



## Executive Summary

The Government of Jamaica (GoJ) has committed itself to attracting foreign direct investment to drive economic growth. Jamaica signed a US\$932 million Extended Fund Facility with the International Monetary Fund in May 2013 to, in part, effect significant structural reforms to encourage investment. For example, the government eliminated discretionary tax exemptions that were non-compliant with the WTO Agreement on Subsidies and Countervailing Measures and should have been phased out by 2003. The WTO granted Jamaica an extension to revise its incentives by the end of 2013. To satisfy this obligation, the GoJ passed the Omnibus legislation, which took effect on January 1, 2014, that codified tax benefits for all investors, simplified the income tax code, and broadened the tax base. Although Jamaica scores well on the World Bank's Doing Business Report in terms of selling property and starting a business, the bureaucracy remains a deterrent to investment, with the country underperforming in the areas of paying taxes and getting electricity. Jamaica's ranking fell from 91<sup>st</sup> in 2013 to 94<sup>th</sup> in the 2014 World Bank Doing Business Report.

Jamaica received US\$564 million in foreign direct investments during 2012, up from US\$218.2 million in 2011. The country recorded thirteen straight quarters of economic decline between 2008 and 2010. GDP grew by 1.3% in 2011, but declined again in 2012 due to the fiscal consolidation efforts associated with the ambitious economic reform program. With the implementation of the IMF agreement and several positive IMF quarterly reviews, Jamaica recorded 0.5% growth in the last quarter of 2013 and an overall 0.2% growth for the year. Positive growth is expected to continue in 2014 and the rate could accelerate in the medium term if one or more of the country's planned mega projects come to fruition.

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. Property rights are protected under Section 18 of the Jamaican Constitution. While expropriation of land may occur under the Land Acquisition Act, compensation must take place on the basis of market value. 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.

While the Embassy is not aware of any U.S. firm identifying corruption as an obstacle to foreign investment, corruption remains a major concern in Jamaica. Although the country has enacted a Corruption Prevention Act and is signatory to a number of international conventions, there have been no major convictions. Jamaica ranks 83 out of the 175 countries surveyed globally on the Transparency International's Perception Index.

### 1. Openness to, and restrictions upon, foreign investment

The Government of Jamaica (GOJ) recognizes foreign investment as a driver of economic development and therefore does not apply any policies or regulations that reserve certain sectors exclusively for Jamaicans. Both the governing People's National Party (PNP) and the opposition Jamaica Labor Party (JLP) have committed themselves to attracting foreign direct investment (FDI). However, bureaucratic red tape is still recognized as a major hindrance to conducting business in Jamaica. Bureaucracy continues to pose challenges for both local and foreign investors, as the process for environmental and land use permits and other legal requirements are often cumbersome. During her inaugural speech on January 12, 2012, Prime Minister Portia Simpson Miller acknowledged that the GOJ must "make it easier to do business in Jamaica." Numerous measures that once inhibited foreign investment, such as the Foreign Exchange Control Act and a list of sector areas solely reserved for local investment, have been eliminated for decades. Thus, Jamaica does not have legal impediments to prevent FDI and applies the principle of national treatment to foreign investors.

With these legal impediments removed, attention turned to reducing bureaucratic red tape, including the processing and approval times for investment-related applications. As one example, the United States Agency for International Development (USAID) began their Promote, Renew, Invigorate, Develop and Energize (PRIDE) Jamaica project in 2009, which supports GOJ efforts to reduce barriers to trade and investment. PRIDE Jamaica works with stakeholders in the private and public sectors to promote free market economic policies, streamlining government regulations, processes and practices to improve Jamaica's competitive position in the international market as a desirable place to do business. Working with public-private partnerships and other donors, PRIDE Jamaica leverages these resources to establish stakeholder support and maximize project impact.

In the World Bank Doing Business Report, Jamaica slid from 91st in 2013 to 94th in 2014. Jamaica ranks lower than regional countries such as St. Lucia (64) and Trinidad & Tobago (66), but ahead of St. Kitts and Nevis (101), and the Dominican Republic (117). Jamaica ranks well among its regional peers in areas such as starting a business and registering property, which includes procedures necessary to purchase property from another business and transfer the property title to the buyer. In comparison with its peers, Jamaica underperformed in the areas of paying taxes (on average it takes medium sized businesses 368 hours to prepare, file and pay taxes), enforcing contracts (cost of enforcement for commercial disputes is on average 45.6% of the claim, with an average resolution time of 655 days), and getting electricity (at present a single company has monopoly control of Jamaica's electricity grid).

Jamaica maintained its position as one of the easiest countries to start a business with a ranking of 23. Recent process improvements include changes that allow the Companies Office of Jamaica to stamp a company's articles of incorporation at registration. Jamaica improved its credit information system by creating a legal and regulatory framework for private credit bureaus. One credit bureau was issued a license in 2012 and started operations in 2013, while a second institution was granted a license in 2013 but has yet to commence operations. The country also made paying taxes less costly for companies by reducing the corporate income tax rate—though it also increased vehicle and asset taxes. The Government of Jamaica (GoJ) increased the transfer tax and stamp duty applied to property transfers. As part of a four-year US\$932 million Extended Fund Facility it signed with the International Monetary Fund (IMF) in May 2013, the GOJ

frontloaded an ambitious legislative agenda to undertake significant structural reforms to its economy. Between May and December 2013, Jamaica's Parliament passed 11 pieces of legislation to improve the business environment and support economic growth through a simplified tax system and broadened tax base.

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; however, the legal process can be lengthy and court cases can take years or even decades to resolve. 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 prerequisites, and due diligence may be carried out 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 subject to regulation and certain restrictions. Likewise, the Public Health (Tobacco Control) Regulations came into effect in July 2013, regulating the manufacture, distribution, marketing and use of tobacco and tobacco products. These regulations bring Jamaica into compliance with the World Health Organization's Framework Convention on Tobacco Control, which the country ratified in July 2005.

Jamaica's privatization program is open to participation by foreign investors, except for assets 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 advantages 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 divest, moving to liquidate state holdings in such firms as Clarendon Alumina Partners, Kingston Container Terminal and Norman Manley International Airport in Kingston.

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. 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 host country private firms could restrict foreign investment.

Foreign direct investment (FDI) inward flows to Jamaica were US\$564 million in 2012, up from US\$218.2 million in 2011. Jamaica registered thirteen straight quarters of economic decline between 2008 and 2010. The decline paused in 2011, when the economy grew by 1.3%, before declining again in 2012 on the back of an ambitious economic reform program. GDP recovered in 2013, registering a 0.2% increase, as both the mining and tourism showed positive trends. Growth could accelerate in the medium term if one more of the country's planned mega projects come to fruition. Chief among these are various road and housing construction projects, a proposed logistics hub that would take advantage of an expanded Panama Canal, and a US\$1.5 billion harbor and port facility to be constructed by the China Harbour Engineering Company (CHEC) currently being negotiated with the GoJ. The GoJ has also received five bids for Integrated Resort Development (IRD) projects. These mega-developments, regulated by the Casino Gaming Regulations 2012, require investors to develop 1,000 hotel rooms and demonstrate plans for another 1,000 in order to receive permission to establish gambling facilities. Total investment must be at least US\$1.2 billion. The GoJ also anticipates robust agriculture output following its decision to establish 9 Agro Parks to grow exports and replace part of the country's US\$900 million imported food bill.

With the onset of the 2008 global economic crisis, there was a significant slowdown in some of Jamaica's critical foreign exchange earners. Growth in the bauxite sector slowed with three of four alumina plants shutting down operations. One of those plants has reopened but operates below full capacity. The construction boom of 2003 to 2007, which brought in over US\$1 billion in FDI to the hotel sector, waned. A major cruise ship project in the town of Falmouth accepted its first ship in February 2011 and cruise arrivals have increased accordingly. Chinese investment and project financing in Jamaica have increased through acquisitions in Jamaica's sugar industry, as well as participation in large-scale construction projects such as the new Convention Center in Montego Bay, two cricket stadiums, and improvements to the road and causeway linking Kingston to its international airport.

The introduction of competition in the telecommunications sector attracted three mobile providers and multiple internet service providers. By 2012, only 2 mobile providers were operative, with Digicel controlling over 80% of the market. Both Digicel and LIME (a subsidiary of Cable and Wireless) renewed their spectrum and telecommunications licenses for US\$85 million and US\$30 million, respectively. The GoJ are also in the process of auctioning another three telecoms licenses. Highway 2000, Jamaica's first toll road, was constructed by French company Bouygues under a build, operate, and transfer (BOT) model. Two segments of the project, costing over US\$500 million, are complete. A middle leg between Kingston and the resort area of Ocho Rios, scheduled for completion by the end of 2010 and initially budgeted to cost US\$100 million, remains incomplete and over budget due to concerns about geologic stability. In late 2013, China

Harbor Engineering Company (CHEC) took over the construction of this roadway and announced that it would be completed by June 2014.

As part of its US\$610-million road infrastructure project, CHEC will design, build, operate and finance two additional legs of the 67 kilometer toll road required to connect Kingston and Ocho Rios. CHEC will reimburse the GoJ the US\$120 million it expended on the project, while the Chinese outfit will receive 1,200 acres of lands along the toll road for housing, commercial development and hotels. Chinese company Gao Zhen Real Estate & Development Co. Ltd, in partnership with the Housing Agency of Jamaica, will construct approximately 30,000 affordable housing units across the island, creating employment for approximately 1,500 people over the next five years. The GoJ has also signed a Memorandum of Understanding (MoU) with CHEC to do a feasibility study for a dam expected to store up to 1,900 million gallons of water and supply 80 million gallons per day. The country's largest water facility currently stores 800 million gallons, but requires de-silting.

## **2. 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 bureau de change at market-determined rates. Foreign exchange is generally available, but companies tend to acquire large amounts of foreign exchange over a three to four day period, so as not to disturb currency markets. There are currently no plans to change the policies affecting investment remittances and there is no delay period currently in effect for repatriating investment returns. There is no legal parallel market (tiered system) for foreign exchange and there are no limitations on the inflow or outflow of funds for any transaction. U.S. companies indicate no problems or delays in repatriating investments.

## **3. 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. The U.S. Embassy has assisted investors who had property expropriated primarily in the 1970's, but decades later continue to seek restitution. A payment in one case was issued as recently as 2010. If informal negotiation on compensation fails, the investor has recourse in the courts, but this process can take years. Jamaica has signed bilateral agreements for the reciprocal promotion and protection of investments with a number of countries, including the United States. The U.S. Embassy in Kingston is not aware of any ongoing litigation between the Jamaican government and any private individual or company based on expropriation or on compensation for expropriation, but there were cases involving commercial disputes between government-owned enterprises and private investors. There are currently no laws that force local ownership.

#### 4. 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 Magistrates 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. The PNP government that took office in January 2012 has stated its intention to replace the Privy Council with the Caribbean Court of Justice (CCJ) as Jamaica's final appeals body. The CCJ would hear appeals in civil and criminal matters from common law courts within CARICOM member states such as Jamaica. Currently no proposal is being pursued and replacing the Privy Council with the CCJ may require a national referendum. Jamaica has formal 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 where there is a reciprocal enforcement of judgment treaty with the relevant foreign state.

A number of disputes involving foreign investors and the government on one hand and foreign investors and a local association on the other arose in 2005. A major dispute, which is yet to be resolved, involves the implementation of a levy by the government on incoming 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 protested this levy and requested that the Federal Communications Commission persuade Jamaica to desist from collecting the fees. In the broadcasting space, Jamaica maintains a statutory licensing regime for the retransmission of copyrighted television programming but has not consistently enforced the payment of statutory royalties to rights holders.

The *Bankruptcy Act of 1880* regulates personal insolvency, while the *Companies Act of 2004*, coming under the provisions of the United Kingdom Companies Act of 1948, oversees corporate insolvency. Other statutes such as the *Bills of Exchange* and the *Sale of Goods Acts* deal with commercial matters. Efforts are currently underway to pass modern insolvency legislation as part of the country's growth-enhancing structural reforms. Extensive common law principles exist in writing and are consistently applied. Under the existing 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, in line 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 recognize foreign arbitral awards. International arbitration is also accepted as a means for settling investment disputes between private parties. The CCJ fulfills its role as an international tribunal for disputes within the CARICOM Single Market and Economy. Among the

formal entities facilitating arbitration in Jamaica are the Dispute Resolution Foundation and the Caribbean Branch of the Chartered Institute of Arbitrators. If a foreign investor's country has a Bilateral Investment Treaty (BIT) with Jamaica, as the U.S. does, then the rules of this treaty would apply. Other foreign investors are given national treatment and civil procedures apply.

## 5. 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. No performance requirements are imposed as a condition for investing in Jamaica. Prior to 2013 the government offered a number of incentives to attract investments in targeted sectors and industries, particularly those generating foreign exchange and increasing employment. However, most incentives were non-compliant with the WTO Agreement on Subsidies and Countervailing Measures and should have been phased out by 2003. Jamaica was granted an extension by the WTO to revise its incentives by the end of 2013. To satisfy this obligation, the GoJ passed a suite of legislation referred to as "the Omnibus legislation" that took effect on January 1, 2014. The Omnibus legislation fulfills its WTO mandate and addresses deficiencies in the tax incentives regime. The Fiscal Incentives (Miscellaneous Provisions) Act 2013 repeals most of the legacy incentive legislation and provides flexibility for new tax incentives to only be granted in relation to the bauxite sector, export free zone activities, the relocation of corporate headquarters, and Junior Stock Exchange listings. The Act also outlines the arrangement for transitioning to the new regime. Continuing beneficiaries may elect to keep old incentives such as relief from income tax and customs duty as well as zero-rated GCT status for imports.

The new omnibus fiscal incentives framework provides varying levels of tax relief with respect to customs duties, additional stamp duties and corporate income tax. These benefits are granted under the following four areas:

- (1) *The Fiscal Incentives Act*: Targets small and medium size businesses and reduces the effective corporate income tax rate by applying: (1) an Employment Tax Credit (ETC) at a maximum value of 30%; and, (2) a Capital Allowance applicable to a broadened definition of industrial buildings;
- (2) *The Income Tax Relief (Large-Scale Projects and Pioneer Industries) Act*: Targets large-scale projects and/or pioneering projects and provides for an improved and more attractive rate for the ETC. Projects will be designated either as large-scale or pioneer, based on a decision by Parliament and subject to an Economic Impact Assessment.
- (3) *Revised Customs Tariff*: Provides for the duty free importation of capital equipment and raw material for the productive sectors.
- (4) *Revised Stamp Duty Act*: Provides exemption from additional stamp duty on raw materials and non-consumer goods for the manufacturing sectors.

*Jamaica Free Zone Act*: Under this revised Act, companies granted free zone status are permitted to import items free of customs duty, value-added tax and other port related taxes and charges for an unspecified period. Profits earned are also free from income tax for an unspecified period. To become eligible for these benefits, firms are required to export at least 85% of the goods and services produced within the free zone. This Act is slated to be repealed in 2015 at which time a new fiscal incentive arrangement will be put in place.

*Urban Renewal Act:* Companies that undertake development within Special Development Areas can benefit from Urban Renewal Bonds, a 33.3% investment tax credit, tax free rental income and the exemption from transfer tax and stamp duties on the ‘improved’ value of the property.

*Income Tax Act (Junior Stock Exchange):* As of January 1, 2014, companies listed on the junior stock exchange will not be required to pay income tax in the first five years, reduced from ten years. This benefit will expire altogether on December 31, 2016.

*Bauxite and Alumina Act:* Under this act, bauxite/alumina producers are allowed to import all productive inputs free of import duties, VAT and other port related taxes and charges.

*The Foreign Sales Corporation Act:* This 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.

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. Special tax incentives exist for companies that register on the junior stock market.

Foreign investors and their investments are generally granted national treatment status, subject to the rules outlined in the relevant Bilateral Investment Treaty. 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 work visa from the Jamaican Consulate located in or near their home state. Since 2005, foreign nationals who conduct business on a short-term basis do not require a business visa if they will be in Jamaica for a period not exceeding thirty days. 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 requirements 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 Ministry of Agriculture’s 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, and 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 select agriculture products.

## **6. 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 government has to compete with the private sector, it will do so on a competitive basis so as to not distort the market.

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

The Jamaican Constitution guarantees property rights. Jamaica has a system of registered titles 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 (government) lands, is a major challenge.

Jamaica is a member of the World Intellectual Property Organization (WIPO) 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 has remained on the special 301 "Watch List" for over ten years, largely because the patent and design law is not compliant with the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS). A new Patent & Designs Bill, including new rules and fee structures, has been drafted and is currently under review by the Chief Parliamentary Council of Jamaica. 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. The Geographical Indications Act and regulations are now fully in force and TRIPS compliant. 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 upon their rights. The act needs to be amended to give effect to the provisions of the WIPO Copyright Treaty and WIPO Performances and Phonograms Treaty (the 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 on Industrial Property Rights of which Jamaica is a signatory. 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.

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

Embassy point of contact: Jeremy Slezak [SlezakJD@state.gov](mailto:SlezakJD@state.gov)

List of local attorneys: [http://kingston.usembassy.gov/attorney\\_services3.html](http://kingston.usembassy.gov/attorney_services3.html) , or:  
[http://photos.state.gov/libraries/jamaica/231771/PDFs/attorney-list\\_jamaica\\_rev\\_7-13\\_.pdf](http://photos.state.gov/libraries/jamaica/231771/PDFs/attorney-list_jamaica_rev_7-13_.pdf)

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

A Fair Competition Act (FCA) was implemented in 1993 and is administered by the Fair Trading Commission (FTC). 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.

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, it can still take anywhere from three months for Free Zone projects to over a year for green-field projects. The GOJ often speaks about plans to reduce bureaucracy as well as improve transparency and customer service levels within the public sector, but meaningful reform has been minimal. The U.S. 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 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.

## **9. 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 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 of December 2012, there were 13 supervised deposit-taking institutions consisting of 7 commercial banks, 2 merchant banks (Licensed under the Financial Institutions Act), and 4 building societies. With the inclusion of Credit Unions the supervised deposit taking institutions are expected to expand to 56. At the end of September 2013, the country's four largest commercial banks had total assets amounting to over US\$ 6 billion or approximately 90 percent of the entire assets of commercial banks. Five of the country's seven commercial banks, including the four largest, are foreign-owned. During the mid-1990s there was a crisis in the financial sector followed by an expensive resolution often referred as "FINSAC."

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 GOJ is currently drafting omnibus banking legislation, which should facilitate more effective supervision of financial entities as well as streamline the standards and applicable legislation that apply to commercial banks, merchant banks, and building societies.

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.

In 2009, Jamaica established a Junior Market for small and medium sized enterprises (SMEs) with capitalization of less than US\$5 million as a sub-set of the Jamaica Stock Exchange. At the close of 2013, the Junior Market listed 21 companies. The Junior Market has provided a way to create equity investing opportunities for smaller businesses by offering tax incentives for list companies. This incentive, initially a 10-year tax holiday, was reduced to a 5-year tax holiday in 2014 to conform to the new incentives regime.

#### **10. Competition from State-Owned Enterprises (SOEs)**

In recent years the GOJ has moved to sell holdings in SOEs, recently exemplified by the sale of three sugar factories to the Chinese firm COMPLANT (incorporated in Jamaica as the Pan-Caribbean Sugar Company); the sale of Air Jamaica to Caribbean Airlines (which resulted in the GOJ owning 16% of Caribbean Airlines); the sale of the Pegasus Hotel to local hoteliers (Quivin Group); and the sale of Wallenford Coffee to AIC International Investments. The GoJ also plans to divest its holdings in Clarendon Alumina Partners, Kingston Container Terminal, and Norman Manley International Airport. The GOJ has substantial holdings in Jamaica's oil refinery and ports, some local tourist attractions and resorts, and a 19.9% stake in Jamaica Public Service Company (JPS), the island's electricity provider.

Private firms compete with SOEs on fair terms in Jamaica. Jamaican SOEs generally lack the same profitability motives as private enterprises, as the GOJ often finances loss-making activities. For that reason, Jamaica's IMF program prioritizes divestment from some of the GoJ's most inefficient investments. Jamaica does not have a sovereign wealth fund or an asset management bureau.

#### **11. Corporate Social Responsibility**

In general, there is a good awareness of corporate social responsibility (CSR) among producers and consumers in Jamaica. Private sector firms that pursue CSR are favorably viewed in the country. Across the nation, there are dozens of private organizations that advocate for business interests. Frequently these organizations also facilitate projects for social and community benefit, including efforts to create job opportunities for youth, reduce crime, fight corruption, and make Jamaica a more transparent place to conduct business. Jamaica's justice system is overburdened, which impacts the court's ability to review business disputes in a timely manner and should be a

major factor for businesspeople to consider when doing business in the country. Historically Jamaica has lacked credit reporting agencies. While a credit reporting agency did officially open in late-2012, there remains an absence of comprehensive information about potential local partners or borrowers. In such an environment, a solid reputation for CSR is seen as highly valuable among businesses in Jamaica.

## **12. Political Violence**

Crime poses a greater threat to foreign investments in Jamaica than do politically motivated activities. In April 2009 there were small sporadic disturbances in response to a new gasoline tax. The resort city of Montego Bay 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 some urban areas. 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. In 2009, breaking from a tradition of strong cooperation with the U.S. Government on law enforcement matters, the GOJ hesitated in responding to U.S. requests for the extradition of alleged leaders of high-profile criminal organizations. This culminated in a dispute over the extradition request for drug kingpin Christopher “Dudus” Coke. After a three-day incursion by Jamaican security forces into the Tivoli Gardens community, widely recognized as Coke’s stronghold, and followed by an island-wide search, Coke was eventually extradited to the United States on June 24, 2010. Coke subsequently pled guilty to racketeering charges, and in June 2012 was sentenced to twenty-three years in prison.

## **13. Corruption**

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

It is important for U.S. companies, irrespective of their size, to assess the business climate in the relevant market in which they will be operating or investing, and to have an effective compliance program or measures to prevent and detect corruption, including foreign bribery. U.S. individuals and firms operating or investing in foreign markets should take the time to become familiar with the relevant anticorruption laws of both the foreign country and the United States in order to properly comply with them, and where appropriate, they should seek the advice of legal counsel. The U.S. Government seeks to level the global playing field for U.S. businesses by encouraging other countries to take steps to criminalize their own companies’ acts of corruption, including bribery of foreign public officials, by requiring them to uphold their obligations under relevant international conventions. A U.S. firm that believes a competitor is seeking to use bribery of a foreign public official to secure a contract should bring this to the attention of appropriate U.S. agencies, as noted below.

*U.S. Foreign Corrupt Practices Act:* In 1977, the United States enacted the Foreign Corrupt Practices Act (FCPA), which makes it unlawful for a U.S. person, and certain foreign issuers of securities, to make a corrupt payment to foreign public officials for the purpose of obtaining or retaining business for or with, or directing business to, any person. The FCPA also applies to foreign firms and persons who take any act in furtherance of such a corrupt payment while in the

United States. For more detailed information on the FCPA, see the FCPA Lay-Person's Guide at: <http://www.justice.gov/criminal/fraud/>

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

*OECD Antibribery Convention:* The OECD Antibribery Convention entered into force in February 1999. As of March 2009, there are 38 parties to the Convention including the United States (see [http://www.oecd.org/daf/anti-bribery/WGBRatificationStatus\\_April2014.pdf](http://www.oecd.org/daf/anti-bribery/WGBRatificationStatus_April2014.pdf)). Major exporters China, India, and Russia are not parties, although the U.S. Government strongly endorses their eventual accession to the Convention. The Convention obligates the Parties to criminalize bribery of foreign public officials in the conduct of international business. The United States meets its international obligations under the OECD Antibribery Convention through the U.S. FCPA. Jamaica is not party to the OECD Antibribery Convention.

*UN Convention:* The UN Anticorruption Convention entered into force on December 14, 2005, and there are 158 parties to it as of November 2011 (see <http://www.unodc.org/unodc/en/treaties/CAC/signatories.html>). The UN Convention is the first global comprehensive international anticorruption agreement. The UN Convention requires countries to establish criminal and other offences to cover a wide range of acts of corruption. The UN Convention goes beyond previous anticorruption instruments, covering a broad range of issues ranging from basic forms of corruption such as bribery and solicitation, embezzlement, trading in influence to the concealment and laundering of the proceeds of corruption. The Convention contains transnational business bribery provisions that are functionally similar to those in the OECD Antibribery Convention and contains provisions on private sector auditing and books and records requirements. Other provisions address matters such as prevention, international cooperation, and asset recovery. Jamaica is a party to this UN Convention.

*OAS Convention:* In 1996, the Member States of the Organization of American States (OAS) adopted the first international anticorruption legal instrument, the Inter-American Convention against Corruption (OAS Convention), which entered into force in 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. As of December 2009, the OAS Convention has 34 parties (see <http://www.oas.org/juridico/english/Sigs/b-58.html>). Jamaica is a party to this OAS Convention.

*Council of Europe Criminal Law and Civil Law Conventions:* Many European countries are parties to either the Council of Europe (CoE) Criminal Law Convention on Corruption, the Civil Law Convention, or both. The Criminal Law Convention requires criminalization of a wide range of national and transnational conduct, including bribery, money-laundering, and account offenses.

It also incorporates provisions on liability of legal persons and witness protection. The Civil Law Convention includes provisions on compensation for damage relating to corrupt acts, whistleblower protection, and validity of contracts, inter alia. The Group of States against Corruption (GRECO) was established in 1999 by the CoE to monitor compliance with these and related anti-corruption standards. Jamaica is not party to this Council of Europe Convention.

*Local Laws:* U.S. firms should familiarize themselves with local anticorruption laws, and, where appropriate, seek legal counsel. The Embassy cannot provide legal advice on local laws, but the Embassy does offer a list of local attorneys.

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

The Departments of Commerce and State provide worldwide support for qualified U.S. companies bidding on foreign government contracts through the Commerce Department's Advocacy Center and State's Office of Commercial and Business Affairs. Problems, including alleged corruption by foreign governments or competitors, encountered by U.S. companies in seeking such foreign business opportunities can be brought to the attention of appropriate U.S. government officials, including local embassy personnel and through the Department of Commerce Trade Compliance Center "Report A Trade Barrier" Website at [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) FCPA Opinion Procedure enables U.S. firms and individuals to request a statement of the Justice Department's present enforcement intentions under the anti-bribery provisions of the FCPA regarding any proposed business conduct. The details of the opinion procedure are available on DOJ's Fraud Section Website at [www.justice.gov/criminal/fraud/fcpa](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 Counsel, U.S. Department of Commerce website.

Exporters and investors should be aware that generally all countries prohibit the bribery of their public officials and prohibit their officials from soliciting bribes under domestic laws. Most countries are required to criminalize such bribery and other acts of corruption by virtue of being parties to various international conventions discussed above.

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. 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 some members of the private sector perceive that the law is not applied impartially. During a 2010 panel

discussion on governance, a Government of Jamaica Senator also stated that Jamaica had not done well in eliminating corruption from the public sector.

Jamaica has ratified the Inter-American Convention Against Corruption. In 2008, Jamaica became party to the United Nations Convention Against Corruption. Anti-corruption initiatives have been taken within the Jamaica Constabulary Force as well as some private sector organizations.

Prosecutors participate in regional anti-corruption conferences. 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, identifying widespread political, petty, and narcotics-related corruption as being prevalent in Jamaica. According to Transparency International's Perception Index, Jamaica's score of 3.0 out of 10 in 2009, moved to 3.3 in 2010, and remained at 3.3 during 2011. Jamaica's score moved up to 38 out of 100 in 2012 and 2013, ranking Jamaica at 83 of the 175 surveyed globally.

Corruption may well be the single greatest concern among Jamaicans, many of whom believe it is one of the root causes of the high crime rate. According to the January 6, 2013 edition of *the Gleaner*, in 2012 there were 54 police officers who were arrested for alleged acts of corruption. In recent times only a few politicians have been arrested on charges of corruption. One politician was being tried before the Judicial Review Court and experiencing various delays, he was exonerated after Resident Magistrate upheld a "no case submission". In another case, Contractor General Dirk Harrison also referred a junior government minister and a mayor to the Director of Public Prosecutions (DPP) for the illegal construction of shops at a municipal market. The DPP found no evidence to suggest that the minister was guilty of conspiracy to defraud the municipality, However the DPP found that there was "clear evidentiary material to institute criminal proceeding" against the mayor for attempting to mislead the Contractor General, contrary to section 29 (a) of the Contractor General Act. There are concerns that the government lacks the political will to root out corruption but some positive efforts, as demonstrated in the above cases, have occurred.

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 JD\$ 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 JD\$2 million salary threshold and those working in sensitive positions such as police and military officers. However, it is well known that a number of public officials have been delinquent in complying with mandatory filing. 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. In 2007, The GOJ passed into law the Proceeds of Crime Act (POCA), a powerful legal tool that allows for both criminal and civil forfeiture and criminalizes money laundering related to narcotics offenses, fraud, firearms trafficking, human trafficking, terrorist financing and corruption, and applies to all property or assets associated with an individual convicted or suspected of involvement with a crime. However, the GOJ has been very slow to use this law. More active enforcement of the POCA by the GOJ would certainly strengthen anti-corruption efforts and send a signal that the country is serious about illicit activity. Within Jamaica's Parliament, legislation is pending for a Special Prosecutor's Bill to target corruption. In 2011, a report written by the Contractor General about corruption in the Jamaican Development Infrastructure Program, led to the resignation of Mike Henry, then-Minister of Transportation & Works.



The CPA also contains provisions for the extradition of Jamaican citizens for crimes of corruption. In April 2002, then 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.

### Anti-Corruption Resources

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

- Information about the U.S. Foreign Corrupt Practices Act (FCPA), including a “Lay-Person’s Guide to the FCPA” is available at the U.S. Department of Justice’s Website at: <http://www.justice.gov/criminal/fraud/fcpa>.
- Information about the OECD Antibribery Convention including links to national implementing legislation and country monitoring reports is available at: [http://www.oecd.org/departement/0,3355,en\\_2649\\_34859\\_1\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/departement/0,3355,en_2649_34859_1_1_1_1_1,00.html). See also new Antibribery Recommendation and Good Practice Guidance Annex for companies: <http://www.oecd.org/dataoecd/11/40/44176910.pdf>.
- General information about anticorruption initiatives, such as the OECD Convention and the FCPA, including translations of the statute into several languages, is available at the Department of Commerce Office of the Chief Counsel for International Commerce Website: [http://www.ogc.doc.gov/trans\\_anti\\_bribery.html](http://www.ogc.doc.gov/trans_anti_bribery.html).
- Transparency International (TI) publishes an annual Corruption Perceptions Index (CPI). The CPI measures the perceived level of public-sector corruption in 180 countries/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). TI also publishes an annual *Global Corruption Report* which provides a systematic evaluation of the state of corruption around the world. It includes an in-depth analysis of a focal theme, a series of country reports that document major corruption related events and developments from all continents and an overview of the latest research findings on anti-corruption diagnostics and tools. See <http://www.transparency.org/publications/gcr>.
- The World Bank Institute publishes Worldwide Governance Indicators (WGI), <http://info.worldbank.org/governance/wgi/index.asp>. 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. The World Bank Business Environment and Enterprise Performance Surveys are available electronically: <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/>.
- Government of Jamaica resources include the website of the Office of the Contractor General (<http://www.ocg.gov.jm/ocg/>), and the website of the Auditor General's Department (<http://www.auditorgeneral.gov.jm/>).

#### **14. Bilateral Investment Agreements**

Jamaica has an investment treaty with the United States (signed February 1994, which came into force in March 1997). According to the OAS Foreign Trade Information System, Jamaica has also signed bilateral investment treaties with Argentina (1994), China (1994), Egypt (1999), France (1993), Germany (1992), Indonesia (1999), Italy (1993), Netherlands (1991), Nigeria (1992), Spain (2002), Switzerland (1990), United Kingdom (1994) and Zimbabwe (1999). Jamaica has double taxation agreements with the United States, Canada, CARICOM, China, Denmark, France, Germany, Norway, Sweden, Switzerland, and the United Kingdom.

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

The Overseas Private Investment Corporation has identified infrastructure, telecommunications, construction, tourism and renewable energy as areas where its programs can have an impact in Jamaica. OPIC political risk insurance can insure up to US\$ 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 US\$ 0.1 to 250 million per project. The country became a signatory to the Multilateral Investment Guarantee Agency in 1986 and ratified the agreement in 1987.

During 2010 the GoJ negotiated a Stand-by Agreement (SBA) with the International Monetary Fund (IMF) to stem instability in the economy. The agreement was to last for twenty-seven months and include eight quarterly reviews. However, Jamaica failed to complete the SBA, with only three quarterly reviews completed. The lack of implementation led to an economic crisis characterized by fiscal malaise, a rising debt-to-GDP ratio, and a deteriorating trade balance. Economic growth was also elusive, with only one quarter of growth in three years. These conditions left the new administration little choice but to approach the IMF for another agreement at the beginning of 2012.

After 17 months of negotiations, the government and the IMF agreed upon a stringent set of measures including prior actions under a four year Extended Fund Facility (EFF) that began in May 2013. The current program requires aggressive fiscal consolidation and steep debt reduction, while targeting economic growth and social intervention. But despite the strictures, Jamaica completed its first three reviews through March 2014, with the IMF stating that implementation under the program remains strong and there are tentative signs of a gradual economic recovery. However, risks linger as revenue growth continues to be flat and the debt reduction remains challenging to achieve.

#### **16. Labor**

Jamaica had an estimated labor force of 1.3 million as of September 2013, of which 14.9% were unemployed. Since 1999 there has been a steady increase in the numbers of people trained in information technology, particularly geared for work in call centers. Jamaican university

graduates routinely migrate to North America and the United Kingdom, leading to a shortage of highly educated and experienced labor in Jamaica. According to a World Bank study, it is estimated that up to 80% of college graduates emigrate from Jamaica.

Jamaica has an active and strong trade union movement with membership equal to an estimated 20 percent of the labor force, although the movement has weakened in recent years. 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).

Jamaica has a number of labor friendly laws including the Employment (Termination and Redundancy Payments) Act, 1974 (as amended) (ETRPA). Under the Act, subject to some exclusions, employees with not less than two years of continuous employment who are dismissed on the grounds of "redundancy" are entitled to redundancy payment. As a general rule, workers with up to ten years of continuous employment are entitled to two weeks payment for every year as well the requisite notice pay, while workers with over ten years continuous employment are entitled to three weeks payment plus notice pay (notice pay is the period in which the employee must give notice to their employer before leaving their position except in certain cases such as firing for cause). There are no unemployment benefits in Jamaica.

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.

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

The Export Free Zones Act allows investors to operate solely with foreign exchange in activities such as warehousing, refining, manufacturing, redistribution, 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 Export Free Zones Act to allow for the establishment of Single Entity Free Zones, with individual companies now designated as free zones. The Kingston Free Zone has an Informatics Park.

For foreign trade zone information investors can contact:

Ms. Beverly Williamson, Senior Vice-President, Business Management and Special Projects, 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: bwilliamson@portjam.com.

Mr. Desmond Sicard, General Manager (acting), Factories Corporation, 1 King St. Kingston, Tel: (876) 924-9600 -1; 968-4766, 968-2484, 968-2178, 968-7592; Fax: (876) 924-9630; Email: [factories@factoriesjamaica.com](mailto:factories@factoriesjamaica.com)

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

**Table 1: FDI Stock in Jamaica (US\$ Million)**

	2006	2007	2008	2009	2010	2011	2012
<b>Inward</b>	7,264	8,667	10,104	10,628	10,855	11,110	11,581
<b>Outward</b>	96	69	62	220	176	421	397

Source: World Investment Report

**Table 2: FDI Stock as a Percent of GDP**

	2006	2007	2008	2009	2010	2011	2012
<b>Inward</b>	65.4	67.7	73.1	86.5	80.7	75.3	76.4
<b>Outward</b>	0.5	0.5	0.3	1.8	21.3	2.9	2.6

Source: World Investment Report

**Table 3: Inward FDI by Sectors (US\$ Million)**

	2006	2007	2008	2009	2010	2011	2012p
<b>Ag/Manufacturing/Distribution</b>	40.8	46.7	75.2	23.5	10.5	22.3	17.5
<b>Information Tech/Communication</b>	58.2	164.5	257.0	136.6	83.1	85.7	93.6
<b>Minerals &amp; Chemicals</b>	11.6	5.2	2.3	0.0	0.6	6.0	33.9
<b>Insurance</b>	0.0	0.0	0.0	0.0	0.0	0.0	0.0
<b>Tourism</b>	185.7	196.9	196.0	155.4	71.8	7.5	5.8
<b>Mining</b>	335.8	216.6	74.2	30.8	20.0	29.2	55.9
<b>Other</b>	118.1	59.3	714.3*	32.8	-18.4	21.7	218.2
<b>Sub-total</b>	<b>750.1</b>	<b>689.2</b>	<b>1,319.0</b>	<b>379.1</b>	<b>167.6</b>	<b>172.3</b>	<b>425.1</b>
<b>Retained Earnings</b>	132.1	177.3	117.5	161.8	60.1	45.9	87.1
<b>Divestment</b>	0.0	0.0	0.0	0.0	0.0	0.0	52.6
<b>TOTAL</b>	<b>882.2</b>	<b>866.5</b>	<b>1,436.6</b>	<b>540.9</b>	<b>227.7</b>	<b>218.2</b>	<b>564.8</b>

\*Includes inflows from the acquisition of majority shareholdings in a local conglomerate

Source: Bank of Jamaica

**Table 4: Inward FDI as a Percentage of GDP (%)**

	2006	2007	2008	2009	2010	2011	2012p
<b>Ag/Manufacturing/Distribution</b>	1.00	0.36	0.05	0.30	0.07	0.16	0.14
<b>Information Tech/Communication</b>	0.46	1.27	1.84	1.10	0.56	0.60	0.77

<b>Minerals &amp; Chemicals</b>	0.11	0.04	0.02	0.00	0.0	0.04	0.28
<b>Insurance</b>	0.00	0.00	0.00	0.00	0.00	0.00	0.00
<b>Tourism</b>	1.56	1.52	1.40	1.20	0.49	0.05	0.05
<b>Mining</b>	2.81	1.68	0.53	0.20	0.14	0.20	0.46
<b>Other</b>	0.99	0.46	5.12	0.30	0.12	0.15	1.80
<b>Sub-total</b>	<b>6.29</b>	<b>5.33</b>	<b>9.45</b>	<b>3.00</b>	<b>1.13</b>	<b>1.20</b>	<b>3.51</b>
<b>Retained Earnings</b>	1.11	1.37	0.84	1.30	0.40	0.32	0.72
<b>Divestment</b>	0.00	0.00	0.00	0.00	0.00	0.00	0.43
<b>TOTAL</b>	<b>5.72</b>	<b>6.70</b>	<b>10.29</b>	<b>4.30</b>	<b>1.54</b>	<b>1.52</b>	<b>4.66</b>

Source: Computed from BOJ and Statistical Institute of Jamaica data

Table 5: FDI Projects Facilitated by JAMPRO by Sector (US\$ Million)

	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13
<b>Agriculture</b>	0.0	0.0	0.1	0.0	0.6	0.3
<b>Creative Industries</b>	10.1	18.1	7.1	0.63	1.4	2.7
<b>ICT</b>	50.9	160.1	38.7	5.1	75.1	37.2
<b>Manufacturing</b>	53.2	65.9	17.9	13.2	25.5	14.5
<b>Mining, Energy, Others</b>	5.6	5.0	0.6	13.3	30.1	24.9
<b>Tourism</b>	208.5	160.1	153.4	0.88	5.4	3.3
<b>TOTAL</b>	<b>328.3</b>	<b>431.1</b>	<b>217.8</b>	<b>33.1</b>	<b>138.1</b>	<b>82.9</b>

Source: Jamaica Promotions Agency (JAMPRO) (does not capture all new investments)

## 19. Contact Point at Post

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