

BURKINA FASO

SCPA KAM & SOME

FIRM INFORMATION

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COUNTRY INFORMATION

Formerly called the Republic of Upper Volta, Burkina Faso is a landlocked country in the middle of West Africa's "hump". It is geographically in the Sahel - the agricultural region between the Sahara Desert and the coastal rain forests. Most of central Burkina Faso lies on a savanna plateau 200-300 meters above sea level with fields, bush, and scattered trees. The largest river is the Mouhoun (Black Volta), which is partially navigable by small craft.

Its size is 274 200 square kilometres with an estimated population of 17.429 million (2014 - IMF), 28.2 % of which are thought to be urban. The climate is characterized by warm, dry winters and hot, wet summers. Its landscape is mostly flat but hills dot the west and southwest regions of the country.

POLITICAL SYSTEM

The Constitution of 2 June 1991 established a semi-presidential government with a parliament which can be dissolved by the President of the Republic. In 2000 the Constitution was amended to reduce the presidential term to five years. The country is in the process of changing the Constitution, to reduce the powers of the President. The new Constitution is expected to be adopted in 2017.

Parliament consists of one chamber known as the National Assembly which has 127 seats with members elected to serve five year terms. There is also a constitutional chamber composed of ten members and an economic and social council whose roles are purely consultative.

The former power of the President to modify the Constitution in order to prolong his tenure led to a mass insurrection on 30 and 31 October 2014 that led to his ousting. Thereafter, new transitional institutions (President, Government and Parliament) have been set up to lead the country to free and transparent elections by November 2015. A new president and parliament have been elected on November 29, 2015 through free and transparent elections.

LATEST GDP FIGURES

GDP per capita: US\$ 768

GDP: US\$ 13 billion.

(IMF- 2014)

Inflation Rate (consumer prices)

1.5 % (2014 estimate).

INVESTMENT CLIMATE

The mining sector in Burkina Faso is of great interest to investors. American, Australian and South African corporations have recently been granted mining permits. Tax exemptions applying to investments in addition to the enactment of the investment code offer an attractive climate to foreign businesses. Moreover, fully owned foreign ownership of companies is allowed except in the mining sector. The state is entitled to ownership of at least 10 per cent of the share capital of exploitation companies.

There is a Chamber of Commerce which conducts feasibility studies and helps develop business links.

There are also commercial banks with correspondent relationships with American and European banks.

FORMS OF BUSINESS

The Organisation pour l'Harmonisation en Afrique du Droit des Affaires (OHADA) has a Uniform Act on Companies which sets out various forms of business vehicles available to domestic and foreign investors such as: a société en nom collectif (general partnership), a société en commandite simple (limited partnership), a groupement d'intérêt économique (economic interest grouping), a société à responsabilité limitée (limited liability company) and a société anonyme (Public limited company). However, the following business vehicles are the most attractive for investors:

- a société anonyme (SA), which is a limited liability company with either a board of directors or a unique shareholder. The minimum share capital required is CFA 10,000,000 (approx. US\$ 20,000). Share transfers to third parties are unrestricted unless otherwise stated by the company's statutes which may require either the consent of the board



of directors or the general assembly of shareholders;

- a société à responsabilité Limitée (SARL), which is administered by one or more directors called “gérants”. The minimum share capital required is CFA 5,000,000 (approx. US\$ 9.000). Share transfers are regulated by the company's statutes and may be performed freely between shareholders but transfers to third parties require the prior consent of the majority of shareholders.

Joint ventures are often formed in the mining and the agricultural sectors.

FORMATION OF A COMPANY

Below are the processes and estimated times (where applicable) to incorporate a company:

- deposit subscribed capital in a bank (2 days);
- conduct background criminal check of manager (1 day);
- notarize the declaration of capital subscription and deposit the two acts at the notary office within three days;
- register at the Centre des Formalités de Entreprise (CEFORE) for a company registration tax number (IFU), and social security number (7 days);
- a single application form must be submitted to complete the company registration with the Trade Register and Personal Credit Bureau (RCCM) to obtain the fiscal and the professional license at the Ministry of Commerce;
- once the form is submitted, CEFORE organizes the registration with the court and other authorities. Companies are assigned a unique company identification number for company registration, fiscal identification and social security affiliation.

The official time for the completion of the registration process is 7 working days. However, it takes longer in practice because CEFORE forwards the documents to the relevant authorities. Publication can be made directly on the CEFORE website (www.me.bf) for a fee of CFA 10,000 (approx. US\$17) or an official newspaper for a fee of CFA 52 300 (US\$ 87). Costs for completing the formalities for the incorporation are CFA 47,500 (approx. US\$79). However the CFA 47,500 is paid to the CEFORE and does not include all the incorporation fees, which may be higher and depend on the amount of the share capital.

EXCHANGE CONTROLS

Foreign investors are entitled to transfer all funds from the business, dividends, and receipts from liquidation, assets and wages. However, transfers must be completed before certified intermediaries. Exchange controls are primarily regulated by the rules of the West African Economic and Monetary Union. Transfers are authorized in the original currency of the investment.

TAXATION

Mandatory taxes to be paid by a company per annum are as follows:

- Corporate income tax (27,5% of net profit);
- Social security contributions (16% of gross salary);
- Business license (8%) + fixed amount;
- Payroll and apprentice tax (3% of gross salary);

- Capital gains tax (10%);
- Mortmain property tax (10%);
- Tax on insurance contracts if any (20%);
- Stamp duty on contracts (CFA 200 - (approx. US\$0.33) per page);
- Value Added Tax (18%);
- Motor vehicle tax if any (CFA 50 000 - (approx. US\$84) based on the weight of truck).

Burkina Faso's customs fees are based on goods ad valorem and include a 5% customs fee, an import fiscal duty and a value added tax based on the type of equipment.

IMPORT / EXPORT

Imports account for US\$ 3,674 billion (2012) of the economy and consist mainly of machinery, agricultural products, electrical goods and petroleum. Exports account for US\$ 2,948 billion (2012) and consist mainly of agricultural goods, cotton, livestock and shea butter. Gold is also an important export.

MONETARY POLICY

Burkina Faso's monetary policy is largely based upon liberalisation. It is determined by the Central Bank of West African States (BCEAO) whose priority is to control inflation. Its monetary policy remains influenced by the European Central Bank as the CFA franc is pegged to the Euro. Burkina Faso's BCEAO-led monetary policy is accordingly strongly influenced by the monetary policy conducted in the Euro zone.

LEGAL SYSTEM

The legal system is based on the French civil law system. The judicial system is made up of two branches: the judiciary branch and the administrative branch. At the top of the judiciary branch is the Cour de cassation. Beneath it are three courts of appeal (at Ouagadougou, Bobo-Dioulasso and Fada N'Gourma) and 25 Tribunals (Tribunal de Grande Instance), the most important being in Ouagadougou, Bobo-Dioulasso, Ouahigouya and Fada N'Gourma which deal with cases involving civil and criminal law. At the same level are the Tribunal de Commerce (Tribunal of commerce) at Ouagadougou and Bobo-Dioulasso dealing with commercial law and Tribunal du Travail (Labour court) at Ouagadougou, Bobo-Dioulasso and Koudougou. At the top of the administrative branch is the Conseil d'Etat. Beneath it are three administrative Courts of appeal (at Ouagadougou, Bobo-Dioulasso and Fada N'Gourma) and 25 administrative tribunals which deal with cases involving administrative law. There is also a High Court of Justice to try the President for treason and ministers for crimes.

The Constitution provides for a number of safeguards including a right to public trial, right of access to counsel and a right to appeal.

In 1995 an Office of Ombudsman “Mediateur du Faso” was created for resolving disputes between the state and its citizens.



During the transition, the Conseil National de la Transition (CNT) amended the Constitution provisions concerning the appointment of judges. Their appointments are managed by the Burkina Magistrates' Council presided by the President of the Cour de cassation.

INTELLECTUAL PROPERTY

Burkina Faso is part of both the African Intellectual Property Organization (AIPO) and the World Intellectual Property Organization (WIPO). The AIPO amended the Bangui Protocol of 1977 which sets out common procedures based on a uniform system of protection (in addition to provisions included in international conventions to which member states have acceded).

Available protections are:

- Patents: protected for a period of 20 years without provision for renewal.
- Trademarks: protected for an initial 20-year period with a provision for renewal.

FINANCIAL SERVICES / INSURANCE

The insurance market was liberalized in 1978. Sixteen insurance companies now operate in Burkina Faso and handle both life and non-life insurance. The non-life sector is dominated by motor vehicles (50%), the remainder is mainly fire, other property damage and personal accident insurance.

The insurance sector in Burkina Faso is regulated by the Inter-African Conference on Insurance Markets (CIMA). CIMA is charged with the approval, withdrawal and the supervision of insurance companies.

KEY STRATEGIC GROWTH INITIATIVES BY GOVERNMENT

The government has carried out substantial reforms in the banking, financial and private sectors which has enhanced economic growth. This led Burkina Faso to benefit from US\$700 million in debt relief under the Highly Indebted Poor Countries initiative (HIPC) and an education grant awarded by the Millennium Challenge Account. For example, 42 state-owned companies have been restructured including 19 major corporations in banking, brewing, mining, medicine and manufacturing. The state-owned telecommunication utility has been privatized.

TREATIES AND BILATERAL AGREEMENTS

Burkina Faso acceded to the New York Convention on the Enforcement of Foreign Arbitral Awards on 23 March 1987. The Berne Convention and the Kyoto Protocol on climate change were ratified on 31 March 2005. Burkina Faso is a member state of the Paris Convention on Climate and has ratified it by submitting the documents of ratification on 11 November 2016.

MEMBERSHIP OF INTERNATIONAL AND REGIONAL ORGANISATIONS

Burkina Faso is a member of the Economic Community of

West African States (ECOWAS), West African Economic and Monetary Union (WAEMU) and several other organisations including the Multilateral Investment Guarantee Agency (MIGA), the African Union (AU) and its New Partnership for Africa's Development (NEPAD) programme. It acceded to the World Trade Organization (WTO) in June 1995 and is part of the African, Caribbean and Pacific group of states.

ECONOMIC DEVELOPMENTS

Many trade restrictions have been removed and tariffs reduced in order to generate investment. Burkina Faso is eligible for direct loans from the World Bank, the European Union and the African Development Bank. A structural adjustment program has been implemented in cooperation with the World Bank and the International Monetary Fund.

The country's economic policy since 2011, La Stratégie de Croissance Accélérée et de Développement Durable (SCADD) "Accelerated growth and sustainable development strategy" has been aimed at poverty reduction through production based on public-private partnership.

The SCADD has now been replaced by the Plan national de développement économique et social (PNDES) 2016-2020 (National Economic and social development plan) which is aimed at transforming Burkina's economy structurally, to create strong, sustainable and resilient growth, creating decent jobs for all and leading to the improvement of social welfare.

ROAD AND TRANSPORT

There are 13 200 kilometres of classified roads in Burkina Faso of which 2 300 kilometres are paved. The state-owned bus company has been privatized and operates 5 main routes throughout the country. The 1 260 kilometre Abidjan-Niger railway is the main transport axis although the line has not recently operated efficiently and rail traffic is in decline. Burkina Faso's other 622 kilometres of railways are scheduled for restructuring. In 1995 a French company took control of the railroad and the line is anticipated to be rehabilitated with a US\$31 million World Bank loan. The country has 24 airports with paved runways.

WATER

According to the 2015 report of the Burkina Faso National Drinking Water Supply and Sanitation Program, potable water and sanitation coverage is 65% in rural areas and 89% in urban areas.

Since May 2003 Ouagadougou has been in the midst of a water supply crisis. Four dams located around the city can only produce an estimated 80 000 cubic meters of water which constitutes an estimated 70% of demand.

Widespread damming of rivers heavily taxes the region's extremely limited water resources through evaporation and seepage and leaves the supply susceptible to microbiological



threat, including bilharzia.

ENERGY

Burkina Faso is predominantly dependent on thermally generated energy. Sonabel, the national electric company, produced 906 million kilowatt hours (kWh) in 2015 of which 93.52 % was thermally produced and 6.48 hydro-electrically produced. Construction has begun on a new dam but the cost of electricity production is still significantly higher in Burkina Faso than in neighbouring countries. Although the government is not planning Sonabel's privatisation, the market is liberalised and companies are able to compete for production and distribution with Sonabel.

Consumption of petrol products is low and wood fuel provides over 90% of domestic energy. The government is trying to promote butane in order to slow deforestation.

TELECOMMUNICATIONS

Communications in Burkina Faso are limited due to the low penetration of electricity even in major cities. Use of Internet and telephony are therefore low.

Telephones main lines in use: 75,075 (2015).

Mobile cellular telephones in use: 14. 446 million (2015).

In 2006 the government sold a 51% stake in the national telephone company and ultimately plans to retain only a 23% stake in the company.

The fixed line and mobile Internet subscriptions number 1 541 422 with an annual growth rate of 180.25% as at 31 December 2013. The sector has improved following the installation of a 22 MB fibre optic international link, a vast improvement over the previous 128 KB link. Secondary access nodes are beginning to appear in the major cities and cybercafés are providing internet access to a broader spectrum of end users.

TRADE AND INDUSTRY

Imports of most consumer and other manufactured goods and equipment cause a chronically unfavourable trade balance. France remains the largest exporter to Burkina Faso but imports from other countries are growing. China has become a major buyer of goods from Burkina Faso. Cotton, livestock and gold are important exports. Abidjan's harbour in the Ivory Coast is used for bulk imports and exports. Other major trading partners are Singapore, Togo, Thailand and Ghana.

Small-scale manufacturing consists of flour milling, sugar refining, the manufacture of cotton yarn and textiles and the production of consumer goods.

MINING

Mining activities are confined to gold, manganese, phosphates, marble and antimony. There are also viable deposits of zinc, silver, limestone, bauxite, nickel and lead. Special customs and tax advantages are granted through the Mining Code during exploration and production stages.

AGRICULTURE

The main food crops are sorghum, millet, yams, maize, rice and beans. Cotton is grown for export. Burkina has abandoned the production of genetically modified cotton and now engages only in the production of conventional cotton

TRADE AND INVESTMENT

Tax exemptions apply to investments in mining and other sectors and foreign investors may transfer any funds associated with an investment, including dividends, receipts from liquidation, assets, and salaries (see Exchange Control above). Gold mining and diamond exploration are priority areas. Foreign and domestic investors are treated equally. The Ministry of Industry and Commerce and the Ministry of Energy and Mines approve all new investments on the recommendation of the National Investment Commission.

A local agent/distributor is not required by law for trade but can be helpful. Most trade restrictions have been removed and tariffs have been steadily reduced.

LABOUR RELATIONS

Employees' rights are guaranteed by both the New Labour Code, enacted in 2008, and the Labour Court. There is a well-organized trade union movement and employers are required to give employees prior notice of termination except in cases of gross misconduct such as theft or obvious neglect. The duration of the notice is fixed by the law based on the grade of the employee.

