Haiti

RISK & COMPLIANCE REPORT

DATE: March 2017

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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.

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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 criminal 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, as well as the 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 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 follows CFATF's acknowledgement that, although Haiti had made improvements in non-legislative areas, it had not made sufficient progress in fulfilling its action plan to address its serious AML deficiencies including legislative reforms. On November 9, 2016, the CFATF reaffirmed its stance, although noting Haiti's recent progress and efforts to introduce new legislation, including a new law designed to grant administrative autonomy to the Central Financial Intelligence Information Unit (UCREF), Haiti's FIU.

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. Foreign currencies represent 63 percent of Haiti's bank deposits as of October 2016. 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 seven operational FTZs. There are also 157 licensed casinos and many other unlicensed casinos. Online gaming is illegal.

KEY AML LAWS AND REGULATIONS

The AML legislation passed in 2013 was further strengthened by amendments in 2016. In 2014, the Executive signed a long-delayed anti-corruption bill. Banks and financial companies, wire transfer agencies, credit unions, insurance companies, cooperatives, casinos, lawyers, accountants, notaries, and real estate agents must comply with KYC rules and report suspicious transactions to the UCREF.

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

AML DEFICIENCIES

The weakness of the Haitian judicial system and prosecutorial mechanisms as well as judges' and prosecutors' lack of knowledge of the recently adopted legislative amendments continue to leave the country vulnerable to corruption and money laundering. Haiti is not a member of the Egmont Group, but is currently 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. Draft criminal codes and criminal procedural codes that would address these deficiencies are expected to be considered by parliament over the next few months.

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 2013 AML/CFT law and its 2016 amendments, despite strengthening the regulatory framework to combat financial crimes, undermine 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 Haitian government and commerce.

ENFORCEMENT/IMPLEMENTATION ISSUES AND COMMENTS

The Government of Haiti continues to take steps, such as training staff and coordinating with the nation's banks, to implement a better AML regime. In September 2016, the National Assembly added missing elements to the 2013 AML/CFT law to bring it up to international standards, although deficiencies still remain. In order for Haiti to fully comply, however, the criminal code will have to be updated.

After years of delay, passage of the 2014 anti-corruption law constituted a positive step to try to address public corruption, but implementation issues remain. Frequent changes in leadership, fear of reprisal at the working level, rumored intervention from the Executive, and a lack of judicial follow-through (prosecutions) make implementation particularly difficult. Frequent changes in the judiciary also make it difficult for cases to be followed by prosecutors.

The UCREF has continued to build its internal capabilities and to do effective casework. The UCREF forwarded six cases to the judiciary in 2016. Continued issues in the judicial sector mean the UCREF's progress is not yet reflected in conviction rates. 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 2016.

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 2014 (introduction):

Haiti is classified a Tier 2 (watch list) country - a country whose government does not fully comply with the Trafficking Victims Protection Act's minimum standards, but is making significant efforts to bring themselves into compliance with those standards.

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 consist of children in domestic servitude. In addition to experiencing forced labor, these children are vulnerable to beatings, sexual assaults, and other abuses by family members in the homes in which they are residing. Dismissed and runaway children from domestic servitude make up a significant proportion of the large population of children who end up in prostitution or are forced into begging or street crime. Children working in construction, agriculture, fisheries, and street vending are vulnerable to forced labor. Women and children living in Internally Displaced Persons (IDP) camps set up as a result of the 2010 earthquake were at an increased risk of sex trafficking and forced labor. Children in some unscrupulous private and NGO-sponsored residential care centers are at a high risk of being placed in a situation of forced labor. Haitians without documentation and those from the lowest income backgrounds, especially women and children, are particularly vulnerable. There have also been documented cases of Dominican women in forced prostitution in Haiti. Haitian children are found in prostitution, domestic servitude, and forced begging primarily in the Dominican Republic. Haitians are also exploited in forced labor primarily in the Dominican Republic, elsewhere in the Caribbean, in South America, and in the United States.

The Government of Haiti does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Haiti enacted legislation criminalizing human trafficking in 2014. Despite these efforts, the government did not demonstrate evidence of overall increasing efforts to address human trafficking over the previous reporting period; therefore, Haiti is placed on Tier 2 Watch List for a third consecutive year. Haiti was granted a waiver from an otherwise required downgrade to Tier 3 because its government has a written plan that, if implemented, would constitute making significant efforts to meet the minimum standards for the elimination of trafficking and is devoting sufficient resources to implement that plan. Haiti has not convicted any perpetrators of human trafficking despite large numbers of identified victims each year. While the government had negligible capacity to provide direct or specialized services to trafficking victims, the government continued to refer victims and at-risk youth to service care centers registered with the government's social welfare ministry (IBESR) and operated by local NGOs.

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	20
World Governance Indicator – Control of Corruption	9

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 is a free market economy that enjoys the advantages of low labor costs and tariff-free access to the US for many of its exports. 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. 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 neighboring 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, the Haitian economy began recovering from the earthquake. However, two hurricanes adversely affected agricultural output and the low public capital spending slowed the recovery in 2012. Two-fifths of all Haitians depend on the agricultural sector, mainly small-scale subsistence farming, and remain vulnerable to damage from frequent natural disasters, exacerbated by the country's widespread deforestation. US economic engagement under the Caribbean Basin Trade Preference Agreement (CBTPA) and the 2008 Haitian Hemispheric Opportunity through Partnership Encouragement (HOPE II) Act helped increase apparel exports and investment by providing duty-free access to the US. Congress voted in 2010 to extend the CBTPA and HOPE II until 2020 under the Haiti Economic Lift Program (HELP) Act; the apparel sector accounts for about 90% of Haitian exports and nearly one-twentieth of GDP. Remittances are the primary source of foreign exchange, equaling one-fifth of GDP and representing more than five times the earnings from exports in 2012. Haiti suffers from a lack of investment, partly because of weak infrastructure such as access to electricity. Haiti's outstanding external debt was cancelled by donor countries following the 2010 earthquake, but has since risen to $1.1 billion as of December 2013. The government relies on formal international economic assistance for fiscal sustainability, with over half of its annual budget coming from outside sources. The MARTELLY administration in 2011 launched a campaign aimed at drawing foreign investment into Haiti as a means for sustainable development. To that end, the MARTELLY government in 2012 created a Commission for Commercial Code Reform, effected reforms to the justice sector, and inaugurated the Caracol industrial park in Haiti's north coast. In 2012, private investment exceeded donor assistance for the first time since the 2010 earthquake.

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)

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

Since 2011, the government of President Michel Martelly has taken steps to encourage foreign investment and to develop private-led, market-based, economic growth. The country, widely supported by international assistance, focuses on reinforcing public administration, developing infrastructure, and promoting investment. Private investment continues to grow, and set a 10-year high in 2013, outpacing foreign assistance spending in Haiti by more than 100 percent. The Haitian government has designated key investment sectors, including tourism, agriculture, construction, energy, and manufacturing, and it supports them through administrative incentives and public spending. The government is currently implementing a vast reform to improve the legal framework for doing business, drafting new laws, and amending outdated ones to encourage investment. In addition, investment promotion authorities have attempted to expedite business start-up by developing "off-the-shelf," pre-registered corporations for investors seeking to do business in Haiti. The Government of Haiti hopes to increase private and foreign investments by 16 percent over the next two years.

Haiti's economy grew by a 4.3 percent in 2013, while inflation remained in single digits, despite a depreciation of the local currency against the U.S. dollar. GDP growth is expected to remain at a similar level in 2014, supported by public investments, remittance inflows, and continued growth in the manufacturing, construction, and tourism industries. Despite being favorable, the general investment outlook for Haiti in 2014 will be contingent on the continuation of legal and structural reform efforts which have been delayed by long overdue elections and multiple ministerial changes.

1. Openness to and Restrictions upon Foreign Investment

Haiti's legislation encourages foreign direct investment. Import and export policies are non-discriminatory and are not based upon nationality. There is no significant public opposition to foreign investment in Haiti. The Government of Haiti has made some progress in recent years to improve the legal framework, create and strengthen core public institutions, and enhance economic governance. The government of President Michel Martelly continued the monetary, fiscal, and foreign exchange policies initiated under the 2004-2006 interim Haitian government with the assistance of the International Monetary Fund (IMF) and the World Bank (WB) aimed at creating a stable macroeconomic environment. Such policies include reducing interest rates to facilitate access to credit and keeping the exchange rate stable. Political infighting and weak institutional capacity within the Haitian government and in the private sector, however, have reduced the impact of the Haitian government's initiatives and stalled much-needed efforts to modernize Haiti's commercial, investment, and tax laws. In 2009, the WB, IMF, and Inter-American Development Bank (IDB) collectively canceled USD 1.2 billion of Haiti's debt in recognition of Haiti's relative macroeconomic stability and adherence to IMF program conditionality. Following the devastating earthquake in January 2010, the WB, IMF and IDB wrote off USD 788 million in debt as part of a broad strategy to support Haiti's long-term reconstruction plans. However, largely as a result of infrastructure rebuilding and social programs since the 2010 earthquake, Haiti has incurred USD 1.6 billion in new foreign debt, with more than 75 percent of this owed to the Venezuelan government.

In 2011, the Haitian government began drafting new laws to improve the legal framework and incentives for investment in Haiti. An anti-money laundering law was passed in November 2013, which regional banking authorities are currently analyzing. In March 2014, Parliament enacted an anti-corruption law that harmonizes Haiti's legislation with international standards. In 2012, the Haitian government submitted for Parliament's approval laws on electronic transactions and electronic signatures, but these have not yet been approved. In addition, numerous pieces of legislation that may improve the investment climate are being reviewed, such as a new mining code, an insurance code, a labor code, a law establishing a public credit bureau, and new construction permit regulations. The Haitian government also continues to upgrade Haiti's historically inadequate infrastructure.

In 2010, the year of the earthquake, Haiti's economy contracted by 5.4 percent. In 2011, the Haitian economy had begun recovering slowly from the effects of the earthquake and a tumultuous electoral period the previous year, showing a 5.6 percent growth of its GDP. However, adverse natural shocks affecting agricultural output and the slow execution of public capital spending negatively affected the economic recovery in 2012, and growth slowed to 2.8 percent. The economy rebounded to 4.3 percent growth in 2013, spurred by public spending and moderate recovery of key sectors such as agriculture, manufacturing, construction, and tourism. The IMF predicts that GDP growth will remain at a similar level in 2014.

Investment Code and Incentives

In 2002, the Haitian Parliament passed an investment code (the Code) prohibiting 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. The Code 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. Foreign investors must be legally registered and pay appropriate 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. The majority of economic activities are open to both Haitian and foreign private investors. Investment in certain sectors, however, requires special Haitian government authorization. Investment in "sensitive" sectors, such as electricity, water, and telecommunications, requires a Haitian government concession. Investment in the public health sector requires authorization from the Ministry of Public Health and Population. Investment in agriculture is subject to the Ministry of Agriculture's approval. In general, natural resources are considered to be the property of the state. As a result, prospecting, exploring, or exploiting mineral and energy resources require 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 and resident 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.

Investment Facilitation Institutions

An Investment Facilitation Center (CFI, by its French acronym) was established in 2007 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 considers strategic investments in sectors that contribute substantially to reductions in the balance of payments deficit, increase economic growth, and improve the skill level of the labor force as priorities. Investments that lead to permanent job creation and a renewal of the domestic production structure are also considered priority or strategic investments. President Martelly’s 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 “red carpet” service for large investors. CFI was also recognized by the World Bank in December 2012 as a regional leader in the promotion of investment online.

CFI has made some progress in reducing delays facing investors in starting a business in Haiti, thereby reducing transaction costs. CFI reports that during 2014, cumbersome entry procedures will be reduced from 12 procedural steps to 5. This may foster competition by facilitating the entry of additional investors. In 2009, CFI began implementing an internet registry that 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 an “electronic single window”. The single window 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 launched in April 2013 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.

In 2011, President Martelly launched a Presidential Advisory Council on Economic Growth and Investment (PACEGI), which aims to improve Haiti’s business climate and attract foreign investors. The Council is co-chaired by President Bill Clinton and Haitian Prime Minister Laurent Lamothe and includes many international members such as Nobel Prize winner Dr. Mohammed Yunus.

In July 2012, Prime Minister Laurent Lamothe created an Economic and Social Development Council (CDES), an advisory body under the umbrella of the Prime Minister’s office that aims to simplify administrative procedures and promote private investment. The Council is headed by Haitian entrepreneur Jerry Tardieu. In the course of 2013, the CDES has been active in the reform of the existing mining code, and has helped increase the social dialogue between the private sector and the Haitian government in preparation of the national budget.

In 2012, President Martelly created a Presidential Commission for the Reform of Business Law, which aims to coordinate the reform of business legislation and develop a better legal framework for both domestic and foreign investment. The Commission will submit to the Executive recommendations and pro-business project laws that will be included in the Haitian government legislative agenda.

Recent Developments

Despite recent progress and the Haitian government's commitment to improve investment, Haiti's investment climate barely improved in 2013. The WB's "Doing Business 2014" report ranks Haiti as 177 of 189 (first place being the best) on ease of doing business (remaining at the same position as the previous year). Economic growth in the 2013 fiscal year was spurred by large investments in agriculture, infrastructure, manufacturing, tourism, and related public spending.

TABLE 1: Haiti selected indices and rankings

Measure	Year	Index or Rank	Website Address
TI Corruption Perception Index	2013	163 of 177	http://cpi.transparency.org/cpi2013/results/
Heritage Foundation Economic Index	2013	152 of 177	http://www.heritage.org/index/pdf/2013/book/index_2013.pdf
World Bank's Doing Business Report	2013	177 of 189	http://doingbusiness.org/rankings
World Bank GNI per capita (USD amount)	2012	760	(see table 1B below)

TABLE 1B: Haiti 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 2012 per capita gross national income (GNI) of USD 4,085 or less. Haiti's scorecard is available here: http://www.mcc.gov/documents/scorecards/score-fy14-english-ht-haiti.pdf. Details on each of the MCC's indicators and a guide to reading the scorecards are available here: http://www.mcc.gov/documents/reports/reference-2013001142401-fy14-guide-to-the-indicators.pdf

Despite improvements in several sectors, Haiti did not become more competitive compared to the rest of the region. Overall costs to start a new business in Haiti remained high, while access to credit as well as structures for investor protection are still insufficient. The Martelly government continued to promote Haiti as "open for business," but officials recognized the need for coordinated efforts from both the Haitian government and the private sector to make it easier and cheaper for investors to do business in the country. Despite challenges, increased international attention on Haiti since the 2010 earthquake and the pro-business agenda of the Martelly administration have led to increased interest in Haiti from foreign investors. Further reform and improvement of the business climate is necessary to transform this interest into meaningful investment.

Haitian law is deficient in a number of areas, including: operation of the judicial system; organization and operation of the executive branch; publication of laws, regulations, and official notices; establishment of companies; land tenure and real property law and procedures; bank and credit operations; insurance and pension regulation; accounting standards; civil status documentation; customs law and administration; international trade and investment promotion; foreign investment regulations; and regulation of market concentration and competition. Although these deficiencies hinder business activities, they are not specifically aimed at foreign firms and appear to have an equally negative effect on foreign and local companies.

2. Conversion and Transfer Policies

There are no restrictions or controls on foreign payments or other fund transfer transactions and foreign exchange is readily available. All citizens or legal residents have the right to dispose of their assets. While restrictions apply on the amount of withdrawals 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. The Haitian government does not impose restrictions on the inflow or outflow of capital. However, 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). Banks and currency exchange companies set their rates at the market-clearing rate. The spread between buying and selling rates is generally less than five percent.

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 and based on a floating exchange rate mechanism. The Haitian gourde is fully convertible for commercial and capital transactions to the U.S. dollar, however the HTG is converted to several other currencies including the Euro, the Canadian dollar, the Dominican peso, the Japanese Yen and the Sterling pound, through the U.S. dollar. During FY 13, the average exchange rate was 43 HTG/USD. As of May 2014, the exchange rate is approximately 45 HTG/USD. The exchange rate during FY 13 remained broadly stable against the U.S. dollar. Declining aid inflows have led to a slight depreciation trend of the Haitian gourde, offset by substantial U.S. dollar sales and swap exchanges from the central bank (BRH). Gross liquid reserves during FY 13 topped USD 2.24 billion, covering 6 months of imports of goods and services. Meanwhile, remittances, which are Haiti's major foreign currency supplier and contribute to a quarter of the GDP, increased by 11 percent.

3. Expropriation and Compensation

The 1987 Constitution allows expropriation or dispossession only for reasons of public interest or land reform and is subject to prior payment of fair compensation as determined by an expert. 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 vague and 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. The Martelly administration's slow but ongoing revision of the land tenure code is expected to address current issues related to the lack of access to land records, surveys, and property titles in Haiti.

4. Dispute Settlement

Haiti's commercial code dates to 1826 and underwent a significant revision in 1944. There are few commercial legal remedies available. The protection and guarantees that Haitian law extends to investors are severely 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 do not have specializations, and their knowledge of commercial law is limited. Utilizing Haitian courts to settle disputes is a lengthy process and cases can remain unresolved for many years. Bonds to release assets frozen through litigation are unavailable. Business litigants are often frustrated with the legal process and pursue out-of-court settlements.

In 2007, the Haitian Chamber of Commerce and Industry (CCIH), in partnership with the Haitian government and with funding from the European Union, established a commercial dispute settlement mechanism –- the Arbitration and Conciliation Chamber -- to provide mechanisms for conciliation and arbitration in cases of private commercial disputes.

There are several ongoing private disputes between U.S. and Haitian entities. Americans seeking resolution of these disputes are often hindered by Haiti's inefficient legal system. There are persistent allegations that some Haitian officials use their public office to influence commercial dispute outcomes for personal gain. As a result of international assistance, however, progress is being made to increase the credibility of the judiciary and the effectiveness of the national police.

Disputes between foreign investors and the state can be settled in Haitian courts or through international arbitration, though claimants must select one to the exclusion of the other. A claimant dissatisfied with the ruling of the court cannot request international arbitration after the ruling is issued. Foreign court decisions are not enforceable in Haiti. International arbitration is strongly encouraged as a means of avoiding lengthy domestic court procedures. In 2009, Haiti ratified the 1965 International Convention on the Settlement of Investment Disputes between states and nationals of other states (ICSID). Foreign investors can call for ICSID arbitration in case of dispute with the state. Haiti is also a signatory to the 1958 United Nations Convention on the Recognition and Enforcement of Foreign Arbitration Awards, which provides for the enforcement of an agreement to arbitrate present and future commercial disputes. Under the convention, courts of a contracting state can enforce such an agreement by referring the parties to arbitration. Haiti is not a signatory to the Inter-American-U.S. convention on International Commercial Arbitration of 1975 (Panama Convention).

The Haitian government appears to recognize that the protections and guarantees that Haitian law extends to investors are severely compromised by weak enforcement mechanisms and a lack of updated laws to handle modern commercial disputes.

Haiti's bankruptcy law was enacted in 1826 and modified in 1944. There are three phases of bankruptcy under Haitian law. 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 through courts. Debts are normally paid in Haitian gourdes (HTG).

Although the concepts of real property mortgages and chattel mortgages -- pledging of personal property, such as machinery, furniture, automobiles, or livestock to secure a mortgage -- exist, real estate mortgages involve antiquated procedures and may fail to be recorded against the debtor or other creditors. Property is seldom purchased through a mortgage and secured debt is difficult to arrange or collect. Liens are virtually impossible to impose, and using the judicial process for foreclosure is time consuming and futile. In order to make progress in this area, Haiti needs to enact a credit bureau law and create an electronic collateral registry. Banks frequently require that loans be secured in U.S. dollars.

5. Performance Requirements and Investment Incentives

Haiti is an original member of the World Trade Organization (WTO). The WTO's latest Trade Policy Review of Haiti in 2003 found Haiti's Investment Code and Law on Free Trade Zones 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.

In order to attract investment to certain industries, the Investment Code created a privileged status for some manufacturers. Eligible firms can benefit from customs, tax, and other advantages under the Code. Investments that provide added value of at least 35 percent in the processing of local or imported raw materials are eligible for preferential status.

The statute allows for a 5- to 10-year income tax exemption. Industrial or crafts-related enterprises must meet one of the following criteria in order to benefit from this exemption:

- Make intensive and efficient use of available local resources (i.e., advanced processing of existing goods, recycling of recoverable materials).
- Increase national income.
- Create new jobs and/or upgrade the level of professional qualifications.
- Reinforce the balance of payments position and/or reduce the level of dependency of the national economy on imports.
- Introduce or extend new technology more appropriate to local conditions (i.e., utilize non-conventional sources of energy, use labor-intensive production).
- Create and/or intensify backward or forward linkages in the industrial sector.
- Export-oriented production.
- Substitute a new product for an imported product, provided that the new product presents a quality/price ratio deemed acceptable by the appropriate entity and comprises a total production cost of at least 60 percent of the value added in Haiti, including the cost of local inputs used in its production.
- Prepare, modify, assemble, or process imported raw materials or components for finished goods that will be re-exported.
- Utilize local inputs at a rate equal or superior to 35 percent of the production cost.

For investment that matches one or more of the criteria described above, the Haitian government provides customs duty and tax incentives. Companies that enjoy tax exemption status are required to submit annual financial statements. Fines or withdrawal of tax advantages may be assessed to firms failing to meet the Code's provisions.

A progressive tax system applies to income, profits, and capital gains earned by individuals. The tax rates on individuals are as follows (45 HTG/USD as of May 2014):

Income (Gourdes)	Rate (percent)

Up to 60,000	0
60,001 to 240,000	10
240,001 to 480,000	15
480,001 to 1,000,000	25
Over 1,000,000	30

The tax rate on corporate income is 30 percent. The Haitian government receives technical assistance from the U.S. Department of the Treasury's Office of Technical Assistance and USAID to facilitate increasing the Haitian tax base and the Haitian government's tax collection and enforcement capabilities.

The Haitian government does not impose discriminatory requirements on foreigners who wish to invest. Haitian laws, related to residency status and employment, 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.

A foreigner who wishes to obtain residential status to conduct business in Haiti must deposit HTG 50,000 (USD 1,110) in a blocked account at the BRH. A professional identity card, issued by the Ministry of Commerce and Industry, is also required. Transient business persons and those temporarily in the country must be accompanied by locally licensed agents when visiting clients or soliciting business.

Foreigners working in Haiti are subject to property restrictions. Foreigners, excluding foreign corporations, may not own more than one residence in the same district or own real estate without prior authorization from the Ministry of Justice. Land ownership is limited to 1.29 hectares (about 3 acres) in urban areas and 6.45 hectares (about 16 acres) in rural areas. Additionally, foreigners may not own property or buildings near the border. Foreigners who establish Haitian corporations with corporate offices located in Haiti are not affected by restrictions on ownership of property or buildings adjacent to the border with the Dominican Republic.

6. 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.

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 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.

7. Protection of 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. 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 significantly impede the effectiveness of statutory protections.

Resources for Rights Holders:

For more information concerning intellectual property rights, please contact the U.S. Embassy's Commercial Attaché Christian Loubeau 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/

19, Rue Jeanty
Bois-Patate/Canape-Vert
Port-au-Prince
HAITI (West Indies)

(509) 2245 00 86
(509) 2245 00 85

(509) 244 45 72

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,

Boulevard 15 Octobre, Delmas
Port-au-Prince

(509) 2943 4488
(509) 2943 1868

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/.

Real property interests are handicapped 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 more. The Embassy regularly receives reports of fraudulent or fraudulently recorded land titles. Mortgages exist, but real estate mortgages are expensive and involve cumbersome procedures. They are not always recorded against the debtor or creditors.

8. 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.

9. 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, so there is no way for investors to 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 neither required to comply with internationally recognized accounting standards nor to 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.

The trend in the banking sector has been the proliferation of branches to capture deposits and remittances and the concentration of credit mainly in trade financing. Telebanking now provides access to banking services for many Haitians holding bank accounts for the first time. Three major banking institutions hold 82 percent of total banking sector assets, valued at HTG 176 billion (about USD 4 billion) in September 2013 – nearly half of GDP. The three major commercial banks also hold more than three-quarters of total loan portfolios, while 70 percent of total loans are monopolized by 10 percent of borrowers, which 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 2013 was HTG 63 billion (USD 1.45 billion), representing about a 20 percent increase from FY 12. The quality of the loan portfolios in the banking system, measured by the ratio of nonperforming loans over total loans, improved significantly over the past two years, remaining at 2.4 percent in September 2013, the same level as last year, from a 9 percent average during 2006-2010. The improvement of the quality of the loan portfolio over the past years resulted mainly from the cancellation of SOCABANK's nonperforming loans by the state-owned commercial bank BNC. SOCABANK, a privately-owned commercial bank, was taken over by BNC in 2007, which caused it to become the third largest bank in the system.

In 2013, the BRH's main challenge was maintaining monetary policy in a context of a larger-than-expected government deficit. While inflation was eased by stable international food commodity prices, the exchange rate suffered from continued pressures in the foreign exchange market resulting from an increased fiscal deficit and a social-political backlog. In order to ease down the pressures on the local currency, the Central Bank increased net dollar sales in 2013 to USD 120 million, from USD 72 million in 2012, while raising twice during the year the reserve requirement ratios on 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.

In order to give greater financial services access to individuals and prospective investors, the Haitian government adopted a chattel law in 2009 and a new banking law in 2012 that 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 properties, such as cars, bank accounts, etc., as a pledge for loans. USAID/Haiti 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 plans 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.

10. Competition from State Owned Enterprises

In 1996, the Haitian government established legislation on the privatization of public enterprises, which allows 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 schemes are envisaged for the privatizations of the National Port Authority (APN) and the state electricity company EDH.

The Haitian government has allowed private sector investment in electricity generation to compensate for the state electricity company's (Electricite d'Haiti - EDH) inability to supply sufficient power. Three independent power producers (IPP) 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 in late 2010. Notably, E-Power shut down production for much of the last year as a result of non-payment from government-owned EDH; this payment dispute was eventually resolved. 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 Haitien airports.

11. Corporate Social Responsibility

Awareness of corporate social responsibility among producers and consumers is limited, but growing. Irish-owned telecoms company Digicel, for example, sponsors an Entrepreneur of the Year program and has built 120 schools in Haiti. 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.

12. Political Violence

Haiti's political situation has improved in recent years, but remains fragile. The uncertainty that overdue elections, frequent cabinet changes, infighting in Parliament, and poor relations between Parliament and the Executive have created has hindered both reconstruction efforts and passage of important legislation. However, political violence is rare, and recent statistics suggest increasing capacity of law enforcement officials 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 2014, politically motivated civil disorder, such as periodic demonstrations and labor strikes, sometimes interrupted normal business operations. Land invasions by squatters are a problem in both urban and rural areas, and requests for help to law enforcement authorities often go unanswered.

13. Corruption

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.

14. Bilateral Investment Agreements

In 2008, the U.S. Congress passed the Haitian Hemispheric Opportunity through Partnership Encouragement Act (HOPE II) to enable the Haitian textile industry to benefit from tariff advantages on the condition that the Haitian government and eligible producers comply with internationally recognized labor standards. HOPE II allows for duty-free entry into the United States for a limited number of garments imported from Haiti, provided that 50% of the value when imported originates in Haiti, the United States, or another country that has a free-trade agreement with the United States. This percentage increases to 50 % through December 2015; 55% through December 2017, and 60% through December 2018. In 2010, the U.S. Congress responded to the Haitian apparel industry's needs following the earthquake by amending the HOPE Act with the Haiti Economic Lift Program (HELP) Act. HELP extends HOPE II tariff advantages until 2020. HOPE/HELP has stimulated job creation within the garment industry, which has added approximately 11,000 jobs since 2008, bringing the assembly sector overall employment to about 32,750. The HOPE and HELP Acts are critical in Haiti's recovery and will help create sustainable support for Haiti's economy.

Haiti has signed mutual investment protection treaties or conventions with the U.S. (1953, 1983), France (1973, 1984), Germany (1975), and Canada (1980). The 1983 treaty with the U.S. and Haiti on the Reciprocal Encouragement and Protection of Investment has not yet been ratified. Haiti intends to deepen its regional integration efforts with its neighbors by participating in agreements and treaties with countries in the region. 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), and assumed chairmanship of CARICOM on January 1, 2013. 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 -- a member of CARICOM, but not yet a participant in CSME -- has expressed an interest in participating fully in CSME. In 2009, a new tariff schedule went into effect in Haiti, based on the Haitian government's prior announcement that tariffs would be increased to meet CARICOM requirements. The schedule provides for significant increases in tariffs on many products, averaging between three and a half and five percent. The Haitian government is currently amending the customs code, to align the local tariffs to both CARICOM and WTO standards.

15. OPIC and Other Investment Insurance Programs

The Overseas Private Investment Corporation (OPIC) offers insurance against political risks and financing programs for U.S. investments in Haiti. OPIC financing includes two programs: direct lending and investment guarantees. Direct loans are available to investment projects sponsored by or significantly involving U.S. small businesses. Investment guarantees are available to U.S. eligible investors of any size. OPIC has invested more than USD 223 million in 78 projects in Haiti over 40 years, in infrastructure, renewable resources, and other sectors.

OPIC has an on-lending facility with Citibank available to several Caribbean countries, including Haiti. OPIC participation in this facility is through loan guarantees totaling USD 100 million, with up to 20 percent of this amount available for Haiti. The OPIC risk share for the facility ranges from 25 to 75 percent for each loan.

Haiti is a member of the WB's Multilateral Investment Guarantee Agency (MIGA). MIGA guarantees investments against non-commercial risks and facilitate access to funding sources including banks and equity partners for investors.

16. Labor

Haiti's apparel industry has expanded in recent years, and now counts several local and foreign manufacturers, including U.S., Dominican, and Korean investors, which produce a wide range of clothing articles. The sector has notable strengths and advantages, such as an abundant workforce, duty-free access to the U.S. market, and a program implemented by the International Labor Organization's Better Work program that ensures good working conditions in factories. Measures are currently underway to enhance the technical skills of the Haitian workforce. In 2010, a USAID-funded Haitian Apparel Center was set up by TC2, a U.S. based firm specialized in apparel vocational training, with the capacity to train 2,000 sewing workers per year. The construction of an additional apparel training center in the Caracol Industrial Park in Northern Haiti is being funded by the South Korean International Cooperation Agency.

Labor unions are generally receptive to investment that creates new jobs, and support from the international labor movement including the AFL-CIO and ITUC is building the capacity of unions to represent workers and engage in social dialogue. As of December 2013, the Ministry of Labor and Social Affairs is revising a new labor code that will be more in compliance with international labor standards.

Labor-management relations in Haiti have at times been strained. In some cases, however, industries have autonomously implemented good labor practices. For example, the apparel assembly sector established its own voluntary code of ethics to encourage its members to adopt good labor practices. In addition to local entities, the International Labor Organization (ILO) has an office in Haiti and operates an ongoing project with the assembly industry to improve productivity through improvement in working conditions. In 2009, the ILO officially launched the Better Work Program, designed to ensure compliance with labor standards and create jobs in the garment sector in Haiti over the next ten years. Better Work Haiti's biannual report is available at http://betterwork.org/haiti/?cat=7.

17. Foreign-Trade Zones/Free Ports

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 during which there is 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 their 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 a 617-acre Caracol Industrial Park (CIP) mixed industrial zone located in proximity to the town of Caracol in Haiti's northern region. In 2012, two companies began operating in CIP: the Korean garment company S&H Global and a Haitian paint manufacturer, Peinture Caraibe. A Dominican jeans manufacturer and a Haitian paint producer began operations in 2013, while several other companies including a fragrance and cosmetics manufacturer, a steel producer, and a Haitian garment manufacturer are slated to commence in 2014.

In addition, 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. The project, partly funded by the Netherlands, is expected to generate more than 380,000 jobs and 100,000 home sites in Haiti over the next two decades following implementation. The Haitian government is currently working on developing an IEZ law and the regulatory framework to pilot the program under a public-private partnership approach.

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

OAS trade sanctions in 1991 and a comprehensive UN trade embargo in 1994 led to significant divestment of foreign holdings. Since the lifting of international sanctions in 1994, new foreign direct investment (FDI) has been limited. A large increase in FDI in 2006 occurred due to cellular phone company Digicel's investments in the telecommunications sector. FDI inflows were very limited in 2008 and 2009, but have risen tremendously since 2011, with new investments in the construction, transportation, manufacturing, and hotel industries. Total FDI inflows amounted to USD 119 million in 2011 and USD 156 million in 2012. FDI inflows went down to USD 118 million in 2013, however the Ministry of Economy and Finance foresees an increase of FDI inflows in 2014, up to USD 150 million.

TABLE 2: Key Macroeconomic data, U.S. FDI in Haiti

	Year	Amount	Source
Economic Data			
Nominal GDP (millions USD)	2013	8,458	Haiti Statistical Unit (IHSI); IMF
Foreign Direct Investment			
FDI inflows in Haiti	2013	118	IMF
Total Stock of FDI in Haiti (millions USD)	2013	1,024	Haiti's Central Bank; IMF
Total Stock of FDI as % GDP	2013	12	

Statistics on direct foreign investment by country of origin and sector are not available. Detailed and reliable statistics on total investment are also difficult to retrieve.

Major Foreign Investors

U.S. Companies:

- American Airlines
- Delta Airlines
- Spirit Airlines
- Citibank
- Avis Rent-a-Car
- Radio Shack
- Dominos Pizza
- Fox River Caribe
- Compagnie de Tabac Comme Il Faut (Luckett Inc.)
- Seaboard Marine
- Crowley Maritime
- Continental Grain

- Newmont Mining
- The Sol Group (Puerto Rico)
- Quick Response Manufacturing
- Western Union
- Culligan
- Ashbritt
- TOMS Shoes
- Marriott International
- Best Western Hotels
- JetBlue Airways
- SAFI Apparel

Other countries:

- Elf Acquitaine (France)
- Scotia Bank – Air Transat (Canada)
- Royal Caribbean (UK/Norway)
- Digicel (Ireland)
- Total (France)
- Viettel (Vietnam)
- Insel Air (Curacao)
- Empresas Estrella (Dominican Republic)
- S&H Global (South Korea)
- DHL (Germany)
- Occidental Hotels (Spain)
- NH Hotels (Spain)

Resident U.S. citizens own light manufacturing assembly sector plants in Haiti. Other manufacturing plants operate as subsidiaries of U.S. manufacturing companies. The Haitian government does not consider these firms as major investors since they generally occupy leased facilities, and capital investment is often limited to sewing machines and office equipment. Some smaller agribusiness enterprises and hotels, partly owned by U.S. citizens, also operate in 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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