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currently implementing a vast reform to improve the legal framework for doing business, drafting new laws, and amending outdated ones to encourage investment.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

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

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

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

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

Other Instruments: It is U.S. Government policy to promote good governance, including host country implementation and enforcement of anti-corruption laws and policies pursuant to their obligations under international agreements. Since enactment of the FCPA, the United States has been instrumental to the expansion of the international framework to fight corruption. Several significant components of this framework are the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Antibribery Convention), the United Nations Convention against Corruption (UN Convention), the Inter-American Convention against Corruption (OAS Convention), the Council of Europe Criminal and Civil Law Conventions, and a growing list of U.S. free trade agreements. This country is party to the UN Convention and the OAS Convention, but generally all countries prohibit the bribery and solicitation of their public officials.

OECD Antibribery Convention: The OECD Antibribery Convention entered into force in 1999. As of 2012, there were 39 parties to the Convention including the United States (see http://www.oecd.org/dataoecd/59/13/40272933.pdf). Major exporters China, India, and Russia are not parties, although the U.S. Government strongly endorses their eventual accession to the Convention. The Convention obligates the Parties to criminalize bribery of foreign public officials in the conduct of international business. The United States meets its international obligations under the OECD Antibribery Convention through the U.S. FCPA. Haiti is not a party to the OECD Convention.

UN Convention: The UN Anticorruption Convention entered into force in 2005, and there are 164 parties to it as of November 2012 (see http://www.unodc.org/unodc/en/treaties/CAC/signatories.html). The UN Convention is the first global comprehensive international anticorruption agreement. The UN Convention requires countries to establish criminal and other offences to cover a wide range of acts of corruption. The UN Convention goes beyond previous anticorruption instruments, covering a broad range of issues ranging from basic forms of corruption such as bribery and solicitation, embezzlement, trading in influence to the concealment and laundering of the proceeds of corruption. The Convention contains transnational business bribery provisions that are functionally similar to those in the OECD Antibribery Convention and contains provisions on private sector auditing and books and records requirements. Other provisions address matters such as prevention, international cooperation, and asset recovery. Haiti is a party to the UN Convention.

OAS Convention: In 1996, the Member States of the Organization of American States (OAS) adopted the first international anticorruption legal instrument, the Inter-American Convention against Corruption (OAS Convention), which entered into force in 1997. The OAS Convention, among other things, establishes a set of preventive measures against corruption, provides for the criminalization of certain acts of corruption, including transnational bribery and illicit enrichment, and contains a series of provisions to strengthen the cooperation between its States Parties in areas such as mutual legal assistance and technical cooperation. As of November 2012, the OAS Convention has 34 parties (see http://www.oas.org/juridico/english/Sigs/b-58.html). Haiti is a party to the OAS Convention.

Council of Europe Criminal Law and Civil Law Conventions: Many European countries are parties to either the Council of Europe (CoE) Criminal Law Convention on Corruption, the Civil Law Convention, or both. The Criminal Law Convention requires criminalization of a wide range of national and transnational conduct, including bribery, money-laundering, and account offenses. It also incorporates provisions on liability of legal persons and witness protection. The Civil Law Convention includes provisions on compensation for damage relating to corrupt acts, whistleblower protection, and validity of contracts, inter alia. The Group of States against Corruption (GRECO) was established in 1999 by the CoE to monitor compliance with these and related anti-corruption standards. Currently, GRECO comprises 49 member States (48 European countries and the United States). As of December 2012, the Criminal Law Convention has 47 parties and the Civil Law Convention has 47 (see http://www.business-anti-corruption.com/about-corruption/coe/). Haiti is not a party to the Council of Europe Conventions.

Free Trade Agreements: While it is U.S. Government policy to include anticorruption provisions in free trade agreements (FTAs) that it negotiates with its trading partners, the anticorruption provisions have evolved over time. The most recent FTAs negotiated now require trading partners to criminalize “active bribery” of public officials (offering bribes to any public official must be made a criminal offense, both domestically and trans-nationally) as well as domestic “passive bribery” (solicitation of a bribe by a domestic official). All U.S. FTAs may be found at the U.S. Trade Representative Website: http://www.ustr.gov/trade-agreements/free-trade-agreements. Haiti does not have an FTA with the United States, but benefits from trade preference programs.

Local Laws: U.S. firms should familiarize themselves with local anticorruption laws, and, where appropriate, seek legal counsel. While the U.S. Department of Commerce cannot provide legal advice on local laws, the Department's U.S. and Foreign Commercial Service can provide assistance with navigating the host country's legal system and obtaining a list of local legal counsel.

Assistance for U.S. Businesses: The U.S. Department of Commerce offers several services to aid U.S. businesses seeking to address business-related corruption issues. For example, the U.S. and Foreign Commercial Service can provide services that may assist U.S. companies in conducting their due diligence as part of the company's overarching compliance program when choosing business partners or agents overseas. The U.S. Foreign and Commercial Service can be reached directly through its offices in every major U.S. and foreign city, or through its Website at www.trade.gov/cs.

The Departments of Commerce and State provide worldwide support for qualified U.S. companies bidding on foreign government contracts through the Commerce Department's Advocacy Center and State's Office of Commercial and Business Affairs. Problems, including alleged corruption by foreign governments or competitors, encountered by U.S. companies in seeking such foreign business opportunities can be brought to the attention of appropriate U.S. government officials, including local embassy personnel and through the Department of Commerce Trade Compliance Center "Report A Trade Barrier" Website at tcc.export.gov/Report_a_Barrier/index.asp.

The U.S. Commercial Service (USCS) and the U.S. Department of State started in 2011 a "Partner Post" program in Haiti where USCS does not have its own operations. Through this program, the U.S. Embassy in Haiti provides U.S. companies with standard Commercial Service products and services (e.g. International Partner Search and Gold Key Services) at a cost. More information can be found on the U.S. Export Assistance (USEAC) website at http://www.export.gov/.

Guidance on the U.S. FCPA: The Department of Justice's (DOJ) FCPA Opinion Procedure enables U.S. firms and individuals to request a statement of the Justice Department's present enforcement intentions under the anti-bribery provisions of the FCPA regarding any proposed business conduct. The details of the opinion procedure are available on DOJ's Fraud Section Website at www.justice.gov/criminal/fraud/fcpa. Although the Department of Commerce has no enforcement role with respect to the FCPA, it supplies general guidance to U.S. exporters who have questions about the FCPA and about international developments concerning the FCPA. For further information, see the Office of the Chief Counsel for International Counsel, U.S. Department of Commerce, Website, at http://www.ogc.doc.gov/trans_anti_bribery.html. More general information on the FCPA is available at the Websites listed below.

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.

Resources to report corruption

Any corruptive activity can be reported to the Haitian Anti-Corruption Unit, responsible for combatting corruption, or Transparency International's branch in Haiti, Haiti Heritage Foundation, which monitors corruption:
Name : Antoine Atouriste
Title : Director General
Organization: Unité de Lutte Contre la Corruption
Address : 13, rue Capotille, Pacot, Port-au-Prince, Haiti
Telephone : (509)2940-0946 / (509)2940-0947 / (509)2940-0948
Email address : aatouris@ulcc.gouv.ht / info@ulcc.gouv.ht

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

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

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

• Information about the OECD Antibribery Convention including links to national implementing legislation and country monitoring reports is available at: http://www.oecd.org/department/0,3355,en_2649_34859_1_1_1_1_1,00.html. See also new Antibribery Recommendation and Good Practice Guidance Annex for companies: http://www.oecd.org/dataoecd/11/40/44176910.pdf.

• General information about anticorruption initiatives, such as the OECD Convention and the FCPA, including translations of the statute into several languages, is available at the Department of Commerce Office of the Chief Counsel for International Commerce Website: http://www.ogc.doc.gov/trans_anti_bribery.html.

• Transparency International (TI) publishes an annual Corruption Perceptions Index (CPI). The CPI measures the perceived level of public-sector corruption in 180 countries and territories around the world. The CPI is available at:

http://www.transparency.org/policy_research/surveys_indices/cpi/2009. TI also publishes an annual Global Corruption Report which provides a systematic evaluation of the state of corruption around the world. It includes an in-depth analysis of a focal theme, a series of country reports that document major corruption related events and developments from all continents and an overview of the latest research findings on anti-corruption diagnostics and tools. See http://www.transparency.org/publications/gcr.

• The World Bank Institute publishes Worldwide Governance Indicators (WGI). These indicators assess six dimensions of governance in 212 countries, including Voice and Accountability, Political Stability and Absence of Violence, Government Effectiveness, Regulatory Quality, Rule of Law and Control of Corruption. See http://info.worldbank.org/governance/wgi/sc_country.asp. The World Bank Business Environment and Enterprise Performance Surveys may also be of interest and are available at: http://go.worldbank.org/RQQXYJ6210.

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

• Additional country information related to corruption can be found in the U.S. State Department's annual Human Rights Report available at http://www.state.gov/g/drl/rls/hrrpt/.

• Global Integrity, a nonprofit organization, publishes its annual Global Integrity Report, which provides indicators for 92 countries with respect to governance and anti-corruption. The report highlights the strengths and weaknesses of national level anti-corruption systems. The report is available at: http://report.globalintegrity.org/.

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.

19. Contact Point at Post

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