Haiti

RISK & COMPLIANCE REPORT

DATE: March 2018

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Executive Summary - Haiti	
Sanctions:	EU
FAFT list of AML Deficient Countries	No but CFATF have identified significant deficiencies in Haiti's AML/CFT regime
Higher Risk Areas:	Compliance with FATF 40 + 9 Recommendations US Dept of State Money Laundering assessment Not on EU White list equivalent jurisdictions Corruption Index (Transparency International & W.G.I.)) World Governance Indicators (Average Score) International Narcotics Control Majors List Failed States Index (Political Issues)(Average Score)

Major Investment Areas:

Agriculture - products:

coffee, mangoes, cocoa, sugarcane, rice, corn, sorghum; wood, vetiver

Industries:

textiles, sugar refining, flour milling, cement, light assembly based on imported parts

Exports - commodities:

apparel, manufactures, oils, cocoa, mangoes, coffee

Exports - partners:

US 81.7% (2012)

Imports - commodities:

food, manufactured goods, machinery and transport equipment, fuels, raw materials

Imports - partners:

Dominican Republic 34.5%, US 26.2%, Netherlands Antilles 9.4%, China 7% (2012)

Investment Restrictions:

Haiti's openness to foreign investment is codified in its laws. Import and export policies are non-discriminatory and are not based upon nationality. There is no significant public opposition to foreign investment in Haiti.

Investors in Haiti can create the following types of businesses: sole proprietorship, limited or general partnership, joint-stock company, public company (corporation), subsidiary of a foreign company, and co-operative society. Corporations are the most commonly used business structure in Haiti.

Foreign investors are permitted to own 100 percent of a company or subsidiary. As a Haitian entity, such companies enjoy all rights and privileges provided under the law. Additionally, they are permitted to operate businesses without equity-to-debt ratio requirements. Accounting law allows foreigners to capitalize using tangible and intangible assets in lieu of cash capital investments.

Foreigners are free to enter into joint ventures with Haitian citizens. The distribution of shares is a private matter between two partners. However, the sale and purchase of company shares are regulated by the state.

Contents

Section 1 - Background

The native Taino - who inhabited the island of Hispaniola when it was discovered by Christopher COLUMBUS in 1492 - were virtually annihilated by Spanish settlers within 25 years. In the early 17th century, the French established a presence on Hispaniola. In 1697, Spain ceded to the French the western third of the island, which later became Haiti. The French colony, based on forestry and sugar-related industries, became one of the wealthiest in the Caribbean but only through the heavy importation of African slaves and considerable environmental degradation. In the late 18th century, Haiti's nearly half million slaves revolted under Toussaint L'OUVERTURE. After a prolonged struggle, Haiti became the first post-colonial black-led nation in the world, declaring its independence in 1804. Currently the poorest country in the Western Hemisphere, Haiti has experienced political instability for most of its history. After an armed rebellion led to the forced resignation and exile of President Jean-Bertrand ARISTIDE in February 2004, an interim government took office to organize new elections under the auspices of the United Nations. Continued instability and technical delays prompted repeated postponements, but Haiti inaugurated a democratically elected president and parliament in May of 2006. This was followed by contested elections in 2010 that resulted in the election of Haiti's current President, Michel MARTELLY. A massive magnitude 7.0 earthquake struck Haiti in January 2010 with an epicenter about 25 km (15 mi) west of the capital, Port-au-Prince. Estimates are that over 300,000 people were killed and some 1.5 million left homeless. The earthquake was assessed as the worst in this region over the last 200 years.

Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

CFATF Public Statement on Hait released following CFATF meeting on 9th November 2016

The CFATF undertook a High Level Mission (HLM) to the Republic of Haiti on Monday 27th of April 2015. Thereinafter, a letter from the CFATF Chair, was sent to Haiti on the 17th of September 2015, making reference that Haiti would remain in the second stage of enhanced of follow-up but would need to demonstrate progress. At the CFATF Plenary in November 2015, Haiti demonstrated some progress on non-legislative measures. Plenary determined that Haiti should remain in the status quo and demonstrate to the May 2016 Plenary substantial compliance with both non-legislative and legislative requirements. At the CFATF Plenary in June 2016, Haiti demonstrated that had taken steps towards improving its AML/CFT compliance regime with non-legislative actions, including providing training to FIU, Police officers, Prosecutors and Magistrates; and taking steps to join the Egmont Group. However, Plenary was not satisfied with the pace of reforms and agreed to the issuance of a public statement against Haiti asking members to consider the risk posed by Haiti. Plenary also agreed that Haiti must make sufficient progress and demonstrate such progress by the November 2016 Plenary. At the CFATF Plenary in November 2016, Haiti demonstrated that sufficient progress has been made through: the amended Law Sanctioning Money Laundering and Terrorist Financing (LSMLTF) by the Chamber of Deputies on September 9th, 2016 and by the Senate on September 28th, 2016; the enactment of the new UCREF law seeking to establish the *l'Unité Centrale de Renseignements Financiers* (Central Financial Intelligence Unit) (UCREF) as an autonomous administrative financial intelligence unit; and the publication in the National Gazette of the Decree establishing procedures for the implementation of measures aimed at freezing funds and other assets connected with the financing of terrorism.

Haiti is encouraged to continue the reform process including the passage of the legislative framework and continue addressing its AML/CFT deficiencies.

Haiti and the CFATF should continue to work together to ensure that Haiti's reform process is completed, by addressing its remaining deficiencies and continue implementing its Action Plan.

Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Haiti was undertaken by the Financial Action Task Force (FATF) in 2008. According to that Evaluation, Haiti was deemed Compliant for 1 and Largely Compliant for 6 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for 5 of the 6 Core Recommendations.

Conclusions from Mutual Evaluation Follow-Up Report (2013):

Haiti has shown limited improvement for this reporting period and the status of the Core and Key Recommendations are exactly as they were in the December 2012 fourth follow-up report. The Bill on ML and TF has now been voted on by the Haitian Senate and is expected to be enacted before April 2013. Haiti expects this law to substantially improve the outstanding recommendations.

Based on the current status of progress, the Plenary moved Haiti to the first step in enhanced follow-up which is a letter from the CFATF Chairman to the relevant minister(s) in Haiti drawing their attention to the non-compliance with the FATF Recommendations.

US Department of State Money Laundering assessment (INCSR)

Haiti is categorised by the US State Department as a Country/Jurisdiction of Primary Concern in respect of Money Laundering and Financial Crimes.

OVERVIEW

Haitian gangs are engaged in international drug trafficking and other criminal and fraudulent activity. While Haiti itself is not a major financial center, regional narcotics and money laundering enterprises utilize Haitian couriers, primarily via maritime routes. Much of the drug trafficking in Haiti, and related money laundering, is connected to the United States. Important legislation was adopted over the past several years, in particular anti-corruption and AML laws, but the weakness of the Haitian judicial system, impunity, and a lack of political will leaves the country vulnerable to corruption and money laundering.

On June 8, 2016, the CFATF issued a public statement asking its members to consider the risks arising from the deficiencies in Haiti's AML/CFT regime. The statement followed CFATF's acknowledgement that, although Haiti had made improvements in non-legislative areas, it had not made sufficient progress to fulfill its action plan to address its serious AML deficiencies, including legislative reforms. On November 15, 2017, while noting Haiti's continued progress, the CFATF reaffirmed its stance and encouraged Haiti to increase the pace of its reforms and to take steps to address its remaining deficiencies.

VULNERABILITIES AND EXPECTED TYPOLOGIES

Most of the identified money laundering schemes involve significant amounts of U.S. currency held in financial institutions outside of Haiti or non-financial entities in Haiti, such as restaurants and other small businesses. A great majority of property confiscations to date have involved significant drug traffickers convicted in the United States. Illicit proceeds are also generated from corruption, embezzlement of government funds, smuggling, counterfeiting, kidnappings for ransom, illegal emigration and associated activities, and tax fraud.

Haiti has nine operational FTZs. FTZs are licensed and regulated by the Free Zones National Council, a public-private enterprise. It is unknown if FTZs are subject to AML obligations. Haiti has 157 licensed casinos and many unlicensed casinos. Gaming entities are subject to AML requirements. Haiti also has established the Haitian State Lottery under the auspices of the Ministry of Economy and Finance. Online gaming is illegal.

KEY AML LAWS AND REGULATIONS

Amendments in 2016 further strengthened Haiti's 2013 AML legislation. In 2014, the Executive signed a long-delayed anti-corruption bill. Foreign currencies represent 63 percent of Haiti's bank deposits as of October 2016.

To avoid potential CFATF sanctions, the government adopted a new law in May 2017 that restructures the Central Financial Intelligence Unit (UCREF), the FIU.

Haiti is a member of the CFATF, a FATF-style regional body.

AML DEFICIENCIES

The weaknesses of the Haitian judicial system and prosecutorial mechanisms continue to leave the country vulnerable to corruption and money laundering. Haiti is not a member of the Egmont Group, but is currently working with sponsors and applying for membership.

The government remains hampered by ineffective and outdated criminal codes and criminal procedural codes, and by the inability or unwillingness of judges and courts to address cases referred for prosecution. Proposed criminal codes and criminal procedural codes that would address deficiencies were drafted in 2016 but have not been considered by the National Assembly.

The government should continue to devote resources to building an effective AML regime, to include continued support to units charged with investigating financial crimes and the development of an information technology system. The amended AML/CFT law, despite strengthening the AML regulatory framework, undermines the independence and effectiveness of Haiti's FIU.

Haiti also should take steps to establish a program to identify and report the cross-border movement of currency and financial instruments. Casinos and other forms of gaming should be better regulated and monitored. The Government of Haiti should take steps to combat pervasive corruption at all levels of government.

ENFORCEMENT/IMPLEMENTATION ISSUES AND COMMENTS

The government continues to take steps, such as training staff and coordinating with the nation's banks, to implement a better AML regime. In 2016, the National Assembly added missing elements to the AML/CFT law to bring it up to international standards. For Haiti to fully comply, however, the criminal code will have to be updated.

After years of delay, in a positive step to try to address public corruption, Haiti passed the 2014 anti-corruption law. However, the law is not being effectively implemented, as evidenced by frequent changes in leadership, fear of reprisal at the working level, rumored intervention from the Executive, and the failure of judges to follow through by investigating, scheduling, and referring cases to prosecutors.

The UCREF has continued to build its internal capabilities, but the May 2017 UCREF law led to the replacement of the UCREF Director General and the movement of UCREF under the control of the Executive branch, thereby reducing the UCREF's independence. The UCREF forwarded six cases to the judiciary in 2016, but no cases in 2017. Once a case is received, an investigating judge has two months from the arrest date to compile evidence, but there is no limit to the timeframe to schedule court dates, communicate with investigating agencies and prosecutors, and track financial data. There were no convictions or prosecutions for money laundering in 2017.

Current Weaknesses in Government Legislation (2014 INCRS Comparative Tables):

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

International Transportation of Currency - By law or regulation, the jurisdiction, in cooperation with banks, controls or monitors the flow of currency and monetary

EU White list of Equivalent Jurisdictions

Haiti is not currently on the EU White list of Equivalent Jurisdictions

World Governance indicators

To view historic Governance Indicators Ctrl + Click here and then select country

Failed States Index

To view Failed States Index Ctrl + Click here

Offshore Financial Centre

Haiti is not considered to be an Offshore Financial Centre

US State Dept Narcotics Report 2017 (introduction):

Introduction

Haiti remains a transit point for cocaine originating in South America and marijuana originating in Jamaica, en route to the United States and other markets. This traffic takes advantage of Haiti's severely under-patrolled maritime borders, particularly on the northern and southern coasts. Haiti is not a significant producer of illicit drugs for export, although there is cultivation of cannabis for local consumption. Haiti's primarily subsistence-level economy does not provide an environment conducive to high levels of domestic drug use.

The Haitian government continued to strengthen the Haitian National Police (HNP) and its counternarcotics unit (Bureau for the Fight Against Narcotics Trafficking, or BLTS) with additional manpower, and officials at the highest levels of government have repeatedly committed to fight drug trafficking. While drug and cash seizures were higher in 2016 than in previous years, the government has been unable to adequately secure borders to cut the flow of illegal drugs. Principal land border crossings with the Dominican Republic are largely uncontrolled and the southern coastline remains virtually enforcement-free. The minimal interdiction capacity of the Haitian Coast Guard (HCG) creates a low-risk environment for drug traffickers to operate. While Haiti's domestic law enforcement interdiction capacity has improved marginally, a largely ineffective judicial system continues to impede successful prosecution of drug traffickers.

Conclusion

The continued institutional development of the HNP and the BLTS are positive trends that have helped to improve public security and have marginally increased Haiti's ability to interdict drug trafficking. Continued strong cooperation between Haitian and U.S. law enforcement yielded major illicit drug seizures and enabled the apprehension of individuals indicted in U.S. jurisdictions and their return for trial in the United States. However, the dysfunctional Haitian judicial system drastically limits domestic prosecution of drug cases and thus reduces disincentives to drug-trafficking operations. Drug seizures still remain low, and Haiti's minimal capacity to police its sea and land borders is a particular point of concern.

Continued engagement from the United States, particularly in support of BLTS operations and general HNP development, will help Haitian law enforcement to capitalize on marginal gains in drug interdiction capacity. However, the benefits of such gains will be limited if the judicial system fails to convict drug traffickers. Only the concurrent strengthening of the judiciary, law enforcement, and border security will enable Haiti to make real progress in fighting drug trafficking.

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

Haiti is classified a Tier 3 country - a country whose government does not fully comply with the minimum standards and is not making significant efforts to do so.

Haiti is a source, transit, and destination country for men, women, and children subjected to forced labor and sex trafficking. Most of Haiti's trafficking cases involve children in domestic servitude who often are physically abused, receive no payment for services rendered, and may be kept from school. A significant number of children flee employers' homes or abusive families and become street children. A May 2015 UN report documented members of its peacekeeping mission in Haiti sexually exploited more than 225 Haitian women in exchange for food, medication, and household items between 2008 and 2014. Female foreign nationals, particularly citizens of the Dominican Republic, are particularly vulnerable to sex trafficking and forced labor in Haiti. Other vulnerable populations include Haitian children working in construction, agriculture, fisheries, domestic work, and street vending in Haiti and the Dominican Republic; women and children living in camps for internally displaced persons set up as a result of the 2010 earthquake; members of female-headed or other single-parent families; children in private and NGO-sponsored residential care centers; and Haitians without documentation, including those returning from the Dominican Republic or The Bahamas. Haitian adults and children are vulnerable to fraudulent labor recruitment and are subject to forced labor, primarily in the Dominican Republic, other Caribbean countries, South America, and the United States.

The Government of Haiti does not fully meet the minimum standards for the elimination of trafficking and did not demonstrate overall increasing efforts compared to the previous reporting period. Having been placed on Tier 2 Watch List in the preceding four years, Haiti is not making significant efforts to meet the minimum standards and is therefore placed on Tier 3. In December 2015, the government inaugurated the inter-ministerial anti-trafficking committee. The government also finalized its action plan, and investigated and prosecuted trafficking cases during the reporting period. However, the systemic weaknesses of the justice system in disposing of cases and the lack of funding for, and coordination among, government agencies impair efforts to prosecute traffickers. The government's interagency effort to formalize victim identification and referral guidelines, like other priorities, gained little momentum due to the protracted political impasse over the scheduling of Haiti's elections.

Latest US State Dept Terrorism Report 2009

The Financial Investigative Unit, within the Haitian National Police; and the Financial Intelligence Unit, within the Ministry of Justice, cooperated with the United States in anti-money laundering initiatives to improve the ability to detect funds acquired through criminal activity, including funds that could be acquired through terrorist networks. The Haitian government drafted counterterrorism legislation in 2008 but it was not enacted by Parliament in 2009. In addition, the country has accepted the terms of the International Convention for the Suppression of the Financing of Terrorism, but has not formally signed the Convention.

International Sanctions

Restrictive Measures presently in force:

Common Position 94/315/CFSP

Common Position 94/315/CFSP (OJ L 139, 2 June 1994)

Council Regulation (EC) No 1264/1994

Council Regulation (EC) No 1264/1994 (OJ L 139, 2 June 1994)

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	22
World Governance Indicator – Control of Corruption	7

Corruption and Government Transparency - Report by US State Department

Exporters and investors should be aware that generally all countries prohibit the bribery of their public officials, and prohibit their officials from soliciting bribes under domestic laws. Most countries are required to criminalize such bribery and other acts of corruption by virtue of being parties to various international conventions discussed above.

Public sector corruption, including bribery of public officials, remains a major challenge for U.S. firms operating in Haiti. Transparency International's Corruption Perception Index for 2013 ranked Haiti the most corrupt country in the Caribbean region, ranking 163th out of 177 countries, with little improvement from last year. The Haitian government has made some progress in enforcing public accountability and transparency, but substantive institutional reforms are still needed. In 2004, the Haitian government established the Specialized Unit to Combat Corruption (ULCC) in the Ministry of Economy and Finance. In 2008, the law on disclosure of assets by civil servants and high public officials prepared by ULCC was approved by Parliament, but to date compliance has been almost nonexistent.

In 2005, the Haitian government created the National Commission for Public Procurement (CNMP) to ensure that Haitian government contracts are awarded through competitive bidding and to establish effective procurement controls in public administration. The CNMP publishes lists of awarded Haitian government contracts. In 2009, the Haitian government enacted a procurement law that requires contracts to be routed through CNMP. In 2012, however, a presidential decree substantially raised the threshold at which public procurements must be managed by the CNMP, decreasing transparency for many smaller government contracts. Moreover, the Haitian government frequently enters into no-bid contracts, sometimes issued using “emergency” authority derived from natural disasters, even when there is no apparent connection between the stated emergency and the contract at hand.

U.S. firms have complained that corruption is a major obstacle to effective business operation in Haiti. They frequently point to requests for payment by customs officials in order to clear import shipments as examples of solicitation for bribes. Some importers reportedly "negotiate" customs duties with inspectors.

Haitian law, applicable to individuals and financial institutions, criminalizes corruption and money laundering. Bribes or attempted bribes toward a public employee are a criminal act and are punishable by the criminal code (Article 173) for one to three years of imprisonment. The law also contains provisions for the forfeiture and seizure of assets.

Section 3 - Economy

Haiti's economy suffered a severe setback in January 2010 when a 7.0 magnitude earthquake destroyed much of its capital city, Port-au-Prince, and neighbouring areas. Currently the poorest country in the Western Hemisphere, with 80% of the population living under the poverty line and 54% in abject poverty, the earthquake further inflicted $7.8 billion in damage and caused the country's GDP to contract. In 2011, GDP growth rose to 5.5% as the Haitian economy began recovering from the earthquake. However, growth slowed in 2015 to 2% as political uncertainty, drought conditions, and the depreciation of the national currency took a toll on investment and economic growth.

Haiti is a free market economy with low labour costs and tariff-free access to the US for many of its exports. Two-fifths of all Haitians depend on the agricultural sector, mainly small-scale subsistence farming, which remains vulnerable to damage from frequent natural disasters, exacerbated by the country's widespread deforestation. Poverty, corruption, vulnerability to natural disasters, and low levels of education for much of the population are among Haiti's most serious impediments to economic growth. Remittances are the primary source of foreign exchange, in 2015 equalling over one-fifth of GDP, and nearly double the combined value of Haitian exports and foreign direct investment.

US economic engagement under the Caribbean Basin Trade Partnership Act (CBTPA) and the 2008 Haitian Hemispheric Opportunity through Partnership Encouragement Act (HOPE II) helped increase apparel exports and investment by providing duty-free access to the US. The Haiti Economic Lift Program (HELP) Act of 2010 extended the CBTPA and HOPE II until 2020, while the Trade Preferences Extension Act of 2015 extended trade benefits provided to Haiti in the HOPE and HELP Acts through September 2025. Apparel sector exports in 2015 reached $904 million and account for about 90% of Haitian exports and more than 10% of the GDP.

Investment in Haiti is hampered by the difficulty of doing business and weak infrastructure, including access to electricity. Haiti's outstanding external debt was cancelled by donor countries following the 2010 earthquake, but has since risen to nearly $2 billion as of December 2015, the majority of which is owed to Venezuela under the PetroCaribe program. Although the government has increased its revenue collection, it continues to rely on formal international economic assistance for fiscal sustainability, with over 20% of its annual budget coming from foreign aid or direct budget support.

Agriculture - products:

coffee, mangoes, cocoa, sugarcane, rice, corn, sorghum; wood, vetiver

Industries:

textiles, sugar refining, flour milling, cement, light assembly using imported parts

Exports - commodities:

apparel, manufactures, oils, cocoa, mangoes, coffee

Exports - partners:

US 85.3% (2015)

Imports - commodities:

food, manufactured goods, machinery and transport equipment, fuels, raw materials

Imports - partners:

Dominican Republic 35.3%, US 24.5%, Netherlands Antilles 9.4%, China 9.4% (2015)

Banking

The financial activities defined by the FATF are primarily carried out by financial institutions under the supervision of the Central Bank of Haiti (Banque de la République d' Haïti –BRH). This category includes banks and credit institutions, money transfer companies, credit unions, and foreign exchange dealers. Banking activity is governed by the 1980 Law. There are currently 10 banks in Haiti, following the recent liquidation of Socabank. That bank's business was taken over by Banque Nationale de Crédit, a State-owned institution. Two banks are State-owned and two international banks are present in Haiti (Citibank and Scotiabank). There is no securities market in Haiti.

Section 4 - Investment Climate

Executive Summary

Haiti occupies the western third of the island of Hispaniola located in the Caribbean Basin. Numerous measures have been initiated by the government of Haiti (GOH) to encourage foreign investment and to establish a legal framework for long-term private sector led, market based economic growth. Efforts have also been focused on reinforcing public administration, rebuilding Haiti's infrastructure and public services, and improving the enabling environment for private sector development. The provisional government is focused on reducing expenditures and increasing fiscal revenues. The Haitian central bank (BRH) continued to follow a contractionary monetary policy by tightening legal reserve requirements. Foreign direct investment inflow decreased slightly to USD 104 million in 2015, making Haiti one of the smallest recipients of FDI in the region, alongside Cuba. FDI inflow suffered from a sluggish economy and an unstable political environment. The GOH has designated tourism, agriculture, construction, energy, and manufacturing as key investment sectors, and supports sector-focused investment promotion, public spending, and special economic zones. In addition, the Center for Investment Facilitation (CFI) is attempting to expedite business start-ups by developing off-the-shelf, pre-registered corporations for investors seeking to do business in Haiti. To streamline the incorporation process, CFI eliminated the step requiring the President's office to review the incorporation draft before final publication. According to CFI, most firms exploring investment in Haiti during 2015 were in the agri-business and national industry sectors. National industry is defined as goods produced in Haiti mostly for domestic consumption.

Haiti's economy grew by 1.7 percent in 2015, a deceleration in comparison to FY 2014 when the economy grew at a rate of 2.8 percent. The contraction is mainly attributed to political uncertainty caused by the controversial 2015 elections, severe drought conditions in FY2013-2015 that undercut agricultural production, and the continued reduction of external financial assistance. Also, annualized consumer price inflation significantly increased to 13 percent as of March 2016, the result of weak domestic production and a 30 percent depreciation of the local currency against the U.S. dollar during FY2015. The World Bank predicts GDP growth of less than 1 percent in 2016. A favorable investment outlook for Haiti in 2016 will be contingent on the continuation of legal and structural reform efforts as well as a stable political environment. The Government of Haiti still must enact difficult legal and business reforms to improve Haiti's business environment and make the country more attractive to foreign investment.

Table 1

Measure	Year	Index or Rank	Website Address
World Bank's Doing Business Report "Ease of Doing Business"	2016	182 of 189	doingbusiness.org/rankings
Global Innovation Index	2015	N/A	globalinnovationindex.org/content/page/data-analysis

U.S. FDI in partner country ($M USD, stock positions)	2015	104	BEA/Host government
World Bank GNI per capita	2014	820	data.worldbank.org/indicator/NY.GNP.PCAP.CD

Millennium Challenge Corporation Country Scorecard

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

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

Although there are challenges to the business climate, Haiti's legislation encourages foreign direct investment. Import and export policies are non-discriminatory and are not based upon nationality. Haitian and foreign investors have the same rights, privileges and equal protection under the 1987 investment code. The GOH has made some progress in recent years to improve the legal framework, create and strengthen core public institutions, and enhance economic governance. The central bank continues to work with the International Monetary Fund (IMF) and the World Bank (WB) to implement measures aimed at creating a stable macroeconomic environment. Such policies include reducing interest rates to facilitate access to credit and keeping the exchange rate stable. Rule by decree and a transitional government have reduced the impact of the Haitian government's initiatives and stalled much-needed efforts to modernize Haiti's commercial, investment, and tax laws. Haiti's foreign debt reached USD1.6 billion, mainly in support of the country's infrastructure and rebuilding efforts. A significant portion of the debt (75 percent) is owed to the Venezuelan government through the Petro Caribe program.

The Haitian government began drafting new laws to improve the legal framework and incentives for investment in Haiti. Anti-money laundering and anti-corruption laws passed after the January 12, 2010 earthquake, harmonizing Haiti's legislation with international standards. In early 2016, the Martelly administration adopted a decree that provides legal force to electronic signatures and electronic transactions. Numerous pieces of legislation that may improve the investment climate are also being reviewed, including a new mining code, an insurance code, and incorporation procedures. The Haitian government also continues to upgrade Haiti's infrastructure, rebuilding and rehabilitating a number of roads, hospitals, and ports, in the country. Many ministries are also being reconstructed.

Other Investment Policy Reviews

The Organisation for Economic Growth and Cooperation (OECD) assessed Haiti's investment climate in 2001. Since then, there have not been any recent reviews of Haiti's investment policy. The study stressed that political instability, weak institutions, and inconsistent economic policies impede the country's ability to drive foreign direct investment. The International Finance Corporation and the WB's Investment Climate Advisory Services are supporting the Haitian government's plans to implement integrated economic zones (IEZ) throughout Haiti. Haiti is also working with the United Nations Conference on Trade and Development (UNCTAD) to implement an investment promotion strategy to foster the expansion of bilateral trade, and the development of border-zone industrial parks so that Haiti can be more competitive in the region.

Laws/Regulations on Foreign Direct Investment

The Investment Code prohibits fiscal and legal discrimination against foreign investors. The Code explicitly recognizes the crucial role of foreign direct investment in spurring economic growth and aims to facilitate, liberalize, and stimulate private investment. It contains exemption regimes to promote investment likely to enhance competitiveness in sectors deemed priorities or strategically important, especially export-oriented sectors. Tax incentives, such as reductions on taxable income and tax exemptions, are designed to promote private investment. The Code grants Haitian and foreign investors the same rights, privileges and equal protection. Foreign investors must be legally registered and pay appropriate local taxes and fees.

The Code also established an Inter-Ministerial Investment Commission (CII) to examine investor eligibility for license exemptions as well as customs and tariff advantages. The CII is chaired by the Prime Minister or his delegate, and is composed of representatives of the Ministries of Economy and Finance, Commerce, and Tourism, as well as those ministries with purview over the prospective area of investment. The CII must authorize all business sales, transfers, mergers, partnerships, and fiscal exemptions within the scope of the Code. The CII also manages the process of fining and sanctioning enterprises that ignore the Code. Investment in certain sectors, such as health and agriculture, requires special Haitian government authorization. Investment in "sensitive" sectors, such as electricity, water, and telecommunications, requires a Haitian government concession as well as an authorization from the appropriate state agency. In general, natural resources are considered to be the property of the state. As a result, prospecting, exploring, or exploiting mineral and energy resources requires concessions and permits from the Bureau of Mining and Energy, in the Ministry of Public Works. Mining, prospecting, and operating permits may only be granted to firms and companies established in Haiti.

Haiti has made several commitments to the World Trade Organization (WTO) in relation to the financial services sector. These commitments include permitting foreign investment in financial services, such as retail, commercial, and investment banking, and consulting. Currently, there are two foreign banks operating in Haiti: Citibank of the United States and Scotia Bank of Canada.

Business Registration

Businesses, both foreign and domestic, can register at Haiti's Center for Facilitation of Investments (CFI): http://cfihaiti.com/

All businesses must register with the Ministry of Commerce, Haitian tax office, National bank, social security office, and retirement insurance office. According to the World Bank's Ease of Doing Business Report, it can take 97 days to start a business in Haiti. CFI is Haiti's investment promotion agency and their services are available to all investors.

Haiti defines micro-enterprises as less than 5 employees, and medium sized enterprises as less than 20. The Ministry of Commerce offers some technical and financial assistance to small and medium sized businesses.

Industrial Promotion

CFI was established to promote investment opportunities in Haiti. CFI's major activities include: streamlining the investment process by simplifying procedures related to trade and investment, providing updated economic and commercial information to local and foreign investors, and promoting investment in priority sectors. The Haitian government seeks investments that will spur job creation and boost national production. These sectors include agriculture, textiles, business process outsourcing (BPO), and tourism. The Martelly administration redirected CFI's focus towards legal reform, and the promotion of domestic and international investment with continued emphasis on public relations. The institution also offers tailored services for large investors interested in Haiti. CFI was recognized by the World Bank's investment index as a regional leader in the promotion of investment online.

CFI has made some progress in reducing the delays investors face in starting a business in Haiti, thereby reducing transaction costs. The Ministry of Commerce's (MCI) internet registry allows investors to search for or verify the existence of a business in Haiti. The registry will eventually provide on-line registration of companies through a one-stop shop. The one stop shop is part of a project sponsored by the Inter-American Development Bank (IDB) that seeks to reduce the time needed to register a limited company in Haiti to 10 days. CFI also offers a service providing pre-registered and fully authorized companies classified in seven different sectors such as manufacturing, agribusiness, and real estate. Once these off-the-shelf companies are validated by the Inter-Ministerial Investment Commission, the shares are transferred to the new owners. The agency recently added to its portfolio an after care service designed to assist established companies in addressing the bureaucratic "red-tape" issues encountered with Haitian customs and other public agencies.

CFI offers a wide range of support and services to foreign investors. The Director General oversees the agency, including decisions on offering tax incentives to new businesses. The Director of Promotion works to attract new businesses to Haiti while the Director of Facilitation coordinates public sector agencies and administrative entities to ensure that all obligations and follow-up are being implemented.

Limits on Foreign Control and Right to Private Ownership and Establishment

Investors in Haiti can create the following types of businesses: sole proprietorship, limited or general partnership, joint-stock company, public company (corporation), subsidiary of a foreign company, and co-operative society. Corporations are the most commonly used business structure in Haiti. The Societies de Droits law has been drafted and may be submitted to Parliament in 2016. The law would facilitate the creation of other types of businesses, such as LLCs, in Haiti.

Foreign investors are permitted to own 100 percent of a company or subsidiary. As a Haitian entity, such companies enjoy all rights and privileges provided under the law. Additionally, foreign investors are permitted to operate businesses without equity-to-debt ratio requirements. Accounting law allows foreigners to capitalize using tangible and intangible assets in lieu of cash investments.

Foreigners are free to enter into joint ventures with Haitian citizens. The distribution of shares is a private matter between two partners. However, the sale and purchase of company shares are regulated by the state.

Entrepreneurs are free to dispose of their properties and assets and to organize production and marketing activities in accordance with local laws.

The Haitian government does not impose discriminatory requirements on foreigners who wish to invest. Haitian laws related to residency status and employments are reciprocal. Foreigners who are legal residents in Haiti and wish to engage in trade have, within the framework of laws and regulations, the same rights granted to Haitian citizens. However, Article 5 of the Decree on the Profession of Merchants reserves the function of manufacturer's agent for Haitian nationals.

Foreign firms are also encouraged to participate in government-financed development projects. Performance requirements are not imposed on foreign firms as a condition for establishing or expanding an investment, unless indicated in a signed contract.

Privatization Program

The Haitian government allows for the privatization of public enterprises and permits foreign firms to invest in the management and/or ownership of Haitian state-owned enterprises. The Haitian government established the Commission for the Modernization of Public Enterprises (CMEP) in 1996 to facilitate the privatization process by creating strategies to privatize Haitian state enterprises. Despite initial enthusiasm in both the public and private sectors for privatization, progress has been slow. To date, three Haitian state-owned enterprises have been privatized, and two other privatizations are under consideration.

In 1998, two U.S. companies, Seaboard and Continental Grain, purchased 70 percent of the state-owned flourmill. Currently, each partner owns 23 percent of the new company known today as "Les Moulins d'Haiti." In 1999, a consortium of Colombian, Swiss, and Haitian investors purchased a majority stake in the national cement factory. In 2010, a Vietnamese corporation, Viettel, officially acquired 60 percent of the state telecommunications company Teleco (now operating as Natcom), with the Haitian government retaining 40 percent ownership. Several proposals for the privatization of the National Port Authority (APN) and the state electricity company Electricite d'Haiti (EDH) have been made, but both agencies remain state operated.

Screening of FDI

As the national investment promotion agency, CFI is in charge of providing information to investors regarding incorporation procedures, receiving and processing applications, and transferring the projects to the Inter-Ministerial Commission for technical analysis and final administrative decisions.

Competition Law

There is currently no law to regulate competition. Haiti is one of the most open economies in the region. The investment code provides the same rights, privileges and equal protection to local and foreign investors. Also, anti-corruption legislation criminalizes nepotism and the divulgation of inside information on public procurement processes.

2. Conversion and Transfer Policies

Foreign Exchange

Banks and currency exchange companies set their rates at the market-clearing rate. The Haitian Central Bank (BRH) publishes a daily reference rate, which is a weighted average of exchange rates offered in the formal and informal exchange markets. The exchange rate for the Haitian gourde (HTG) is determined by the market. As of March 2016, the exchange rate is approximately 62 HTG/USD. The Haitian gourde is fully convertible for commercial and capital transactions. Declining aid inflows and low domestic production led to a significant depreciation of the Haitian gourde.

Remittance Policies

The Haitian government does not impose restrictions on the inflow or outflow of capital. The Law of 1989 governs international transfer operations and remittances. Remittances, which have grown thirty percent over the last four years, are Haiti's primary source of foreign currency and account for one fourth of GDP. There are no restrictions or controls on foreign payments or other fund transfer transactions, and foreign exchange is readily available. While restrictions apply on the amount of money that may be withdrawn per transaction, there is no restriction on the amount of foreign currency that residents may hold in bank accounts, and there is no ceiling on the amount residents may transfer abroad.

Stricter measures are now being put in place to monitor money transfers in accordance with Haiti's efforts to deter illicit cash flows, as mandated by the 2013 Anti-Money Laundering Act and the forthcoming implementation of the United States Foreign Account Tax Compliance Act (FATCA).

3. Expropriation and Compensation

The 1987 Constitution allows expropriation only for reasons of public interest or land reform. Any expropriation is subject to prior payment of fair compensation as determined by an auditor. If the initial project for which the expropriation occurred is abandoned, the Constitution stipulates that the expropriation will be annulled and the property returned to the original owner. The Constitution prohibits nationalization and confiscation of real and personal property for political purposes or reasons.

Title deeds are often unclear and ownership is insecure. The Haitian government has an office (INARA) to implement expropriations of private agricultural properties with appropriate compensation. The agrarian reform project initiated under the first Preval administration (1996-2001) was controversial among both Haitian and U.S. property owners. There have been complaints of non-compensation for the expropriation of property. Other administrations have been slow about an ongoing revision of the land tenure code.

Amendments are expected to address current issues related to the lack of access to land records, surveys, and property titles in Haiti. A partnership between the private sector, government of Haiti, and Habitat for Humanity provides a guide to formalizing land tenure.

4. Dispute Settlement

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

Haiti's commercial code dates to 1826 and underwent its last significant revision in 1944. The legal system of Haiti is based upon the French Napoleonic Code. The judiciary consists of four levels: the Court of Cassation (Supreme Court), appellate courts, civil courts, and magistrates' courts. Judges of the Court of Cassation are appointed by the president for 10-year terms. Government prosecutors, appointed by the courts, act in both civil and criminal cases. There are also land, labor, and children's courts. There are few commercial legal remedies available. The protection and guarantees that Haitian law extends to investors are compromised by weak enforcement mechanisms, a lack of updated laws to handle modern commercial practices, and a weak judicial system. Injunctive relief is based upon penal sanctions rather than securing desirable civil action. Similarly, contracts to comply with certain obligations, such as commodities futures contracts are not enforced. Judges often do not possess specialized commercial knowledge, and their in-depth understanding of commercial law is often limited. Utilizing Haitian courts to settle disputes is a lengthy process and cases may remain unresolved for many years. Business litigants, who become frustrated with the legal process, may opt to pursue out-of-court settlements.

There are several ongoing private disputes between U.S. and Haitian entities. U.S citizens seeking resolution of these disputes are often hindered by Haiti's cumbersome legal system. As a result of international assistance, progress is being made to increase the credibility of the judiciary and the effectiveness of the national police.

Foreign court decisions are not enforceable in Haiti.

Bankruptcy

Haiti's 1826 Bankruptcy Law was last modified in 1944. Under domestic law, there are three phases of bankruptcy. In the first stage, payments cease and bankruptcy is declared. In the second stage, a judgment of bankruptcy is rendered, which transfers the rights to administer assets from the debtor to the Director of the Haitian Tax Authority (Direction Générale des Impôts, or DGI). In this phase, assets are sealed and the debtor is confined to debtor's prison. In the last stage, the debtor's assets are liquefied and the debtor's verified debts are paid. In practice, the above measures are seldom applied. Since 1955, most bankruptcy cases have been settled between the parties. Debts are normally paid in Haitian gourdes (HTG).

Investment Disputes

Investment disputes can be settled in Haitian courts or through international arbitration. A claimant dissatisfied with the ruling of the court cannot request international arbitration after the ruling is issued.

International Arbitration

Haiti is actively working with the international community to create a domestic culture that accepts international arbitration as an effective means for dispute resolution. In 2005, The Haitian Chamber of Commerce and Industry (CCIH) and IDB worked together to develop the Conciliation and Arbitration Court of Haiti (CCAH). The Arbitration and Conciliation Chamber was designed to provide mechanisms for conciliation and arbitration in cases of private commercial disputes.

To date, Haiti is not a signatory to the 1975 Inter-American-U.S. Convention on International Commercial Arbitration (The Panama Convention).

ICSID Convention and New York Convention

Haiti is a signatory to the 1966 Convention on the Settlement of Investment Dispute (ICSID), but the law has not been ratified by the Parliament. In 2009, Haiti became a member state to the ICSID convention. They are also signatories to the convention on the Recognition and the Enforcement of Foreign Arbitral Awards (1958 New York Convention)

Duration of Dispute Resolution – Local Courts

With Haiti's cumbersome legal system, it can take a court several years to reach a verdict on a particular case.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

Haiti is an original member of the World Trade Organization (WTO). The WTO’s 2015 Trade Policy Review reveals that Haiti’s Investment Code and Law on Free Trade Zones is fully consistent with the Agreement on Trade-Related Investment Measures (TRIMs).

Haitian law confers equal treatment to manufacturing companies that produce for the local market regardless of their nationality, as long as they reside in Haiti. There are several special status categories for certain types of investment in priority or strategically significant enterprises.

Investment Incentives

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Performance Requirements

Foreign firms are encouraged to participate in government-financed development projects. However, performance requirements are not imposed on foreign firms as a condition for establishing or expanding an investment, unless indicated in a signed contract.

Data Storage

Under Haitian laws, foreign investors are free to operate their businesses and use their assets to organize production as they wish. Companies are not forced to localize or to use local raw materials for the production of goods. Foreign IT providers are not required to turn over source code or keys for encryption to any public agencies.

6. Protection of Property Rights

Real Property

Real property interests are affected by the absence of a comprehensive civil registry. Bona fide property titles are often non-existent. If they do exist, they are often in conflict with other titles for the same property. Verification of property titles can take several months or longer. The Embassy regularly receives reports of fraudulent or fraudulently recorded land titles. Mortgages exist, but real estate mortgages are expensive and involve cumbersome procedures.

Intellectual Property Rights

Haitian law protects copyrights, patent rights, and inventions, as well as industrial designs and models, special manufacturers' marks, trademarks, and business names. The law penalizes individuals or enterprises involved in infringement, fraud, or unfair competition; however, enforcement is weak. Haiti is a signatory to the Buenos Aires Convention of 1910, the Paris Convention of 1883 regarding patents, and the Madrid Agreement regarding trademarks. Haiti has ratified the Bern Copyright Convention.

The current draft trademark law appears to reflect the Haitian government's determination to revise its intellectual property legislation in line with its international agreements. As noted, weak enforcement mechanisms, inefficient courts, and judges' inadequate knowledge of commercial law may impede the effectiveness of statutory protections.

Resources for Rights Holders

For more information concerning intellectual property rights, please contact the U.S. Embassy's Economic and Commercial Specialist at PAPECON@state.gov

Local lawyers list:
http://photos.state.gov/libraries/haiti/231771/PDFs/List%20of%20Attorneys%20May%202011.pdf

Haitian Copyright Office (BHDA)
Ministry of Culture and Communication
http://bhdahaiti.com/
31, Rue Cheriez
Canape-Vert
Port-au-Prince
HAITI (West Indies)
(509) 2811 0535
(509)2811 5626

bhda.gouv@gmail.com
Director General/Directrice Générale: Mrs. Emmelie Phrophète Milce

Industrial Property Offices
Intellectual Property Service, Department of Legal Affairs
Ministry of Trade and Industry
http://www.mci.gouv.ht/
Parc Industriel Metropolitain (SONAPI),
Route de l'aéroport
Port-au-Prince
(509) 2943 1868
(509) 2940-0726
rodrigue.josaphat@mci.gouv.ht
mcihaiti@yahoo.fr
Director of Legal Affairs/Directeur des Affaires Juridiques: Mr. Rodrigue Josaphat

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at http://www.wipo.int/directory/en/.

Resources for Rights Holders

- Christian Loubeau
- Economic and Commercial Officer
- +509.2229.8000
- papecon@state.gov

7. Transparency of the Regulatory System

Haitian laws are transparent and theoretically universally applicable, but legal enforcement is not universally applied nor observed. The bureaucracy and "red tape" in the Haitian legal system is often excessive.

Haiti does not have laws to specifically foster competition. Tax, labor, health, and safety laws and policies are theoretically universally applicable. However, they are not universally applied, observed, or enforced. Many in the private sector provide services, such as health care, for employees that are not provided by Haitian government agencies.

8. Efficient Capital Markets and Portfolio Investment

The scale of financial services remains modest in Haiti. In principle, there are no limitations on foreigners' access to the Haitian credit market and credit is available through commercial banks. The free and efficient flow of capital is hindered by the difficulties in obtaining financing and by Haitian accounting practices, which often fall below international standards. While there are no restrictions on foreign investment through mergers or acquisitions, there is no Haitian stock market, therefore investors cannot purchase shares in a company outside of direct transactions.

The standards that govern the Haitian legal, regulatory, and accounting systems often fall below international norms. Haitian laws do not require external audits of domestic companies. Local firms calculate taxes, obtain credit or insurance, prepare for regulatory review, and assess real profit and loss. Accountants use basic accounting standards set by the Organization of Certified Professional Accountants in Haiti (OCPAH).

Practices in the banking sector, however, are superior to other sectors. Under Haitian law, banks are not required to comply with internationally recognized accounting standards or be audited by internationally recognized accounting firms. Haiti's Central Bank, BRH, requires only that banks be audited. Nonetheless, most private banks follow international accounting norms and use consolidated reporting. BRH is generally viewed as one of the best-functioning GOH institutions.

Money and Banking System, Hostile Takeovers

The trend in the banking sector has been toward the concentration of credit mainly in trade financing and the proliferation of branches with the goal of capturing deposits and remittances. Telebanking now provides access to banking services for many Haitians holding bank accounts for the first time. Three major banking institutions (Unibank, Sogebank and BNC) hold 80 percent of total banking sector assets. The three major commercial banks also hold 75 percent of the total loan portfolio, while 70 percent of total loans are monopolized by 10 percent of borrowers. This increases the Haitian banking system's vulnerability to systemic credit risk and restricts the availability of capital. The gross loan portfolio of the banking system in September 2015 was USD 18.9 billion. The quality of the loan portfolios in the banking system, measured by the ratio of nonperforming loans over total loans, has improved over the years with the cancellation of SOCABANK's nonperforming loans. State-owned Banque Nationale de Credit (BNC) took over SOCABANK, a privately-owned commercial bank, in 2007, to become the third largest bank in the system.

The Central Bank's main challenge is to maintain sound monetary policy in the context of a larger-than-expected government deficit and a depreciating local currency. Inflation, at 13.5 percent in March 2016, has been rising. The exchange rate suffered from continued pressure on the foreign exchange market resulting in the printing of local currency to pay arrears. To ease the pressure on the local currency, the Central Bank proceeded with the sale of USD 88.5 million in foreign exchange reserves during FY 2014-2015, while increasing the reserve requirement ratios of bank deposits.

There are no legal limitations on foreigners' access to the domestic credit market. Credit is available on market terms through commercial banks. However, banks demand a pledge of real property to grant loans. Given the lack of effective cadastral and civil registries, loan applicants face daunting challenges in obtaining credit. The banking sector is extremely conservative in its lending practices. Banks typically lend exclusively to their most trusted and credit-worthy clients. In addition, the high concentration of assets does not allow for product innovation at major banks.

To provide greater financial services access to individuals and prospective investors, the Haitian government's chattel and banking laws both recognize tangible movable property (ex. portable machinery, furniture, tangible personal property) as collateral for loans. These laws allow individuals to buy condominiums, and banks to accept personal property, such as cars, bank accounts, etc., as a pledge for loans. USAID has a loan portfolio guarantee program with a diversified group of financial institutions in order to encourage them to expand credit to productive small and medium enterprises and rural micro-enterprises. The Haitian government would like to establish a credit rating bureau to disseminate data on the total indebtedness and concentration of credit risks of businesses and individuals in the financial sector, but to date there has been little progress in setting up the bureau.

9. Competition from State-Owned Enterprises

Competition is not significantly distorted in favor of state-owned enterprises to the detriment of private companies. Government officials recognize the necessity to put in place policies to further liberalize the market. The Haitian government allows for the privatization of public enterprises, which permits foreign firms to invest in the management and/or ownership of Haitian state-owned enterprises. The Haitian government established the Commission for the Modernization of Public Enterprises (CMEP) in 1996 to facilitate the privatization process by creating strategies to privatize Haitian state enterprises. To date, three Haitian state-owned enterprises have been privatized, and two other privatizations are under consideration.

The Haitian government has allowed private sector investment in electricity generation to compensate for EDH's inability to supply sufficient power. Three private power producers generate electricity for EDH, the most recent being the Haitian firm E-Power, which opened a 32 megawatt, USD 56 million heavy fuel-oil power plant in Port-au-Prince. The Haitian government has also allowed limited private sector investment in selected seaports, and has expressed interest in privatizing the Port-au-Prince and Cap Haitian airports. To accompany the port initiative, the government provided fiscal incentives to the GB Group to build Haiti's first Panamax container port. This project received its first ship in late 2015.

OECD Guidelines on Corporate Governance of SOEs

In the year 2000, OECD worked with Latin America and Caribbean countries to implement a series of policies to enhance the governance of the State-Owned Enterprises (SOEs) in the region. Supported by the WB and IDB, Haiti's SOEs went through a corporate governance reform under the guidelines of OECD that led to the privatization of three state-owned enterprises. The Haitian government has also allowed limited private sector investment in selected seaports, and has expressed interest in privatizing the Port-au-Prince and Cap Haitian airports. Still, Haiti is not a party to the OECD Convention.

Sovereign Wealth Funds

To date Haiti is not a recipient of Sovereign Wealth Funds (SWF) investments. However, several entities are currently asking the Haitian diaspora to fund a SWF, which could be used to modernize the country's public education and/or sanitation system.

10. Responsible Business Conduct

Awareness of responsible business conduct among producers and consumers is limited but growing. Almost all large Haitian firms have a corporate social responsibility (CSR) component to their business plan, even if it is not well advertised or formalized. Irish-owned telecoms company Digicel sponsors an Entrepreneur of the Year program and has built 120 schools in Haiti. Natcom provides free internet service to several public schools throughout the country. Les Moulins d'Haiti, partially owned by U.S. firm Seaboard Marine, provides some services including electrical power to surrounding communities. In the aftermath of the 2010 earthquake, many firms provided logistical or financial support to humanitarian initiatives, and many continue to contribute to reconstruction efforts. Haiti's various chambers of commerce have become more supportive of social responsibility programs as well.

11. Political Violence

Haiti's political situation remains fragile. The country renewed its Parliament in 2016, but the failure to complete presidential elections has hindered investment and the passage of important legislation. Political violence is limited, but protests, which sometimes turn violent, are common in election years. The capacity of law enforcement and judicial authorities needs to be in increased in order to deter and prosecute violent crime.

There have been no recent cases of political groups targeting foreign projects and/or installations. Historically, and continuing into early 2016, political contestations are most often the root cause of civil disorder although some unrest is caused by socio-economic concerns. Establishing and safeguarding real property rights in Haiti remains a very significant problem, given weak registry and judicial capacity.

12. Corruption

Corruption, including bribery, raises the costs and risks of doing business. Corruption has a corrosive impact on both market opportunities overseas for U.S. companies and the broader business climate. It also deters international investment, stifles economic growth and development, distorts prices, and undermines the rule of law.

It is important for U.S. companies, irrespective of their size, to assess the business climate in the relevant market in which they will be operating or investing in. It is recommended that they have an effective compliance program or measures to prevent and detect corruption, including foreign bribery. U.S. individuals and firms operating or investing in foreign markets should take the time to become familiar with the relevant anticorruption laws of both the foreign country and the United States in order to properly comply with them, and, where appropriate, they should seek the guidance of legal counsel.

The U.S. Government seeks to level the global playing field for U.S. businesses by encouraging other countries to take steps to criminalize their own companies' acts of corruption, including bribery of foreign public officials, and by requiring them to uphold their obligations under relevant international conventions. A U.S. firm that believes a competitor is seeking to use bribery of a foreign public official to secure a contract should bring this to the attention of appropriate U.S. agencies, as noted below.

U.S. Foreign Corrupt Practices Act: In 1977, the United States enacted the Foreign Corrupt Practices Act (FCPA), which makes it unlawful for a U.S. person, and certain foreign issuers of securities, to make a corrupt payment to foreign public officials for the purpose of obtaining or retaining business for or with, or directing business to, any person. The FCPA also applies to foreign firms and persons who take any act in furtherance of such a corrupt payment while in the United States. For more detailed information on the FCPA, see the FCPA Lay-Person's Guide at: http://www.justice.gov/criminal/fraud/fcpa/.

OECD Antibribery Convention: The OECD Antibribery Convention entered into force in 1999. As of 2012, there were 39 parties to the Convention including the United States (seehttp://www.oecd.org/daf/anti-bribery/anti-briberyconvention/. Major exporters China, India, and Russia are not parties, although the U.S. Government strongly endorses their eventual accession to the Convention. The Convention obligates the Parties to criminalize bribery of foreign public officials in the conduct of international business. The United States meets its international obligations under the OECD Antibribery Convention through the U.S. FCPA.

Haiti is not a party to the OECD Antibribery Convention.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

UN Convention: The UN Anticorruption Convention entered into force in 2005, and there are 178 parties to it as of November 2012: http://www.unodc.org/unodc/en/treaties/CAC/signatories.html. The UN Convention is the first global comprehensive international anticorruption agreement, and requires countries to establish criminal and other offences to cover a wide range of acts of corruption. The UN Convention goes beyond previous anticorruption instruments, covering a broad range of issues ranging from basic forms of corruption such as bribery and solicitation, embezzlement, and trading in influence to the concealment and laundering of the proceeds of corruption. The Convention contains transnational business bribery provisions that are functionally similar to those in the OECD Antibribery Convention and contains provisions on private sector auditing and books and records requirements. Other provisions address matters such as prevention, international cooperation, and asset recovery. Haiti is a party to the UN Convention.

OAS Convention: In 1996, the Member States of the Organization of American States (OAS) adopted the first international anticorruption legal instrument, the Inter-American Convention against Corruption (OAS Convention), which entered into force in 1997. The OAS Convention, among other things, establishes a set of preventive measures against corruption, provides for the criminalization of certain acts of corruption including transnational bribery and illicit enrichment, and contains a series of provisions to strengthen the cooperation between its party States in areas such as mutual legal assistance and technical cooperation. The OAS Convention has 34 parties (see http://www.oas.org/juridico/english/Sigs/b-58.html). Haiti is a party to the OAS Convention.

Resources to Report Corruption

Any corruption-related activity can be reported to the Haitian Anti-Corruption Unit, responsible for combatting corruption, or Transparency International's branch in Haiti, Haiti Heritage Foundation, which monitors corruption:

Name: Rodiny Jean Baptiste
Title: Director General
Organization: Unité de Lutte Contre la Corruption
Address : 13, rue Capotille, Pacot, Port-au-Prince, Haiti
Telephone: (509) 2811-0661 / (509) 4890-3647
Email address : info@ulcc.gouv.ht

Name: Marilyn B. Allien
Title: President
Organization: Fondation Heritage pour Haiti
Address: Petionville, Haiti
Telephone: (509) 3701-7089
Email address: admlfhh@yahoo.com / heritagehaiti@yahoo.com

Some useful resources for individuals and companies regarding combating corruption in global markets include the following:

- Information about the U.S. Foreign Corrupt Practices Act (FCPA), including a "Lay-Person's Guide to the FCPA" is available at the U.S. Department of Justice's Website at: http://www.justice.gov/criminal/fraud/fcpa.

- Information about the OECD Antibribery Convention including links to national implementing legislation and country monitoring reports is available at: http://www.oecd.org/department/0,3355,en_2649_34859_1_1_1_1_1,00.html. See also new Antibribery Recommendation and Good Practice Guidance Annex for companies: http://www.oecd.org/investment/anti-bribery/anti-briberyconvention/44884389.pdf

- General information about anticorruption initiatives, such as the OECD Convention and the FCPA, including translations of the statute into several languages, is available at the Department of Commerce Office of the Chief Counsel for International Commerce website: http://www.oecd.org/site/adboecdanti-corruptioninitiative/

- Transparency International (TI) publishes an annual Corruption Perceptions Index (CPI). The CPI measures the perceived level of public-sector corruption in 180 countries and territories around the world. The CPI is available at: http://www.transparency.org/cpi2014. TI also publishes an annual Global Corruption Report which provides a systematic evaluation of the state of corruption around the world. It includes an in-depth analysis of a focal theme, a series of country reports that document major corruption related events and developments from all continents and an overview of the latest research findings on anti-corruption diagnostics and tools. See https://www.transparency.org/research/gcr.

- The World Bank Institute publishes Worldwide Governance Indicators (WGI). These indicators assess six dimensions of governance in 212 countries, including Voice and Accountability, Political Stability and Absence of Violence, Government Effectiveness, Regulatory Quality, Rule of Law and Control of Corruption. See http://info.worldbank.org/governance/wgi/pdf/WGI.pdf. The World Bank Business Environment and Enterprise Performance Surveys may also be of interest and are available at: http://data.worldbank.org/data-catalog/BEEPS.

- The World Economic Forum publishes the Global Enabling Trade Report, which presents the rankings of the Enabling Trade Index, and includes an assessment of the transparency of border administration (focused on bribe payments and corruption) and a separate segment on corruption and the regulatory environment. See http://www.weforum.org/.

- Additional country information related to corruption can be found in the U.S. State Department’s annual Human Rights Report available at http://www.state.gov/j/drl/rls/hrrpt/.
- Global Integrity, a nonprofit organization, publishes its annual Global Integrity Report, which provides indicators for 92 countries with respect to governance and anti-corruption. The report highlights the strengths and weaknesses of national level anti-corruption systems. The report is available at: https://www.globalintegrity.org/research/reports/.

13. Bilateral Investment Agreements

Haiti and the United States are party to the Caribbean Basin Trade Promotion Act (CBTPA), a trade preference program enacted in October 2000. CBTPA provides duty-free treatment for apparel wholly assembled, knit or knit-to-shape in certain beneficiary countries in the Caribbean, as long as the apparel uses U.S. fabrics and U.S. yarns.

In December 2006, Congress enacted the Haitian Hemispheric Opportunity for Partnership Encouragement Act of 2006, commonly referred to as HOPE. HOPE amended the Caribbean Basin Economic Recovery Act (CBERA) and authorized the President to extend additional trade preferences to Haitian-manufactured apparel. HOPE preference programs do not replace those provided by CBTPA, but are separate programs that were added as part of CBERA.

In June 2008, Congress enacted the Food, Conservation, and Energy Act of 2008 (Public Law 110-246). Title XV, Subtitle D, Part I of the Act contains amendments to the established special rules for imports of apparel and other textile articles from Haiti, which can be found in 19 U.S.C. §2703a. These amendments are cited as the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008 which is commonly known as HOPE II. HOPE II expanded the preferences originally established in HOPE, and created four new preference programs for Haitian-manufactured apparel.

Haiti, a CARIFORUM member, signed an economic partnership agreement (EPA) with the European Union (EU) in 2009. The EPA allows the export of products from Haiti to EU countries without tariffs or quotas. Haiti is a member of the Caribbean Community (CARICOM). The CARICOM Single Market and Economy (CSME), which was created in 1989 and aims to advance the region's integration into the global economy by facilitating free trade in goods and services and the free movement of labor and capital, became operational in January 2006 among twelve of the fifteen Member States. Haiti, as a member of CARICOM, has expressed an interest in participating fully in CSME. However, to become eligible, Haiti is required to amend its customs code to align with the local tariffs to both CARICOM and WTO standards.

Bilateral Taxation Treaties

Haiti does not have a double taxation treaty with the United States.

14. Foreign Trade Zones/Free Ports/Trade Facilitation

A law on Free Trade Zones (FTZ) entered into force in 2002. It sets out the conditions for operating and managing economic FTZs, together with exemption and incentive regimes granted for investment in such zones. The law is not specific to a particular activity. The law defines FTZs as geographical areas to which a special regime on customs duties and controls, taxation, immigration, capital investment, and foreign trade applies and where domestic and foreign investors can provide services, import, store, produce, export, and re-export goods.

FTZs may be private or joint venture. The law provides the following incentives and benefits for enterprises located in FTZs:

- Full exemption from income tax for a maximum period of 15 years, followed by a period of partial exemption that gradually decreases;
- Customs and fiscal exemptions for the import of capital goods and equipment needed to develop the area, with the exception of tourism vehicles;
- Exemption from all communal taxes (with the exception of fixed occupancy tax) for a period not exceeding 15 years; and
- Registration and transfer of the balance due for all deeds relating to purchase, mortgages, and collateral.

A FTZ has been established in the northeastern city of Ouanaminthe, where a Dominican company, Grupo M, manufactures clothing for a variety of U.S. companies -- Sarah Lee, Nautica, Dockers, Fruit of the Loom and Levi Strauss -- at its CODEVI facility. In October 2012, the Government of Haiti with the support of the Inter-American Development Bank (IDB) and the United States Government opened the 617-acre Caracol Industrial Park (PIC) mixed industrial zone located in proximity to the town of Caracol in Haiti's northeastern region. In 2012, two companies began operating in PIC: the Korean garment company S&H Global and a Haitian paint manufacturer, Peintures Caraibes. A jean manufacturer and Haitian paint producer began operations in 2013 in CODEVI and Caracol respectively. Several other companies, including a fragrance and cosmetics manufacturer, a steel producer, and a Haitian garment manufacturer, started up in 2014.

In 2015 two major FTZ's were added to the list: Agritrans, the first agricultural free trade zone in Haiti, which launched in 2015 and shipped their first container of bananas to Germany in late 2015, and Port Lafito, a USD 150 million Panamax port and industrial park. Agritrans is a USD 27 million project with the objective of exporting bananas to Europe. The Lafito port is part of a comprehensive development project that includes an industrial free zone, hospital, residential-commercial area, and leisure amenities to include a boutique hotel, a beach club and a marina. Lafito is located 12 miles from the Port-au-Prince main port, and the owners, the GB Group, plan to set up modern terminal operations to efficiently compete with the main port in Port-au-Prince. In Port-au-Prince, the GB Group expects that the industrial park will generate over 3,000 jobs in the apparel sector alone. The Panamax port was completed in 2015 and began operations, although disagreements with the state owned port authority have slowed port traffic.

15. Foreign Direct Investment and Foreign Portfolio Investment Statistics

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

	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
Economic Data	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) ($M USD)	2014	$8713	2015	$8713	www.worldbank.org/en/country
Foreign Direct Investment	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country ($M USD, stock positions)	2015	$104	2015	$104	BEA data available at http://bea.gov/international/direct_investment_ multinational_companies_comprehensive_data.htm
Host country's FDI in the United States ($M USD, stock positions)	2015	N/A	2015	N/A	BEA data available at http://bea.gov/international/direct_investment_ multinational_companies_comprehensive_data.htm
Total inbound stock of FDI as % host GDP	2015	12%	2015	N/A	Statistics on direct foreign investment by country of origin and sector are not available.

*http://www.brh.net/posextglobale.pdf

Table 3: Sources and Destination of FDI

IMF Coordinated Direct Investment Survey data are not available for Haiti.

Table 4: Sources of Portfolio Investment

IMF Coordinated Portfolio Investment Survey data are not available for Haiti.

Section 5 - Government

Chiefs of State and Cabinet Members:

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

Legal system:

civil law system strongly influenced by Napoleonic Code

International organization participation:

ACP, AOSIS, Caricom, CD, CDB, CELAC, FAO, G-77, IADB, IAEA, IBRD, ICAO, ICRM, IDA, IFAD, IFC, IFRCS, ILO, IMF, IMO, Interpol, IOC, IOM, IPU, ITSO, ITU, ITUC (NGOs), LAES, MIGA, NAM, OAS, OIF, OPANAL, OPCW, PCA, Petrocaribe, UN, UNCTAD, UNESCO, UNIDO, Union Latina, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO

Section 6 - Tax

Exchange control

Information unavailable

Treaty and non-treaty withholding tax rates

Information unavailable

Methodology and Sources

Section 1 - General Background Report and Map

(Source: CIA World Factbook)

Section 2 - Anti – Money Laundering / Terrorist Financing

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

Section 3 - Economy

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

(Source: CIA World Factbook)

Section 4 - Foreign Investment

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

(Source: US State Department)

Section 5 - Government

Names of Government Ministers and general information on political matters.

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

Section 6 - Tax

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

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

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