



Doing Business In JAMAICA: A Country Commercial Guide for U.S. Companies

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Openness to Foreign Investment

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The Government of Jamaica (GOJ) seeks to attract foreign direct investment and markets itself to companies in Europe, North America and the Caribbean region. The GOJ encourages foreign investment as a source of development and has no policies or regulations that reserve certain sectors exclusively for Jamaicans. Prime Minister Bruce Golding (Jamaica Labor Party), elected in September 2007, after 18 years of rule by the Peoples National Party, publicly warns of the negative consequences of red tape as a hindrance to potential foreign investment.

Numerous measures which once inhibited foreign investment, such as the Foreign Exchange Control Act and the list of areas reserved for local investment only, have been eliminated. Thus, Jamaica does not have any legal impediment to direct foreign investment and applies the principle of national treatment to foreign investors.

With the investment landscape reformed, attention has turned to the reduction of processing and approval times for investment-related applications. In particular, USAID has been providing assistance to the GOJ and the Private Sector Organization of Jamaica for a Regulation, Legislation and Process Improvement Project (LEGS and REGS) to remove some of the obstacles to doing business in Jamaica. The project staff is currently revising an existing Developer's Manual to provide updated information on the administration, legislation, regulation and requirements involved in the development approval process in Jamaica. The manual has been revised, but there is still much streamlining required in achieving the Prime Minister's 90-day turnaround deadline for approvals. The LEGS and REGS Project has been paying dividends, as a 2004 World Bank study listed Jamaica in the top ten countries in which it was easiest to do business.

Jamaica ranked well above its regional peers and compared favorably with OECD countries in areas such as starting a business and hiring and firing workers. It should be mentioned that while Jamaica's Redundancy Act makes it expensive to cut staff due to the relatively high severance payments tied to length of service, the Jamaican system still ranks higher than its regional peers. The 2005 report, which takes the procedures for registering property and protecting investors into account, does not place Jamaica in the top ten. The 2008 report ranking countries on the ease of paying taxes places Jamaica in the bottom ten due to the high number of taxes and mandatory contributions a medium-sized company must pay or withhold in a given year.

The Companies Act and the Securities Act govern acquisitions, mergers and takeovers for publicly traded companies. In 1996 the Securities Act was revised to bring it in line with international regulations. The takeover code was redesigned to ensure the integrity of the securities market while protecting minority shareholders. Jamaica's legal system is based on English common law principles and rules covering the enforceability of contracts are based thereupon. The Jamaican judicial system therefore recognizes and upholds the sanctity of contracts. There are no limits on foreign ownership or control and the embassy is not aware of any economic or industrial policy that has discriminatory effects on foreign investors.

Foreign investors are generally granted national or Most Favored Nation treatment, subject to the rules of their Bilateral Investment Treaties (BITS). There are no screening mechanisms for foreign investments, but if investors apply for government incentives, they could be required to meet some basic pre-requisites and due diligence may be done by the approving agency. This process is not discriminatory and is not intended to impede investment. Jamaica has also undertaken a comprehensive program of trade and financial liberalization, and no sector remains closed to foreign investment. However, projects that affect national security, have a negative impact on the environment, or involve sectors such as life insurance, media or mining are subjected to regulation and certain restrictions.

Jamaica's privatization program is open to participation by foreign investors, except for those that are on the restricted list due to national security concerns. The National Investment Bank, which administers privatization, is mandated to ensure that the process is fair and transparent. However, in some privatization transactions the participation of local investors may lead to added points in the scoring of proposals. When large entities are being privatized, advertisements are placed in international newspapers such as the Financial Times, New York Times and Wall Street Journal to attract foreign investors. An information memorandum accompanies privatization proposals and includes the specific requirements under which bidders are allowed to participate and the criteria by which proposals will be evaluated. Foreign investors have won most of the privatization bids in the last five years. The government is currently reviewing some of the remaining parastatals with an eye to divestiture.

The country is party to both multilateral and bilateral treaties, which provide for non-discrimination. Local laws do not distinguish between local and foreign investors. The embassy is not aware of any discrimination against foreign investors at the time of initial investment or after the investment is made. However, under the Jamaican Companies Act investors are required either to establish a local company or to register a branch office of a foreign-owned enterprise. Branches of companies incorporated abroad must also register with the Registrar of Companies if they intend to operate in Jamaica. The

Companies Act, which came into effect in February 2005, allows foreign companies to hold lands without registering in Jamaica. There are no laws or regulations requiring firms to adopt articles of incorporation or association, which limit or prohibit foreign investment, participation or control. The embassy is not aware of any other ways private firms could restrict foreign investment.

Foreign direct investment (FDI) was USD 850 million for 2006 according to the United Nations' World Investment Report. The dynamism in FDI was most evident in the construction, telecommunications, tourism and mining sectors. The introduction of competition in the telecommunications sector has attracted three mobile providers and over USD 150 million in investments per year since 1999. This could increase further as the GOJ is issuing two additional fiber-optic licenses to reduce the cost of internet rates. Highway 2000, Jamaica's first toll road, is being constructed by French company Bouygues under a build, operate, and transfer (BOT) model. Two segments of the project, costing over USD 500 million are already completed. A third leg connecting Kingston and the resort area of Ocho Rios is in its initial stages and is set to cost over USD 200 million.

New policies geared toward achieving further diversification and growth in the bauxite, tourism and energy sectors, investment is expected to continue the rise in foreign investment. The GOJ'S dismantling of the old bauxite levy system on a company-by-company basis, has already led to a USD 13 million expansion by Alumina Partners of Jamaica (ALPART). In 2005 Jamaica Aluminum Company (JAMALCO) announced a USD 1.2 billion plan to more than double its alumina refinery in Jamaica, the single largest investment in the country's history. Tourist attractions have also been granted similar benefits to accommodations, leading to increased investment. Over the next three years the accommodations sector is slated to receive over USD 2 billion in investment from three Spanish hotel chains as well as from foreigners investing in the proposed high-end Harmony Cove Tourism Development. The GOJ has also entered into agreements with Trinidad and Tobago to set up a liquid natural gas plant at a cost of USD 250 million and a Brazilian company, Coimex, has rehabilitated an ethanol-producing plant at a cost of USD 8 million. Another Brazilian company, Aracatu, with interests in sugar and ethanol, has expressed interest in acquiring Jamaica's sugar industry for USD 300 million.

Conversion and Transfer Policies

Jamaica has no restrictions on holding funds or on transferring funds associated with an investment, as the country liberalized its foreign exchange market in 1991. However, foreign exchange transactions must be conducted through authorized foreign exchange dealers, cambios and bureaux de change at market-determined rates. Foreign exchange is generally available, but companies tend to source large amounts of foreign exchange over a three to four day period. There are currently no plans to change the policies affecting investment remittances and there is no delay period currently in effect for remitting investment returns. There is no legal parallel market (tiered system) for foreign exchange following liberalization and there are no limitations on the inflow or outflow of funds for any transaction. Recently surveyed U.S. companies indicated no problems or delays in accessing foreign exchange or remitting investment returns.

Expropriation and Compensation

Property rights are protected under Section 18 of the Jamaican Constitution. Expropriation of land may take place under the Land Acquisition Act, which provides for compensation on the basis of market value. Expropriation can take place before compensation is paid, but interest for the period between the expropriation and the compensation settlement must be paid. According to the law, the purpose of any expropriation must be transparent and compensation for expropriated property must be adequate. If informal negotiation on compensation fails, the investor has recourse in the courts. Jamaica has signed bilateral agreements for the reciprocal promotion and protection of investments with a number of countries, including the United States. The embassy is not aware of any litigation between the Jamaican government and any private individual or company based on expropriation or on compensation for expropriation. There are currently no laws that force local ownership.

Dispute Settlement

Disputes between enterprises are handled in the local courts, but foreign investors can refer cases to the International Center for Settlement of Investment Disputes (ICSID). There have been cases of trademark infringements in which U.S. firms took action and were granted restitution in the local courts. The Jamaican Constitution provides for an independent judiciary with a three-tier court structure. Claims may be brought before the Magistrate or Supreme Court. Appeals on decisions made in these courts can be taken before the Court of Appeal and then to the Judicial Committee of the Privy Council in the United Kingdom. Plans were afoot for the Privy Council to be replaced by the Caribbean Court of Justice (CCJ), which will consider and determine appeals in civil and criminal matters from common law courts within CARICOM member states. However, the then-opposition Jamaica Labor Party (JLP) opposed the process and took the case to the Privy Council which supported their position. With the JLP now in power, it is likely that it will continue to favor a referendum, as opposed to a simple majority in Parliament. Jamaica has effective means for enforcing property and contractual rights through: (1) The Judgment and Awards (Reciprocal Enforcement) Act; (2) The Judgment (Foreign) (Reciprocal Enforcement) Act; (3) The Arbitration (Recognition and Enforcement of Foreign Awards) Act; and, (4) The Maintenance Orders (Facilities for Enforcement) Act. Under these acts, judgments of foreign courts are accepted and enforced in all cases where there is a reciprocal enforcement of judgment treaty with the relevant foreign state.

A number of disputes, involving foreign investors and GOJ, on the one hand, and foreign investors and a local association, on the other, arose during 2005. The first dispute, which is yet to be resolved as of early 2008, involves the implementation of a levy by the GOJ on in-coming telephone calls for a Universal Access Fund to finance computers and other information-related activities in Jamaican schools. However, U.S. long-distance telephone companies have been resisting the move and have requested that the Federal Communications Commission put pressure on Jamaica to desist from collecting the fees. Petroleum marketing companies are also resisting attempts by the former government to support retailers' position to implement a Code of Conduct to address market-determined issues such as the management of service stations, contract periods, goodwill and pricing. The GOJ is seeking consensus on the new rules, but petroleum companies argue that the rules impinge on the terms and conditions of

commercial arrangements and run counter to the GOJ'S free market philosophy. Marketing company Esso Standard Oil, and its dealers, represented by the Jamaica Gasoline Retailers' Association (JGRA) are also embroiled in a dispute over the multinational's pricing policy. The dispute led to a shutdown of the company's retail outlets for a week, followed by an island-wide shutdown of the country's retail outlets. The shutdown, master minded by the (JGRA), was halted following the intervention of the Ministry of Labor, which convened a meeting with the disputing parties and established a three-member Board of Inquiry to look into complaints by dealers of unfair pricing policies by Esso.

The former Mirant-owned Jamaica Public Service Company Limited (JPS) (now owned by Marubeni based in Japan) was also engaged in a dispute with the GOJ on the regulatory framework for the testing and inspection of electricity meters. The issue of regulation arose after information surfaced that the utility company improperly billed a number of customers. However, JPS initially resisted the move to test and inspect its meter by the Bureau of Standards under the Compulsory Standards Order 2005, saying that the company did not have the legal authority to carry out testing and inspection. The public service company filed an action to stay the implementation of the order, under the Standards Act in the Supreme Court. After extended negotiation the JPS and the GOJ agreed that an independent body would have responsibility for approving new meter types as well as for testing the quality of meters on importation for use in the domestic market. As a consequence, the Minister of Commerce, Science and Technology revoked the Compulsory Standards Order and the JPS withdrew the legal action.

There is a Bankruptcy Act dealing with personal insolvency, a Companies Act dealing with corporate insolvency, and other statutes such as the Bills of Exchange and the Sale of Goods Acts dealing with commercial matters. There are also extensive common law principles, which are written and consistently applied. Under the bankruptcy laws, creditors can petition for an order against an individual or a winding up order against the company and will be entitled to share in the assets of the bankrupt on a pro-rata basis, after certain specified preferential creditors such as redundant employees. The claimant has the option of settling a claim in the currency in which the debt or obligation was incurred or in local currency.

Jamaica, a signatory to the International Center for Settlement of Disputes (ICSID) since 1965, accepts international arbitration of investment disputes between Jamaicans and foreign investors. Local courts also recognize and enforce foreign arbitral awards. International arbitration is also accepted as a means for settling investment disputes between private parties. However, acting in its role as an international tribunal, the soon-to-be -implemented CCJ will interpret and apply the Revised Treaty of Chaguaramas, including the CARICOM Single Market and Economy. There is no formal domestic arbitration body in Jamaica, but disputing parties can use arbitration proceedings to settle their disputes. These proceedings would be guided by the Arbitration Act which sets out the procedures disputing parties would follow once they agree on arbitration and is read in conjunction with the Arbitration Clauses Protocol Act, which in turn makes reference to how foreign arbitral awards will be addressed. If a foreign investor's country has a BIT with Jamaica then the rules of this treaty would apply. Other foreign investors are given national treatment and civil procedures would apply.

Performance Requirements and Incentives

Jamaica is a signatory to the World Trade Organization Agreement and is in compliance with most Uruguay Round obligations, including the TRIMS Obligations. There are no performance requirements imposed as a condition for investing in Jamaica. The GOJ offers a number of incentives to attract investments, particularly those that generate foreign exchange and expand employment. Some current incentives are non-compliant with the WTO Agreement on Subsidies and Countervailing Measures and should have been phased out by 2003. However, Jamaica was granted an extension by the WTO to revise its incentives and is awaiting reports from the World Bank-affiliated Foreign Investment Advisory Service and a local Tax Review Committee to complete the process. Chief among the current incentives are:

(a) The Export Industry Encouragement Act (EIEA) - entitles companies manufacturing products for export to non-CARICOM member countries benefits such as exemption from income and dividend taxes for up to ten years, and exemption from import duties on raw material and machinery during the incentive period. Service industries were included in 1990 and in 1996 the EIEA was amended to include companies that do not export 100 percent of their output.

(b) The Hotel Incentives Act - entitles hoteliers to income and dividend tax relief for up to ten years. Hoteliers may also receive an exemption from import duties for constructing or expanding hotels, but must have at least ten rooms and facilities for other activities. Income tax relief is granted for 15 years to hotels that meet certain qualifications including: having 10 to 350 rooms, facilities for holding conferences and operation by a qualified general manager. The Resort Cottages Incentives Act allows for income and dividend tax relief and duty-free importation of articles required to construct and equip resort cottages for up to seven years.

(c) The Motion Picture Industry Encouragement Law - motion picture producers can receive duty relief on imported goods for use in motion picture production as well as income tax exemption from the date of release or exhibition of each motion picture produced in Jamaica for a period of nine years. Producers are also granted a tax deduction of 70 percent of the capital expenditure incurred in acquiring facilities either in the year in which the cost is incurred or in any subsequent year at the option of the producer.

(d) Approved farmer status under the Income Tax Act - certified persons or companies engaged in growing food or seed crops, horticulture, aquaculture, tobacco and animal husbandry are eligible for income tax relief for up to ten years, renewable as well as concessionary duty rates on farm vehicles.

(e) The International Finance Company Act - available to finance companies conducting business solely with foreigners. With regard to Jamaican operations, non-residents must hold at least 95 percent of the loan capital. Profits of an approved corporate body are taxed at a rate of only 2.5 percent.

(f) The Shipping Incentives Act - approved shipping corporations are granted import duty and income tax concessions for a period of ten years.

(g) The Foreign Sales Corporation Act - provides exemption from income tax for five years for qualified income arising from foreign trade. U.S. law through the Tax Information Exchange Agreement (TIEA) reinforces this incentive.

(h) The Industry Modernization Program (IMP) and Moratorium on Duties - under the IMP, companies are exempt from general consumption tax on capital goods acquired for modernization. The Minister of Finance may award a moratorium on import duties on capital items for up to three years to companies, which do not qualify under existing incentive legislation and have the potential to contribute significantly to foreign exchange earnings.

(i) Accelerated Depreciation - certified companies are allowed to deduct 50 percent of the full cost of new machinery in the year of purchase and a further 50 percent in the following year.

(j) Other Incentives - a number of development banks provide concessionary financing for projects. The Jamaican National EXIM Bank provides concessionary interest rate loans for trade financing, while the Development Bank of Jamaica offers reduced lending rates to the productive sectors. The National Investment Bank of Jamaica also provides equity and quasi-equity financing for key economic sectors listed under the National Industrial Policy.

Foreign investors and their investment are generally granted national treatment status, subject to the rules outlined in their BIT. In essence, Jamaica has no performance requirements, except for companies with Free Zone status, which must export at least 85 percent of their output. Foreign firms are allowed to participate in GOJ-financed or subsidized R&D programs on a national treatment basis. Work permits are granted by the Ministry of Labor for a specified period, but are subject to the individual obtaining a working visa from the Jamaican Consulate available in or near their home state. Since 2005, foreign nationals who are conducting business on short-term basis will not require a business visa once they will be in Jamaica for a period not exceeding thirty days. However, foreign nationals will need a business visa to enter Jamaica if they are conducting business for periods exceeding thirty days. Foreign nationals who need visas for entry to Jamaica will require a business visa to conduct business.

All importers are subject to the same procedures when trading in goods and services. To qualify for entry certificates importers must obtain, inter alia, a supplier invoice, a certificate of value and origin, a declaration of value and a bill of lading and sight. Products imported into Jamaica must also meet specific acts administered by the Jamaica Bureau of Standards. In December 2001, Jamaica imposed the International Organization for Standardization ISO date representation (yy/mm/dd) as the official format for trade, but date labels are still accepted in the traditional European style (dd/mm/yy). The Jamaican economy is relatively open, but some non-tariff barriers remain. For instance, the Veterinary Division requires certification from a U.S. federal agency for all products containing animal and animal by-products irrespective of quantity or form. Highly processed products such as cookies and chips therefore require certification from a government veterinarian. The Coffee and Coconut Industry Boards also have to issue import certificates for coffee beans and cooking oils, respectively, but importers can experience lengthy delays in obtaining these permits. Under intense pressure from farmers cooperatives, the GOJ instituted a 100 percent Common External

Tariff (CET) plus an 80 percent Additional Stamp Duty (ASD), compounded to 260 percent, on whole chicken and leg-quarters and a number of imported vegetables.

Right to Private Ownership and Establishment

All private entities are entitled to establish and own business enterprises and engage in all forms of remunerative activity, subject to, inter alia, labor, registration and environmental requirements. Private entities are also free to establish, acquire and dispose of interests in business enterprises. Public and private enterprises have equal access to markets, credit and business operations, such as licenses and supplies. However, if the GOJ has to compete with the private sector it does not distort the market.

Protection of Property Rights

The Jamaican Constitution guarantees property rights. Jamaica has a system of registered title set out in the Registration of Titles Act, which recognizes and provides for the enforcement of secured interests in property by way of mortgage. It also facilitates and protects the acquisition and disposition of all property rights, though working through Jamaica's cumbersome bureaucracy can result in significant delays. In particular, it sometimes takes a long time for landowners to secure titles. Squatting, especially on crown lands has also become a challenge in the last ten years. Jamaica is a member of the World Intellectual Property Organization and is a signatory of the Bern Convention. Jamaica and the U.S. have an Intellectual Property Rights Agreement and a BIT, which provide assurances to protect intellectual property. However, Jamaica remains a special 301 "Watch List" country, largely because the patent law is not Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) compliant. A Geographical Indications Act (GI) was passed in 2004 to protect products that originate from localities where a particular quality or reputation is attributable to its geographical origin. General law provides protection for trade secrets. Protection against unfair competition is also provided by the general law and the Fair Competition Act.

The Copyright Act of 1993, as amended, complies with the TRIPS Agreement and adheres to the principles of the Bern Convention, and covers works ranging from books and music to computer programs. Amendments in June 1999 make explicit the provision of copyright protection on compilations of works such as databases and make it an offense for a person to manufacture or trade in decoders of encrypted transmissions. It also gives persons having rights in encrypted transmissions or in broadcasting or cable program services a right of action against persons who infringe their rights. The act needs to be amended to give effect to the provisions of the WIPO WCT and WPPT (Internet) Treaties to which Jamaica acceded in 2002. The Trademark Act of 1999 is also compliant with the TRIPS Agreement and provides the owner of registered trademarks exclusive rights for up to ten years, renewable. It provides for the protection of "well-known" marks under the Paris Convention. A TRIPS compliant Layout Designs Act has also been in effect since June 1999. The act provides protection for layout-designs for integrated circuits and gives the rights owner the exclusive right to reproduce, import, sell or otherwise commercially exploit the layout-design and to authorize other persons to do so. That right is in place for ten years and may be transferred by the rights owner.

Transparency of Regulatory System

A Fair Competition Act (FCA) was implemented in 1993 and is administered by the Fair Trading Commission. The main objective of the FCA is to prevent business interests and government policies from hindering the efficiencies to be gained from a competitive system. The FCA deals with misleading advertisements, price-fixing, collusion, unfair trading practices and interlocking directorships. To date the FTC has investigated over 5,000 cases, the majority of which are consumer protection related.

There are laws and policies covering taxation, labor, health and other issues to avoid distortions or impediments to the efficient mobilization and allocation of investment. However, investors argue that the Redundancy Act, which deals with severance payment, is a disincentive to investment funds. In 2001, the mandate of the Anti-Dumping and Subsidies Commission was expanded through the implementation of a Safeguards Act, which protects producers from import surges. The GOJ also established the Office of Utilities Regulation to act as regulator of the country's utilities.

Although there has been improvement in the approval process for investment projects, the time can still take anywhere from three months for Free Zone projects to over a year for green-field projects. Having recognized the problem, the GOJ has intensified its efforts to reduce bureaucracy as well as improve transparency and customer service levels within the public sector. A Ministry of Development was established to deal with investment bottlenecks. As stated above, the private sector, GOJ and USAID have also joined forces to implement a project (LEGS and REGS) to identify and deal with key legislation, regulations and processes that constrain business.

The embassy is not aware of any informal regulatory processes managed by NGOs or private sector associations or of any private sector and/or GOJ effort to restrict foreign participation in industry standards-setting consortia or organizations. However, in December 2004, the Free Trade Commission (FTC) implemented a non-legislative code of conduct governing the petroleum industry. The mandates of this code place restrictions on property sales and contracts between marketing companies and retailers, and are enforceable through fines levied by the FTC. Proposed legislation is available for public comment and submissions are generally invited from members of the public for items considered to be controversial. The legal, regulatory and accounting systems are transparent and consistent with international norms and Jamaica has adopted the new International Financial Reporting System.

Efficient Capital Markets and Portfolio Investment

Since the 1980s, Jamaica has initiated reforms aimed at fostering private sector activity and increasing the role of market forces in resource allocation. These reforms intensified in the 1990s, resulting in trade, financial and capital account liberalization. This has led to the availability of credit on market terms and foreigners are allowed to borrow freely on the local market at market-determined rates of interest. While some major financial products are still lacking, the private sector still has access to a variety of credit instruments.

Jamaica now has an effective regulatory system established to encourage and facilitate portfolio investment. The Financial Services Commission and the Bank of Jamaica jointly regulate portfolio investment. At the end June 2005, the country's three largest commercial banks had total assets amounting to over USD 4.7 billion or 85 percent of the entire assets of commercial banks. Five of the country's six commercial banks, including the three largest, are foreign-owned. During the mid-1990s there was a meltdown in the financial sector, but since 1998 there has been consolidation and increased output performance in the sector. Significant strides have also been made in terms of the regulatory framework, which are now in line with international standards. The non-performing loans portfolio as a percentage of the total asset base has moved from seven percent in 2000 to 2.4 percent at the end of June 2005.

Based on the Rule 404 of the Jamaica Stock Exchange (JSE), fully paid shares shall be free from any restriction on the right of transfer and from all liens. Two listed companies have clauses within their memoranda and articles of association that restrict foreign investors, but these predate the JSE. JSE listing arrangements allow for 20 percent of issued share capital to be listed, but there is no requirement that stipulates that this threshold must be maintained after listing. The rules of the JSE and the Security Acts also have specific provisions relating to the process of takeover and mergers, but these are general and given that there are no specific provisions (except in the cases mentioned above) regarding restrictions to foreign participation, it follows that there are no specific measures designed to protect against hostile foreign takeovers.

Political Violence

Jamaica has had no incidents involving politically motivated damage to projects and/or installations. Crime poses a greater threat to foreign investments than do politically motivated activities. There was also sporadic violence for a few days in July 2001 in response to what was perceived as "heavy-handed" police incursions into two Kingston neighborhoods considered loyal to the opposition Jamaica Labor Party. The resort city of Montego Bay also experienced a day of social unrest in 2003, in response to alleged police excesses. The street demonstration, which included the blocking of roads, affected the flow of tourists between hotels and the airport. Violent crime, rooted in poverty, unemployment and drug trafficking, is a serious problem in Jamaica, particularly in Kingston. Sporadic gang violence and shootings are concentrated in certain inner city neighborhoods, but can occur in other areas. Extortion is a serious problem in certain areas of the commercial district and on large construction projects - such as the highway project.

Corruption

Jamaica has a Corruption Prevention Act (CPA), which established a Corruption Prevention Commission in 2003 to, among other things: (1) receive, examine and document the statutory declarations of public sector workers; (2) receive and investigate any complaint regarding an act of corruption; and, (3) conduct investigation into acts of corruption, if satisfied there are reasonable grounds to do so. To date there has been no enforcement, as the commission lacks the capacity to enforce the filing of declarations. Recent reports suggest that non-compliance is running at over 30 percent. However, the commission will be working with the Director of Public Prosecution to have enforcement

measures implemented. The embassy is not aware of any disproportionate application of corruption measures against foreign investors, but members of the public perceive the law to be applied impartially among locals. During a recent panel discussion on governance a GOJ senator also stated that Jamaica had not done well in eliminating corruption from the public sector.

Jamaica is a signatory of the OECD Anti-Bribery Convention and has ratified the Inter-American Convention Against Corruption. Anti-corruption initiatives have been taken within the Jamaica Constabulary Force as well as some private sector organizations. Prosecutors also continue to take part in regional anti-corruption conferences, with one such conference developed by the United States Department of Justice (USDOJ). However, Jamaica is not a signatory to the UN Anticorruption Convention. The embassy is not aware of any U.S. firm identifying corruption as an obstacle to foreign investment. Transparency International (TI) performed a formal study of corruption in 2003. The TI report identifies widespread political, petty, and narcotics-related corruption as being prevalent in Jamaica. According to Transparency International's Perception Index, Jamaica scored 3.3 out of 10 in 2007, worsening slightly from 3.7 in 2006.

Under the Corruption Prevention Act (CPA) it is an offense to solicit or accept a bribe. Public servants can be imprisoned for up to ten years and fined as much as JMD ten million if found guilty of engaging in acts of bribery. Individuals and companies are also criminally liable if they bribe foreign public officials and can be prosecuted and face the same penalties. The legislation covers public officials who meet the JMD two million salary threshold and those working in sensitive positions such as police and military officers. The creation of the CPA could be viewed as evidence that GOJ officials are taking anti-corruption efforts seriously. However, financial constraints have crippled the commission's ability to fully execute its mandate of enforcing asset declarations. U.S. investors should be aware of the U.S. provisions of the Foreign Corrupt Practices Act (FCPA) which, in general, prohibits corrupt payments to foreign officials for the purpose of obtaining or keeping business. See the U.S. Department of Justice website for more information. <http://www.usdoj.gov/criminal/fraud/fcpa/>

The CPA also contains provisions for the extradition of Jamaican citizens for crimes of corruption. In April 2002, Prime Minister Patterson tabled a code of conduct in Parliament for government ministers. The 49-point code covers such issues as conflict of interest and integrity in the conduct of public and private business. The agency responsible for combating corruption is the Commission for the Prevention of Corruption. Other "watchdog" organizations operating in Jamaica include Transparency International, Jamaicans for Justice, Families Against State Terrorism and the Farquharson Institute of Public Affairs.

Bilateral Investment Agreements

Jamaica has investment treaties with the United States (Feb. 1994, which came into force in March 1997), Argentina (Feb. 1994), France (Jan. 1993), Italy (Sept. 1993), Germany (Sept. 1992), Netherlands (Apr. 1991), Switzerland (Dec. 1990), the United Kingdom (Jan. 1987), China (1998), Cuba (May 1997), Egypt (Feb. 1999), Indonesia (Feb. 1999) and Zimbabwe (Feb. 1999) and is presently negotiating bilateral investment agreements with South Korea, Costa Rica, Belgium, Russia and Canada. Jamaica has

also signed and ratified double taxation agreements with the U.S., Canada, CARICOM, China, Switzerland, Germany, Norway, Sweden, Denmark and the United Kingdom.

OPIC and Other Investment Insurance Programs

The Overseas Private Investment Corporation has identified infrastructure, telecommunications, construction, tourism and energy as areas where its programs can have an impact in Jamaica. OPIC political risk insurance can insure up to USD 40 million per project. OPIC also provides medium to long-term financing to ventures with significant U.S. participation. OPIC can normally guarantee or lend from USD 0.1 to 250 million per project. OPIC is currently providing USD 190 million in insurance and financing support for five projects in Jamaica in the construction, energy, telecommunications and tourism sectors. The country became a signatory to the Multilateral Investment Guarantee Agency in 1986 and ratified the agreement in 1987.

The foreign exchange market remained relatively stable for the first half of 2007, depreciating by 1.6 percent. This was a carry-over from the stability experienced during 2006. However, some volatility emerged between July and October of 2007 with the exchange rate depreciating by 4.4 percent. There was a decline in private capital inflows reflecting portfolio switching as the interest rate differential between Jamaican dollar and U.S. dollar denominated bonds narrowed. Supplies were also impacted by lower tourism receipts. On the demand side, with general elections pending, investors were also keen to switch to foreign denominated assets as a hedge against possible political instability. Demand was also driven by the external financing activities of Air Jamaica, as well as increased demand by some private sector entities to facilitate dividend payments. With international commodities prices rising, more foreign exchange was also required to buy the same amount of goods and services. The instability was further buoyed by the high level of Jamaican dollar liquidity and this forced the central bank to sell a portion of its Net International Reserves (NIR) to the market to alleviate the demand pressures. Notwithstanding, the holdings of NIR remained at a relatively healthy USD 2 billion. The rising commodities prices coupled with hurricane-related shocks to domestic agriculture influenced a jump in prices to 10.5 percent at the end of October 2007, well above the projection of 6-7 percent for the full calendar year.

Labor

Jamaica had an estimated labor force of 1.1 million at the end of 2006, of which 10.3 percent was unemployed. Since 1999 there has been a steady supply of people trained in information technology, particularly for call centers, and most of these workers have been absorbed by the growing call center industry. There has also been a jump in the number of university graduates, but the numbers have been depleted by migration to North America and the UK. This has apparently led to a shortage of highly educated and experienced labor as evidenced by the number of advertisements for these workers in the newspapers weekly. On the other hand, there has been a marked increase in the number of work permits issued to expatriates particularly in the services sectors. In 2006, a total of 5,927 permits were issued, down 2.9 percent. This figure climbed in 2007, as the newly appointed Minister of Labor and Social Security embarked on a program to have illegal workers legalized. Illegal workers were granted an amnesty to have their status legalized.

Jamaica has an active and strong trade union movement with membership equal to an estimated 20 percent of the labor force, although the movement is considerably weaker now than has traditionally been the case in Jamaica. Labor relations have traditionally been adversarial due to the level of distrust between workers and management. However, both parties have attempted to enhance the relationship between them by enacting a program for the management of labor cooperation (PROMALCO) launched in April 2002. There is also a memorandum of understanding on labor arrangements between unions and employers in the bauxite industry and the GOJ and unions for public sector workers. As a consequence, industrial disputes declined from 164 to 129 and the number of work stoppages declined from 29 to 16.

Jamaica has ratified the following ILO Conventions: Right of Association (Agriculture) Convention 1921 – ratified July 8, 1963; Freedom of Association and Protection of the Right to Organize Convention, 1948 - ratified December 26, 1962; and, Right to Organize and Collective Bargaining Convention, 1949 – ratified December 26, 1962. The GOJ is adopting the ILO policy on HIV/AIDS in the workplace. The GOJ, working in conjunction with the ILO and local stakeholders, has also developed a national plan of action on flexibility in working time to guide flexible working arrangements in Jamaica. Under the Work Permit Act, a foreign national who wishes to work in Jamaica must first apply for a permit issued by the Ministry of Labor. The law, which seeks to give first preference to Jamaicans, requires organizations planning to employ foreign nationals to prove that attempts were made to employ a Jamaican national.

Foreign-Trade Zones/Free Ports

Jamaica's Free Zones Act allows investors to operate solely with foreign exchange in activities such as warehousing, redistribution, manufacturing, refining, processing, assembling, packaging and services such as insurance and banking. Incentives offered include a 100-percent tax holiday in perpetuity, no import licensing requirements and exemption from customs duties on construction and raw materials, capital goods and office equipment. Manufacturing companies operating in the Free Zones are allowed to sell 15 percent of their production on the local market with the approval of the responsible minister. Duty-free zones are primarily found in airports, hotels and tourist centers and as with free zone activities, do not discriminate on the basis of nationality. The Kingston and Montego Bay Free Zones provide factory space for the above listed activities. Amendments have also been made to the Jamaica Export Free Zone Act to allow for the establishment of Single Entity Free Zones, with individual companies now designated as free zones. The Kingston Free Zone has recently developed an Informatics Park.

For foreign trade zone information investors can contact:

Mr. Winston Boothe, Senior Vice-President, Operations, Kingston and Montego Bay Free Zones, 27 Shannon Drive, Kingston 15, Tel: (876) 922-0290-8; 923-5274-5/6021; Fax: (876) 923-6023. 1 Mangrove Way, Montego Bay Free Port, P.O. Box 1377, Montego Bay, Tel:(876) 979-8696; Fax (876) 979 8088; Email: wboothe@portjam.com

Ambassador Stewart Stephenson, General Manager, Factories Corporation, 1 King St. Kingston, Tel: (876) 924-9600 -1; Fax: (876) 924-9630; Email: factories@cwjamaica.com

Foreign Direct Investment Statistics
f. Foreign Direct Investment Statistics

Table 1: FDI Stock in Jamaica (USD Million)

	1995	2000	2001	2002	2004	2005	2006
Inward	1,568	3,318	4,040	4,409	5,783	6,335	7,264
Outward	42	709	798	872	1,079	1,174	1,257

Source: World Investment Report, 2005

Table 2: FDI Stock as a Percent of GDP

	1995	2000	2001	2002	2004	2005	2006
Inward	32.3	43.0	50.5	56.7	66.4	65.1	68.8
Outward	6.3	9.2	10.3	11.2	12.4	12.1	11.9

Source: World Investment Report, 2005

Table 3: Inward FDI (USD Million)

	2000	2001	2002	2003	2004	2005	2006
Direct Investment	469	614	479	721	602	683	882
Bauxite Sector	98	84	108	150	57	112	336
JAMPRO	136	110	79	201	n/a	173	315
Ret. Earnings	116	116	162	158	178	202	132
Divestment	41	234	84	0	0	0	0
Other	79	71	46	212	367	197	99

Source: Bank of Jamaica

Table 4: Inward FDI as a percentage of GDP

	2000	2001	2002	2003	2004	2005
Direct Investment	6.9	8.7	6.6	9.5	6.7	7.9
Bauxite Sector	1.4	1.2	1.5	2.0	0.7	1.3
JAMPRO	2.0	1.6	1.1	2.6	0.9	2.0
Ret. Earnings	1.7	1.6	2.2	2.1	2.0	2.3
Divestment	0.6	3.3	1.1	0.0	0.0	0.0
Other	1.2	1.0	0.6	2.8	3.2	2.3

Source: Bank of Jamaica

Table 5: FDI Projects Facilitated by Jamaica Promotions by Sector (USD Million)

	00/01	01/02	02/03	03/04	04/05	05/06	06/07
TOTAL	457.7	289.2	462.7	105.8	153.8	233.2	265.7
Agriculture	0.0	0.0	5.6	2.9	6.4	3.0	0.0
Music, Film, Ent.	8.7	9.8	9.4	14.2	12.3	15.0	0.0
Info Tech.	206.1	186.0	277.0	45.9	11.4	64.3	55.7
Manufacturing	31.1	56.5	85.6	31.1	0.0	11.1	38.9
Mining/Chemicals	33.1	0.4	30.4	0.4	4.6	16.0	1.3
Tourism	178.7	36.5	54.6	11.1	119.2	123.9	169.8

Source: Jamaica Promotions Agency (JAMPRO)

Table 6: FDI Projects Facilitated by JAMPRO by Selected Country of Origin, FY 99-07

Country and Sector	JDOLS Millions	
BELGIUM		
Agriculture	1.0	
Film	2.3	
Tourism	100.0	
CANADA		
Film	126.7	
Information Technology	7,068.2	
Manufacturing	546.3	
Mining and Chemical	213.5	
Music	0.1	
CAYMAN ISLAND		
Film	0.2	
Tourism	78.2	
DOMINICAN REPUBLIC		
Information Technology	276.0	
Manufacturing	284.9	
GERMANY		
Film	131.3	
ITALY		
Film	1.2	
Tourism	58.3	
JAPAN		
Film	14.2	
RUSSIA		
Film	228.5	
SOUTH AFRICA		
Film	0.8	
Manufacturing	27.2	
SPAIN		
Tourism	26,536.0	
ST. LUCIA		
Manufacturing	88.6	
TAIWAN		
Agriculture	570.4	
TRINIDAD AND TOBAGO		
Film	0.2	
Mineral and Chemical	1,466.8	
Manufacturing	2,327.0	
U.S.A.		
Agriculture	182.0	
Film	1,414.9	
Information Technology		13,508.7
Manufacturing	2,367.0	
Mining and Chemicals	674.2	
Textiles	102.5	
Tourism	6,378.3	
UNITED KINGDOM		
Film	277.9	

Information Technology	9,277.1
Manufacturing	1,842.3
Music	1.5
Tourism	124.1
MULTIPLE OWNERS	
Film	784.6
Tourism	1,629.1

Source: JAMPRO (does not capture all new investments)

Jamaica has a long history of attracting foreign direct investment. Among the major U.S. investors operating in Jamaica are:

Accounting and Consulting

Deloitte and Touche
Ernst & Young
KPMG Peat Marwick
Price Waterhouse-Coopers
Reliance Consulting Group

Advertising

Lindo Foote, Cone & Belding (FCB)
McCann Erickson (Ja.) Ltd.

Agribusiness and Beverages

ADM Milling Company
Cifuentes y Cia
Coca Cola Jamaica
Nabisco Brands, Inc.
Pepsi-Cola Jamaica Bottling Plant
Kraft Foods

Banking & Finance

Citibank N.A.
Joslin Jamaica Ltd

Chemicals/Pharmaceuticals

Alkali Group of Companies
Antilles Chemical Co.
Cetco Water Laboratories
Diversey-Lever Jamaica Ltd.

Fabcon (Caribbean) Ltd
GlaxoSmithKline Beecham International
Industrial Gases Ltd. (IGL)
Sherwin Williams W.I. Ltd.

Computers and Data Processing

Affiliated Computer Services (ACS)
Copia Wireless Communications Ltd
Data Key Processors Jamaica Ltd.
E-Services Group International
Fargo Electronics
IBM World Trade Corp.
Jamaica Digiport Int'l Ltd.
Media Track Inc.
Merit Communications
Microsoft
New Horizons Learning Centre
Oceanic Digital Jamaica Ltd.
Overdrive Jamaica Ltd
Productive Business Solutions Ltd.
Satellite Image Systems Jamaica Ltd
Standard Data Systems
Verizon International Teleservices

Consumer Products

Colgate Palmolive
Curves Jamaica
Dryclean USA
F. W. Woolworth & Co. (Ja.) Ltd.
Gillette Caribbean
Hi-Pro Ace Farm & Garden Supercenter
Johnson & Johnson
KIWI Brands Caribbean Ltd.
Mead Johnson
Meineke
PriceSmart
Rooms-to-Go
Tile City & Home Centre (Do It Best)
True-Value Hardware

Courier, Remittances and Transportation Service

DHL
Econocaribe Consolidators, Inc.
Federal Express
International Bonded Couriers

Sea-Land Service, Inc.
UPS
Western Union

Education

Florida International University
Nova Southeastern University
Tranquility Bay (World Wide Association of Specialty Programs)
University of New Orleans

Insurance

American Home Assurance Co.
Blue Cross Shield of Jamaica

Manufacturing, Assembly, Construction and Recycling

Baywind Manufacturing Ltd.
Caribbean Paper Recycling Co., Ltd.
3-M Interamerica Inc.
Custom Marble & Design Jamaica Ltd.
Econ Industries Inc.
Goodyear Jamaica Ltd. (Distributor)
Hofmann and Leavy Jamaica Ltd.
Jamaica Bow Co. Ltd.
Jamaica Pre-Mix Ltd (Ledhgill International)
Jockey International Jamaica Ltd.
Johnson & Johnson
Sealy Mattress Company
Sherwin Williams W.I. Ltd
Singer Sewing Machine Co. Ltd.
Sportswear Producers Ltd.
West Indies Nutritional Corporation Ltd.
Williamson Dickie Jamaica Ltd.

Mining & Energy

Alcoa Minerals of Jamaica, Inc.
Alumina Partners of Jamaica (ALPART)
Esso Standard Oils S.A. Ltd.
JAMALCOA
Jamaica Energy Partners
Jamaica Private Power Company Ltd.
Kaiser Bauxite Company
St. Ann Bauxite Partners (Century Aluminum)
Texaco Caribbean Inc.

Real Estate and Project Management

Century 21 Heave-Ho Properties Ltd
Coldwell Banker Jamaica Realty
Boyken-Mortimer International LLC

Tourism and Hospitality Industry

American Airlines
American Express Int'l Inc.
Apple Vacations
Avis Rent-A-Car
Baskin Robbins
Budget Rent-A-Car
Churches Fried Chicken
Chester's Fried Chicken
Continental Airlines
Delta Airlines
Domino's Pizza (Partner foods)
Hertz (Liberty) Car Rental
Hilton (Kingston) Hotel
Holiday Inn Sunspree Resort
Kenny Rogers Roasters Chicken
Margaritaville Ltd
Northwest Airlines, Inc.
Pizza Hut
Popeye's Chicken and Seafood
Renaissance Jamaica Grande Hotel
Resort Property
Restaurants Associates Ltd. – Burger King
Restaurants of Jamaica Ltd. – Kentucky Fried Chicken
Ritz Carlton Hotel
Rose Hall Developments Ltd
Rose Hall Resort & Country Club
Spirit Airlines
Subway (Ja.) Ltd.
Tavistock Group (Harmonisation Ltd)
TCBY Frozen Yogurt
TGI Friday's
U.S. Airways
Wendy's

Web Resources

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