INTERNATIONAL LICENSING AND TRADING CONDITIONS ABROAD:

HAITI

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TABLE OF CONTENTS

1.00 INTRODUCTION

1.01 Political outlook. Haiti has enjoyed considerable stability during the past quarter century. The country's political life is highly centralized in the office of the presidency, which exercises virtually complete autocratic control of the island. President for Life Jean Claude Duvalier has been at the helm for over a decade; prior to that his father, Francois Duvalier, held the office.

The president is aided by a cabinet-level council whose members are appointees and the 58-seat National Assembly, elected every six years. The last election took place in 1979 amid allegations of electoral fraud. Duvalier has announced tentative plans for municipal elections next year. Both the council and the National Assembly can be suspended by presidential action, and he is empowered to govern by decree.

President Duvalier also acts as chief of the country's offical political party, the National Unity Party. A fragmentary opposition exists, consisting of the Haitian Christian Democratic Party of June 27, the Haitian Christian Democratic Party, the Haitian National Christian Party and the United Haitian Communist Party, but none of these currently pose any serious threat to the well-entrenched administration. Opposition leaders have been subject to arrest, occasional amnesties and re-arrest as a tactic to eliminate effective mobilization against the government. Even within the government, frequent turnover of cabinet appointments effectively inhibits the accumulation of power or influence by an individual or group which may seek to challenge the authority of the president.

The Duvalier administration has, nonetheless, been challenged on a variety of fronts. Early in 1982, an attempted invasion by Haitian exiles of Tortue Island off the northern coast was immediately squelched. The quick response to internal and external challenges suggests that the Haitian political environment will not change substantially in the short-term.

Although firmly in place, the Duvalier regime can expect continuing administrative challenges. The country's low level of economic development (1.03) has spawned an acute dependency on foreign assistance programs and, in 1980 and 1981, a massive exodus of Haitians to the US. Accusations of financial mismanagement have led many donors to question the motives of the government and reconsider their involvement in the country. Some aid programs -- the Canadian integrated rural development program and respect for human rights, for example -- have been scrapped. The issues of accountability to foreign donors may embroil the Duvalier leadership; as more and more injections of foreign capital become increasingly conditional on performance criteria, substantial changes in the administrative environment will be necessary.
Such changes -- the delegation of greater powers to a larger number

of ministries and agencies, disclosure, reporting and evaluation procedures, and the development of a strong cadre of professionals, if successfully implemented -- may pose a perceived threat to the presidency. In addition, a subtle but growing hostility between the country's black and mulatto communities may exacerbate the latent tensions brewing among Haiti's bureaucracy, business and elite.

Haiti has a judicial system based on the French Napoleonic code.

1.02 Attitude toward free enterprise. The government supports the free enterprise system and promotes private participation in most sectors of the economy. However, government participation does occur in some basic industries (2.02) and the distribution of selected locally-manufactured products is reserved for a government monopoly (4.02). Price controls (5.00) and import restrictions (13.02) do occur from time to time.

1.03 Market forecast. Haiti's economy is based on agricultural production -- primarily of coffee -- and is thus subject to the vagaries of world commodity prices and weather. Changes in both of these variables have wreaked havoc on the Haitian economy in recent years. Average real GDP growth fell from 5.4% in 1980 to -1.9% in 1981 and should slightly improve by year-end 1982 to -0.2%. Growth in 1983 is forecast to rebound somewhat due to the expected upsurge in coffee output, better utilization of capital and fiscal control as part of the IMF's standby arrangement with Haiti (1.04).

During the 1970s, the growth in consumer prices in Haiti rarely exceeded single digits in any year. In 1980, however, inflation surged 18.1%. The following year some improvement was registered as consumer prices jumped 15.9%. Additional gains should be registered in 1982 as inflation is held to about 10%. No more than a 5-10% increase in the cost of living for 1983 is attainable as long as demand can be checked and price controls on basic consumer items remain in effect.

Business executives interested in Haiti should be aware that most production by foreign firms in the island is for export. Although the island's more than 5 million people represent a potentially large Caribbean market, the country's socioeconomic indicators attest to the fact that substantial improvements must be made before a strong consumer market will be sustainable. The majority of Haiti's populace -- some 74% -- is rural and per capita income in 1981 was a mere $270, the lowest in the hemisphere. The urban market has been growing at average annual rate of 6% during the last two decades, and this increasingly affluent urban market may offer new sales opportunities.

1.04 Currency outlook. Haiti's balance-of-payments situation is less than encouraging and has been chronically dependent upon external financing. In the summer of 1982, Haiti entered into a standby arrangement with the IMF worth $37.6 million to help it cover its obligations. The new agreement extends until September 1983 and will be disbursed in four tranches over the period. Haiti's earlier extended arrangement with the IMF expired in October 1981.

Haiti's current-account deficit worsened considerably in 1981, falling from a deficit of $92.2 million in 1980 to $160.3 million. Under the IMF program, the current-account deficit is to be quickly shrunk in half -- the expected deficit for 1982 is $83 million, followed by a targeted deficit of $87 million in 1983. Other goals of the package include a reduction in the overall balance-of-payments deficit, slight growth in public sector investment outside of the sugar sector and improved public sector savings.

Total external public debt grew 32.6% during the 1980-81 period from $303.1 million to $401.9 million. A curb on additional borrowings during 1982 should keep the external debt under $450 million at yearend. Debt service as a percentage of total exports rose from 6% in 1980 to 7.9% in 1981 and is expected to fall to about 6.6% in 1983.

The Haitian gourde has been pegged to the US dollar at the rate of G5:$1 since 1919. The growth in the public foreign debt, sluggish commodity prices, persistent capital flight and growth of the parallel exchange market have all contributed to a weakening of the gourde. A devaluation in the next year, however, would seriously undermine the administration's efforts at fiscal and financial reform, and have severe repercussions on domestic prices and erode confidence in the Haitian economy.

1.05 Attitude toward foreign investment. Haiti welcomes foreign investment and has begun to actively recruit new investments to the island. The establishment of the National Office for Investment Promotion known by its French acronym (ONAPI) with technical assistance from the UN Industrial Development Organization, has improved Haitian efforts at wooing manufacturers and employment to the island. According to ONAPI statistics, 270 investment proposals have been processed since its inception in October 1970. Of these, 173 were from American firms; 59 from European firms; 18 from Canadian firms; 16 from Latin American firms and Caribbean firms; and four were Asian investors.

1.06 Amount of foreign investment. Comprehensive data on the total of foreign investment in Haiti is not readily available. However, it is estimated that some 300 US firms either maintain operations or have subcontracting arrangements in the island. Major foreign investments are in assembly industries (electronics, garments and sporting goods equipment), agriculture and services.

1.07 Examples of foreign investment. Foreign investors in Haiti favor subcontracting arrangements rather than the establishment of complete operations. US contractors in Haiti include, among others, TRW, General Resistance Inc., Masden Industries and Mepco Electra, an affiliate of North American Phillips Co.

If its subcontracting relationship evolves smoothly and profitably, the foreign investor may consider expansion beyond the subcontracting stage and opt for his own operations. Sylvania Electrical Products, a GTE affiliate, began its Haitian manufacturing this way and has since expanded into a wholly-owned operation.

Companies which have recently invested in Haiti, and their respective capital investments, include:

- CRP Textile Trading Co., $500,000;
- Stride Rite International, Ltd., $700,000;
- L.H. Research Inc., $600,000;
- Bueltel GMBH, $700,000;
- Ahlers GMBH, $600,000;
- Power Mate, Inc., $600,000 and
- Heinz Pret-a-Porter, $700,000.

1.08 Profitability of foreign investment. Haitian authorities do not publish any data on the profitability of foreign-owned firms, but the island is frequently described as one where small investments garner high returns for foreign companies, particularly because of the island's extremely competitive wages (12.03).

1.09 Official sources of business information. The National Office for Investment Promotion (known by its French acronym, ONAPI) at Rue Legitime, P.O. Box 2223, Port-au-Prince, telephones 22476 or 23346 and the Haitian International Business Center at 444 Brickell Avenue, Suite 650, Miami, FL 33131, telephone (305) 374-8300 can provide information on doing business in Haiti.

Private-sector sources of information include the Chamber of Commerce at Blvd. Harry S. Truman, Cite de l'Exposition, Port-au-Prince, telephones 20281 or 22475; the Haitian American Chamber of Commerce and Industry (Hamcham) at 82, Rue Delmas, Delmas P.O. Box 13486, Port-au-Prince, telephones: 22350 or 25746; and the Association of Haitian Industries (ADIH) at 199, Rue Delmas, P.O. Box 2568, Port-au-Prince, telephones: 64509 or 64510 (see 3.09).

2.00 STATE ROLE IN INDUSTRY

2.01 General. The Haitian government has limited its role in industry to investment in basic infrastructure and social services. In the past decade, however, it has taken a more active role in industry through partial or whole acquisitions, or through the creation of new entities such as SODEXOL (edible oils), Centrale Sucrière de Léogâne (sugar), and SPIDHA (fishing).

Various donor countries and development assistance agencies collaborating with the Haitian government have recently urged the state to refrain from new industrial investments because of the mismanagement and poor investments of the past. There have consequently not been any new state industrial investments.

2.02 State-owned industry. The government of Haiti controls investments in the country's utilities, transportation and sugar sectors, and maintains joint ventures in other basic industries and agriculture (see box).

MAJOR STATE INVESTMENTS IN HAITI

Name	Activity	Type of Government Participation
Utilities		
• EDH	Electricity	Wholly owned
• CAMEP	Water	Wholly owned
• TELECO	Telecommunications	Wholly owned
Transportation		
• APN	Ports and airports	Wholly owned
• CONATRA	Public transportation	Wholly owned
Real Estate		
• SONAPI	Industrial parks	Wholly owned
Other Industries		
• Centrale Welsh	Sugar	Wholly owned
• IDAI sirop	Cane syrup	Wholly owned
• Centrale Léogâne	Sugar	Wholly owned

Cont'd

Name	Activity	Type of Government Participation
Other Industries		
• Ciment d'Haiti	Cement	Minority-owned
• SODEXOL	Edible oils	Minority-owned
• SPIDHA	Fishing	Majority-owned
• SEN	Cotton thread/oil	Wholly owned
• Beurrerie du Sud	Dairy products	Majority-owned
• UNACOM	Compost	Wholly owned
• Minoterie d'Haiti	Flour-milling	Wholly owned
• SONUAN	Animal feed	Majority-owned

2.03 Nationalization policy. The Constitution (Article 165) provides that the state may nationalize property that provides "essential services" to the community, or that belongs to citizens of countries with whom Haiti is at war. Article 22 further states that property can be expropriated for reasons of "public utility", but with just and prior compensation.

It is not government policy to nationalize industry in Haiti (particularly when it is foreign-owned). Although the state has assumed control of certain industries in the past (Minoterie in 1969 and Ciment d'Haiti for a short period of time during the late 1970's), no nationalizations per se have been registered. Controls were either preceded or followed by compensation (case of Minoterie), or control was returned to private hands (case of Ciment d' Haiti).

3.00 ORGANIZING

3.01 General. Requirements for establishing a company are given in 3.10. Companies that seek incentives must apply to the Ministry of Commerce and Industry (10.00). Work permits for foreigners are mandatory, but enforcement is lax.

3.02 Basic approval procedure for new investments and expansions. Companies domiciled in Haiti must submit the by-laws of the company and accompanying documents to the Ministry of Commerce and Industry, as stipulated in the Decree of October 10, 1979. Authorization is granted by the Ministry.

Foreign-domiciled firms wishing to operate in Haiti must submit an application to the Ministry of Commerce and Industry;(Place des Heros de L'Independence, Port-au-Prince, telephones: 21628,20878 or 20969); authorization is granted by presidential decree. The Decree of October 10, 1979 also requires presidential authorization for any of the following investments; mixed-capital corporations; foreign-domiciled companies; banks and credit institutions; development finance corporations; mining and petroleum companies and "all other share-capital corporations whose activities may have a substantial impact on the socio-economic development of the country."

Many foreign-affiliated firms indirectly maintain operations in Haiti through sub-contracting operations, particularly in assembly industries (electronics, garment manufacture, etc.). Haitian firms will contact production from the parent firm and take responsibility for all aspects of production including employment, training, workspace, and shipping and customs and then bill the contractor. Many foreign-firms will periodically send quality control managers to the island on a temporary basis. Arrangements for subcontracting are done directly between the parties concerned; the Haitian government exercises no control or authority over the foreign party but does monitor the Haitian subcontractor's activities. These arrangements allow foreign investors the opportunity to take advantage of Haiti's competitive labor costs without the direct administrative red-tape usually associated with foreign investment and generates substantial employment on the island.

3.03 Activities not open to foreign capital include the retail trades (Constitution, Article 12) and real-estate agencies (Article 13). Foreign investment is generally welcomed.

3.04 Limitations on foreign equity. Other than those stated in 3.03, the law requires that one of the three members of the Board of Directors be a Haitian, and since to be a member of the Board one must be a shareholder, it is implied that Haitian capital be involved. Therefore, foreigners technically cannot own 100% of a company because it must have at least one Haitian shareholder owning 1 share.

3.05 Building permits are required and can be obtained from the Ministry of Public Works and the Civil Engineering Departments of City Hall. The building contractor involved in construction for a foreign firm will normally process these permits on its behalf.

3.06 Acquisition of real estate. Non resident foreigners may not own land in Haiti. Resident aliens may own up to 1.20 hectares in urban areas and 6.45 hectares in rural areas. Rental of land is not limited but does require presidential approval with a maximum 9-year renewal lease.

Corporations domiciled in Haiti receive the same unlimited ownership rights as Haitians. Other non-corporate business entities (limited partnerships, general partnerships, etc., see 3.10) are foreign majority-owned are limited to the same urban and rural limits as for resident aliens.

3.07 Acquisitions/Takeovers. No regulations prohibit acquisitions or takeovers, except of course in activities not open to foreign capital (3.02 and 3.06).

3.08 Local-content requirements. There are generally no local-content requirements, except for industries applying for protection against imported products (See 13.02). Companies which apply for such protection must utilize local raw materials in a "substantial proportion" and local labor equal to 15% of production cost (Law of June 14, 1960; Article 2).

3.09 Mandatory memberships. Businesses must register with the Haitian Chamber of Commerce at a cost of G20 ($4), as proscribed in the Decree of June 1964. Application of this requirement in practice is very lax.

Many foreign firms voluntarily belong to the Haitian American Chamber of Commerce and Industry (Hamcham) or the Association of Haitian Industries (ADIH, see 1.09). Hamcham's fees range from $100-400 p.a. dependent upon the membership class. ADIH's entrance fees cost $250-500 and monthly maintenance fee ranges from $75-150, dependent upon the membership class.

3.10 Establishing a local company. The following types of business organizations are recognized in Haiti: Sole proprietorships; unregistered partnerships (association commerciale en participation); general partnerships (société en nom collectif); limited partnerships(société en commandité simple); stock-issuing limited partnerships (société en commandité par actions); corporations (société anonyme); mix-capital corporations (société anonyme mixte) and cooperatives. With few exceptions, foreign firms usually organize as locally domiciled corporations (see box). Foreign banks, however, will usually operate as foreign-domiciled corporations legally registered in Haiti.

When a corporation is established, the government must receive the name and address of the corporation, names and addresses of founders, the general objectives of the firm, the amount of capital, the type, nominal value and number of shares, and the number of shares subscribed by the founders.

In addition, to engage in local business, industrial firms must secure or pay the following (see 8.15): a business identification card for non-corporate entities or a corporate identification card for incorporated businesses (maximum of $90, not including minor stamp fees); a professional identification card ($1, not including minor stamp fees); a permit (maximum of $400, not including minor stamp fees); the license (maximum of $500, not including minor stamp fees). The maximum total costs for industrial firms will be approximately $1,011 excluding minor stamp fees.

3.11 Establishing a branch. Very few foreign companies will establish branches instead of locally-domiciled corporations. Banks, for example, will usually establish such branches.

Foreign-domiciled companies and foreigners in general pay higher business operation taxes (permits, licenses, etc.) and are limited in real estate ownership.

The procedures for registering a foreign-domiciled company are basically the same as those for local corporations, except that presidential approval is required.

REQUIREMENTS OF THE SOCIÉTÉ ANONYME IN HAITI

CAPITAL

The minimum required capital is $5,000 for a commercial corporation; $20,000 for industrial and agricultural corporations; $100,000 for insurance companies; $500,000 for banks and $1million for development finance corporations. Capital may be assigned in cash/or kind. The General Assembly of Stockholders names a special auditor (Commissaire aux Apports) to assign a value to equity contributions in kind (Law of August 23, 1960; Article 12). Such contributions must be converted in stock. The legal reserve requirement is 10% of net profit before taxes (Law of August 23, 1960; Article 31; and Income Tax Law of September 28, 1981).

Founders, Shareholders: Minimum, three founders of legal age. No residence requirements. Since the Law of August 3, 1955 requires that one of three board members be Haitian, and since a board members must also be a shareholder, at least one shareholder owning at least one share must be a Haitian.

Directors: Minimum three of which one must be Haitian. Directors must be shareholders. No residence requirements.

Management: No special group required. No nationality requirements. Foreign managers living in Haiti must have resident alien status. For others, there are no residence requirements.

Labor: There are no requirements that labor be represented either on the board or in management.

Disclosure: For non-bank corporations, and aside from the documents supplied at the time of incorporation and annual income tax returns, no other published financial reports are required. Balance sheets must theoretically be submitted once a year, in addition to the Internal Revenue Service, to the Ministry of Commerce and Industry (Law of October 16, 1967) and to the Chamber of Commerce (Decree of June 18, 1964; Article 7) but these stipulations are not enforced. Banks and other financial institutions must publish quarterly balance sheets in Le Moniteur, the official gazette (Decree of November 14, 1960; Article 60). Accounting books must be kept in Haiti.

Taxes and fees on incorporation: The one-time Fixed Stamp Tax on

Registered Share Capital (Droit de Timbre Porportionnel sur Capital Social) equal to 2% of capital, but not to exceed $1,000, is paid upon incorporation (Law of January 14, 1974; Article 1). Increases in registered share capital are subject to the same 2% tax. See 8.07 for other minor recurrent capital taxes.

Types of shares: Bearer, registered, common and preferred shares are issuable, but all bearer shares must be fully paid up. Non-voting shares are not permitted. Shares must have a minimum nominal value of U.S. $5.00.

Control: Usually a simple majority of the capital present at meetings is sufficient, unless otherwise specified in the corporation's by-laws.

4.00 RULES OF COMPETITION

4.01 General. Free trade and competition are officially encouraged (Consitution, Article 162). In addition, the law of July 17, 1954 defines "unfair competition" (Article 37) and prescribes that companies engaging in such practices can be brought to court (Article 38).

4.02 Monopolies and market dominance. No special legislation exists on this subject. In the 1960's, however, the state granted several private monopolies and even took some for itself. In 1974, a state-holding company, SEN, was granted a monopoly to buy cotton. In addition, the "Régie du Tabac et des Allumettes", a state monopoly created in 1948, has the exclusive rights to distribute a number of locally-manufactured products, including cement, flour and sugar. Today, however, the trend is against the granting of monopolies by the state.

4.03 Mergers. No special legislation.

4.04 Freedom to sell. Except for certain locally manufactured products that must be sold through the "Régie" (see 4.02), local firms may legally sell to whomever they want. Refusal to sell is allowed, but only in cases where such an act cannot be construed as "black marketeering". Exclusive distributorships are legal. Except for products under price control, a manufacturer may sell at any price and at whatever discount he sees fit.

4.05 Resale price maintenance. No special legislation.

5.00 PRICE CONTROLS

The Ministry of Commerce and Industry has the right to fix prices of products sold on the domestic market. The Law of June 14, 1960 (Article 10) allows it to fix prices for both imported and locally manufactured products. In addition, firms that benefit from the Decree of March 13, 1963 on Incentives to New Industries and that sell into the local market are subject to price controls (Article 30).

Since the 1940s, the Haitian government has, at various times, imposed price controls on basic items. In November 1982, prices were once again fixed for a number of such products. Local products currently under price controls include cement; charcoal; cigarettes; edible oils; flour; iron; matches; salt; soap; and sugar. Imported products under price controls include butter; cotton fabric; edible oils; evaporated, powdered and sweetened milk; petroleum products; salted meat; spices; tires and inner tubes; toothpaste; and yeast.

Rent controls were instituted in 1947 and renewed in 1961, Today, however, these measures are not respected in practice.

6.00 LICENSING

6.01 General. Licensing industrial property poses no serious obstacles in Haiti. The government does not restrict payments, nor does it try to influence the type of technology flowing into the country.

6.02 Patent and trademark protection. Except for medicines and pharmaceutical products, patents and trademarks are not compulsory in Haiti. Registration is required, however, for protection.

Haiti uses the Nice Arrangement of June 15, 1957 to classify products into 34 different categories for purposes of trademark registration, and a trademark must be registered for each product class. In addition, proof of trademark use must be furnished to the Ministry of Commerce and Industry no later than the first quarter of the sixth year of the grant to maintain validity of the registered trademark.

A description of patent and trademark regulations is given in the following box.

6.03 Legal and administrative limitations on licensing. Licensing in Haiti is strictly the purview of the licensee and licensor. Agreements should be covered by a detailed contract, and assignment of patents and trademarks must be registered with the ministry to be effective against infringement by other parties.

6.04 Royalty and fee patterns vary widely by product and by the relationship between licensee and licensor.

PATENTS AND TRADEMARKS IN HAITI

Patents

Conventions. Buenos Aires Convention (1910); Paris Union (1883, London Text).

Basic laws. Law of December 4, 1922; Law of July 17, 1954; Law of August 16, 1954; Law of August 23, 1956; Decree of August 24, 1960; and Decree of June 18, 1964.

Duration. Five, ten or twenty years. A Haitian patent for any invention with a prior patent grant from another country expires with the expiration of the prior patent.

Novelty. Invention is new if it has not been known or used in Haiti.

Application procedure. Application, including a description in French of the discovery, invention or process, with specifications, is made to the Ministry of Commerce and Industry. There are no specific provisions for opposition.

Examination procedure. No examination of novelty is made. Patents are published in the Moniteur, the official gazette, upon grant.

Fees. For a 5-year patent the fee is G125; for a 10-year patent the fee is G250; and, for a 20-year patent the fee is G500. The patent must also be registered with the Chamber of Commerce at a cost of G25; an administrative fee of G25 is required for any patent grant; regardless of its duration.

Compulsory licensing. None.

Trademarks

Duration. Ten years, renewable for periods of ten years.

Basic Laws. Panamerican Convention of Washington (1929) and Paris Union (1883, London text).

Legal effect. Registration confers proprietary rights, and a trademark must be registered to obtain protection.

Not registrable. The national flag, municipal flags or public symbols; immoral designs; any signs already registered or which would create confusion with other trademarks; generic or usual terms in common usage. Service marks are recognized in Haiti.

Fees. A G10 stamp fee is required upon application; publication fee is G25 and the registration fee per mark is G150. In addition, a G25 fee is paid upon registration of a trademark with the Chamber of Commerce.

Application procedure. Application is made to the Ministry of Commerce and Industry. The following documents must be submitted: application form; power of attorney in French; three copies of the mark to be registered and a certified copy of any foreign registration. Opposition proceedings must be initiated no later than two months from the date of publication.

7,00 REMITTABILITY OF FUNDS

7.01 Exchange controls. The administration of the foreign exchange system is under the control of the Banque de La République d'Haiti (the central bank). Haiti has in the past not instituted exchange controls, and not blocked transfers of funds,

In 1981, however, certain measures were taken to stem the drain of foreign exchange, in view of the country's severe payments problem. These included the government requirement that export proceeds be deposited in a bank in Haiti no later than 90 days after the date of issue of the exporter's invoice and import controls. Imports of certain products were banned for a two-year period (March 1981-1983) while other imports were subject to licensing by the Ministry of Commerce and Industry (13.02).

The central bank has also issued guidelines to help the commercial banks establish priorities in disbursements for imports.

There are no controls on the inflow of foreign equity and loan capital. In fact, they are encouraged.

Transfers of profits, dividends, capital, etc. by foreign investors are subject only to the availability of foreign exchange.

7.02 Transfers of profits, dividends and capital. Transfers to direct foreign investors are not subject to authorization, and there are no legal limitations on the amount to be remitted. Dividends, however, are taxed at 15% (see 8.09).

7.03 Transfer of interest. No limitations.

7.04 Transfer of royalities and fees. No limitations.

7.05 Repatriation of capital. No controls (Reinvested profits can be transfered once income taxes are paid).

7.06 Repayment of principal. No limitations.

7.07 Guarantees against inconvertibility. No guarantees are offered by the Haitian government. US investors are eligible for inconvertibility insurance administered by the US Overseas Private Investment Corp. (OPIC).

8.00 CORPORATE TAXES

8.01 General. For companies that do not benefit from income-tax exonerations (10.04), corporate taxes are rather high and tend to be on the rise. On the other hand, however, tax morality is very low. Tax law is codified in the Decree of September 28, 1981.

8.02 Corporate income tax rates. All corporations, except insurance companies, which have not been exonerated from income tax are taxed alike. Taxable income is calculated on balance sheets and profit and loss statements which must be submitted to the government. A 20% surtax on net corporate income above G200,000 was levied until September 30, 1982. In addition, retained profits that have not been reinvested after five years are taxed at a flat rate of 15%. There are no local or regional income taxes. See the box for current tax rates and a sample calculation of corporate taxes for a firm with G1 million ($200,000) in taxable income.

8.03 Taxable income defined. Taxable income is defined as income less expenses necessary to produce that income or to preserve it. Interest and royalty payments are tax-deductible. All local business taxes are deductible from taxable income, except taxes paid for employees or partners. Foreign taxes are not deductible. Loss carry forward is allowed for five years. There are no carry-back provisions.

Foreign-source income is not taxed, unless Haitian-source income is illegally transferred to a foreign company.

8.04 Depreciation. Only the straight-line method of depreciation may be used. Allowable annual depreciation rates are 5% for buildings; 10% for motors, machinery parts, and accessories; 20% for vehicles, tools and instruments and air conditioners; and, 10% for incorporation costs, organizational costs and research and development. There are no provisions for accelerated depreciation.

8.05 Schedule for paying taxes. Taxes are payable after the beginning of the government's fiscal year (October 1). A lump-sum income tax of 1% of turnover, deductible from the total tax assessment, is due the beginning of each corportion's fiscal year.

All documents must be filed in French within 60 days of the closing of the books. In exceptional cases a corporate taxpayer can apply for a 60-day extension. In addition, any companies which benefit from incentives laws (see 10.00) and which are exonerated from taxes during the first five years of operations must nevertheless submit their balance sheets and profit and loss statements as a matter of record.

CORPORATE TAX RATES IN HAITI, 1982

Taxable income	Rate %	Tax	Cumulative Tax
G10,000	10	G 1,000	G 1,000
G10,000-30,000	20	4,000	5,000
G30,000-60,000	30	99,000	14,000
G60,000-100,000	35	14,000	28,000
G100,000-300,000	40	80,000	108,000
G300,000-500,000	45	90,000	198,000
Above G500,000	50	-	-

SAMPLE TAX CALCULATION

A wholly owned foreign company with a taxable income of G1,000,000 distributing all of its profits, would face the following taxes:

Taxable Income	G1,000,000
Income tax	448,000
20% Surtax (Expired on September 30, 1982)	89,600
After tax income	462,400
Dividend tax (15%)	69,360
Net dividend	393,040
Annual license and permit fees	5,055
Total taxes	612,015
Tax burden	61%

Without the 20% surtax, total tax burden would be approximately 53.5%. The total tax burden for most foreign firms is considerably less due to corporate tax incentives (see 10.04).

8.06 Excess profits tax. None.

8.07 Capital taxes. Registered capital, stocks and bonds are taxed at an annual rate of 0.3%, payable in quarterly installments (Law of January 14, 1974; Article 2), There are no capital taxes on assets. Built property (assessed at a maximum of 15% on yearly rental value) and the liquidation of a corporation (15% on net value -- Article 118) are taxed.

8.08 Capital gains taxes. Corporate capital gains are subject to withholding taxes that vary according to the nature of property being sold. Capital gains are defined as sales price minus original purchase (case of real estate) or minus net value after depreciation (case of moveable property) or minus nominal value (case of stocks). Rates for buildings are 5% of the capital gain, plus stamp fees and for unbuilt land they vary between 7.5% of the capital gain, or 4.5 to 6% of the sales price, depending on whether or not the original purchase price is known.

Moveable property (machinery, equipment, etc.) and stocks are taxed at 15%.

8.09 Taxes on dividends. A flat rate of 15% is levied on the distribution of dividends.

8.10 Taxes on interest. There are no taxes on interest payments. Interest earners domiciled in Haiti, however, are subject to a 15% withholding tax, except on passbook accounts, time deposits, and the like.

8.11 Taxes on royalities and fees. None.

8.12 Tax treaties. None. Investment guarantee treaties exist with the U.S., France, Germany and Canada.

8.13 Taxation of headquarters companies. There is no real tax jurisprudence on this issue. However, an interpretation of Article 66 of the income tax decree would support the assertion that regional management companies would be taxed just like any other Haitian-domiciled corporation.

8.14 Turnover, sales and tax excise tax. A new 7% turnover tax (tax sur le chiffre d'affaires, known as the TCA) was introduced in November 1982 to replace most previous excise taxes and the commissions paid to the state. The tax is levied on the total value of transactions made, and applies to all imports excepting those for re-export assembly industries.

The following business activities are exempt from the 7% TVA: sellers and suppliers of natural, locally produced foodstuffs (vegetables, fruit, meats, fish, seafood, milk and bread); sugar; cement; edible oils; lard; matches; alcoholic and non-alcoholic beverages; tobacco products; petroleum products; medicines; newspapers, magazines and newsprint; educational, cultural and sporting events; legal and paralegal services; rents; and suppliers of electricity, water and telecommunications services.

8.15 Other taxes. Property taxes (see 8.07) and permit, license and identification card fees are collected (see 3.10). In addition to these taxes, employers pay a 1% monthly payroll tax; a health card fee of G25 per employee per year; and workmen's compensation of 2-6% of gross payroll, depending on the type of company. Employee social security is also paid based on the following scale:

MONTHLY SALARY OF EMPLOYEE	MONTHLY EMPLOYER CONTRIBUTION
Up to $40.00	2%
$40.20 to $100.00	3%
$100.20 to $200.00	4%
Over $200	6%

9.00 PERSONAL TAXES

. 9.01 General. Haiti has a progressive personal tax system, which is administered on a pay-as-you-earn scheme for employees. The Decree of September 28, 1981 maintained the tax rates previously in effect but increased the value of allowable personal deductions.

9.02 Persons liable to tax. Any individual residing in Haiti or maintaining his principle economic interest there is liable for income tax. Nonresidents are taxed on all Haitian-source income.

9.03 Determination of taxable income. Income tax is calculated on net income after allowable deductions have been claimed.

Each taxpayer receives a personal allowance equal to 10% of gross salary, not to exceed G1,500. In addition. a single taxpayer is allowed a G5,000 deduction; a married couple deducts G10,000. A maximum of five dependent children can be claimed for tax purposes at G2,000 each and the allowable deduction for each dependent parent, in-law or grandparent is G1,000. Medical expenses which are not covered by health insurance are deductible up to G1,500 and interest on mortgage payments are tax deductible.

9.04 Tax rates. Tax rates start at 5% on the first G5,000 of taxable income and rise to 50% on all taxable income over G500,000. A 20% surtax was collected against the income tax on taxable income above G60,000 (G200,000 for corporate entities); this tax expired September 30, 1982.

A married executive with a dependent spouse and two children earning the equivalent of $35,000 or $50,000 would pay approximately 32.8% or 39.4% of his income in tax (see box).

9.05 Capital taxes. None.

PERSONAL TAX RATES IN HAITI, 1982

On the net income between:		Tax	Cumulative Tax
G 0-5,000	at 5%	G 250	G 250
5,000-10,000	at 10%	500	750
10,000-30,000	at 15%	3,000	3,750
30,000-60,000	at 20%	6,000	9,750
60,000-100,000	at 25%	10,000	19,750
100,000-200,000	at 30%	30,000	49,750
200,000-300,000	at 35%	35,000	84,750
300,000-400,000	at 40%	40,000	124,750
400,000-500,000	at 45%	45,000	169,750
Above 500,000	at 50%		

PERSONAL TAXATION IN HAITI, 1982

The tax burden for a married executive with a dependent spouse and two dependent children with an annual salary of $35,000 or $50,000 (G175,000 or G250,000 at G5:$1) would be approximately as follows:

Gross income	G175,000	G250,000
Personal allowance	1,500	1,500
Married taxpayer deduction	10,000	10,000
Children (2 x G2,000)	4,000	4,000
Total deductions	15,000	15,500
Taxable income	159,500	234,500
Total income tax	37,600	61,825
20% surtax (expired September 30, 1982)	7,520	12,365
Total tax due	45,120	74,190
Tax burden as % of total income	25.7%	29.6%

10.00 INCENTIVES

10.01 General. There are eight laws that cover incentives to firms operating in Haiti. The Haitian government has been very generous in granting incentives to industries, and more than 400 corporations have benefited from these measures since 1963.

- Tax and customs-duty exemptions are codified in the: Laws and Decrees of March 13, 1963 and October 8, 1969 for industries in Port-au-Prince; the Decree of April 4, 1977 for industries outside of the Port-au-Prince metropolitan area; the Decrees of October 8, 1969 and August 27, 1974 for industries located in the government-owned industrial estates; and the Decree of March 29, 1979 on the Port-au-Prince Free Zone (not operational as of today).

- Protection of local industries against imported products is legislated by the Law of June 14, 1960 and the Decree of April 4, 1977.

10.02 Qualifying for incentives. Re-export industries (light assembly). import-substitution industries, and all industries that utilize local raw materials equal to at least 50% of total raw material costs qualify for incentives.

10.03 Applying for incentives. Applications are submitted to the Ministry of Commerce and Industry (Place des Héros de L'Indépendence Port-au-Prince, telephones: 21628, 20878 or 20969). Approvals usually take between one to two months.

10.04 Corporate tax incentives. a) Income tax exemptions: holidays are given for five, eight and 15 years for industries located in Port-au-Prince, in the government-owned industrial estate or in the provinces, respectively. After the initial tax holiday, tax incentives are offered on the following scale:

PORT-AU-PRINCE	INDUSTRIAL ESTATE	PROVINCES	RATE OF TAX LIABILITY
Through 5th year	Through 8th year	Through 15th year	0%
6	9	16	15%
7	10	17	30%
8	11	18	45%
9	12	19	60%
10	13	20	80%
11	14	21	100%

10.05 Personal tax incentives. Income derived from exonerated industries is fully deductible from personal income tax returns, as per the corporate schedule given in 10.04.

10.06 Tariff Incentives. Full exemptions on import and export duties are given, as well as partial exemptions in certain special cases. New firms are usually given full exemptions. Imports can be banned or subject to quotas, depending on whether local firms are able to supply domestic market demand.

10.07 Capital incentives. In general, no cash incentives are given. In the past, for certain major investments, certain special incentives were given (assistance in obtaining facilities; studies and surveys; subsidies on land and construction costs; guaranties for loans; etc.). The trend is presently towards not giving capital incentives by the state.

10.08 Research and Development incentives. None are given, but a depreciation allowance does exist for research and development (see 8.04).

11.00 CAPITAL SOURCES

11.01 General information. Local credit has increased at a compound annual growth rate of approximately 19% during the period 1976-1981. Net credit to the private sector by banks and financial institutions established in Haiti has averaged $22 million a year during the period 1976-1981. Short-term capital is readily available, but medium-and long-term capital are limited. Foreign exchange is hard to get, however.

11.02 Short-term credit. Major commercial banks are the state-owned Banque Nationale de Crédit and Banque Populaire Haitienne and the privately-owned Banque de l'Union Haitienne.

Foreign banks include Citibank, the First National Bank of Boston, the Royal Bank of Canada, the Bank of Nova Scotia and the Banque Nationale de Paris.

Most corporate loans are made against heavy collateral (usually land and buildings, as well as machinery and equipment). Short-term loans (defined as 12 months or less) are usually rolled-over for 3 or 4 years.

Interest rates vary between 14.5% and 19%, and the range is set by the central bank.

11.03 Medium and long term credit. Commercial banks do less than 5% of their business in medium and long-term loans. Other sources of such capital include the:

- Institute de Développment Agricole et Industriel (IDAI). Located in the capital at the corner of Rue Americaines and Rue des Miracles, telephone 27275, IDAI lends up to eight years with one year grace. Agricultural development loans are lent at 9% interest; industrial development loans are lent at 12%.

- Société Financière Haitienne de Développment, This newly-established private development finance corporation will be operational in 1983; loans are expected to be for up to eight years, at interest rates between those of IDAI and the commercial banks. The development finance company will have resources of approximately

$4 million for on-lending purposes. Average loans are expected to be $150,000 each.

- Fonds de Dévelopment Industriel (FDI). This government fund located at the corner of Rue des Miracles and Boulevard Jean-Jacques Dessalines, telephones 27614 and 27852, rediscounts commercial bank loans for long-term periods at market rates. FDI funds are guaranteed for up to 70% of a project's value and a 2% fee is charged for such guarantees. The funds are lent at a rediscount of 5%, with a total ceiling of $250,000 per customer.

<u>11.04 Stock and bond financing</u>. There is no local capital market.

12.00 LABOR

12.01 General. Unskilled labor is Haiti's most abundant asset. Skilled personnel is available, but harder to find. Managerial talent is not abundant, but is becoming increasingly more so.

For industries, turnover and absenteeism are not serious problems.

12.02 Unions and work stoppages. Union strength is almost nil. The collective barganing is very limited. Strikes are infrequent, and outlook for labor stability over the next 3-5 years is very good.

12.03 Wages. National minimum wages are fixed by the government. There are no regional minimum wages. Average annual minimum wage increases during the period 1977-1982 were 10.5% (increases were registered in 1977, 1979 and 1980, when minimum wages were $1.60, $2,20 and $2.64 per 8-hour day, respectively. Since 1980, the minimum wage has not been increased and is presently $2.64 per 8-hour day. Wages will probably be increased in 1983 (possibly bringing the daily minimum to the $3.15 - $3.50 range).

Minimum wages exist for different type industries:

- assembly (re-export) industries: $2.64 (garment industries); $2.88 (electric components, baseball, embroidery); $3.12 (electronic and electro-mechanical industries, furs and fur garments);
- non-assembly industries: $2.76 per day. Higher wages than the legally required minimum wage are commonly offered to workers in assembly industries who meet production quotas. One US affiliate of an electronics firm reports that more than 90% of its workforce meet their quotas to be eligible for such incentives.

Monthly salaries for employees range as follows:

foremen,	$150 - 400;
clerks,	$100 - 250;
secretaries,	$250 - 800;
accountants,	$500 - 900;
engineers,	$800 - 1,500 and,
managers,	$900 - 3,000.

12.04 Working hours. The legal work week is fixed at 48 hours; the normal work week for industries is 40-45 hours. No upcoming changes are foreseen.

Overtime is payable at 50% premium over hourly pay, and is limited to a maximum of 80 hours per quarter, and 2 hours per day. Night work is legal and payable at the same rate as day work.

12.05 Fringe benefits. Mandatory fringe benefits and social charges are estimated at approximately 37% to 38% of base pay, if all charges are paid in accordance with thelaw. Fixed charges account for approximately 21%, and variable charges (holidays, sick leave, etc.) account for the remainder.

Paid holidays range from 12 to 19 days per year. A recent presidential decree lowered the annual number of paid holidays; however, implemention of the revised schedule has been inconsistent.

A usual voluntary benefit for managerial and staff employees is a group medical insurance plan. Production workers in some electronics-assembly operations also receive ophthamologic care and eyeglasses, when necessary. Mandatory social charges include: bonus (one month extra salary, payable in December); sick leave (up to 15 days paid sick leave); maternity leave (six weeks paid maternity); social security (see 8.15); employee health card (see 8.15); payroll tax for training (see 8.15); and, severance pay (see 12.06).

12.06 Dismissal. The requirements for notice and compensation do not differ for blue-collar, white-collar or executive employees. The only limitation to dismissal is the requirement that either written notice be given or that severance pay be given in lieu of prior notification. Notice periods and severance pay if such notice is not given are:

LENGTH OF EMPLOYMENT	NOTICE (MINIMUM)	or	SEVERANCE PAY
Less than 3 months	Ø		Ø
3 - 12 months	15 days		15 day's pay
1 - 3 years	1 month		1 month's pay
3 - 10 years	2 months		2 month's pay
More than 10 years	3 months		3 month's pay

12.07 Limitations on foreign nationals. Foreign employees must have working permits, issued by the Ministry of Social Affairs. and which cost one-half of a month's salary. For all companies, 95% of its total work-force must be Haitian.

13.00 FOREIGN TRADE

13.01 General. Haiti is not a member of any regional market or trading bloc. Its main trading partners are the US, France, Japan and the EEC. Haiti is an excellent base for companies desiring to enter the US market because of its proximity to the US. There are no significant obstacles to exporting, barring some minor stamp and customs fees.

Haiti has suffered chronically from a negative trade balance. The deficit in its trade account grew from $168.8 million in 1980 to $227.2 million in 1981 and 1982 trade deficit is expected to be around $156 million. The increase in the trade deficit in 1980 was primarily due to a severe plummet in coffee earnings, the country's single most important crop. Agricultural exports accounted for some 60% of Haiti's $215.8 million total export earnings that year. Light manufacturing accounted for 30.5% and the remaining 9.4% was mineral exports, predominantly bauxite. By end-1982, agricultural export earnings will have dropped to 38.5% of total exports while light manufacturing will have grown to almost 52%. In 1983, agriculture's share of exports will probably climb back to the 50% range, and light manufacturing will subside somewhat. Mineral exports will drop off completely due to the closing in late-1982 of the Reynolds bauxite mine.

Imports in 1980 totaled $384.6 million; in 1981 they totaled $378.3 million. Of the latter, 32.7% was imports of machinery and transportation equipment; 18.2% was manufactures; 17.9% was imported fuels; 17.6% were food products and 7.4% was chemicals. The rest was raw materials, fats, and oils and other items.

13.02 Import controls. Import quotas and prohibitions were enacted by decree in early-1981. The quotas are expected to expire in March 1983 and the import bans may stay in force through 1983. As part of its commitment to meet IMF targets, however, these import controls may be rescinded earlier.

Quotas have been placed on the following products:

ham; bacon; hotdogs; salamis; sausages; fish and seafood; meats; honey; yogurt; butter; fresh milk; corn; rice; wheat; manioc and corn flours; roasted peanuts; peanut butter; roasted cashews; soybean oil and lard; sugar; cigarettes; toothpaste; desinfectant; deodorant; grease remover; shampoo; shoe polish and paste; leather shoes and other leather items; ceramic products; varnish; powdered, water, oil and enamel paints for swimming pools; industrial and special paints; anti-corrosive paints with lead oxide and minium; hydrofugal liquid; thinner; protection products for wood; stain for wood; insecticides and fungicides; glue; sanitary napkins; table napkins; facial tissue; fabric handkerchieves; metal zippers; iron scouring pads; paper and synthetic-fiber bags; frozen fruits and vegetables; wooden and fiberglass furniture; packaging paper; plastics; cardboard; toilet paper; toothbrushes; flat irons; lead batteries; fruit preserves; jelly; metal containers; nails; iron sheets; bottle caps for soft drinks; flat irons utilizing charcoal; grey portland cement; tiles; cotton thread not conditioned for retail sale; blue cotton denim; muslin fabrics; carabella fabrics; regular and sport socks; underwear; clothing and marble.

The following products have been totally banned from importation:

roasted or non-roasted coffee; candies; macaroni, noodles and spaghetti; toilet soaps and detergent; liquid and powedered detergents; canvas; PVC and synthetic shoes; mattresses; aluminum, enamel and plastic housewares; crude and semi-refined oil; small portable gas stoves; used newspapers; watches; polyester fabrics; rum, "clairin", alcohol, "tafia", and beer; fancy and plain cookies; bread and biscuits; jute bags; canned fruit juices; PVC and plastic pipes; and vinegar.

13.03 Tariffs and import taxes. Haiti uses the Brussels Tariff Nomenclature (BTN). Tariffs are levied on both ad valorem and specific bases. An across-the-board tariff revision occurred in 1981 and, therefore, tariff rates are not expected to change in the near future. The average tariff for nondurable consumer goods is 41%; for durable consumer goods and intermediate producer goods it is 47%; and for machinery the tariff is 25%.

13.04 Non-tariff barriers. None are utilized, in general.

13.05 Free zones. One was created by the Decree of March 29, 1979, but it is not currently operational.

13.06 Export incentives. Except for waived export duties to companies benefiting from the incentives law, there are no special export incentives available.

13.07 Export insurance. Private insurance is available. No government insurance is offered.

13.08 Export credit. No special facilities exist per se, but exporters will get preferred treatment from commercial banks because they are foreign exchange earners.