

# Honduras

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RISK & COMPLIANCE REPORT

DATE: March 2017

## Executive Summary - Honduras

<b>Sanctions:</b>	None
<b>FAFT list of AML Deficient Countries</b>	No
<b>Higher Risk Areas:</b>	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) Failed States Index (Political Issues)(Average Score) International Narcotics Control Majors List
<b>Major Investment Areas:</b>  <b>Agriculture - products:</b> bananas, coffee, citrus, corn, African palm; beef; timber; shrimp, tilapia, lobster  <b>Industries:</b> sugar, coffee, woven and knit apparel, wood products, cigars  <b>Exports - commodities:</b> apparel, coffee, shrimp, automobile wire harnesses, cigars, bananas, gold, palm oil, fruit, lobster, lumber  <b>Exports - partners:</b> US 40%, Germany 9.7%, El Salvador 6%, Belgium 5.9%, Guatemala 4.5%, Nicaragua 4.1% (2012)  <b>Imports - commodities:</b> machinery and transport equipment, industrial raw materials, chemical products, fuels, foodstuffs  <b>Imports - partners:</b> US 44.3%, Guatemala 8.5%, China 6%, El Salvador 5.6%, Mexico 5.5% (2012)	
<b>Investment Restrictions:</b>	

The Honduran government is generally open to foreign investment, with limited restrictions and performance requirements.

Majority ownership by Honduran citizens is required for companies that wish to take advantage of the Agrarian Reform Law, engage in commercial fishing, forestry, or local transportation activities, serve as representatives, agents, or distributors for foreign companies, or operate radio and television stations.

Government authorization is required for both foreign and domestic investments in the following areas:

- Basic health services,
- Telecommunications,
- Generation, transmission, and distribution of electricity,
- Air transport,
- Fishing, hunting and aquaculture,
- Exploitation of forestry resources,
- Agricultural and agro-industrial activities exceeding land tenancy limits established by the Agricultural Modernization Law of 1992 and the Land Reform Law of 1974,
- Insurance and financial services,
- Private education services, and
- Investigation, exploration, and exploitation of mines, quarries, petroleum and related substances.

Prohibition of foreign ownership of land within 40 kilometers of international borders and shorelines although Honduran law permits foreign individuals to purchase properties close to shorelines in designated "tourism zones."

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## Section 1 - Background

Once part of Spain's vast empire in the New World, Honduras became an independent nation in 1821. After two and a half decades of mostly military rule, a freely elected civilian government came to power in 1982. During the 1980s, Honduras proved a haven for anti-Sandinista contras fighting the Marxist Nicaraguan Government and an ally to Salvadoran Government forces fighting leftist guerrillas. The country was devastated by Hurricane Mitch in 1998, which killed about 5,600 people and caused approximately \$2 billion in damage. Since then, the economy has slowly rebounded.



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

### FATF status

Honduras is no longer on the FATF List of Countries that have been identified as having strategic AML deficiencies

### Latest FATF Statement - 16 February 2012

The FATF welcomes Honduras' significant progress in improving its AML/CFT regime and notes that Honduras has largely met its commitments in its Action Plan regarding the strategic deficiencies that the FATF had identified in February 2010. Honduras is therefore no longer subject to FATF's monitoring process under its on-going global AML/CFT compliance process. Honduras will work with CFATF as it continues to address the full range of AML/CFT issues identified in its Mutual Evaluation Report, and further strengthen its AML/CFT regime.

### Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Honduras was undertaken by the Financial Action Task Force (FATF) in 2016. According to that Evaluation, Honduras was deemed Compliant for 13 and Largely Compliant for 17 of the FATF 40 Recommendations.

### Key Findings from latest Mutual Evaluation Report (2016):

#### Risks and General Situation

The high levels of organized crime in Honduras, mainly related to drug trafficking activities, extortion and human trafficking by criminal groups, both national and transnational, especially drug cartels and street gangs or "maras", are the main money laundering (ML) threats.

Moreover, the high levels of corruption among public institutions give this phenomenon a cross-cutting impact for ML and Terrorist Financing (TF) risk, being corruption a threat and a structural factor that contributes to the materiality of ML/TF offenses.

Designated Non-Financial Businesses and Profession (DNFBPs) are especially vulnerable for money laundering purposes given their recent incorporation as obliged subjects and the lack of effective supervision. Besides, an important vulnerability identified is with regard to the

appropriate record keeping and updated data of legal persons and, therefore, legal persons can be used to carry out ML activities.

Evidently, the main risks arise from organized crime. Given this situation, the resources of the Honduran authorities are mainly destined to attack organized crime and the ML that results from it. Meanwhile the terrorism represents a lesser threat for the country. Regarding TF, the risk is perceived as low.

Nevertheless, since 2010, and especially since 2014, the authorities of the country have been issuing regulations and legislations aimed at addressing the detected situations. Additionally, new agencies have been created to fight organized crime, evasion and extortion, as well as inter-institutional agreements have been developed, which shows the commitment and the different strategies being implemented to mitigate the risks identified. Moreover, different bodies have been guided to strengthen international cooperation as a means to fight organized crime.

### **Key Findings**

Honduras has made efforts to identify and understand the ML/TF risks to which it is exposed. The risks identified in the National Risk Assessment (NRA), are, to certain extent, related to the policies defined in previous documents, such as the Vision of the Country 2010-2038 and the Plan of the Nation 2010-2022. However, there are shortcomings that must be addressed in the short term and which are related to the disclosure of the NRA's results and the communication with the private sector, especially regarding DNFbps. Finally, the national strategy against ML/TF risks should be formalised.

Although there are some inter-institutional cooperation and collaboration agreements among the relevant Honduran agencies, there are still several informal channels that should be structured for adequate coordination. At the same time, some cooperation and coordination mechanisms should be extended to include combating the financing of proliferation of weapons of mass destruction (FPWMD).

The level of risk of terrorism and TF is understood as low by the authorities in Honduras. The current legal system enables Honduras to judge and punish those who commit or attempt to commit such acts.

There are shortcomings in the implementation and supervision of TF preventive measures by DNFbps and non-profit organizations (NPOs), mainly those related to the compliance with the United Nations Security Council (UNSC) Resolutions that impose sanctions for terrorism and TF.

From a technical compliance and effectiveness point of view, the prevention of and combat against the FPWMD must be developed to reach the minimum compliance levels with the relevant Recommendations.

There is a marked difference between the implementation and knowledge of preventive measures among financial institutions and DNFbps. Until the recent legislative modifications, DNFbps had no clear AML/CFT obligations, therefore they did not show any implementation of preventive measures, which affected the effectiveness. Meanwhile, in general terms, it was evident that financial institutions understand their risks and obligations and that mitigation measures implemented are proportionate to their risks.

Honduras has an authorization granting regime for all segments of the financial sector, which includes “fit and proper” tests. Nevertheless, there are shortcomings in the non-financial sector. Effective, proportionate and dissuasive sanctions have been applied to obliged subjects of the financial sector. However, at the time of the on-site visit, DNFBPs had not been supervised and, nor sanctions had been applied to this sector.

Honduras has significant deficiencies regarding the identification of beneficial ownership of legal persons. Information regarding the creation and the operation of the different types of legal persons that can be incorporated in Honduras is not easily accessible. The information is not unified, complete or updated. Moreover, the incorporation of irregular companies is allowed, as well as the transfer of nominative and bearer shares, without greater controls regarding beneficial ownership.

With regard to international cooperation, Honduras has ratified several international instruments regarding the fight against ML/TF, for which different central authorities have been designated depending on the treaty. Despite not having a unique central authority, Honduras has proper statistics regarding the cooperation received and provided, especially with countries of the Central American region. Additionally, the regulation enables international cooperation regarding ML/TF offenses, among others. These laws include provisions that allow the freezing and confiscation of property of people being investigated for such offenses in Honduras. Nevertheless, there are no relevant provisions to share said property with foreign countries.

As regards extradition, the Honduran legal framework enables this type of collaboration for offenses such as drug trafficking, terrorism, organized crime, money laundering, and serving as figurehead. Moreover, several people have been extradited to the United States due to drug trafficking since 2014.

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

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

### OVERVIEW

Honduras is not an important regional or offshore financial center. Money laundering in Honduras continues to stem primarily from significant narcotics trafficking throughout the region. Human smuggling of illegal migrants into the United States, extortion, kidnapping, and public corruption also generate significant amounts of laundered proceeds.

During 2016, the National Banking and Insurance Commission (CNBS) issued some of the regulations needed to implement the 2015 revisions to the AML law, but additional regulations are needed. Honduras also has developed and is implementing a national AML strategy.

The FIU staff needs additional training, and the FIU should improve its capacity to develop and disseminate money laundering typologies. Key players within the AML regime should

seek to improve interagency coordination.

## **VULNERABILITIES AND EXPECTED TYPOLOGIES**

Money laundering in Honduras derives from both domestic and foreign criminal activity. Honduras' geographic location makes it an ideal haven for transnational organized crime groups, including human and drug trafficking organizations. The majority of proceeds are suspected to be controlled by local drug trafficking organizations and transnational organized crime syndicates. A significant amount of laundered proceeds passes directly through the formal banking system. Money laundering also occurs to an increasing extent in the non-financial sector. Law enforcement has detected large-scale money laundering activities in the automobile and real estate sectors and, to a lesser extent, in remittance companies, currency exchange houses, the construction sector, and many other kinds of businesses. Another area of vulnerability is the legality of bearer shares, which present a significant money laundering challenge. Additionally, TBML is a growing problem.

The Central America Four Agreement among El Salvador, Guatemala, Honduras, and Nicaragua allows for free movement of citizens of these countries across their respective borders without visas; however, citizens can be subject to immigration or customs inspections. The agreement represents a vulnerability of each country for the cross-border movement of contraband and proceeds of crime.

The country's lack of resources and capacity to effectively and efficiently investigate and analyze complex financial transactions, when combined with wide-scale corruption within the law enforcement and judicial sectors, contribute to a favorable climate for significant money laundering. There is smuggling of bulk cash, liquor, firearms, gasoline, clothes, illegally caught lobster, and cigarettes.

## **KEY AML LAWS AND REGULATIONS**

CNBS developed a strategic and operational plan to improve its supervisory capacity, including by establishing a new AML/CFT risk management unit. In 2015, Honduras issued regulations relating to DNFPBs and is developing a DNFBP registry. Effective May 28, 2016, the CNBS issued some of the implementing regulations for the 2015 reforms to the money laundering law. Honduras has comprehensive CDD and STR regulations.

Honduras can exchange information in connection with narcotics investigations and proceedings with the United States under appropriate treaties and conventions.

Honduras is a member of the GAFILAT, a FATF-style regional body.

## **AML DEFICIENCIES**

Although Honduras has developed a national AML strategy, Honduras needs to implement a risk-based approach and must focus on effectively and efficiently implementing its AML regime.

Honduras is taking steps to implement a new risk-based approach. It has conducted a

national risk assessment with the assistance of an international donor. The government should make the national risk assessment public. The government has begun to work on creating a degree program, in coordination with a Honduran university, on money laundering and counter-terrorist financing.

Honduras is not subject to any U.S. or international sanctions or penalties.

## **ENFORCEMENT/IMPLEMENTATION ISSUES AND COMMENTS**

Honduras cooperates with foreign governments. On August 23, 2016, following up on the suggestion of President Juan Orlando Hernandez, the presidents of the Northern Triangle countries of Honduras, Guatemala, and El Salvador signed an agreement in which they agreed to fight together the threats and risks to the region caused by organized crime. Under the agreement, the countries will form a tri-national force to fight gang crime. The countries will also create inter-institutional groups that will work on the borders of the Northern Triangle. A goal of the agreement is to give the Northern Triangle countries the ability to act more quickly and to work together as a team in a much more organized manner so that they can better fight organized crime.

During 2016, Honduran prosecutors conducted 24 ML-related prosecutions and obtained seven convictions. Honduran investigators and prosecutors continue to be challenged by complex money laundering cases.

The FIU should provide additional training for its staff members on a number of topics including, but not limited to, the financial products available at financial institutions, international standards, analysis of financial data, report writing, relevant Honduran laws, and the analysis of suspicious and cash transactions reports. The FIU should improve its capacity to detect and describe money laundering typologies. It should disseminate information on typologies to regulated entities and provide feedback to those entities on reports they submit so that filed reports contain complete and accurate responses to requests for information. Key players within relevant law enforcement agencies and key agencies should seek to improve coordination with respect to implementation of the AML regime.

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

According to the US State Department, Honduras conforms with regard to all government legislation required to combat money laundering

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

Honduras 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**

Honduras is not considered to be an Offshore Financial Centre

## US State Dept Narcotics Report 2017 (introduction):

### Introduction

Honduras is a major transit country for cocaine, as well as for some chemical precursors. The United States estimates that approximately 90 percent of the cocaine trafficked to the United States in 2016 first transited through the Mexico/Central America corridor. According to U.S. estimates, the volume of cocaine that transited Honduras to the United States over this period remained approximately the same as in 2015, equating to approximately three to four metric tons (MT) per month. The vast majority of cocaine that transits Honduras arrives via maritime conveyance. In 2016, the U.S. government estimated that the number of aircraft suspected of smuggling cocaine into Honduras decreased by approximately 30 percent from the previous year, to 35 in total. Nevertheless, approximately 80 percent of all suspected drug flights departing from South America first landed in Honduras.

The eastern Caribbean region of Honduras remained a primary landing zone for drug traffickers operating by land and sea. The region suits narcotics trafficking due to its remoteness, limited infrastructure, lack of government presence, and weak law enforcement institutions. Drug transshipment to points north from the Caribbean coast is facilitated by maritime and riverine traffic, subsequent flights north, and overland movement.

Honduras continued to suffer from a high homicide rate in 2016, though the rate has fallen from its peak of 86 per 100,000 people in 2011. The Violence Observatory at the National Autonomous University of Honduras estimated the 2016 murder rate at 59.1 per 100,000 people.

Criminal street gangs such as Mara Salvatrucha (MS-13) and 18<sup>th</sup> Street do not yet appear to be a formal part of the transnational drug logistics chain, except as facilitators of trafficking through Honduras. These gangs are typically involved in local drug distribution, extortion, kidnapping, and human trafficking. Nevertheless, their participation in transshipment leads to an increasing likelihood of entering the drug retail market, as they are often paid in product for their services.

### Conclusion

The Government of Honduras moved forward in 2016 to address longstanding deficiencies in its civilian security and justice institutions. In response, the United States recalibrated its assistance to give added impetus to Honduran government efforts to reform its civilian police force and improve prosecutorial capacity. The Honduran government took steps to disrupt and dismantle drug trafficking organizations, including extraditing high-profile drug traffickers, seizing the assets of leaders of the drug trafficking organizations, and deploying security forces to under-governed parts of the country. The results are visible: rates of homicide, kidnapping, and extortion were down from 2015, and citizens' impressions of the HNP are improving.

### **US State Dept Trafficking in Persons Report 2014 (introduction):**

Honduras is classified a Tier 2 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.

Honduras is principally a source and transit country for men, women, and children subjected to sex trafficking and forced labor; to a much lesser extent, Honduras is a destination for women and girls from neighboring countries subjected to sex trafficking. Honduran women and children are exploited in sex trafficking within the country and in other countries in the region, particularly Mexico, Guatemala, El Salvador, and the United States. NGOs report that LGBT Hondurans continue to be vulnerable to sex trafficking. Honduran men, women, and children working in agriculture, street vending, and domestic service within the country are vulnerable to forced labor. Honduran men, women, and children are also subjected to forced labor in other countries, particularly in Guatemala, Mexico, and the United States. Indigenous Miskito boys from Honduras have been identified as potential trafficking victims on a fishing vessel in Jamaican waters. NGOs report that gangs and criminal organizations exploit girls in sex trafficking, and coerce and threaten young males in urban areas to transport drugs, engage in extortion, or to be hit men. Honduras is a destination for child sex tourists from Canada and the United States. Latin American migrants transit Honduras en route to northern Central America and North America; some of these migrants are subsequently exploited in sex trafficking and forced labor.

The Government of Honduras does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. During the reporting period, the government significantly increased the number of law enforcement officers focused on human trafficking and dedicated the equivalent of approximately \$200,000 to the interagency anti-trafficking commission, reflecting increased political will. Authorities achieved the first convictions for trafficking involving adult victims. Law enforcement efforts, however, continued to be inadequate and primarily focused on child sex trafficking. The government relied on civil society organizations to provide the vast majority of services to victims and lacked guidelines to identify trafficking victims among vulnerable populations, including children engaged in the worst forms of child labor. Data collection on law enforcement and victim identification efforts continued to be weak.

### **US State Dept Terrorism Report 2009**

The Honduran government continued to implement steps in accordance with its 2007 National Security Strategy, which included counterterrorism as an objective, and stressed regional and international cooperation. For example, in November, the Honduran Armed Forces (HOAF) and the Honduran National Police (HNP) took steps towards the creation of a Joint Interagency Task Force. This joint task force should improve inter-agency intelligence cooperation and should decrease illicit trafficking and minimize terrorist threats within the country.

Organized crime and illicit trafficking organizations and networks were strong and potentially ripe for exploitation by terrorists intent on entering and attacking the United States. While

there was no conclusive evidence that terrorist groups worked with illicit trafficking organizations, the United States continued to assist the HOAF and HNP with their counterterrorism efforts in order to prevent terrorist groups from exploiting illicit trafficking networks. The Honduran military lacked sufficient resources, and the police and judiciary were spread thin, poorly trained, and susceptible to threats and corruption. In the first half of the year, before a coup d' etat took place, the United States continued to provide the HOAF and HNP with training, equipment, and base construction, which dramatically improved their ability to interdict illicit trafficking and protect the country against terrorist threats. In response to the June 28 coup, however, the U.S. government suspended all counterterrorism training pending restoration of the democratic, constitutional order.

There were no known instances of terrorist organizations using Honduras's financial system to deposit or launder funds. Prior to the coup, Honduran cooperation with the United States on combating terrorist financing was strong. The Honduran Banking and Insurance Commission, instructed by the Ministry of Foreign Affairs, promptly sent freeze orders to the entire regulated financial sector every time the United States amended Executive Order lists. Financial entities, particularly the commercial banks, undertook the requested searches for accounts by terrorist entities. There were no amendments to the Executive Order lists after the coup that required notification of the Honduran government.

There was no indication of terrorist groups using illegal immigration networks. Over the past five years, however, smuggling rings have been detected moving people from East Africa (in particular Somalia in 2009), the Middle East, and Southwest Asia to Honduras or through its territory. Nationals of countries without Honduran visa requirements, especially Ecuador and Colombia, were involved in schemes to transit Honduras, often with the United States and Europe as their final destination. Foreign nationals have successfully obtained valid Honduran identity cards and passports under their own or false identities.

## International Sanctions

None applicable

## Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	30
World Governance Indicator – Control of Corruption	35

### US State Department

Corruption plays a role in many business dealings in Honduras. U.S. businesses and citizens have found corruption in the public sector and the judiciary to be a significant constraint to successful investment in Honduras. Corruption is pervasive in government procurement, issuance of government permits, real estate transactions (particularly land title transfers), performance requirements, and the regulatory system. The telecommunications and energy sectors have proven particularly problematic.

Both the Millennium Challenge Corporation (MCC) and Transparency International ranked Honduras' control of corruption as poor. For the three MCC indicators, a country must perform better than the majority of its peers in order to receive a passing score (a number greater than 50 percent in the parentheses represents a passing score).

#### Honduras's Other Rankings on Key Corruption Indicators

Measure	Year	Index/Ranking
World Bank Doing Business	2014	127/189
MCC Government Effectiveness	FY 2014	-0.33 (27%)
MCC Rule of Law	FY 2014	-0.71 (4%)
MCC Control of Corruption	FY 2014	-0.37 (15%)

### Corruption and Government Transparency - Report by Global Security

In its 2012 Corruptions Perceptions Index, Transparency International ranked Honduras 133rd out of 176 countries (1 being the least corrupt).

Many U.S. businesses have expressed concern about corruption in Honduras, particularly in the public sector. Some U.S. firms and citizens have found corruption, including in the

judiciary, to be a significant concern and a constraint to successful investment in Honduras. Corruption is pervasive in government procurement, issuance of government permits, real estate transactions (particularly land title transfers), performance requirements, and the regulatory system. The telecommunications and energy sectors have proven particularly problematic.

Two codes regulate justice and provide for penalties against corruption: the Penal Procedures Code (PPC) and the Penal Code (PC). In 2002, a reform of the PPC entered into force, changing the criminal judicial system from a traditional written inquisitorial trial system to an adversary, oral, and public trial system. The revised PPC is improving justice and accountability in a number of ways, including increased transparency in the criminal justice system.

Multiple government entities share responsibility for fighting corruption: the Public Ministry, under the direction of the Attorney General (Fiscal General); the Superior Accounting Tribunal (TSC), which brings together the Comptroller General of the Republic (CGR), the Directorate of Administrative Probity (ethics office) and the Office of State Assets under the direction of three members selected by Congress.

In 2011, the government introduced a 4-year inter-institutional transparency and anti-corruption plan (2011-2014), with implementation to be overseen by the Office of the Presidency, which seeks to reform government hiring and procurement, increase civil society's participation in budget processes and institutional mechanisms, and promote social awareness of the impact that corruption has on the country's development. In 2012, the government announced it would seek to send the country's first-ever anticorruption law for Congress' approval in the first quarter of 2013.

Bribery is a criminal act in Honduras and, depending on the degree of the offense, is subject to fines or incarceration. Honduras ratified the United Nations Convention against Corruption in 2005 and is a signatory of the Inter-American Convention against Corruption overseen by the Organization of American States. A bribe to a foreign official is also a criminal act under U.S. law (the Foreign Corrupt Practices Act).

## Section 3 - Economy

Honduras, the second poorest country in Central America, suffers from extraordinarily unequal distribution of income, as well as high underemployment. While historically dependent on the export of bananas and coffee, Honduras has diversified its export base to include apparel and automobile wire harnessing. Nearly half of Honduras's economic activity is directly tied to the US, with exports to the US accounting for 30% of GDP and remittances for another 20%. The US-Central America-Dominican Republic Free Trade Agreement (CAFTA-DR) came into force in 2006 and has helped foster foreign direct investment, but physical and political insecurity, as well as crime and perceptions of corruption, may deter potential investors; about 70% of FDI is from US firms. The economy registered modest economic growth of 3.0%-4.0% from 2010 to 2012, insufficient to improve living standards for the nearly 65% of the population in poverty. An 18-month IMF Standby Arrangement expired in March 2012 and was not renewed, due to the country's growing budget deficit and weak current account performance. Public sector workers complained of not receiving their salaries in November and December 2012, and government suppliers are owed at least several hundred million dollars in unpaid contracts. The government announced in January 2013 that loss-making public enterprises will be forced to submit financial rescue plans before receiving their budget allotments for 2013.

### **Agriculture - products:**

bananas, coffee, citrus, corn, African palm; beef; timber; shrimp, tilapia, lobster

### **Industries:**

sugar, coffee, woven and knit apparel, wood products, cigars

### **Exports - commodities:**

apparel, coffee, shrimp, automobile wire harnesses, cigars, bananas, gold, palm oil, fruit, lobster, lumber

### **Exports - partners:**

US 40%, Germany 9.7%, El Salvador 6%, Belgium 5.9%, Guatemala 4.5%, Nicaragua 4.1% (2012)

### **Imports - commodities:**

machinery and transport equipment, industrial raw materials, chemical products, fuels, foodstuffs

### **Imports - partners:**

US 44.3%, Guatemala 8.5%, China 6%, El Salvador 5.6%, Mexico 5.5% (2012)

## Banking

Capital markets in Guatemala are weak and inefficient, though there has been some consolidation and restructuring as a result of financial reforms approved in 2002. The Guatemalan banking system is comprised of 18 commercial banks, which held an estimated USD 18.3 billion in assets in 2010. The five largest banks control about 79 percent of total assets. In addition, there are 15 non-bank financial institutions specializing in investment operations, two licensed exchange houses, 17 insurance companies, 11 financial guarantors, 7 credit card issuers, 15 bonded warehouses, and 8 offshore banks which, by law, are affiliated with domestic financial groups. The Superintendent of Banks is charged with regulating the financial services industry.

Financial regulations passed by the Guatemalan Congress in April 2002 have increased the scope of supervision and brought local practices more in line with international standards. The 2002 regulations included Banking and Financial Groups Law, a Financial Supervision Law and a Central Bank Law.

The Guatemalan Congress also passed strong anti-money laundering legislation in December 2001. The Financial Action Task Force removed Guatemala from the list of non-cooperating countries in July 2004. Terrorism finance legislation was passed in August 2005. For more information on the banking system please read the subsection Efficient Capital Markets and Portfolio Investment of the Investment Climate Chapter.

## Stock Exchange

Guatemala's capital markets are weak and inefficient. There is no securities regulator, but rather only a registry that lacks regulatory authority. There is one principal commercial exchange (Bolsa Nacional de Valores) that deals almost exclusively in commercial paper, repos and government bonds. A new capital markets law is being drafted by the Guatemalan Central Bank (Banco de Guatemala) and the Superintendence of Banks with technical assistance from the U.S. Treasury and Securities Exchange Commission. Foreign investors are reported to be minority holders of Guatemalan government external debt. There is no market in publicly traded equities, the absence of which raises the cost of capital and complicates mergers and acquisitions. As of November 2010, borrowers faced a weighted average nominal interest rate of 16 percent, with some banks charging up to 92 percent. Foreigners rarely rely on the local credit market to finance investments.

### Executive Summary

The United States is Honduras' most important economic partner, and the government of Honduras continues to strive to improve the investment climate, yet U.S. companies choosing to invest in Honduras continue to face significant challenges. Over 200 U.S. companies operate in Honduras. Many of them have taken advantage of the opportunities and protections available as a result of Honduras' participation in the Dominican Republic - Central America - United States Free Trade Agreement (CAFTA-DR). The stock of U.S. foreign direct investment in Honduras exceeds \$900 million. Honduras has made notable improvements in market openness as measured by trade freedom, investment freedom, and financial freedom. However, the management of public spending, rule of law concerns, and a high incidence of corruption continue to pose challenges for prospective investors. Honduras' position on major international rankings has declined as a result. The 2014 Heritage Economic Freedom Index gave Honduras a score of 57.1, down 1.3 points from 2013. The World Bank Doing Business 2014 ranked Honduras 127 out of 189 countries, falling two spots from the 2013 report.

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

The United States is Honduras' largest trade and economic partner. U.S. exports to Honduras in 2013 were \$5.3 billion. Exports levels are expected to achieve the National Export Initiative goal of doubling in value, using 2009 as a base year, by the end of the year 2014. The entry into force of CAFTA-DR in 2006 boosted U.S. export opportunities and diversified the composition of bilateral trade. Substantial intra-industry trade now occurs in textiles and electrical machinery, alongside continued trade in traditional Honduran exports such as coffee and bananas. In addition to liberalizing trade in goods and services, CAFTA-DR includes important disciplines relating to investment, customs administration and trade facilitation, technical barriers to trade, government procurement, telecommunications, electronic commerce, intellectual property rights, transparency, and labor and environmental protection.

Moderate economic growth returned to Honduras in 2010-2012 after a sharp downturn in 2009 due to the effects of the international financial and domestic political crises. In 2012, GDP growth rose to 3.3% and the rate of inflation was 5.7%. Foreign direct investment and domestic investment declined in 2009 but has recovered. The stock of U.S. foreign direct investment (FDI) in Honduras was \$930 million in 2011. U.S. FDI in Honduras is mostly in the manufacturing sector.

The Honduran government is generally open to foreign investment, with limited restrictions and performance requirements. Low labor costs, proximity to the U.S. market, and the Caribbean port of Puerto Cortés make Honduras attractive to investors. At the same time, however, Honduras' investment climate is hampered by high levels of crime, a weak judicial system, corruption, low educational levels, and poor transportation and other infrastructure.

The Constitution of Honduras requires that all foreign investment complement, but not substitute for, national investment. The legal framework for investment in Honduras is provided by the Honduran Constitution, the investment chapter of CAFTA-DR, a self-executing international agreement that takes precedence over most domestic law, and by

the portions of the Law for the Promotion and Protection of Investments passed in 2011 that are not covered by CAFTA-DR. Combined, Honduras' legal obligations guarantee national treatment and most favored nation treatment for U.S. investments in most sectors of the Honduran economy and, compared to earlier legislation, include enhanced benefits in the areas of insurance and arbitration for domestic and foreign investors. CAFTA-DR has equal status in Honduras with the Constitution, in most sectors of the Honduran economy. Several sections of the 2011 Investment Law, including the creation of an Investment Council, have not been implemented or remain stalled because governing regulations have not been approved by the Honduran Congress.

The 2011 Investment Law requires that all local and foreign direct investment be registered with the Investment Office in the Secretariat of Industry and Commerce. Upon registration, an investor is issued investment certificates, which provide investment protection under the law and guarantee investors' international arbitration rights, further provided for under CAFTA-DR. CAFTA-DR establishes a dispute settlement mechanism, as detailed in the Investment Chapter. An investor who believes the government has not honored a substantive obligation under CAFTA-DR may request binding international arbitration. Proceedings and documents submitted to substantiate the claim are generally open to the public.

The 2011 Investment Law does not limit foreign ownership of businesses, except for those specifically reserved for Honduran investors, e.g., small firms with capital less than 150,000 lempiras (about \$7538). For all investments, at least 90 percent of a company's labor force must be Honduran, and at least 85 percent of the payroll must be paid to Hondurans. Majority ownership by Honduran citizens is required for companies that wish to take advantage of the Agrarian Reform Law, engage in commercial fishing, forestry, or local transportation activities, serve as representatives, agents, or distributors for foreign companies, or operate radio and television stations.

Additionally, government authorization is required for both foreign and domestic investments in the following areas:

- Basic health services,
- Telecommunications,
- Generation, transmission, and distribution of electricity,
- Air transport,
- Fishing, hunting and aquaculture,
- Exploitation of forestry resources,
- Agricultural and agro-industrial activities exceeding land tenancy limits established by the Agricultural Modernization Law of 1992 and the Land Reform Law of 1974,
- Insurance and financial services,
- Private education services, and
- Investigation, exploration, and exploitation of mines, quarries, petroleum and related substances.

The Honduran mining sector has been closed to new investment since 2005, following a Supreme Court decision striking down portions of a 1999 mining law. The Honduran Congress passed a new mining law in January 2013 which should allow the issuance of new mining concessions as soon as the Honduran Presidency adopts recommended regulations for implementation.

Below are several international rankings that directly affect competition, as provided by the Millennium Challenge Corporation (MCC), Transparency International (TI), the Heritage Economic Freedom index and the World Bank's annual Doing Business report.

**TABLE 1:**

Measure	Year	Rank or value
TI Corruption Index	2013	26.0/100, 140 of 177
Heritage Economic Freedom	2014	57.1/100, 112 of 177
World Bank Doing Business	2014	58.11/100, 127 of 189

**TABLE 1B - Scorecards:** The Millennium Challenge Corporation (MCC), 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) or \$4,085 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/documents/reports/reference-2013001142401-fy14-guide-to-the-indicators.pdf>

MCC indicators measure Honduras's performance compared to other countries in the Lower Middle Income Country category. For most of the indicators, a country must perform better than the majority of its peers in order to receive a passing score. For those indicators, a number greater than 50 percent in the parentheses represents a passing score. For other indicators, such as inflation, countries must achieve a specified level of performance.

Measure	Year	Rank or value
MCC Gov't Effectiveness	FY 2013	-0.13 (44%)
MCC Rule of Law	FY 2013	-0.44 (16%)
MCC Control of Corruption	FY 2013	-0.28 (16%)
MCC Fiscal Policy	FY 2013	-3.5 (50%)
MCC Trade Policy	FY 2013	77.1 (62%)

MCC Regulatory Quality	FY 2013	0.23 (75%)
MCC Business Start Up	FY 2013	0.911 (28%)
MCC Land Rights Access	FY 2013	0.61 (32%)
MCC Natural Resource Prot	FY 2013	94.8 (78%)
MCC Access to Credit	FY 2013	54 (94%)
MCC Inflation	FY 2013	6.8 (<15%)

The Honduran government's eRegulations Web site makes information on Honduran regulations available online. This site may be a useful resource for prospective investors: <http://honduras.eregulations.org/>

## 2. Conversion and Transfer Policies

Article 10.8 of CAFTA-DR ensures the free transfer of funds related to a covered investment. Local financial institutions freely exchange U.S. dollars and other foreign currencies. Foreigners with a valid passport find that opening bank accounts is straight-forward, if cumbersome. For deposits exceeding the maximum deposits specified for different account types (corporate or small-medium enterprises), documentation verifying the fund's origin is required.

The 2011 Investment Law guarantees foreign investors access to foreign currency needed to transfer funds associated with their investments in Honduras.

This includes:

- Imports of goods and services necessary to operate,
- Payment of royalty fees, rents, annuities and technical assistance, and
- Remittance of dividends and capital repatriation.

In 2011, the Central Bank of Honduras (BCH) replaced the de facto fixed exchange rate that had been in place since 2005 with a crawling peg that allows the lempira to fluctuate by 7 percent against the U.S. dollar in either direction per year. The BCH mandated that the crawling peg is subject to the further restriction that any daily price be no greater than 100.075 percent of the average for the prior 7 daily auctions. This secondary restriction limits devaluation to a maximum of approximately 4.8 percent annually (assuming the maximum devaluation daily). As of July 2014, the exchange rate is 20.96 lempiras to the U.S. dollar, according to data from the Central Bank of Honduras.

The Central Bank uses an auction system to regulate the allocation of foreign exchange. Regulations published in 2007 governing the auction system established the following:

- The base price is established every five auctions according to the differential between the domestic inflation rate and the inflation rate of the main commercial partners of Honduras;

- The procedure to determine the base price is set by the Central Bank's Board of Directors;
- The Board of Directors establishes through resolutions the exchange commission to be charged by the Central Bank and the exchange agencies in their foreign exchange transactions;
- Individuals and corporate bodies can participate in the auction system for dollar purchases, either by themselves or through an exchange agency expressing the offered price in lempiras with a maximum of four decimals. The offers can be no less than \$10,000/ 209,600L, not more than \$300,000/ 6,288,000L for individuals, and cannot be more than \$1.2 million/ 25,152,000L for corporations.

Additional information on the Central Bank's exchange system is available at <http://www.bch.hn>. To date, the U.S. Embassy in Honduras has not received complaints from individuals with regard to converting or transferring funds associated with investments.

### **3. Expropriation and Compensation**

The Honduran government has the authority to expropriate property for purposes of land reform or public use. The National Agrarian Reform Law provides that idle land fit for farming can be expropriated and awarded to indigent and landless persons. The government recognized as legitimate several new expropriation cases in 2012.

Impoverished farmer groups often invade or illegally occupy land owned by private companies and then file for the land under the Agrarian Reform Law with the Honduran National Agrarian Institute (INA). If the land is idle and fit for farming, the government can declare it expropriated. In July 2013, the government passed new legislation regarding recovery and reassignment of concessions on underutilized government assets. Both local and foreign firms are concerned because the new law does not specify how the government will determine whether land is underutilized. The government has not published any implementing regulations for the law, nor has the government indicated any plans to use the law against any private sector firm.

While government expropriation of land owned by U.S. companies is extremely unlikely and rare, disputes related to land seizure actions by squatters are relatively common for both Honduran and non-U.S. foreign landowners, most notably those in the agricultural sector. These occupations have sometimes turned violent, especially in the Bajo Aguan region in the department of Colón. Although several cases were resolved in 2012 with the help of Honduran government-brokered negotiations, many landowners have found pursuing legal avenues to be costly, time consuming, and legally inconclusive. The CAFTA-DR agreement contains provisions in the Investment Chapter designed to protect foreign investors and their investments. Section 10.7 states that no party may expropriate or nationalize a covered investment either directly or indirectly. There are limited public purpose exceptions and the treaty provisions require the expropriating government to pay prompt and adequate compensation.

Compensation for land expropriated under the Agrarian Reform Law, when awarded, is to be paid partly in cash and partly in 15-, 20- or 25-year Honduran government bonds. The portion to be paid in cash cannot exceed \$1,000 if the expropriated land has at least one

building; it cannot exceed \$500 if the land is in use but has no buildings; if the land is not in use, compensation will be paid entirely in 25-year government bonds.

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

CAFTA-DR provides dispute settlement procedures between the United States and Honduras. Honduras has been a member of the ICSID (International Center for the Settlement of Investment Disputes) since March 1989. CAFTA-DR establishes a dispute settlement mechanism, as detailed in the Investment Chapter. An investor who believes the government has not honored a substantive obligation under CAFTA-DR may request binding international arbitration. Proceedings and documents submitted to substantiate the claim are generally open to the public. The agreement provides basic protections, such as nondiscriminatory treatment, limits on performance requirements, the free transfer of funds related to an investment, protection from expropriation other than in conformity with customary international law, a minimum standard of treatment, and the ability to hire key managerial personnel regardless of nationality.

In practice, the Honduran government has a poor record of handling investment disputes, due primarily to an outdated commercial code and a weak judicial system. The Honduran Commercial Code, which was enacted in 1950, is the main legislation that regulates the operations of businesses in the country. The application of the Commercial Code and its regulations falls under the jurisdiction of the Honduran civil court system.

The Civil Procedures Code (CPC), which entered into force in 2010, introduced the use of open, oral arguments for adversarial procedures. The CPC provides for more effective protection of commercial transactions, property rights, and land tenure, as well as a more efficient process for the enforcement of rulings issued by foreign courts.

Despite these codes, U.S. claimants complain about the lack of transparency and the slow administration of justice in the courts. There are also complaints of favoritism, external pressure and bribes within the judicial system. U.S. firms have had difficulty navigating the legal system. Many U.S. citizens also have complained about the quality of legal representation they receive from Honduran attorneys.

Honduras' Conciliation and Arbitration Law (Decree 161-2000) which entered into force in 2001, encourages arbitration and clarifies the procedures under which it takes place. In that same year, Centers for Conciliation and Arbitration were established within the Chambers of Commerce and Industry in Tegucigalpa and San Pedro Sula. The 2011 Investment Law permits investors to request arbitration directly, eliminating the previous requirement to include an arbitration clause in investment contracts. Arbitration and conciliation are generally considered swifter and more cost-effective means of resolving disputes between commercial entities, and there may be the additional advantage that the arbitrator or mediator may have specialized expertise in the technical area involved in the dispute.

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

There are relatively few performance requirements in Honduras. The 2011 Investment Law guarantees to all foreign investors the freedom to export and import, and eliminates the requirement of prior administrative permits and licenses, except for statistical registries and customs procedures.

Under CAFTA-DR, Honduras granted U.S. service suppliers substantial access to its services market, including financial services. Application procedures for service suppliers in all sectors are generally simple, clear and non-discriminatory. Honduras' service sector is widely accessible to foreign companies as evidenced by U.S. companies' participation in the Honduran banking, insurance, and accounting markets. In both the banking and insurance sectors, foreign companies generally operate on equal footing with local companies as long as the foreign company establishes a branch or subsidiary in Honduras. However, there are restrictions on cross-border services and offshore operations. Insurance may not be offered on a cross-border basis, and a foreign bank wishing to operate offshore must establish a representative office in Honduras, which entails cumbersome reporting requirements and procedures. Furthermore, a Honduran branch of a foreign bank may only operate based on its capital in Honduras, not on its global or regional capital.

The Tourism Incentives Law (as revised in 2002) offers tax exemptions for national and international investment in tourism development projects. The law provides income tax exemptions for the first 10 years of the project and permits the duty-free import of goods needed for the project, including publicity materials. To receive benefits, a business must be located in a designated tourism zone to qualify for tax exemptions and duty-free status. Restaurants, casinos, nightclubs and movie theaters and certain other businesses are not eligible for incentives under this law. Foreigners or foreign companies seeking to purchase property exceeding 3,000 square meters in size for tourism or other development projects in designated tourism zones must present an application to the Honduran Tourism Institute at the Ministry of Tourism. In addition to providing the required personal information, the potential buyer must also prove that a contract to buy a specific property exists and that the project is registered with the Honduran Ministry of Tourism. The buyer must also present feasibility studies and plans about the proposed tourism or economic development project.

## **6. Right to Private Ownership and Establishment**

Investors have the right to freely establish, acquire and dispose of interests in business enterprises at market prices under freely negotiated conditions and without government intervention. Private enterprises compete on an equal basis with public enterprises with respect to access to markets, credit and other business operations.

Foreign investors have the right to own property, subject to certain restrictions established by the Honduran Constitution and several laws relating to property rights. This guarantee includes the right to free acquisition, profit, use, disposition and any other right attributable to property ownership. The major exception is the constitutional prohibition of foreign ownership of land within 40 kilometers of international borders and shorelines although Honduran law permits foreign individuals to purchase properties close to shorelines in designated "tourism zones."

The Government of Honduras has simplified administrative procedures for establishing a company in recent years. According to the 2013 World Bank Doing Business Report, the average time required for starting a business in Honduras is 14 days and requires 13 procedures.

## **7. Protection of Property Rights**

Secured interests in property, both movable and real, are recognized under Honduran law. Since 2006, the Chamber of Commerce and Industry of Tegucigalpa (CCIT) has managed

the national mercantile registry. In 2010, secured transaction reform legislation came into effect, creating the legislative framework for movable assets to be used as collateral. Honduras' secured transactions law gives a concession to the CCIT to administer the registry, which began operating in January 2011. As of December 2013, CCIT reported a cumulative amount of 14,499 registered assets, for 2013 there were 6,278 registered assets.

Inadequate land title procedures have led to numerous investment disputes involving U.S. nationals who are landowners. Title insurance is not widely available in Honduras and approximately 80 percent of the privately-held land in the country is either untitled or improperly titled. Resolution of disputes in court often takes years. There have been claims of widespread corruption in land sales, deed filing, and dispute resolution, including claims against attorneys, real estate companies, judges, and local officials. Although some progress has been achieved, particularly in the Bay Islands, the property registration system remains unreliable and represents a major constraint on investment. In addition, a lack of implementing regulations leads to long delays in the awarding of titles in some regions.

The legislative framework for protection of intellectual property rights (IPR), which includes the Honduran copyright law and its industrial property law, is generally adequate, but laws are not always effectively implemented. In these areas, Honduras largely complies with the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement of the World Trade Organization (WTO). However, the illegitimate registration of well-known trademarks has been a problem. Honduran law protects data exclusivity for a period of five years, and protects process patents, but it does not recognize second-use patents. The Property Institute (IP) and Public Ministry handle protection and enforcement of intellectual property rights.

CAFTA-DR [Chapter 15 on Intellectual Property Rights](#) further provides for the protection and enforcement of a range of intellectual property rights, which are consistent with U.S. and international standards as well as with emerging international standards of IPR protection and enforcement. There are also provisions on deterrence of piracy and counterfeiting. Additionally, CAFTA-DR provides authorities the ability to confiscate pirated goods and investigate intellectual property cases on their own initiative.

The Honduran legal framework provides deterrence against piracy and counterfeiting by, for example, requiring the seizure, forfeiture, and destruction of counterfeit and pirated goods and the equipment used to produce them. The law also provides for statutory damages for copyright and trademark infringement, to ensure that monetary damages can be awarded even when losses associated with an infringement are difficult to assign.

The Honduran government lacks the necessary personnel and resources to wage a truly effective campaign against IPR infringement. Although prosecutors have the authority to seize pirated and counterfeit goods when found, they do not have the ability to prosecute cases without a formal written complaint from an injured party. This complicates and prolongs an already lengthy judicial process. Further exacerbating the process is a lack of transparency.

Honduras is a member of the World Intellectual Property Organization (WIPO), and is a party to the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonogram Treaty (WPPT). Honduras signed the World Trade Organization's (WTO) intellectual property (TRIPS) agreement in 2011.

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

List of local attorneys is at: <http://honduras.usembassy.gov/listattorneys.html>

Embassy point of contact: Hal Constantine E-mail: [ConstantineHC@state.gov](mailto:ConstantineHC@state.gov)

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

CAFTA-DR requires that proposed regulations that could impact businesses or investments be published for public comment prior to passage. The Secretariat of Economic Development sometimes publishes draft regulations on its website. However, the Honduran government does not routinely publish regulations before they enter into force and there is no formal mechanism for providing proposed regulations to the public for comment. The lack of a formal notification process prevents most non-governmental groups, including foreign companies, from commenting on proposed regulations.

Regulations must be published in the official government Gazette in order to enter into force. Honduras lacks an indexed legal code, and lawyers and judges must maintain and index the publication of laws on their own. Procedural red tape to obtain government approval for investment activities is very common. Foreign market participants who are represented locally and are members of major business organizations essentially have access to the same information as their Honduran counterparts.

Some U.S. investors have experienced long waiting periods for environmental permits and other regulatory and legislative approvals. Sectors in which U.S. companies frequently encounter problems include infrastructure, telecoms, and energy. Generally, the regulatory requirements are complex and lengthy, and may be influenced by political factors, in addition to potentially requiring Congressional approvals if the time duration exceeds the Presidential term of four years.

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

There are no government restrictions on foreign investors' access to local credit markets. However, the local banking system generally extends only limited amounts of credit. Local banks should not be considered a significant source for start-up capital for new foreign ventures unless they use specific business development credit lines made available by bilateral or multilateral financial institutions, such as the Central American Bank for Economic Integration.

There are a limited number of credit instruments available in the local market. The only security exchange operating in the country is the Central American Securities Exchange (BCV) in Tegucigalpa (<http://www.bcv.hn>), but investors should exercise caution before buying securities listed on the BCV. The Central American Securities Exchange is supervised by the National Banking and Insurance Commission (CNBS). Instruments that theoretically can be traded include bankers' acceptances, repurchase agreements, short-term promissory notes, Honduran government private debt conversion bonds and land reform repayment bonds. However, in practice, the market is almost completely composed of short- and medium-term government securities, and no formal secondary market for these bonds exists. A few banks have placed fixed rate and floating rate notes which have extended out to 3 years in maturity, but outside of the banks' issuances the private sector does not sell debt or corporate stock on the exchange. Any private business is eligible to trade its financial

instruments on the exchange, and firms that participate are subject to a rigorous screening process, including public disclosure and ratings by a recognized rating agency. Historically, traded firms generally have had economic ties to the different business/financial groups represented as shareholders of the exchange, which has led to lax risk management practices and an enduring loss of public confidence in the institution.

The Honduran financial system is comprised of commercial banks, state-owned banks, savings and loans institutions, and financial companies. There are currently 17 commercial banks operating in Honduras of which 10 have majority foreign ownership. There is no off-shore banking in Honduras.

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

Most state-owned enterprises are public utilities, including telephone, electricity, and water as well as commercial ports.

In 2003, the Honduran government opened the telecommunications market for sub-operators to provide services under contract with Hondutel, Honduras's state-owned telephone company. Under this program, foreign and domestic carriers register with Honduras's regulatory body, Conatel, as sub-contractors for Hondutel fixed telephony services. Hondutel officially lost its monopoly on fixed-line telephony services in 2005. Approximately 40 foreign and domestic firms have entered into "sub-operator" contracts with Hondutel. Although the elimination of Hondutel's legal monopoly was a positive step towards liberalization of the telecom sector, a legal framework through which foreign companies can obtain licenses and concessions to provide long distance and international dialing has not yet been established. Investors remain unsure of whether they may legally establish themselves as fully independent telecommunication service providers. Currently, all sub-operators must obtain approval from Congress. Cellular telephone services are open to full private ownership. Hondutel explored the partial privatization of its mobile business in December 2012 but did not complete the process.

As of June 2013, a special oversight commission is seeking a strategic partner to facilitate Hondutel's restructuring. The government is preparing to begin the process of privatization by selling a controlling stake of the company. Once the strategic partner is identified, a joint venture will be established with the private investor "obtaining 51% of the stake, while the government retains 22.5% of the shares, 22.5% are distributed among employees and the remaining 4% are publicly owned," according to the commission, which was led by Rigoberto Romero.

Although most electricity generation in Honduras is in private hands, the state-owned National Electric Energy Company (ENEE) currently retains a monopoly over transmission and distribution and is primarily responsible for managing systems operation, commercialization and generation. This will change over the near future (2014-2018) as transmission and distribution are privatized. ENEE controls most hydroelectric generation, which accounts for about one-third of total capacity. The remaining power generation comes from diesel and fuel oil plants. ENEE has been losing money for years and needs additional investment in transmission lines and other infrastructure as well as improvements to its collection and internal controls. ENEE is criticized for failing to properly manage Honduras' chronic electricity shortages, make timely investments in infrastructure, especially in the outdated power grid, and address technical losses and theft accounting for almost 30% of power generation, twice the power industry standard for a developing country and the highest rate in Central

America. The government has sought to bring additional renewable power onto the grid, mainly from new hydroelectric projects, and it has incentives to encourage renewable energy development. As of 2014, the National Congress has approved more than 80 contracts between ENEE and private producers for almost 2000 MW of new clean energy, but ENEE anticipates that only 600 MW will actually be built. In addition, the completion of the majority of those mostly hydroelectric projects is not expected before 2017 and many of these projects remain stalled awaiting administrative approval. Many businesses are opting to install their own on-site power generation systems to supplement or substitute for power from ENEE.

A 2003 law grants municipalities the right to manage water distribution themselves and to grant concessions to private enterprises. San Pedro Sula has granted a 30-year concession to a private company. The municipalities of Puerto Cortés and Choloma have also created public-private partnerships. The state water authority National Autonomous Aqueduct and Sewer Service (SANAA) still manages Tegucigalpa's water distribution.

The Honduran National Port Company (ENP) is the state-owned organization that oversees port management at all four of the country's government operated maritime ports. These ports are Puerto Cortés, La Ceiba, Puerto Castilla, and San Lorenzo. The Honduran government recently began privatizing its principal port, Puerto Cortés. In a competitive bidding process, the government awarded concessions for private companies to operate its container and bulk shipping facilities. Central American Port Operators (OPC) and Maritime Ports of Honduras (PMH) won the 30-year concessions for container and bulk shipping operations, respectively. Both companies are in the process of expanding and modernizing the port's terminal and storage facilities.

## **11. Corporate Social Responsibility**

Awareness of corporate social responsibility (CSR) is growing among both producers and consumers in Honduras. An increasing number of local and foreign companies operating in Honduras include CSR practices into their business strategies.

The Honduran Corporate Social Responsibility Foundation (FUNDAHRSE) was established in 2003 and is successfully leading efforts to promote transparency in the business climate and to provide the Honduran private sector, particularly small- and medium-sized businesses, with the skills to engage in responsible business practices. FUNDAHRSE's members can apply for the foundation's "CSR Enterprise" seal for exemplary responsible business conduct involving activities in health, education, environmental, codes of ethics, employment relations, and responsible marketing.

## **12. Political Violence**

In the country as a whole, levels of crime and violence are high. Crime and violence represent an added cost and constraint on investment. Please read the latest travel warning, located on the State Department website:

[http://travel.state.gov/travel/cis\\_pa\\_tw/tw/tw\\_6007.html](http://travel.state.gov/travel/cis_pa_tw/tw/tw_6007.html)

## **13. Corruption**

Corruption plays a role in many business dealings in Honduras. U.S. businesses and citizens have found corruption in the public sector and the judiciary to be a significant constraint to successful investment in Honduras. Corruption is pervasive in government procurement,

issuance of government permits, real estate transactions (particularly land title transfers), performance requirements, and the regulatory system. The telecommunications and energy sectors have proven particularly problematic.

Both the Millennium Challenge Corporation (MCC) and Transparency International ranked Honduras' control of corruption as poor. For the three MCC indicators, a country must perform better than the majority of its peers in order to receive a passing score (a number greater than 50 percent in the parentheses represents a passing score).

#### Honduras's Rankings on Key Corruption Indicators

Measure	Year	Index/Ranking
TI Corruption Index	2013	26.0/100, 140 of 177
World Bank Doing Business	2014	127/189
MCC Government Effectiveness	FY 2014	-0.33 (27%)
MCC Rule of Law	FY 2014	-0.71 (4%)
MCC Control of Corruption	FY 2014	-0.37 (15%)

U.S. individuals and firms operating or investing in Honduras should take the time to become familiar with the relevant anticorruption laws of both Honduras and the United States in order to properly comply with them, and where appropriate, they should seek the advice of legal counsel.

#### 14. Bilateral Investment Agreements

A Bilateral Investment Treaty (BIT) between the United States and Honduras entered into force in 2001. The U.S.-Honduras Treaty of Friendship, Commerce and Consular Rights (1928) provides for Most Favored Nation treatment for investors of either country. The U.S. and Honduras also signed an agreement for the guarantee of private investments in 1955 and an agreement on investment guarantees in 1966. Most provisions of these agreements have been superseded by CAFTA-DR. Honduras signed a Tax Information Exchange Agreement with the U.S. in 1992.

Provisions for investment are included in bilateral commercial treaties between Honduras and Costa Rica, El Salvador, Guatemala, Panama, the Dominican Republic, Canada, and the European Union. Honduras also has bilateral investment agreements with the United Kingdom and Spain.

#### 15. OPIC and Other Investment Insurance Programs

The U.S. Overseas Private Investment Corporation (OPIC) provides loan guarantees, which are typically used for large projects, and direct loans, which are reserved for projects sponsored by or substantially involving U.S. small businesses and cooperatives. OPIC can

normally guarantee or lend from \$100,000 to \$250 million per project. OPIC also offers insurance against risks of currency inconvertibility, expropriation and political violence.

The Export-Import Bank of the U.S. also provides project financing in Honduras.

Honduras is a party to the World Bank's Multilateral Investment Guarantee Agency (MIGA).

## **16. Labor**

Honduras has significant labor available for industries requiring relatively low-skilled workers. Given the low average education level, there is a limited supply of skilled workers in all technological fields, including medical and high technology industries. In 2013, unemployment was at 3.9% and underemployment was at 40.8%.

In general, Honduran labor laws closely mirror International Labor Organization standards. However, the laws are not effectively implemented or enforced. In 2012, 26 Honduran unions in conjunction with the AFL-CIO filed a petition to the U.S. Department of Labor that charged that the government of Honduras was in violation of Chapter 16 (labor code enforcement) of the CAFTA-DR. The petition cites examples of the Ministry of Labor (STSS) allegedly failing to enforce labor laws, such as the right to form a union, bargain collectively and be reinstated when unjustly fired for union organization activities. STSS inspectors' access to maquila plants to enforce the labor code subsequently has improved, and STSS has continued to work to increase its effectiveness in enforcing worker rights and child labor laws. As of 2013, this petition is under review.

The Honduran labor law prescribes a maximum 8-hour workday and 44-hour week. There is a requirement for at least one 24-hour rest period every week. The Labor Code provides for a paid vacation of 10 workdays after one year, and 20 workdays after four years. The Constitution and Labor Code prohibit the employment of persons under the age of 16; with the exception that children aged 14 to 15 may be permitted to work with written parental consent and permission from the Ministry of Labor. All persons under 18 years of age are prohibited from night work, dangerous work and full-time work.

The Honduran Children's Code prohibits a person of 14 years of age or less from working, even with parental permission, and establishes prison sentences of 3 to 5 years for individuals who allow children to work illegally. An employer who legally hires a 14 or 15-year-old must certify that the young person has finished or is finishing compulsory schooling. The majority of the violations of the children's code occur in the agricultural sector and informal economy.

In 2010, the Honduran National Congress passed a Temporary Employment Law, which established the country's first legal basis for hiring employees on a temporary basis under a 36-month pilot program. In 2012, Congress amended the law to remove the expiration date and made the Temporary Employment Law permanent.

## **17. Foreign Trade Zones/Free Ports**

There are no known export subsidies provided by the Honduran government, but it provides tax exemptions to firms in a free trade zone (although all tax exemptions were temporarily suspended in January 2013). The Temporary Import Law (RIT) allows exporters to introduce raw materials, parts and capital equipment (except vehicles) into Honduras exempt from surcharges and customs duties if the input is to be incorporated into a product for export (up to five percent can be sold locally). Export processing zones can be established anywhere in

the country, and companies operating in export processing zones are exempt from paying import duties and other charges on goods and capital equipment. In addition, the production and sale of goods within export processing zones are exempt from state and municipal income taxes for the first 10 years of operation. Companies operating in an export processing zone are permitted unrestricted repatriation of profits and capital and have access to onsite customs facilities. However, companies are required to purchase the Lempiras needed for their local operations from Honduran commercial banks or from foreign exchange trading houses registered with the Central Bank.

Most industrial parks and export processing zones are located in the northern Department of Cortés, with close access to Puerto Cortés, Honduras’ major Caribbean port, and San Pedro Sula, Honduras’ major commercial city and a transportation crossroads. Industrial parks and export processing zones are treated as offshore operations. Therefore, customs duties must be paid on products manufactured in the parks and sold in Honduras. In addition, if Honduran inputs are used in production, they are treated as exports and must be paid for in U.S. dollars. While most companies that operate in these parks are involved in apparel assembly, the government and park operators have begun to diversify into other types of light industry, including automotive parts and electronics assembly.

Privately-owned tourism zones may be established to promote the development of the tourism industry in Honduras. The law allows for the free importation of equipment, supplies, and vehicles to businesses operating in designated tourism zones with certain restrictions (see the description of the tourism law, above). Additional information on Honduran free trade zones and export processing zones is available from the Honduran Manufacturers Association at <http://www.ahm-honduras.com>

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

Table 1: Foreign Direct Investment Flows by Country of Origin

(Millions of U.S. Dollars)

Country	Years			
	2010p	2011p	2012p	2013p
<b>WESTERN HEMISPHERE</b>	436.2	658.5	684.1	716.5
<b>NORTH AMERICA</b>	343.5	482.2	496.8	507.5
UNITED STATES OF AMERICA	135.5	141.4	173.2	127.5
CANADA	119.2	186.9	132.1	114.3
MEXICO	88.8	153.9	191.5	265.7
<b>LATIN AMERICA</b>	92.8	176.3	187.2	209.1

Country	Years			
	2010p	2011p	2012p	2013p
<b>CENTRAL AMERICA</b>	70	120	116.7	109.5
GUATEMALA	43.2	43.7	51.5	37.1
EL SALVADOR	12.4	20.9	24.8	26.2
NICARAGUA	2.6	10.3	2.9	3.9
COSTA RICA	11.8	45	37.6	42.3
PANAMA	10.1	15.9	21.7	63.3
COLOMBIA	0	19.5	21.5	31.4
CARRIBEAN	12.7	20.9	27.3	4.9
BERMUDA	8	12.3	15.2	16
BAHAMAS	5	8.5	9.2	10.4
BRITISH VIRGIN ISLANDS	-0.3	-	2.8	-21.7
DOMINCAN REPUBLIC	0	0.1	0.1	0.1
<b>EUROPE</b>	241.1	376.7	369.2	284.3
IRELAND	15.8	21.5	-	-
GERMANY	13.5	29.2	32.3	-5
ITALY	11.2	5	11.7	28.4
HOLLAND	2	5.5	7.4	0.4
SWITZERLAND	18.2	68.1	85.7	2.6
FRANCE	8.9	11.7	12.2	6.5
UNITED KINGDOM	77.7	84.6	93.5	97.3
SPAIN	-0.5	1.9	2	4

Country	Years			
	2010p	2011p	2012p	2013p
LUXEMBOURGH	94.3	149.2	124.4	150.2
<b>ASIA</b>	10.2	-21.5	5.2	13.5
REPUBLIC OF KOREA	2.4	-21.5	5.2	13.5
TAIWAN	6.9	-	-	-
CHINA	0.9	-	-	-
OTHER COUNTRIES	16	0.6	0	45.3
<b>TOTAL</b>	<b>703.5</b>	<b>1,014.4</b>	<b>1,058.50</b>	<b>1059.7</b>

Source: Central Bank of Honduras, p/Preliminary

Table 2: Foreign Direct Investment Flows by Industry Sector Destination

(Millions of U.S. Dollars)

Industry Sector	Years			
	2010p	2011p	2012 p	2013p
Transport, Warehousing and Communications	185	316.9	295.4	358.9
Manufacturing Industry	90.2	243.4	262.1	152.1
Maquila	166.2	148.4	164.3	173.2
Commerce	96.9	103.1	156.8	118.9
Services	96.8	90.5	100.4	97.2
Mining and Quarries	44.4	45.6	23.0	50.9
Electricity, Gas and Water	9	44.8	33.3	73.8
Agriculture, Forestry, Hunting and Fishing	15	16.6	18.0	18.9
Construction	-0.1	5.5	5.1	15.8

<b>TOTAL</b>	<b>703.5</b>	<b>1,014.40</b>	<b>1,058.40</b>	<b>1,059.70</b>
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Source: Central Bank of Honduras, p/Preliminary

## 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

### International organization participation:

BCIE, CACM, CD, CELAC, FAO, G-11, G-77, IADB, IAEA, IBRD, ICAO, ICRM, IDA, IFAD, IFC, IFRC, ILO, IMF, IMO, Interpol, IOC (suspended), IOM, IPU, ISO (subscriber), ITSO, ITU, ITUC (NGOs), LAES, LAIA (observer), MIGA, MINURSO, NAM, OAS (suspended), OPANAL, OPCW, PCA, Petrocaribe, SICA, UN, UNCTAD, UNESCO, UNIDO, Union Latina, UNWTO, UPU, WCO (suspended), WFTU (NGOs), WHO, WIPO, WMO, WTO

## Section 6 - Tax

### Exchange control

There are currently no exchange control regulations in Honduras.

### Treaty and non-treaty withholding tax rates

There are currently no double taxation treaties in force in Honduras.

## Methodology and Sources

### Section 1 - General Background Report and Map

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

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

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

### **Section 3 - Economy**

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

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

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

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

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

### **Section 5 - Government**

Names of Government Ministers and general information on political matters.

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

### **Section 6 - Tax**

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

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

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Any questions or queries should be addressed to: -

Gary Youinou

Via our [Contact Page](#) at KnowYourCountry.com