic telecom service, i.e. fixed-line, mobile, Internet, and data. However, BTCL remains the only provider of fixed-line services in Botswana as private operators do not offer this service.<sup>59</sup> Mobile market shares are largely held by the private sector; BTCL mobile service (BeMobile) retains 14% of total mobile subscriptions.<sup>60</sup>

4.75. During the review period, the authorities initiated the process to privatize state-owned Botswana Telecommunications Corporation (BTC). The first step towards privatization consisted in splitting BTC into two wholly state-owned companies. In 2012, the Botswana Telecommunications Corporation Ltd. (BTCL) was set up to supply public telecom services and Botswana Fibre Networks Ltd. (BoFiNet) to provide and operate Botswana's backbone infrastructure network. The Government plans to sell up to 49% of BTCL shares through an initial public offering (IPO); 44% of the shares may be bought by citizens of Botswana (natural and legal persons), and 5% is retained for BTCL citizen employees. The IPO opening, which was scheduled for end-2014, was postponed to 2015. The launch is envisaged to take place in the second half of the 2015/16 financial year. BoFiNet remains wholly state-owned but it "will be partially privatized in due course".<sup>61</sup>

4.76. The Department of Telecommunications and Postal Services under the Ministry of Transport and Communications (MTC) is responsible for developing, implementing, and monitoring telecom policies and infrastructure development strategies.<sup>62</sup> During the review period, policy objectives were aimed at deploying telecom services, in particular broadband access, into unserved and underserved areas. The authorities continued to apply the Rural Telecommunications Strategy 2006 which supplied network infrastructure to nearly 200 villages by 2011.<sup>63</sup> According to

<sup>58</sup> Botswana Telecommunications Authority (2013); and Botswana Communications Regulatory Authority online information. Viewed at: <http://www.bocra.org.bw/node/4>.

<sup>59</sup> Botswana Telecommunications Authority (2010).

<sup>60</sup> Botswana Telecommunications Authority (2013).

<sup>61</sup> MCT online information. Viewed at: <http://www.mtc.gov.bw/index.php/projects>; BTCL online information. Viewed at: <http://www.btc.bw/index.php?page=Privatization/privatization>; and BoFiNet online information. Viewed at: <http://www.bofinet.co.bw/>.

<sup>62</sup> MTC online information. Viewed at: <http://www.gov.bw/en/Ministries--Authorities/Ministries/Ministry-of-Transport-and-Communications/Departments/Telecommunications/>.

<sup>63</sup> Botswana's 10<sup>th</sup> National Development Plan (NDP10). Viewed at: [http://www.nationalplanningcycles.org/sites/default/files/country\\_docs/Botswana/ndp\\_botswana.pdf](http://www.nationalplanningcycles.org/sites/default/files/country_docs/Botswana/ndp_botswana.pdf).

the authorities, the Universal Access and Service (UAS) Fund was set up in 2014 with a view to ensuring available, accessible, and affordable telecom services.<sup>64</sup> Botswana also took specific steps to make broadband more accessible and affordable through the National Broadband Strategy 2014.<sup>65</sup> In addition substantially reduced bandwidth costs resulting from the deployment of two international submarine fibre optic cables in Botswana over the 2010-12 period have helped enhance broadband access.<sup>66</sup>

4.77. During the review period, there were substantial changes to the telecommunications legal and institutional frameworks. The Communications Regulatory Authority Act 2012 repealed the Telecommunications Act 2003 and the Broadcasting Act 2004, providing for the convergence of the two regulatory regimes into a single piece of legislation. The 2012 Act also amended the Postal Services Act 2001.<sup>67</sup> As at June 2015, the regulations to the Act have not been issued.

4.78. Under the 2012 Act, a new regulatory authority, the Botswana Communications Regulatory Authority (BOCRA), started operation in 2013. BOCRA replaced and assumed the responsibilities of the former telecom and broadcasting regulators, i.e. the Botswana Telecommunications Authority (BTA)<sup>68</sup> and the National Broadcasting Board (NBB).<sup>69</sup> In addition to regulating telecom and broadcasting services, BOCRA is empowered to regulate postal services which had not been regulated prior to 2013.<sup>70</sup> Under the 2012 Act, BOCRA is in charge of licensing telecom operators and ensuring efficient use of frequency spectrum.<sup>71</sup>

4.79. Botswana maintains market access restrictions for the provision of fixed-line and mobile telecom services. During the review period, no new operator was licensed. Further liberalization was however planned by end-2009. BOCRA's decision not to license additional public telecom operators was based on a 2009 market study commissioned by the Authority, which concluded that there was "no strong evidence that further operators would enhance the market" and there were "several reasons why further operators could damage the market".<sup>72</sup> Value-added services and private network services are fully liberalized and any locally-incorporated companies may apply for a licence.<sup>73</sup>

4.80. Telecom operators require a licence from BOCRA to operate in Botswana.<sup>74</sup> Licences are mainly granted through applications, but for major operators licences are awarded through tendering.<sup>75</sup> If spectrum is required for the provision of telecom services, the corresponding licence must also be obtained from BOCRA. The Authority may restrict the number of licences due to, *inter alia*, limited spectrum frequencies.<sup>76</sup> During the period under review, no licences were issued based on an impact assessment that indicated that there was no need for other major operators to enter the market. However, new licences were issued for value-added providers.

4.81. The telecom licensing framework has remained unchanged so far but steps have been taken since 2014 to shift to a unified licensing framework (ULF).<sup>77</sup> Unlike the current framework, ULF

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<sup>64</sup> According to the authorities, public telecom operators are charged a 1% levy on gross revenue to fund UAS projects.

<sup>65</sup> BOCRA online information. Viewed at: <http://www.bocra.org.bw/national-broadband-strategy>.

<sup>66</sup> The East African Submarine System (EASSy) connects Sudan to South Africa; and the West Africa Cable System (WACS) connects South Africa to the United Kingdom. Botswana's access point to EASSy is in South Africa and to WACS in Namibia. Under WACS, an additional transmission link has been commissioned to provide direct international voice services between Botswana and the United Kingdom (MTC online information. Viewed at: <http://www.mtc.gov.bw/index.php/projects>).

<sup>67</sup> Botswana Telecommunications Authority (2013).

<sup>68</sup> BOCRA is used throughout this section for consistency purposes, although decisions were taken by BTA.

<sup>69</sup> The state-owned broadcasters (Botswana Television, Radio Botswana 1, and Radio Botswana 2) are not subject to licensing and regulation by BOCRA but all other broadcasters are.

<sup>70</sup> Botswana Telecommunications Authority (2013); and Botswana Communications Regulatory Authority and World Bank (2014).

<sup>71</sup> Communications Regulatory Authority Act 2012, article 47.

<sup>72</sup> Analysys (2009); and Botswana Telecommunications Authority (2012).

<sup>73</sup> Botswana Telecommunications Authority (2007).

<sup>74</sup> Communications Regulatory Authority Act 2012, article 39.

<sup>75</sup> Communications Regulatory Authority Act 2012, article 41.

<sup>76</sup> Communications Regulatory Authority Act 2012, article 44.

<sup>77</sup> Botswana Communications Regulatory Authority (2014).

would distinguish between network facilities providers and services providers (Table 4.9).<sup>78</sup> As at March 2015, the ULF had not been implemented.

**Table 4.9 Telecom licensing framework**

Licences	Duration (years)	Number of licensees
<b>Licensing framework (as of 2007)</b>		
Public telecom operator (PTO) licences to provide basic telecom services (fixed-line, mobile, Internet, and data)	15	3
Value-added network services (VANS) licences	15	65
Private network licences	5	32
<b>Unified licensing framework (proposed)</b>		
Network facilities provider (NFP) licences to own and operate network infrastructure	n.a.	n.a.
Applications service provider (ASP) licences to provide services to end users	n.a.	n.a.
Contents service provider (CSP) licences for broadcasting only	n.a.	n.a.

n.a. Not applicable.

Source: Botswana Communications Regulatory Authority and World Bank (2014), *Review of the ICT Regulatory Framework in Botswana*, June. Viewed at: <http://www.bocra.org.bw/sites/default/files/documents/A%20Review%20of%20the%20Regulatory%20Framework%20in%20Botswana.pdf>.

4.82. Tariffs charged by public telecom operators are regulated by BOCRA; tariffs on value-added services are set by the operators. According to the authorities, BOCRA's administrative decisions on tariffs may be appealed to the Ministry of Transport and Communications.<sup>79</sup> Tariffs must be determined based on a cost model and pricing framework set by the Authority. In consultation with telecom stakeholders, BOCRA set up a revised framework in 2011. Under the revised framework, wholesale tariffs, except fixed termination rates, were reduced annually over the 2011-14 period.<sup>80</sup>

4.83. Reduction in wholesale prices has led to a reduction in retail prices for the benefit of consumers.<sup>81</sup> Retail prices for mobile services in Botswana are reported, however, to remain expensive compared with neighbours in the Southern African region.<sup>82</sup>

4.84. Interconnection agreements are negotiated by the public telecom operators, subject to BOCRA's approval. BOCRA may settle disputes between the parties to an interconnection agreement. The Authority's decisions may however be appealed to the High Court.<sup>83</sup>

4.85. There is no portability scheme for fixed-line and mobile telecom services in Botswana. An impact assessment on mobile number portability commissioned by BOCRA in 2013 indicated that "there would be no economic justification for requiring mobile number portability". According to BOCRA, customers have multiple active SIM cards across providers rendering portability less attractive.<sup>84</sup>

4.86. BOCRA is responsible for dealing with disputes between public telecom operators and investigating consumers' complaints.<sup>85</sup> BOCRA has signed a memorandum of understanding with

<sup>78</sup> Botswana Communications Regulatory Authority and World Bank (2014); and ITU document 1/251-E, 21 July 2009. Viewed at: [https://www.itu.int/ITU-D/treg/Events/Seminars/GSR/GSR09/doc/STudyGroup\\_draftreportQ10.pdf](https://www.itu.int/ITU-D/treg/Events/Seminars/GSR/GSR09/doc/STudyGroup_draftreportQ10.pdf).

<sup>79</sup> According to the authorities, during the period under review no decisions made by BOCRA on tariffs have been appealed to the MTC.

<sup>80</sup> For further details, see BOCRA Regulatory Directive No. 1 of 2011. Viewed at: [http://www.bocra.org.bw/sites/default/files/documents/Regulatory\\_Directive\\_No\\_1\\_FINAL\\_2011.pdf](http://www.bocra.org.bw/sites/default/files/documents/Regulatory_Directive_No_1_FINAL_2011.pdf); and BOCRA online information. Viewed at: <http://www.bocra.org.bw/bta-directs-public-telecommunications-operators-reduce-prices>.

<sup>81</sup> BOCRA online information. Viewed at: <http://www.bocra.org.bw/tariffs>.

<sup>82</sup> Botswana Communications Regulatory Authority and World Bank (2014).

<sup>83</sup> BOCRA's Interconnection Guidelines. Viewed at: [http://www.bocra.org.bw/sites/default/files/documents/INTERCONNECTION\\_GUIDELINES.pdf](http://www.bocra.org.bw/sites/default/files/documents/INTERCONNECTION_GUIDELINES.pdf).

<sup>84</sup> Botswana Telecommunications Authority (2013).

<sup>85</sup> Communications Regulatory Authority Act 2012, articles 78-82.

the Botswana Competition Authority to ensure appropriate collaboration on issues that may impact both of their jurisdictions.<sup>86</sup>

4.87. There are no specific incentive schemes for telecom operators in Botswana. They may, however, apply for tax relief under the Development Approval Order (Section 3.3.1).<sup>87</sup>

4.88. Botswana did not undertake any commitments on telecom services under the GATS.

### 4.3.3 Transport services

4.89. The transport sector together with postal services and telecom services contributed by 5.5% to GDP in 2014 (Table 1.1).

4.90. The Ministry of Transport and Communications' main function is to drive the development and utilization of ICTs and integrated transport services. The Ministry formulates the relevant transport policies and coordinates their implementation. In 2011, the Ministry drafted the National Integrated Transport Policy, which outlined the measures that should be taken to develop a modern integrated transport sector in Botswana. The policy has not been released yet. In addition, the Ministry established the Transport Hub in 2008, to develop Botswana as a transport hub within the SADC region. The goal is to transform the transport and logistics industry into a major growth sector to stimulate the economic diversification of the country.

#### 4.3.3.1 Road transport

4.91. The Roads Department of the Ministry of Transport and Communications is in charge of implementing the Public Roads Act, which is currently under review to incorporate current international standards and practices on road infrastructure and development.

4.92. Road transport is the major mode of surface travel in Botswana, amounting for about 93% of the total volume of passenger transport. The railway, a single line, which runs from South to North on the eastern side of the country, together with air transport, are responsible for about 7% of passenger transportation.<sup>88</sup> In 2014, the Roads Department's road net asset value is P 25 billion dwarfing other modes of transport such as air and rail in the country.

4.93. The road infrastructure has a total length of 6,400 kilometres of paved roads. Botswana's major highway is part of the 1,800-kilometre long Trans-Kalahari (Trans-Kgalagadi) highway, which serves as a link to the Maputo and Walvis Bay Economic Corridors. Due to its geographical location, Botswana's roads are put under strenuous conditions acting as the central nerve of transit traffic between the different SADC countries. Road maintenance is financed by road user charges and the fuel levy. High maintenance costs and the prohibition of cabotage raise road transport costs. Cabotage is not allowed in any of the SACU countries; because of this restrictive rule, trucks are forced to return empty, as they are not allowed to pick up goods for onward delivery, causing freight rates to increase.<sup>89</sup>

4.94. Botswana does not regulate entry of freight transport operators, except for setting safety standards. There are no limitations on foreign equity participation, and the State does not have a stake in transport companies. Freight rates are market-determined.

4.95. Botswana has bilateral road transport agreements with Namibia, South Africa, Zambia and Zimbabwe. The Bilateral Agreements between Botswana, Namibia & South Africa were signed under the SACU umbrella. Individually Botswana has signed agreements with Zambia and Zimbabwe. The main purpose of these agreements is to ensure the harmonization of transport regulations to ensure the free flow of goods and passengers.

<sup>86</sup> ITU (2014).

<sup>87</sup> Botswana Investment and Trade Centre online information. Viewed at: <http://www.bitc.co.bw/incentives-investors>.

<sup>88</sup> Information provided by the authorities.

<sup>89</sup> According to the authorities, at present there are no plans to liberalize cabotage. However, the SADC Protocol on Transport, Communications and Meteorology is advocating for the abolishment of cabotage.

### 4.3.3.2 Rail transport

4.96. Botswana has a single railway line of some nearly 900 kilometres that transverses Botswana from Ramatlabama in the South to Ramokgwebana in the North. It forms a direct link between South Africa and the countries lying in the North (i.e. Angola, the Democratic Republic of the Congo, Mozambique, Zambia and Zimbabwe).<sup>90</sup> Since 2009 when Botswana Railways (BR), the state-owned company that operates the railway system, discontinued its passenger train service, the railway system has been used solely to transport commodities such as copper, soda ash and salt, coal and fuel.<sup>91</sup>

4.97. During the period under review, rail-borne traffic has remained stable. However, the role of commercial railway transport is being challenged through competition from the upgraded road network for freight transport, and by other regional railways, which compete mainly in transit traffic, traditionally one of BR's core activities. Transit traffic has undergone substantial fluctuations during 2007/08-2013/14 (Table 4.10). As traffic volumes had become uneconomical, BR adopted a five-year strategic plan in September 2006, which sought to transform BR from a conventional rail transporter to a logistics and commercial transport service provider. The Plan was reviewed in 2012, when the 2012-17 Strategic Plan, which aims at promoting growth, efficiency and effectiveness, was issued. There are further opportunities for the sector to grow as mineral explorations continue and plans to further exploit various mineral deposits in certain parts of the country (mainly coal) materialize. In this regard, the possibility of building a rail link, the Trans-Kgalagadi Railway, to transport coal to the Atlantic coast is being considered.

**Table 4.10 Rail traffic, 2007/08–2013/14**

('000 tonnes, unless otherwise specified and financial year)

	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14
<b>Passengers</b>							
Total ('000)	354	386	..	..	..	..	..
Revenue (P'000)	10,261	9,695	..	..	..	..	..
<b>Cargo</b>							
Total imports	863	967	1,058	1,091	1,075	992	841
Total exports	545	564	500	550	538	578	616
Local traffic	317	328	287	317	314	341	278
Transit traffic	18	131	40	89	58	53	121
<b>Total traffic</b>	<b>1,743</b>	<b>1,990</b>	<b>1,885</b>	<b>2,047</b>	<b>1,985</b>	<b>1,964</b>	<b>1,856</b>
<b>Total revenue (P'000)</b>	<b>221.1</b>	<b>213.8</b>	<b>204.9</b>	<b>235.7</b>	<b>260.9</b>	<b>290.6</b>	<b>312.5</b>

.. Not available.

Source: Botswana Railways.

4.98. Railway services are regulated by the Railways Act of 1987, last amended in 2004. These services are operated by Botswana Railways (BR), a parastatal, which holds the statutory monopoly.<sup>92</sup> The construction of private railway sidings (e.g. low speed tracks for loading) requires approval from BR (section 13 of the Railways Act). Tariffs for goods and passenger traffic are set by BR, and require ministerial approval (section 18 of the Railways Act). Discount rates are periodically negotiated with major customers. The amended Railways Act allows BR to participate in joint ventures and establish subsidiaries. The BR subsidiary, BR Properties (Pty) Ltd., was founded in 2008 to allow, *inter alia*, the commercial use of railway property, to supplement operating revenue. BR is earmarked for privatization.

4.99. At present, Botswana has four dry port facilities (three at the time of the previous Review). These are: the Gaborone Container Terminal (Gabcon (Pty) Ltd.), the Francistown Container Terminal (Francon) and Palapye Container Terminal (Palcon), which serve as container terminals for locally based importers and exporters. Since 2009, another dry port facility was developed, at

<sup>90</sup> Online information. Viewed at <http://www.botswanarailways.co.bw/timeline>.

<sup>91</sup> Online information. Viewed at: <http://www.botswanarailways.co.bw/timeline> and <http://www.botswanarailways.co.bw/node/28>.

<sup>92</sup> Chapter 70:01, Botswana Railways Act of 1986 (as amended in 2004). Viewed at: [http://209.85.135.104/search?q=cache:bjWbHUT3U\\_kJ:www.laws.gov.bw/Docs/Principal/Volume11/Chapter70/PR-VOL-XI-CHP-70-01%2520BOTSWANA%2520RAILWAYS.pdf+Chapter+70:01+Botswana&hl=en&ct=clnk&cd=1&gl=ch](http://209.85.135.104/search?q=cache:bjWbHUT3U_kJ:www.laws.gov.bw/Docs/Principal/Volume11/Chapter70/PR-VOL-XI-CHP-70-01%2520BOTSWANA%2520RAILWAYS.pdf+Chapter+70:01+Botswana&hl=en&ct=clnk&cd=1&gl=ch).

Walvis Bay in Namibia (under a lease agreement between the governments of Botswana and Namibia), to serve as an alternative to the ports of Durban and Cape Town, in order to facilitate trade as transportation costs would be reduced.

#### 4.3.3.3 Air transport

4.100. Air transport is of utmost importance for a vast, landlocked economy like Botswana's, notably to facilitate business travel, international tourist arrivals and trade in goods. Due to the strategic role of air transport services to the economy, Botswana started liberalizing the sector in 2009; however, liberalization has not led to major changes. Air Botswana continues to hold the monopoly for certain services and more importantly there are no direct long-haul international flights; all long-haul passengers into the country have to connect through South Africa, Kenya, Namibia, Zambia or Zimbabwe. Nevertheless, despite the lack of change, the number of passengers using air transport since 2008 has increased (Table 4.11). There is further potential for the sector to grow, as Botswana continues to develop the tourism and agriculture sectors as part of its drive to diversify the economy. This would entail not only an increase in passenger arrivals but also an increase in cargo shipments as perishable agricultural products and high-value products such as diamonds need to be transported by air.<sup>93</sup> At present these sectors rely on their own private carriers to transport their merchandise.<sup>94</sup>

**Table 4.11 Air traffic, 2008-14**

	2008	2009	2010	2011	2012	2013	2014
<b>Aircraft movements</b>							
International	19,442	18,986	18,122	20,826	17,832	18,914	19,222
Scheduled							
Non-scheduled							
Domestic	74,048	79,600	55,158	69,909	62,254	67,589	64,063
Total	93,490	98,586	73,280	90,735	80,086	86,503	83,285
<b>Passengers</b>							
Departures							
International	171,202	195,284	185,024	208,682	202,317	206,306	209,720
Domestic	176,525	180,141	175,682	186,653	178,497	187,258	169,988
Arrivals							
International	167,772	192,183	184,232	204,416	195,536	200,307	207,708
Domestic	174,898	180,455	177,805	186,941	181,787	190,505	172,305
Total	690,397	748,063	722,743	786,692	758,137	784,376	755,721

Source: CAAB (Air Transport) (2014).

4.101. The regulatory framework for civil aviation in Botswana is set out in the Civil Aviation Authority Act, 2004, amended by the Civil Aviation Act, 2011.<sup>95</sup> The legislation established the parastatal Civil Aviation Authority of Botswana (CAAB). The Authority started operating in 2009 as a statutory corporation under the Ministry of Transport and Communications (MTC). Under the Act, CAAB is responsible for the regulation of air transport, providing air navigation services, managing airports and advising the Government on all aspects of civil aviation.<sup>96</sup>

4.102. Air Botswana's domestic monopoly on public transport of passengers, cargo, and mail on all scheduled routes was dismantled in 2009.<sup>97</sup> However, Air Botswana is Botswana's only designated operator and has the exclusive right to operate international services on routes from Gaborone, Maun and Kasane to Johannesburg; cabotage remains prohibited, except on certain negotiated routes according to the authorities. Once Air Botswana's monopoly was dismantled, all eligible carriers were allowed to enter the market to provide domestic and international scheduled

<sup>93</sup> According to the authorities, there is no information regarding exports and imports that arrive by air.

<sup>94</sup> For instance the Department of Crop Production and Forestry, Debswana Diamond Company and Soda Ash Botswana have their own private operators. Online information. Viewed at: <http://www.caab.co.bw/caab-content.php?cid=133>.

<sup>95</sup> Other pieces of legislation that regulate air transport services include the Civil Aviation Authority (Amendment) Act, 2008; the Aviation Security Act, 1993 [Chapter 71:02] and the Civil Aviation Regulation (Reform) Act, 2003 [Chapter 71:03]. For the full list please refer to the CAAB. Online information. Viewed at: <http://www.caab.co.bw/caab-content.php?cid=506>.

<sup>96</sup> Most of these functions were formerly being handled by the former Department of Civil Aviation (DCA).

<sup>97</sup> Cabinet Decision of 9 February 2009.

air services on a competitive basis.<sup>98</sup> Eligible carriers must be licenced under the Civil Aviation (Licensing of Air Services) Regulations. Licences may be obtained by a statutory corporation in Botswana or a company incorporated under the Companies Act; the company's principal place of business must be Botswana and the company needs to be majority owned by citizens of Botswana. Air Botswana continues to be the only scheduled air operator. According to the authorities, no carrier has entered the market yet as applications are undergoing inspection. There are, in contrast, 14 non-scheduled air operators (air charter operators).

4.103. Fares and rates in the domestic market for scheduled services are set by the market. The CAAB monitors market behaviour by air carriers and has the authority to intervene in case of anti-competitive practices. The CAAB has a MOU with the Competition Authority to collaborate in issues regarding competition policy.

4.104. The Government, through the CAAB, remains responsible for designating carriers to operate scheduled services under bilateral air services agreements, and for negotiating new or revised bilateral air services agreements to open up new markets. The CAAB is authorized to license the designated carriers and oversee the administration of fares, rates, and capacity, according to the provisions of the applicable bilateral air services agreement. As at 2014, Botswana had 28 bilateral air services agreements in force, and in 2013 and in 2014 Botswana initialled six other agreements with: China, Iceland, Kuwait, Nigeria, Saudi Arabia, the Seychelles and Swaziland (Table A4.1) According to the authorities, several of the bilateral agreements provide for multiple destinations and points of entry for passenger and cargo services between the two contracting countries, the removal of restrictions on capacity and frequency, and fifth freedom traffic rights.<sup>99</sup>

4.105. To operate non-scheduled flights into Botswana foreign air carriers must have a temporary air service permit (TASP), which is provided by the CAAB.<sup>100</sup> At present there are 14 non-scheduled operators allowed to service Botswana.

4.106. Botswana has 6 state-owned international airports and 19 airfields in major villages throughout the country, as well as 52 private airfields mainly catering to tourists. Upgrading of facilities at the four major airports is ongoing with both Sir Seretse Khama and Francistown either complete or near completion; while at the other two major airports in Maun and Kasane completion is at various stages, but the runways have been completed. Ground handling services are currently provided by the national carrier, Air Botswana, even though competition is allowed. Private aerodromes must be licensed on an annual basis; the four types of licences depend on the type of aircraft used.<sup>101</sup>

#### 4.3.4 Tourism

4.107. Under Botswana's long-term development plan, tourism has been identified as a key subsector to help achieve economic diversification.<sup>102</sup> The subsector is also critical to promote exports and to attract FDI.<sup>103</sup> During 2006-10 (the latest year for which official data was available), tourism contributed by 3.7% to GDP, it employed 8.4% of the working population and it was the third most important source of foreign exchange after diamonds and copper-nickel.<sup>104</sup> However, during 2010-12 receipts from international tourism have declined.<sup>105</sup> Thereafter, despite

<sup>98</sup> Cabinet Decision of 9 February 2009.

<sup>99</sup> The fifth freedom is the right of an airline from one country to land in a second country, pick up passengers and carry them to a third country.

<sup>100</sup> TASP's requirements include: aircraft registration; type of aircraft; intended route and destination; nature of the trip; and name of pilot in command.

<sup>101</sup> Online information. Viewed at: <http://www.caab.co.bw/caab-content.php?cid=104>.

<sup>102</sup> Botswana's 10<sup>th</sup> National Development Plan (NDP10). Viewed at: [http://www.nationalplanningcycles.org/sites/default/files/country\\_docs/Botswana/ndp\\_botswana.pdf](http://www.nationalplanningcycles.org/sites/default/files/country_docs/Botswana/ndp_botswana.pdf).

<sup>103</sup> Ministry of Trade and Industry (2010a).

<sup>104</sup> Information provided by the authorities and WTO document WT/TPR/S/222/Rev.1, 14 December 2009.

<sup>105</sup> According to the UNWTO, international tourism receipts declined from US\$80 million in 2010 to US\$30 million in 2012 (latest data available) (UNWTO, 2015).

the sector's potential, due to the lack of data it was not possible to make an assessment of the sector's contribution to the economy.<sup>106</sup>

4.108. The Department of Tourism (DoT) and the Botswana Tourism Organization (Botswana Tourism), in the Ministry of Environment, Wildlife, and Tourism (MEWT), are responsible for tourism development. DoT is in charge of formulating the tourism policy and regulating tourism activities.<sup>107</sup> Botswana Tourism, a parastatal, which replaced the Botswana Tourism Board, started operations in 2010.<sup>108</sup> It is responsible for marketing and promoting tourism products, promoting investment opportunities in the sector, and grading and certifying accommodation facilities.<sup>109</sup>

4.109. The Tourism Policy of 1990 is still in force but is under review to better adjust it to recent developments, competitiveness, and key challenges in the subsector.<sup>110</sup> The Policy focuses on sustainable tourism development to increase social and economic welfare. The Policy's main objectives are, *inter alia*, to increase foreign exchange earnings and government revenues, and develop rural areas.<sup>111</sup> The Tourism Master Plan 2000 was developed to set up guidelines to attain the Policy's objectives. The Plan also recommends switching from a "low-volume, high-value" strategy to a "high-volume, mixed-price" strategy.<sup>112</sup> In addition, to ensure the sustainable tourism development, the National Ecotourism Strategy 2002 was launched.<sup>113</sup>

4.110. The tourism sector is regulated by the Tourism Act of 2009, the Tourism Regulations (Amendment) of 2013, and the Tourism (Reservation of Tourist Enterprises for Citizens) Regulations of 2011. These pieces of legislation repealed the Tourism Act 1992, the Tourism Regulations 1996, and other subsidiary legislation (i.e. Tourism (Licensing) Order 1996).

4.111. The main changes introduced by the 2009 Act relate to market access and licensing procedures, in particular the number of tourism-related activities subject to licensing and the duration of the licences.

4.112. The Act provides for restrictions to be imposed on market access in order to promote the participation of citizens of Botswana and 100% Botswana-owned companies.<sup>114</sup> As at mid-2015, six tourism-related activities are reserved for nationals: accommodation in guesthouses (except corporate guesthouses) and campsites and caravan sites, mobile safari activities, motor-boat activities, transport services, and *mekoro* (canoe) activities.<sup>115</sup> Since 2009, cross-border supply of road transport services for tourists has been allowed. However, authorized foreign-based operators are not allowed to conduct their own safari tours into Botswana's national parks and game

<sup>106</sup> According to the World Bank: "...statistics for tourist arrivals have not been updated since 2009 (data from tourist entry/departure forms)..." and "...tourism statistics are expected to be available by mid-2014." Viewed at:

<https://www.wavespartnership.org/sites/waves/files/documents/WAVES%20Policy%20Note%20Botswana.pdf>.

<sup>107</sup> Department of Tourism online information. Viewed at:

[http://www.mewt.gov.bw/DOT/article.php?id\\_mnu=8](http://www.mewt.gov.bw/DOT/article.php?id_mnu=8).

<sup>108</sup> The Botswana Tourism Board Act 2004 repealed by the Botswana Tourism Organization Act 2009.

<sup>109</sup> Botswana Tourism Organization online information. Viewed at:

<http://www.botswanatourism.co.bw/about-bto>; and Botswana Tourism Organization (2013).

<sup>110</sup> Botswana's 10<sup>th</sup> National Development Plan (NDP10). Viewed at:

[http://www.nationalplanningcycles.org/sites/default/files/country\\_docs/Botswana/ndp\\_botswana.pdf](http://www.nationalplanningcycles.org/sites/default/files/country_docs/Botswana/ndp_botswana.pdf).

<sup>111</sup> Government Paper No. 2 of 1990, 20 December 1990; and Ministry of Commerce and Industry (2000).

<sup>112</sup> The "low-volume, high-value" strategy sought to preserve the environment by avoiding excessive numbers of tourists to enter protected areas, setting high prices and hence targeting wealthier visitors. However, the strategy was considered to be restrictive. The "high-volume, mixed-price" strategy is aimed at attracting more tourists and offering a wider range of affordable tourism products (Ministry of Commerce and Industry, 2000); and Botswana's 10<sup>th</sup> National Development Plan (NDP10). Viewed at:

[http://www.nationalplanningcycles.org/sites/default/files/country\\_docs/Botswana/ndp\\_botswana.pdf](http://www.nationalplanningcycles.org/sites/default/files/country_docs/Botswana/ndp_botswana.pdf).

<sup>113</sup> National Ecotourism Strategy 2002. Viewed at:

[http://www.ub.bw/ip/documents/2002\\_Botswana%20National%20Ecotourism%20Strategy.pdf](http://www.ub.bw/ip/documents/2002_Botswana%20National%20Ecotourism%20Strategy.pdf); and Ministry of Environment, Wildlife, and Tourism (2010).

<sup>114</sup> The Tourism Act 2009, article 23.

<sup>115</sup> Botswana Investment and Trade Centre online information. Viewed at:

<http://www.bitc.co.bw/tourism-licence>.

reserves but may hand over to a local operator.<sup>116</sup> Foreign nationals may work as tourist guides in Botswana outside the protected areas.

4.113. Tourism operators must be licensed by the Tourism Industry Licensing Committee, a six-member committee appointed by MEWT from the public and private sectors.<sup>117</sup> Under the Tourism Act of 2009, there are ten tourism-related activities subject to licensing (six more than under the repealed act).<sup>118</sup> In addition, provisional licences may be granted for a three-month period to allow applicants to fully meet the licensing eligibility criteria. Licensing procedures may take up to 30 days from the time the application is received by the Committee; appeals against the Committee's decisions may be brought to MEWT. Licence fees, which vary according to activity, are payable upon approval of the licence and thereafter annually; *mekoro* (canoe) activities are exempt.<sup>119</sup> The duration of licences has been increased from one year to an indefinite term, except for foreign-based operators (one year, renewable).<sup>120</sup> The Tourism Act also provides for the transfer, suspension, and revocation of licences. A licence may be revoked if, *inter alia*, licensing and grading requirements are not met (see below).<sup>121</sup>

4.114. At end-2014, some 1,000 licences had been issued, up from 690 in 2009; around 40% of total licences were granted to foreigners (including joint ventures).<sup>122</sup> Licences were granted to, *inter alia*, 327 hotels and similar accommodation facilities, 256 lodges and camps and 131 travel agents.<sup>123</sup> At end-2014, 223 tour operators were licensed in Botswana; 24 of which were foreign-based operators.<sup>124</sup>

4.115. The Botswana Tourism Organization Quality Services Committee is responsible for grading all licensed tourist accommodation facilities. Grading is compulsory and minimum requirements are set by Botswana Bureau of Standards.<sup>125</sup> Decisions on grading made by the Committee may be appealed to the Minister of MEWT.<sup>126</sup> In 2014, there were 392 graded accommodation facilities in Botswana, mainly one-star hotels.<sup>127</sup>

4.116. In addition, during the period under review, Botswana Tourism introduced an Ecotourism Certification System to encourage eco-friendly tourism products and services. Participation in the eco-certification programme is voluntary.<sup>128</sup> Since 2009, 22 enterprises have been eco-certified.<sup>129</sup>

4.117. Hotels and other accommodation facilities for tourists, including houseboats, contribute a P 10 fee (per guest per day) to the Tourism Industry Training Fund.<sup>130</sup>

4.118. There are no specific incentive schemes for tourism-related activities in Botswana. Investors may apply for tax relief under the Development Approval Order.<sup>131</sup>

<sup>116</sup> Schedule to the Tourism Act 2009.

<sup>117</sup> The Tourism Act 2009, article 4. Application forms are available online at: [http://www.mewt.gov.bw/DOT/article.php?id\\_mnu=224](http://www.mewt.gov.bw/DOT/article.php?id_mnu=224).

<sup>118</sup> Activities are listed in the Schedule to the Tourism Act 2009.

<sup>119</sup> Licence fees for foreign-based operators are US\$2,000 (or pula equivalent). Fees for the remaining tourism activities range from P 500 to P 1,500 (for more details on these fees please refer to: the Fifth Schedule of the Tourism Regulations, 2010).

<sup>120</sup> The Tourism Act 2009, articles 17-18 and 27; Tourism Regulations 2010, Fifth Schedule; and Government of Botswana at Your Service online information. Viewed at: <http://1govportal.imexsystems.net/en-gb/Citizens-Residents/Employment/Pages/Tourism-%E2%80%9CA%E2%80%9D-Licence-%E2%80%93-Tourist-Accommodation-Operation.aspx>.

<sup>121</sup> The Tourism Act 2009, article 22.

<sup>122</sup> Department of Tourism online information. Viewed at: [http://www.mewt.gov.bw/DOT/article.php?id\\_mnu=20](http://www.mewt.gov.bw/DOT/article.php?id_mnu=20).

<sup>123</sup> No information was available on the number of guides that were licensed in Botswana during the period under review.

<sup>124</sup> Foreign-based operators originated in Germany, Namibia, South Africa, the United Kingdom and Zimbabwe (information provided by the authorities).

<sup>125</sup> Botswana Bureau of Standards' (BOBS) Hotels and Related Establishments Grading Requirements.

<sup>126</sup> Botswana Tourism online information. Viewed at: <http://www.botswanaturism.co.bw/grading-standards>; <http://www.botswanaturism.co.bw/grading-criteria>; <http://www.botswanaturism.co.bw/grading-process>; and <http://www.botswanaturism.co.bw/star-grading-application-process>.

<sup>127</sup> Information provided by the authorities.

<sup>128</sup> Botswana Tourism online information. Viewed at: <http://www.botswanaturism.co.bw/eco-certification-system>.

<sup>129</sup> Botswana Tourism Organization (2013).

<sup>130</sup> The Tourism Regulations 2010, article 13.

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## 5 APPENDIX TABLES

Table A1.1 Merchandise exports by destination, including re-exports, 2008-14

(US\$ million and %)

	2008	2009	2010	2011	2012	2013	2014
Total (US\$ million)	4,951	3,456	4,693	5,882	5,971	7,573	7,916
	(% of total)						
America	1.0	1.7	1.2	1.1	1.2	1.7	7.0
United States	1.0	1.3	1.2	1.1	1.2	1.4	2.9
Other America	0.0	0.3	0.0	0.0	0.0	0.4	4.1
Canada	0.0	0.3	0.0	0.0	0.0	0.4	4.1
Europe	64.1	69.6	71.9	71.5	71.9	69.0	34.5
EU(28)	59.1	58.9	61.0	65.2	65.2	62.6	28.1
Belgium	2.5	3.2	3.3	2.7	4.3	12.9	25.8
Finland	0.0	0.9	1.4	0.0	0.0	0.2	1.0
United Kingdom	55.5	53.1	55.5	62.4	60.7	49.0	0.9
The Netherlands	0.1	0.0	0.1	0.0	0.0	0.2	0.2
Greece	0.3	0.5	0.1	0.0	0.0	0.0	0.1
EFTA	5.0	10.7	10.8	6.3	6.7	6.4	6.4
Switzerland	1.0	0.9	1.5	1.5	1.7	1.9	3.6
Norway	4.0	9.8	9.3	4.8	5.0	4.5	2.8
Other Europe	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Commonwealth of Independent States (CIS)	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Africa	25.5	22.0	18.8	18.9	18.2	15.6	21.4
South Africa	18.3	14.7	12.9	13.5	13.1	10.6	11.8
Namibia	1.1	0.5	0.4	0.5	1.9	2.4	7.4
Zimbabwe	4.4	4.5	3.8	2.9	1.9	1.7	1.4
Zambia	0.9	1.5	1.1	1.3	0.8	0.6	0.6
Mozambique	0.0	0.2	0.1	0.0	0.1	0.1	0.1
Middle East	3.1	3.3	5.3	5.4	5.7	7.2	13.1
Israel	3.1	3.2	5.3	5.2	5.4	6.1	8.4
United Arab Emirates	0.0	0.0	0.1	0.2	0.3	1.1	4.7
Asia	6.3	3.5	2.7	3.1	3.0	6.5	24.1
China	4.8	2.3	0.9	0.8	0.8	0.8	0.8
Japan	0.1	0.0	0.0	0.0	0.0	0.0	0.1
Six East Asian Traders	0.9	1.0	0.9	1.0	1.1	2.3	7.9
Singapore	0.0	0.0	0.0	0.0	0.0	0.9	4.4
Hong Kong, China	0.0	0.1	0.1	0.2	0.3	0.8	3.0
Thailand	0.7	0.8	0.8	0.8	0.8	0.6	0.5
Other Asia	0.6	0.2	0.9	1.3	1.2	3.4	15.3
India	0.4	0.1	0.9	1.3	1.1	3.0	14.9
Viet Nam	0.0	0.0	0.0	0.0	0.0	0.3	0.4
Other	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Source: UNSD Comtrade database.

**Table A1.2 Merchandise imports by origin, 2008-14**

(US\$ million and %)

	2008	2009	2010	2011	2012	2013	2014
Total (US\$ million)	5,211	4,728	5,657	7,272	8,025	7,434	7,831
	(% of total)						
America	1.6	2.4	1.5	2.3	2.0	5.6	11.5
United States	1.3	2.2	1.3	2.2	2.0	2.6	1.4
Other America	0.3	0.2	0.1	0.1	0.1	3.1	10.1
Canada	0.2	0.2	0.1	0.1	0.1	3.0	10.0
Europe	11.5	12.0	13.4	13.5	20.5	14.3	6.9
EU(28)	11.3	11.9	13.3	13.2	20.0	14.2	6.6
Belgium	1.9	1.1	0.9	1.2	1.3	5.1	4.0
Germany	0.9	1.2	0.7	0.7	0.7	0.5	1.0
United Kingdom	6.0	6.1	9.3	9.9	16.8	7.3	0.8
Sweden	0.5	0.6	0.2	0.3	0.5	0.2	0.2
The Netherlands	0.2	0.4	0.5	0.2	0.1	0.2	0.2
France	0.5	1.4	0.3	0.2	0.2	0.2	0.2
EFTA	0.2	0.1	0.1	0.2	0.5	0.1	0.2
Switzerland	0.2	0.1	0.1	0.2	0.5	0.1	0.2
Other Europe	0.0	0.0	0.1	0.1	0.0	0.0	0.1
Commonwealth of Independent States (CIS)	0.0	0.0	0.1	0.0	0.0	0.3	0.1
Africa	79.1	78.2	75.3	68.5	69.9	74.1	76.4
South Africa	77.3	76.1	72.8	65.7	62.8	65.8	63.2
Namibia	0.6	0.6	1.2	0.8	5.7	6.9	12.1
Zambia	0.1	0.2	0.3	0.3	0.3	0.3	0.4
Zimbabwe	0.9	0.8	0.7	0.7	0.5	0.5	0.3
Mozambique	0.0	0.1	0.2	0.5	0.3	0.0	0.2
Middle East	1.9	1.4	2.0	1.5	1.7	1.6	1.7
Israel	1.6	1.2	1.9	1.4	1.5	1.4	1.5
United Arab Emirates	0.2	0.1	0.1	0.1	0.2	0.3	0.2
Asia	5.8	6.1	7.7	14.2	5.8	4.0	3.4
China	2.9	3.3	4.9	10.9	2.8	1.4	1.1
Japan	0.7	0.6	0.7	0.8	0.9	0.7	0.5
Six East Asian Traders	1.3	1.2	1.2	0.8	0.6	0.7	0.6
Singapore	0.3	0.2	0.3	0.2	0.2	0.2	0.2
Hong Kong, China	0.4	0.4	0.3	0.2	0.2	0.3	0.2
Korea, Republic of	0.1	0.1	0.1	0.2	0.1	0.1	0.1
Other Asia	1.0	0.9	0.9	1.6	1.6	1.2	1.2
India	0.8	0.6	0.7	1.4	1.4	0.9	1.0
Australia	0.1	0.2	0.1	0.2	0.2	0.2	0.1
Other	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Source: UNSD Comtrade database.

**Table A1.3 Merchandise exports by product group, including re-exports, 2008-14**

(US\$ million and %)

	2008	2009	2010	2011	2012	2013	2014
Total (US\$ million)	4,951	3,456	4,693	5,882	5,971	7,573	7,916
	(% of total)						
Total primary products	22.4	21.2	19.9	11.1	11.3	12.0	9.5
Agriculture	3.1	5.2	5.2	2.4	2.2	2.4	2.1
Food	2.8	5.0	5.0	2.2	2.0	2.3	2.0
0112 Bovine meat, frozen	0.7	1.4	1.3	0.5	0.8	1.0	0.8
0111 Bovine meat, fresh, chilled	1.2	1.9	2.1	0.3	0.3	0.5	0.6
0622 Sugar confectionery, not containing cocoa	0.2	0.4	0.5	0.4	0.3	0.2	0.2
Agricultural raw material	0.3	0.2	0.2	0.2	0.2	0.1	0.1
Mining	19.3	16.0	14.7	8.7	9.1	9.6	7.5
Ores and other minerals	18.9	15.7	14.3	8.3	8.5	9.2	7.0
2842 Nickel mattes, sinters, etc.	13.7	12.3	10.9	6.0	5.6	5.5	4.2
2831 Copper ores and concentrates	3.0	2.2	0.9	1.3	1.6	1.7	1.7
2771 Industrial diamonds, sorted, whether or not worked	0.2	0.1	0.3	0.3	0.4	1.1	0.5
2783 Sodium chloride, etc.	0.4	0.5	0.4	0.3	0.3	0.3	0.4
Non-ferrous metals	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Fuels	0.3	0.3	0.4	0.4	0.6	0.4	0.5
3212 Other coal, whether or pulverized, not agglomerated	0.2	0.1	0.2	0.1	0.1	0.1	0.2
Manufactures	74.7	76.3	78.5	87.2	87.1	86.9	89.4
Iron and steel	0.2	0.2	0.1	0.1	0.1	0.1	0.2
Chemicals	1.0	1.7	2.1	1.4	1.3	1.0	1.0
5237 Carbonates, percarbonates	0.3	0.8	1.5	0.7	0.6	0.5	0.5
5816 Other tubes, pipes and hoses	0.0	0.0	0.0	0.0	0.0	0.1	0.2
Other semi-manufactures	63.9	63.5	68.7	76.0	79.6	82.3	84.9
6672 Diamonds (excl. industrial, sorted) not mounted/set	63.0	62.6	68.0	75.4	79.0	81.8	84.4
6911 Iron or steel structures, tubes and the like, for use in structures	0.1	0.0	0.0	0.1	0.1	0.1	0.1
Machinery and transport equipment	3.8	4.7	3.9	4.8	4.3	2.7	2.5
Power generating machines	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Other non-electrical machinery	1.1	0.7	0.6	1.0	0.8	0.7	0.6
7239 Parts n.e.s., of machinery of 723 and 744.3	0.2	0.1	0.0	0.2	0.1	0.1	0.1
Agricultural machinery and tractors	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Office machines & telecommunication equipment	0.2	0.4	0.3	0.1	0.2	0.1	0.1
Other electrical machines	0.8	1.0	1.2	1.1	1.0	0.7	0.6
7731 Insulated wire, cable etc.; optical fibre cables	0.0	0.5	0.8	0.8	0.8	0.5	0.4
Automotive products	1.2	1.7	1.3	1.8	1.4	0.8	0.6
7812 Motor vehicles for the transport of persons, n.e.s.	0.2	0.2	0.2	0.6	0.7	0.3	0.2
7821 Goods vehicles	0.4	0.6	0.3	0.6	0.3	0.2	0.2
Other transport equipment	0.4	0.8	0.5	0.7	0.8	0.3	0.4
7131 Aircraft internal combustion piston engines and parts	0.1	0.1	0.0	0.0	0.0	0.1	0.2
7929 Parts, n.e.s., (excl. tyres, engines, electrical parts) of 792	0.0	0.1	0.0	0.0	0.1	0.0	0.2
Textiles	0.3	0.6	0.3	0.4	0.4	0.3	0.3
Clothing	5.2	5.2	3.1	4.0	1.0	0.2	0.2
Other consumer goods	0.3	0.4	0.4	0.5	0.4	0.3	0.3
Other	2.9	2.5	1.6	1.7	1.6	1.1	1.0

Source: UNSD Comtrade database, SITC Rev.3.

**Table A1.4 Merchandise imports by product group, 2008-14**

(US\$ million and %)

	2008	2009	2010	2011	2012	2013	2014
Total (US\$ million)	5,211	4,728	5,657	7,272	8,025	7,434	7,831
	(% of total)						
Total primary products	31.8	29.2	29.8	28.4	26.6	29.3	25.4
Agriculture	12.8	14.0	13.2	11.2	9.7	10.6	9.3
Food	12.0	13.1	12.4	10.5	9.0	10.1	8.9
0449 Other maize, unmilled	0.1	0.2	0.1	0.2	0.2	0.6	0.6
0612 Other beet, cane and chemically pure sucrose, solid form	0.5	0.6	0.6	0.5	0.6	0.6	0.5
0412 Other wheat (including spelt) and meslin, unmilled	0.4	0.6	0.5	0.3	0.1	0.4	0.5
Agricultural raw material	0.8	0.9	0.8	0.7	0.7	0.6	0.5
Mining	19.0	15.3	16.6	17.2	16.9	18.6	16.1
Ores and other minerals	1.8	1.6	1.5	0.4	0.4	1.1	0.3
Non-ferrous metals	0.4	0.5	0.5	0.5	0.3	0.3	0.3
Fuels	16.9	13.2	14.6	16.4	16.1	17.2	15.5
3510 Electric energy	1.3	1.5	1.6	3.1	2.9	3.2	1.9
Manufactures	67.0	69.5	68.4	70.4	71.7	69.1	73.3
Iron and steel	2.8	2.4	2.5	2.4	1.6	1.9	1.4
Chemicals	7.4	8.5	8.0	6.7	6.3	6.8	6.2
5429 Medicaments, n.e.s.	1.6	2.1	1.9	1.6	1.4	1.4	1.1
5621 Mineral or chemical fertilizers, nitrogenous	0.2	0.1	0.3	0.2	0.4	0.6	0.5
5541 Soap	0.6	0.7	0.6	0.5	0.5	0.5	0.4
Other semi-manufactures	19.5	18.5	22.5	21.7	34.2	34.1	40.0
6672 Diamonds (excl. industrial, sorted) not mounted/set	8.9	7.8	11.7	11.8	26.9	27.2	33.9
6612 Portland cement and similar hydraulic cements	1.2	1.6	1.6	1.1	0.9	0.9	0.8
6255 Other pneumatic tyres	0.5	0.3	0.3	0.4	0.5	0.5	0.5
Machinery and transport equipment	28.3	29.5	26.4	31.8	22.8	19.7	19.2
Power generating machines	0.8	0.9	2.3	5.3	1.5	0.7	0.6
Other non-electrical machinery	9.0	7.6	7.5	9.7	6.8	6.2	5.7
7239 Parts n.e.s., of machinery of 723 and 744.3	0.7	0.4	0.5	0.9	1.2	0.9	0.9
7232 Mechanical shovels, etc., self-propelled	1.2	0.6	0.5	0.9	1.0	0.3	0.5
7283 Other mineral working machines	1.3	0.8	0.9	1.1	0.5	0.7	0.5
Agricultural machinery and tractors	0.3	0.4	0.4	0.3	0.3	0.4	0.4
Office machines & telecommunication equipment	3.5	4.6	3.1	2.5	2.6	2.3	2.6
7643 Radio or television transmission apparatus	0.6	1.2	0.5	0.4	0.4	0.4	0.7
Other electrical machines	3.8	3.7	3.7	4.8	2.8	2.2	2.3
7731 Insulated wire, cable etc.; optical fibre cables	1.1	0.9	0.8	1.2	0.8	0.4	0.6
7725 Switches, relays, fuses etc. for a voltage not exceeding 1000 V	0.5	0.5	0.5	0.5	0.4	0.4	0.4
Automotive products	9.9	9.3	8.4	8.6	7.7	7.1	6.7
7821 Goods vehicles	3.7	3.2	2.6	3.2	2.9	2.9	2.7
7812 Motor vehicles for the transport of persons, n.e.s.	3.5	3.2	3.2	2.6	2.8	2.5	2.4
7843 Other motor vehicle parts and accessories of 722, 781 to 783	1.1	1.5	1.4	1.2	1.0	0.9	0.8
Other transport equipment	1.3	3.4	1.4	0.9	1.4	1.2	1.2
Textiles	1.1	1.0	0.9	0.8	0.7	0.8	0.7
Clothing	2.1	2.5	2.1	1.9	1.5	1.4	1.4
Other consumer goods	5.8	7.1	6.0	5.1	4.4	4.5	4.3
Other	1.2	1.2	1.7	1.2	1.7	1.6	1.4

Source: UNSD Comtrade database, SITC Rev.3.

Table A2.1 Notifications to the WTO, 1 October 2009–30 June 2015

Agreement	Requirement	Most recent notification
<b>Agriculture</b>		
Art. 18.2 ( ES:1)	Export subsidy	G/AG/N/BWA/22, 09.12.2014 G/AG/N/BWA/17, 13.02.2014 G/AG/N/BWA/14, 28.08.2012 G/AG/N/BWA/11, 06.03.2012 G/AG/N/BWA/9, 14.07.2010
Art. 18.2 (DS:1)	Domestic support	G/AG/N/BWA/20, 09.12.2014 G/AG/N/BWA/19, 14.02.2014 G/AG/N/BWA/16, 15.01.2013 G/AG/N/BWA/13, 27.03.2012 G/AG/N/BWA/10, 08.04.2011
Art. 18.2 (MA:5)	Special safeguard	G/AG/N/BWA/21, 09.12.2014 G/AG/N/BWA/18, 13.02.2014 G/AG/N/BWA/15, 28.08.2012 G/AG/N/BWA/12, 06.03.2012 G/AG/N/BWA/8, 14.07.2010
<b>Anti-dumping</b>		
GATT 1994 Art. VI Art. 16.5	Competent authority	G/ADP/N/193/BWA/Corr.1, 17.09.2010 G/ADP/N/193/BWA, 19.04.2010
<b>Countervailing measures</b>		
SCM Art. 25.11	Semi-annual	G/SCM/N/250/Add.1, 10.04.2013 G/SCM/N/250, 20.12.2012 G/SCM/N/228/Add.1, 19.10.2011 G/SCM/N/228, 29.06.2011 G/SCM/N/219/Add.1, 26.04.2011 G/SCM/N/219, 05.01.2011
SCM Art. 25.12	Competent authority	G/SCM/N/202/BWA/Corr.1, 26.04.2011 G/SCM/N/202/BWA, 25.01.2010
<b>Intellectual property</b>		
TRIPS Art. 63.2	Legislation	IP/N/1/BWA/C/2, 29.07.2013 IP/N/1/BWA/C/3, 29.07.2013 IP/N/1/BWA/I/3, 29.07.2013 IP/N/1/BWA/I/4, 29.07.2013 IP/N/1/BWA/2, 18.07.2013
TRIPS Art. 69	Contact point	IP/N/3/BWA/2, 5.06.2015
<b>Subsidies</b>		
SCM Art. 25.1 – Art. XVI:1	Subsidies	G/SCM/N/95/BWA; G/SCM/N/123/BWA; G/SCM/N/155/BWA; G/SCM/N/186/WA; G/SCM/N/220/BWA; G/SCM/N/253/BWA, 27.09.2013
<b>Technical barriers to trade</b>		
TBT Art. 2.9.2	Proposed technical regulation	G/TBT/N/BWA/37, 27.11.2013 G/TBT/N/BWA/2, 11.05.2012
<b>Trade facilitation</b>		
TFA (WT/L/911)	Category A commitments under Agreement on Trade Facilitation	WT/PCTF/N/BWA/1, 03.10.2014

Source: WTO documents.

Table A3.1 Botswana bound tariffs

TL <sup>a</sup>	MFN applied tariff rates (%)			Bound tariff rates	
	As specified	AVEs <sup>b</sup>		Botswana	South Africa
		2014	2015		
<b>Ch 04: Dairy products</b>					
04011007	0.0			20.0	96.0
04011009	0.0			20.0	96.0
04011090	0.0			20.0	96.0
04012007	0.0			20.0	96.0
04012009	0.0			20.0	96.0
04012090	0.0			20.0	96.0
04014007	0.0			20.0	96.0
04014009	0.0			20.0	96.0
04014090	0.0			20.0	96.0
04015007	0.0			20.0	96.0
04015009	0.0			20.0	96.0
04015090	0.0			20.0	96.0
04021010	450c/kg with a maximum of 96%	12.8	10.4	20.0	96.0
04021090	450c/kg with a maximum of 96%	12.5	10.8	20.0	96.0
04022110	450c/kg with a maximum of 96%	11.0	9.2	20.0	96.0
04022190	450c/kg with a maximum of 96%	11.5	10.6	20.0	96.0
04022900	450c/kg with a maximum of 96%	15.5	17.5	20.0	96.0
04029100	450c/kg with a maximum of 96%	14.0	24.0	20.0	96.0
04029910	450c/kg with a maximum of 96%	9.0	96.0 <sup>c</sup>	20.0	96.0
04029990	450c/kg with a maximum of 96%	9.0	96.0 <sup>c</sup>	20.0	96.0
04031000	0.0			20.0	96.0
04039010	450c/kg with a maximum of 96%	88.0	14.0	20.0	96.0
04039020	450c/kg with a maximum of 96%	1.8	1.8	20.0	96.0
04039090	450c/kg with a maximum of 96%	12.6	10.5	20.0	96.0
04041000	450c/kg with a maximum of 96%	16.1	13.6	20.0	96.0
04049010	450c/kg with a maximum of 96%	9.6	3.9	20.0	96.0
04049090	450c/kg with a maximum of 96%	10.3	8.9	20.0	96.0
04051000	500c/kg with a maximum of 79%	14.3	10.4	20.0	79.0
ex 04052000 <sup>d</sup>	500c/kg with a maximum of 79%	25.3	5.9	20	79.0
ex 04052000 <sup>d</sup>	500c/kg with a maximum of 79%	25.3	5.9	37	79.0
04059000	500c/kg with a maximum of 79%	7.1	10.9	20.0	79.0
04061000	500c/kg with a maximum of 95%	11.7	8.7	20.0	95.0
04062000	500c/kg with a maximum of 95%	6.4	6.8	20.0	95.0
04063000	500c/kg with a maximum of 95%	11.4	9.3	20.0	95.0
04064000	500c/kg with a maximum of 95%	6.0	4.9	20.0	95.0

TL <sup>a</sup>	MFN applied tariff rates (%)			Bound tariff rates	
	As specified	AVEs <sup>b</sup>		Botswana	South Africa
		2014	2015		
04069011	500c/kg with a maximum of 95%	95.0 <sup>c</sup>	95.0 <sup>c</sup>	20.0	95.0
04069012	500c/kg with a maximum of 95%	11.3	9.7	20.0	95.0
04069021	500c/kg with a maximum of 95%	2.1	1.6	20.0	95.0
04069022	500c/kg with a maximum of 95%	11.3	7.7	20.0	95.0
04069091	500c/kg with a maximum of 95%	3.7	3.2	20.0	95.0
04069099	500c/kg with a maximum of 95%	6.6	5.3	20.0	95.0
<b>HS 1001: Wheat</b>					
10011100	0.0			20.0	21.0
10011900	0.0			20.0	21.0
10019100	15.7c/kg	1.4	..	20.0	72.0
10019900	15.7c/kg	5.5	5.3	20.0	72.0
<b>HS 1005: Maize</b>					
10051000	0.0			20.0	50.0
10059010	0.0			20.0	50.0
10059090	0.0			20.0	50.0
<b>HS 1006: Rice</b>					
10061000	0.0			20.0	0.0
10062000	0.0			20.0	0.0
10063000	0.0			20.0	0.0
10064000	0.0			20.0	0.0
<b>HS 1202: Oil seeds: groundnuts</b>					
12023000	10.0			20.0	70.0
12024100	10.0			20.0	70.0
12024200	10.0			20.0	70.0
<b>HS 1206: Oils seeds: sunflower seeds</b>					
12060000	9.4			20.0	47.0
<b>HS 5201: Cotton, raw</b>					
52010010	0.0			20.0	60.0
52010020	160c/kg	9.7	8.5	20.0	60.0
52010090	15.0			20.0	60.0
<b>HS 28: Soda ash</b>					
28362000	5.5			20.0	5.5
<b>HS 8701: Small tractors</b>					
87011000	0.0			20.0	10.0

.. Not available.

a Based on the SACU applied tariff schedule (HS 2012 nomenclature).

b *Ad valorem* equivalents (AVEs) were estimated based on 2013 and 2014 South African import data at the 8-digit tariff line level.

c No AVEs were estimated due to no imports. In the case of the mixed duty rates, the *ad valorem* part is used.

d In the Uruguay Round, Botswana bound tariff line HS040500 at 20% and tariff line HS210690 was bound at 37% by South Africa; a bound rate adopted by Botswana. When doing the transposition of HS92 (nomenclature used in Uruguay Round negotiations) to HS96 these two lines became part of HS040520. As a result, in the case of Botswana, tariff line HS040520 has two different bound rates: HS04052010 and HS04052090 with bound duties of 20% and of 37% respectively. In the case of South Africa, during the transposition of its schedule to HS 2002, it chose the highest rate (from 37% and 79%), hence South Africa has only one bound rate for tariff line HS040520 which is 79%.

Source: WTO Secretariat calculations based on tariff information from the South African Revenue Service (SARS); and WTO, CTS database.

**Table A3.2 Reservation and price preference schemes for citizens of Botswana, 2015**

Activity	Threshold	Preference
<b>A. Consultants and information technology (IT) providers (designers)</b>		
Building construction consultancy services	Projects up to value of P 75 million	Reserved for 100% citizen-owned consultancies Price preference of up to P 240,000 <sup>a</sup>
	Projects of more than P 75 million	
Civil works consultancy	Projects up to value of P 48 million	Reserved for 100% citizen-owned consultancies Price preference of up to P 960,000
	Projects of more than P 48 million	
Electrical and mechanical consultancy services	Projects up to value of P 4.8 million	Reserved for 100% citizen-owned consultancies Price preference of up to P 96,000 <sup>a</sup>
	Projects of more than P 4.8 million	
Water engineering services	Projects up to value of P 24 million	Reserved for 100% citizen-owned consultancies Price preference of up to P 480,000 <sup>a</sup>
	Projects of more than P 24 million	
Water exploration services	Projects of value up to P 1.21 million	Reserved for 100% citizen-owned consultancies Price preference of up to P 120,000 <sup>a</sup>
	Project of value more than P 1.21 million	
Information technology suppliers of consultancy services	Projects of value up to P 3 million	Reserved for 100% citizen-owned consultancies Price preference of up to P 72,000 <sup>a</sup>
	Projects of more than P 3 million	
Information technology suppliers of hardware/software	Projects up to value of P 3 million	Reserved for 100% citizen-owned consultancies Price preference of up to P 72,000 <sup>a</sup>
	Projects above value of P 3 million	
Accountancy related services	Projects of value up to P 1.2 million	Reserved for 100% citizen-owned consultancies Price preference of up to P 120,000 <sup>a</sup>
	Projects of more than P 1.2 million	
Other consultants (e.g. economic, marketing, etc.)	Projects of value up to P 720,000	Reserved for 100% citizen-owned consultancies Price preference of up to P 72,000 <sup>a</sup>
	Projects of more than P 720,000	
<b>B. Construction companies (contractors)</b>		
Building construction works	Projects up to value of P 7.2million	100% reservation for Botswana only. 30% of projects is reserved for 100% citizen-owned contractors. Price preference of up to maximum of P 720,000 <sup>b</sup> .
	Projects of more than P 7.2 million	
Electrical and mechanical works	Projects up to value of P 960,000	100% reservation for Botswana only. 30% of projects is reserved for 100% citizen-owned contractors. Price preference of up to maximum of P 48,000 <sup>b</sup> .
	Projects of more than P 960,000	
Civil engineering works	Projects up to value of P 20 million	100% reservation for Botswana only. 30% of projects is reserved for 100% citizen-owned contractors. Price preference of up to a maximum of P 900,000 <sup>b</sup> .
	Projects of more than P 20 million	
Water engineering and drilling	Projects up to value of P 800,000	100% reservation for Botswana only. 30% of projects is reserved for 100% citizen-owned contractors. Price preference of up to maximum of P 150,000 <sup>b</sup> .
	Projects of more than P 800,000	

Activity	Threshold	Preference
Roads ancillary works and fencing of buildings	n.a.	Fully reserved for 100% citizen-owned contractors.
<b>C. Manufacturing and supplying medicines, laboratory reagents and medical equipment</b>		
Manufacturing of non-essential medicines	Less than P 10 million	Reservation of 100% <sup>c</sup>
Supply of essential and vital medicines and laboratory reagents, supplies and medical equipment	Less than P 10 million	Reservation of 15% <sup>c</sup>
Supply of non-essential medicines provided that they are not manufactured in Botswana	Less than P 10 million	Reservation of 100% <sup>c</sup>
Supply of non-essential laboratory reagents and supplies and minor medical equipment and consumables/accessories provided that they are not manufactured in Botswana	Less than P 10 million	Reservation of 100% <sup>c</sup>

n.a. Not applicable.

a Used in conjunction with price preference scheme. The percentage points awarded varies from 10% for 100% citizen-owned association/consortia to 3% for minority-owned companies.

b Used in conjunction with price preference scheme. The percentage points awarded varies from 6% for 100% citizen-owned joint ventures to 2.5% for minority-owned companies.

c The reservation will only apply if the unit price quoted by citizen companies is not 15% higher than the unit price quoted by the lowest acceptable international company. Price preferences are also available.

Source: Government of Botswana (2012), *The Citizen Economic Empowerment Policy (CEE Policy)*, Government Paper No. 1 of 2012.

**Table A4.1 Botswana bilateral air services agreements, 2014**

Country	Signed	Not signed/ Operating with MoU	Year
Angola		X	2010
Belgium	X		1988
China		X	2014
Egypt		X	2010
Ethiopia	X		2013
France		X	1990
Germany		X	1988
Kenya	X		2000
Kuwait		X	2014
Malawi	X		1968
Mauritius	X		2012
Mozambique		X	2012
Namibia	X		1990
The Netherlands		X	1989
Pakistan		X	1989
Qatar	X		2013
Iceland		X	2013
Rwanda		X	2012
Seychelles		X	2014
Saudi Arabia		X	2014
Singapore		X	2010
South Africa		X	2011
Swaziland		X	2014
Tanzania		X	2003
Turkey	X		2013
United Arab Emirates	X		2011
United Kingdom	X		1990 <sup>a</sup>
United States of America	X		2014
Zambia	X		2006 <sup>a</sup>
Zimbabwe	X		2003

a Re-negotiated in 2014.

Source: Information provided by the authorities.