

HONDURAS  
INVESTMENT CLIMATE STATEMENT  
2015

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## **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 foreign companies choosing to invest in Honduras continue to face significant challenges. Honduras' investment climate is hampered by high levels of crime, a weak judicial system, corruption, low educational levels, and poor transportation and other infrastructure. 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 is approximately USD 900 million. Honduras has made notable improvements in market openness since 2013 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. The 2015 Heritage Economic Freedom Index gave Honduras a score of 57.4, up 0.3 points from 2014. The World Bank Doing Business 2015 report ranked Honduras 104 out of 189 countries, an improvement of 21 places since the 2013 report.

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

#### **Attitude toward Foreign Direct Investment**

The United States is Honduras' largest trade and economic partner. U.S. exports to Honduras in 2014 were USD 5.9 billion. 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.

Economic growth returned to Honduras during the 2010-2013 period after a sharp downturn in 2009 due to the effects of international financial and domestic political crises. In 2014, GDP growth rose to 3.5 percent and the rate of inflation was 6.1 percent. Foreign direct investment and domestic investment declined in 2009 but has since recovered. The stock of U.S. foreign direct investment (FDI) in Honduras was approximately USD 900 million in 2014. U.S. FDI in Honduras is mostly in the manufacturing sector.

#### **Other Investment Policy Reviews**

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 have not been implemented or remain stalled because governing regulations have not been approved by the Honduran Congress.

### **Laws/Regulations of Foreign Direct Investment**

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 (HNL), which is about USD 7000. 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.

### **Industrial Promotion**

The Honduran mining sector has been re-opened to foreign investment, but challenges remain. The Honduran Congress passed a mining law in January 2013 which allowed foreign mining companies to receive mining concessions. The law's implementing regulations have been approved and the government has begun to issue permits. Some foreign mining companies have experienced unexpected and lengthy delays in review of their mining concession applications, however. The sector had been closed to new investment since 2005, following a Supreme Court decision striking down portions of a 1999 mining law.

### **Limits on Foreign Control**

Not applicable.

### **Privatization Program**

Not applicable.

### **Screening of FDI**

Not applicable.

### **Competition Law**

Not applicable.

### **Investment Trends**

*Table 1*

<b>Measure</b>	<b>Year</b>	<b>Index or Rank</b>	<b>Website Address</b>
<b>TI Corruption Perceptions index</b>	2014	126 of 177	<a href="http://transparency.org/cpi2014/results">transparency.org/cpi2014/results</a>
<b>World Bank's Doing Business Report "Ease of Doing Business"</b>	2015	104 of 189	<a href="http://doingbusiness.org/rankings">doingbusiness.org/rankings</a>
<b>Global Innovation Index</b>	2014	118 of 143	<a href="http://globalinnovationindex.org/content.aspx?page=data-analysis">globalinnovationindex.org/content.aspx?page=data-analysis</a>
<b>World Bank GNI per capita</b>	2013	USD 4,270	<a href="http://data.worldbank.org/indicator/NY.GNP.PCAP.CD">data.worldbank.org/indicator/NY.GNP.PCAP.CD</a>

### *Millennium Challenge Corporation Country Scorecard*

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 per capita income of USD 4,125 or less. A list of countries/economies with MCC scorecards and links to those scorecards is available here: <http://www.mcc.gov/pages/selection/scorecards>. Details on each of the MCC's indicators and a guide to reading the scorecards are available here: <http://www.mcc.gov/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.

## **2. Conversion and Transfer Policies**

### **Foreign Exchange**

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 can open bank accounts with a valid passport. 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.

### *Remittance Policies*

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 March 2015, the exchange rate is HNL 21.8979 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 governing the auction system establish 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 USD 10,000/ HNL 209,600, not more than USD 300,000/ HNL 6,288,000 for individuals, and cannot be more than USD 1.2 million/ HNL 25,152,000 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.

Impoverished farmer groups sometimes 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 2013, the government passed legislation regarding recovery and reassignment of concessions on underutilized government assets. Both local and foreign firms have expressed concerns that the 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 rare, disputes related to land seizure actions by squatters occur for both Honduran and non-U.S. foreign landowners, especially in agricultural areas. 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 USD 1,000 if the expropriated land has at least one building; it cannot exceed USD 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**

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

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, the Chambers of Commerce and Industry in Tegucigalpa and San Pedro Sula established Centers for Conciliation and Arbitration. 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.

Tegucigalpa Chamber of Industry and Commerce – Center for Conciliation and Arbitration:  
<https://www.ccit.hn/cca/>

San Pedro Sula Chamber of Industry and Commerce – Center for Conciliation and Arbitration:  
<http://www.ccichonduras.org/es/?p=1571>

### **Bankruptcy**

Information not available.

### **Investment Disputes**

Information not available.

### **International Arbitration**

Information not available.

#### *ICSID Convention and New York Convention*

Honduras is a member state to the International Centre for the Settlement of Investment Disputes (ICSID Convention). Honduras has ratified the convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958 New York Convention)

### **Duration of Dispute Resolution**

Information not available.

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

### **WTO/TRIMS**

CAFTA-DR does not permit Honduras to grant new customs duty waivers or expand existing waivers that have export performance requirements. Furthermore, 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.

### **Investment Incentives**

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.

#### *Research and Development*

Not applicable.

### **Performance Requirements**

Not applicable.

### **Data Storage**

Not applicable.

## **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 2015 World Bank Doing Business Report, the average time required for starting a business in Honduras is 14 days and requires 12 procedures.

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

### **Real Property**

Secured interests in property, both movable and real, are recognized under Honduran law. The Chamber of Commerce and Industry of Tegucigalpa (CCIT) manages the national property registry. Honduras' secured transactions law gives a concession to the CCIT to administer the registry.

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.

### **Intellectual Property Rights**

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 often not 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 an effective campaign against IPR infringement. There is significant piracy and counterfeiting in Honduras in telecommunications, pharmaceuticals, and other sectors. 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 is a signatory of the World Trade Organization's (WTO) intellectual property (TRIPS) agreement.

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/>.

#### *Resources for Rights Holders*

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

### **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, mining 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.

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/>

## **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 resource 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.

### **Money and Banking System, Hostile Takeovers**

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 companies 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 percent of the stake, while the government retains 22.5 percent of the shares, 22.5 percent are distributed among employees and the remaining 4 percent 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) retains a monopoly over transmission, distribution, and commercialization. This will change over the near future (2015-2018) 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 bunker 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 has failed 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 percent 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. The government of Honduras is winding down these incentive programs as the cost of integrating variable renewable energy projects become clear. By 2014, the National Congress had approved more than 80 contracts between ENEE and private producers for almost 2000 MW of new clean energy, but has started to slow new approvals. ENEE anticipates that 300 MW of solar and 200-300 MW of other renewable/non-renewable generation will be built in the short-term. Many businesses are opting to install their own on-site power generation systems to supplement or substitute for power from ENEE due to high costs and uncertainty about the semi-privatization process.

A 2003 law grants municipalities the right to manage water distribution themselves and to grant concessions to private enterprises. San Pedro has granted a 30-year concession in 2013 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 has privatized the operation of Honduras' 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.

### **OECD Guidelines on Corporate Governance of SOEs**

Not applicable.

### **Sovereign Wealth Funds**

Honduras does not have a sovereign wealth fund.

## **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 in 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.

### **OECD Guidelines for Multinational Enterprises**

Not applicable.

## **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	2014	29.0/100, 126 of 177
World Bank Doing Business	2015	104/189
MCC Government Effectiveness	FY 2015	-0.33 (25 percent)
MCC Rule of Law	FY 2015	-0.70 (7 percent)
MCC Control of Corruption	FY 2015	-0.37 (21 percent)

The United States Foreign Corrupt Practices Act (FCPA) 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/>

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.

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.

#### *UN Anticorruption Convention, OECD Convention on Combatting Bribery*

UN Convention: Honduras is a member of the UN Anticorruption Convention, which entered into force on December 14, 2005. The UN Convention is the first global comprehensive international anticorruption agreement and requires countries to establish criminal penalties for 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.

OECD Convention on Combatting Bribery: Honduras is a member of the Inter-American Convention against Corruption (OAS Convention), which entered into force in March 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.

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. Honduras has a free trade agreement in place with the United States, the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR), which came into force in 2006. The most recent free trade agreements (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>.

Local Laws: U.S. firms should familiarize themselves with local Honduran anticorruption laws, and, where appropriate, seek in-country 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. It is illegal to bribe a Honduran public official. Bribery is a criminal act and depending on the degree of the offense, is subject to fines or incarceration. Honduran regulations also prohibit government and public officials from soliciting bribes.

Two codes establish penalties for corruption in Honduras: the Penal Procedures Code (PPC) and the Penal Code (PC), which allows for an adversarial-style, oral, and public trial system. The PPC aims to improve the administration of justice and accountability in a number of ways, including increased transparency in the criminal justice system.

Multiple Honduran 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 led by three members selected by Congress.

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 in Honduras. 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 locally in Honduras.

The U.S. Foreign and Commercial Service in Honduras can be reached at the U.S. Embassy in Tegucigalpa, Honduras (<http://export.gov/honduras/ContactUs/index.asp>).

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 the Honduran government or competitors encountered by U.S. companies, can be brought to the attention of appropriate U.S. government officials at the embassy:

U.S. Embassy Tegucigalpa, Honduras  
Avenida La Paz  
Tegucigalpa M.D.C., Honduras  
Telephone Numbers: (504) 2236-9320, 2238-5114  
Fax Number: (504) 2236-9037

Companies can also report through the Department of Commerce Trade Compliance Center "Report a Trade Barrier" Website at: [http://tcc.export.gov/Report\\_a\\_Barrier/index.asp](http://tcc.export.gov/Report_a_Barrier/index.asp).

Guidance on the U.S. FCPA: The Department of Justice's (DOJ) Foreign Corrupt Practices Act (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 <http://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 Commerce, U.S. Department of Commerce, Website, at [http://www.ogc.doc.gov/trans\\_anti\\_bribery.html](http://www.ogc.doc.gov/trans_anti_bribery.html). More general information on the FCPA is available at the Websites listed below.

#### *Resources to Report Corruption*

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

- 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>
- See also the new Antibribery Recommendation and Good Practice Guidance Annex for companies: <http://www.oecd.org/dataoecd/11/40/44176910.pdf>
- Transparency International (TI) publishes an annual Corruption Perceptions Index (CPI), which 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](http://www.transparency.org/policy_research/surveys_indices/cpi/2009)

- Transparency International 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 213 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/index.asp>
- The World Bank Business Environment and Enterprise Performance Surveys may also be of interest and are available at: <http://data.worldbank.org/data-catalog/BEEPS>
- The World Economic Forum publishes the Global Enabling Trade Report, which presents the rankings of the Enabling Trade Index, and includes an assessment of the transparency of border administration (focused on bribe payments and corruption) and a separate segment on corruption and the regulatory environment.
- See <http://www.weforum.org/s?s=global+enabling+trade+report>.
- 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 106 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/>

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](http://www.ogc.doc.gov/trans_anti_bribery.html)

#### **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.

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.

## **Bilateral Taxation Treaties**

Honduras signed a Tax Information Exchange Agreement with the U.S. in 1992.

## **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 USD 100,000 to USD 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. At the end of 2014, government statistics showed unemployment at 4.4 percent and at the end of 2013 (most recent data available), underemployment was 38 percent.

While Honduran labor law closely mirrors International Labor Organization standards, the U.S. Department of Labor has raised serious concerns regarding the effective enforcement of Honduran labor law. In 2012, 26 Honduran labor organizations in conjunction with the AFL-CIO filed a submission with the U.S. Department of Labor that alleged 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 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. In February 2015, the U.S. Department of Labor published a report in response to the submission. This report raised serious concerns regarding the effective enforcement of labor laws in Honduras under Chapter 16. The report provided recommendations to address the concerns and called for a monitoring and action plan.

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/Trade Facilitation**

There are no known export subsidies provided by the Honduran government, but it provides tax exemptions to firms in a free trade zone. 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 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

Economic Data	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
	Year	Amount	Year	Amount	
<b>Host Country Gross Domestic Product (GDP) (\$M USD)</b>	2013	17.20	2013	18.55	www.worldbank.org/en/country
<b>Foreign Direct Investment</b>	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
<b>U.S. FDI in partner country (\$M USD, stock positions)</b>	2013	127.5	2013	901	
<b>Host country's FDI in the United States (\$M USD, stock positions)</b>	N/A		2013	-22	BEA
<b>Total inbound stock of FDI as % host GDP</b>	N/A		N/A		

Table 3: Sources and Destination of FDI

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

Table 4: Sources of Portfolio Investment

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

**19. Contact for More Information**

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