

Integrated Economic Zones in Haiti

Legal/Regulatory/Institutional Analysis

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Acronyms

ADR	Alternative Dispute Resolution
AECOM	AECOM International Government Services
AYSCUDA	Automated System for Customs Data
BOT	Build, Operate, Transfer
CFI	Centre de Facilitation des Investissements
CII	Commission Interministérielle des Investissements
CNZF	Conseil National des Zones Franches
DGI	Direction Générale des Impôts
DZF	Direction des Zones Franches
EDA	Economic Development Area
EIA	Environmental Impact Assessment
FZ	Free Zone
GoH	Government of Haiti
GPS	Global Positioning System
HIEZA	Haiti Integrated Economic Zones Authority
HOPE	Haitian Hemispheric Opportunity through Partnership Encouragement
IC	Investment Code
ICAD	Industrial and Commercial Area Development Division
IEZ	Integrated Economic Zone
IFC	International Finance Corporation
ILO	International Labor Organization
IP	Industrial Park
MCI	Ministry of Commerce and Industry
MEF	Ministry of Economics and Finance
MOU	Memorandum of Understanding
OPM	Office of the Prime Minister
PIM	Parc Industriel Metropolitan
PPP	Public-Private Partnership
SEZ	Special Economic Zone
SONAPI	Société Nationale des Parc Industriels
UNCTAD	United Nations Conference on Trade and Development
USD	United States Dollars
VAT	Value Added Tax
WCO	World Customs Organization
WTO	World Trade Organization

Executive Summary

Haiti's Investment Climate is in Need of Urgent Reform

As highlighted in the Market/Demand Report, strong investor interest exists in Haiti that could create more than 380,000 jobs by 2030, but several notable constraints impede the realization of potential investments. Key obstacles include: (i) a burdensome business formation/licensing process; (ii) absence of a formal land-titling/cadastral system and real property registration; (iii) a complex customs administration; (iv) limited availability of serviced land, facilities, and utilities; (v) lack of a modern construction code; (vi) no contemporary international arbitration/mediation mechanisms; (vii) lack of adequate investor safeguards to protect private property rights; and (viii) disjointed, fragmented, and overlapping legal/regulatory/institutional structures regulating free zones, industrial parks, and general investment in Haiti.

To alleviate these investment constraints and to launch reconstruction projects designed to rebuild the nation in the aftermath of the 2010 earthquake, the Government of Haiti (GoH) should consider embarking upon legal/regulatory/institutional reforms designed to improve the nation's overall business environment. The most effective policy tool for the short and medium terms to carry out the needed reforms is the establishment of a national Integrated Economic Zones (IEZ)¹ regime.

A national IEZ framework – propelled by *private-sector led development* – constitutes the policy instrument that can remedy the above constraints, while serving as an effective catalyst for infrastructure development, decentralization, and economic growth in line with the GoH's Action Plan for National Recovery and Development. This new IEZ regime – to be applied at two pilot locations in Haiti – will enhance new investments by providing internationally-competitive legal, regulatory, and institutional structures for private foreign and Haitian investors, delivering serviced land, facilities, infrastructure, and other business-enabling features, and encouraging private-sector participation in infrastructure development. The future IEZs also can serve as a “test case” for potential national-level policy reforms in Haiti.

Haiti's Existing Free Zone, Industrial Park, and Investment Policies and Regulatory Features

As a whole, the existing Haitian Free Zone (FZ), Industrial Park (IP), and Investment Code (IC) policy and regulatory regimes have not been effective in attracting new investments that are needed to create jobs and enable investors to leverage Haiti's comparative advantages. Although the current Haitian FZ, IP, and IC legal frameworks do adhere in large part to international good-practice standards with respect to creating linkages with the domestic economy, providing competitive fiscal/customs incentives, and codifying land anti-speculation

¹ Also known as Special Economic Zones (SEZ) in other countries









provisions, the existing Haiti FZ/IP/IC regimes could significantly improve other areas, such as zone-site selection/designation criteria, licensing/permitting procedures, customs controls, dispute resolution, land titling/cadastre, environmental regulation, labor standards, building permits, private development rights/obligations, on-site/off-site infrastructure/facilities, inter-agency agreements, and public-private partnership (PPP) mechanisms. These deficiencies have resulted in investor confusion that has been partly responsible for an underperforming Haitian zones regime when compared with those in neighboring countries, including the Dominican Republic.

Moreover, the complex legal/regulatory/institutional structure of Haiti's FZ/IP/IC regimes has exacerbated the underlying investor confusion. Specifically, three separate, overlapping, and sometimes conflicting laws apply to free zones, industrial parks, and investment projects in Haiti. In this context, multiple government entities have competing and often conflicting jurisdictional mandates over free-zone affairs, including the *Direction des Zones Franches* (DZF), the *Conseil National des Zones Franches* (CNZF), and the *Centre de Facilitation des Investissements* (CFI) at the Ministry of Commerce and Industry (MCI), as well as the *Commission Interministerielle des Investissements* (CII) at the Ministry of Economics and Finance (MEF). This inefficient administrative structure has been detrimental to zone investment generation. The absence of any regulations implementing these laws has compounded the above shortcomings.

The following table summarizes the existing Haitian zones policies/regulatory framework, together with the noted deficiencies, in light of prevailing good-practice standards:

Figure 1. Summary of Haiti's policy/regulatory framework in light of good practice standards

Best-Practice Zone Principle	Haiti's Rating
● = Good Practice ○ = Sub-Standard Practice	
Investment Incentives and Regulatory Framework	
Linkages with the Domestic Economy	●
Extra-Territoriality for Customs Purposes	●
Fiscal and Customs Exemptions and Incentives	◐
Customs Administration	◑
Licensing and Permitting Procedures/Business Formation and Registration	◑
Multi-Purpose Activities/Eligibility for General Zone Benefits and Privileges	◑
Dispute Resolution	○
Zone Land Regulation	
Anti-Speculation	●
Land Titling and Land Registry/Cadastre System	○
Other Land Ownership Issues	○
Socio-Economic Provisions	
Environmental Regulation	○
Labor Standards	◑

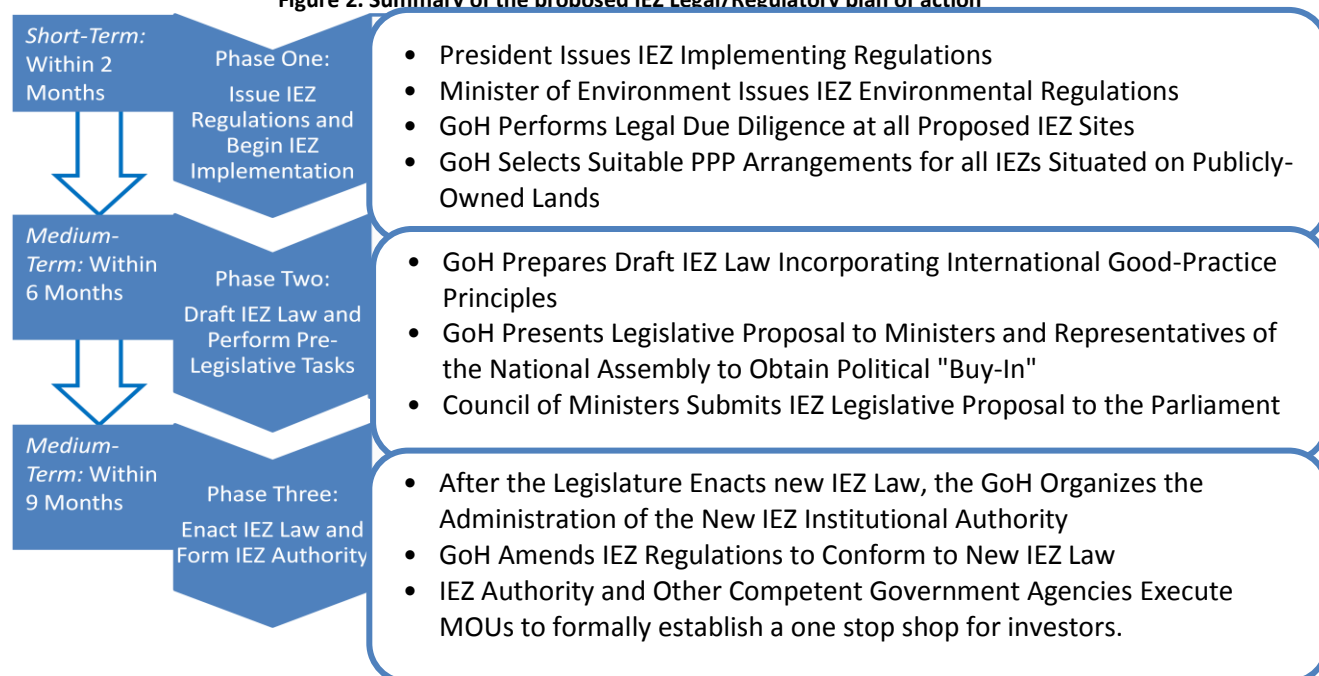
Best-Practice Zone Principle	Haiti's Rating
Market-Driven Physical Development and Management Practices	
IEZ Location Criteria	
Private-Sector Zone Development and Rights/ Obligations	
Private Infrastructure Facilities and Services	
Building Permits	
Zone Institutional Structures	
Administrative Regulatory Function	
Autonomous Authority Organized as a "One-Stop Shop" as Implemented by Memoranda of Understanding (MOUs)	
Public/Private Board of Directors Oversight	
Public-Private Partnership (PPP) Mechanisms	

Reform Strategy to Establish a Modern IEZ Framework in Haiti

To remedy the above shortcomings and to provide Haiti with the new IEZ legal/regulatory/institutional framework to regulate a new generation of IEZs nationally, the GoH might consider adopting a three-phased approach. Phase 1 consists of the short-term strategy whereby the GoH promulgates within the next 2 months new IEZ regulations via Presidential Executive Order under the umbrella of Haiti's IZ, IP, and IC legal regimes. Phase 2 constitutes the medium-term strategy whereby the GoH drafts within the next 6 months a new IEZ law and performs all necessary pre-legislative tasks. Phase 3 consists of the additional medium-term strategy whereby the GoH enacts within the next 9 months a new IEZ law that establishes an autonomous institutional authority to regulate all IEZs in Haiti.

Passage of a new IEZ enabling law is not the optimum short-term strategy, because the Haitian National Assembly will require significant time in session to deliberate over the technical provisions of any IEZ legislative proposal. Given that Haiti urgently needs a unified national IEZ regulatory framework to launch pending zone projects, the President Martelly should immediately consider issuing an Executive Order pursuant to the existing FZ, IP, and investment laws and establish a unified national IEZ regulatory regime thereunder – as followed by the enactment of a new IEZ law – in accordance with the following action plan:

Figure 2. Summary of the proposed IEZ Legal/Regulatory plan of action



The swift adoption of the IEZ implementing regulations during Phase 1 will achieve the following short-term, tangible results that will facilitate investment in Haiti:

- Consolidation and harmonization of Haiti’s FZ/IP/investment regimes under a unified national regulatory framework;
- Streamlining the FZ/IP institutional structures and clarification of the powers, obligations, functions, and responsibilities of DZF, CNZF, CII, and the *Société Nationale des Parcs Industriels* (SONAPI), the Haitian public entity responsible for IPs in Haiti;
- Establishment of a “one-stop shop” at DZF and SONAPI;
- Creation of a two-tier licensing process – that is, provisional and definitive zone licenses – designed to enable potential zone developers/operators to present preliminary and definitive feasibility studies in separate submissions as a cost-control mechanism;
- Establishment of clear rights and obligations for zone developers/operators, zone users, and zone residents;
- Piloting of customs reforms – including global positioning systems (GPS) and other computerized cargo-tracking systems, standardized single, consolidated, and electronic customs declarations, risk-based entry examinations, pre-shipment cargo profiling, screening, and customs clearance, and electronic document entry, customs verification, and inspections – that can eventually be extended to the rest of Haiti at a later date;

- Adoption of building-permit reforms based on international hurricane and seismic standards.

Notwithstanding the expediency of the proposed IEZ regulations, that legal instrument does not constitute the needed medium-term solution to effect across-the-board zone improvement in Haiti, because regulations cannot implement reforms that require the enactment of a law. Such reforms embrace IEZ land-titling/cadastre modifications, special IEZ investment guarantees, IEZ dispute-resolution procedures, an autonomous IEZ administrative authority, an IEZ construction code, public IEZ security provisions, a *de jure* “one-stop shop,” an MOU mechanism, and performance-based fiscal incentives.

Hence, as part of Phase 2 and Phase 3 of the proposed action plan, the GoH should consider drafting and enacting a new IEZ law that (i) applies to all classes or kinds of IEZs, (ii) codifies the IEZ regulatory reforms into the new law, and (iii) implements the reforms described above that can be adopted only through legislation, such as the establishment of a new autonomous institutional IEZ authority. In addition to the reforms to be included in a new IEZ law, the GoH should consider amending the Labor Code to lift restrictions on 24/7 multi-labor shifts and amending the Customs Code to eliminate redundant procedures and demurrage charges and to codify a *de jure* customs MOU mechanism.

I. Introduction

The main objectives of this report are to provide the GoH with Legal/Regulatory/Institutional advice that – in conjunction with the Market/Demand Report, Site Assessment, Financial/Economic Analysis, and further capacity-building support – will enable the GoH to identify and implement IEZs throughout the country to capture investment opportunities and create jobs in the short and medium terms. To achieve these goals, the IFC has produced (i) a set of “turn-key” regulations focused on streamlined business/IEZ operation that can be implemented quickly by the GoH under the existing legal framework, and (ii) a medium-term strategy that recommends legal and institutional options for the GoH to evaluate and select.

II. Global Good IEZ Practices and Haiti’s Current Legal/Regulatory/Institutional Framework

A. Integrated Economic Zones as a Reconstruction Policy Tool and “Piloting Platforms”

The focused policy tool for the GoH to adopt during the short and medium terms – in order to carry out the legal/regulatory/institutional reforms that Haiti currently needs– is the establishment of a national IEZ regime. A national IEZ framework – propelled by *private-sector led development* – constitutes the precise policy instrument that can serve as an effective catalyst for infrastructure reconstruction, decentralization, and economic growth in accordance with the GoH’s Action Plan for National Recovery and Development.

Modeled after the earlier city-state *entrepôts*, such as Singapore, an IEZ refers to any delimited, physically-secured, and often fenced-in geographic area comprising serviced lands and facilities that offers on-site administrative regulation, management, infrastructure, and related services that are dedicated to a virtually limitless range of multi-use economic and social activities, including manufacturing, commercial, logistics/warehousing, agribusiness, electricity-generation, education, residential, and tourism pursuits.

A distinguishing feature of contemporary IEZs is that they provide governments in developing, post-conflict, and post-disaster countries with an effective policy tool to implement political, legal, and economic reforms to create jobs and facilitate infrastructure development on a targeted, zone-by-zone basis. Rather than attempt to accomplish the daunting task of carrying out wholesale and sweeping political, economic, and legal reforms on a countrywide basis in the aftermath of a natural disaster, the GoH can use the future IEZs as a pilot program to execute specific reforms gradually on a zone-by-zone basis.²

² As “piloting platforms” or “laboratories” for political, economic, and legal/regulatory reforms, IEZs have served as effective “demonstration areas” in Asia (e.g., China), Africa (e.g., Rwanda), and the Middle East (e.g., Jordan) in

Upon realizing positive results on a smaller, albeit more manageable, scale Haiti can then carry out the needed political, economic, and legal/regulatory reforms on a broader basis in the country as a whole. As emphasized by Paul Collier, “[i]t is much easier and quicker to provide the infrastructure and services that [any] industry needs by creating a **few islands of excellence** rather than by trying to improve standards across the entire country.”³

Traditional examples of targeted IEZ pilot reforms include:

- Expedited Business Registration/Licensing Procedures;
- Land Titling/Registry/Cadastre Provisions;
- Streamlined Customs Clearance Formalities;
- Corporate Profit/Customs-Duty Incentives and Exemptions; and
- Flexible Labor, Immigration, Tax, and Environmental Mechanisms.

IEZs can also serve as an efficient policy vehicle to foster continued peace-building. In this regard, effective rule-of-law reform carried out in an IEZ setting can contribute to political and socio-economic stability on a zone-by-zone basis, with positive spillover effects throughout a nation, by means of:

- Promoting Human Security;
- Establishing Basic Law and Order;
- Creating an Effective System to Resolve Property and Commercial Disputes;
- Enforcing Property and Contract Rights;
- Protecting Human Rights;
- Effecting Transitional Justice; and
- Achieving Equality before the Law.

Post-conflict countries that have successfully implemented, or are in the process of implementing, IEZ or other economic zone regimes as a policy instrument to achieve peace-building include Rwanda,⁴ Iraq, Nicaragua, and El Salvador.

Even though the adoption and observance of good-practice standards can be a challenging task for post-disaster and post-conflict nations (on account of ravaged infrastructure and the lack of

which critical, but oftentimes difficult, reforms are first launched in a delimited geographic area before being implemented on a municipal, regional, or national basis. Such a targeted and sequenced approach can eventually transform the society of a host country. The piloted reforms, as administered by an IEZ “one-stop shop,” have proved to be particularly useful in remedying countries’ competitiveness shortcomings, such as those identified in the 2011 edition of the World Bank’s annual *Doing Business* report in which Haiti ranked 162nd out of 183 countries.

³ Collier, Paul, *Haiti: From Natural Catastrophe to Economic Security*, A Report for the Secretary-General of the United Nations, 1, 4 (January 2009).

⁴ In post-conflict Rwanda, the government is employing IEZs as a policy tool to effect needed reforms to attract investment and create jobs in such targeted sectors as agriculture, tourism, high-technology, manufacturing, social infrastructure, labor-housing, and hospital and school developments.

institutional and administrative structures and capacity), a good-practice regime can still be designed and adapted to any post-disaster or post-conflict scenario. Stated otherwise, all nations – regardless of whether their governments are operating under post-disaster, politically-stable, or post-conflict circumstances – can implement good-practice IEZ legal/regulatory provisions. In the case of Haiti, any additional technical assistance that the GoH may receive from the international donor community can further contribute to reduce any administrative burdens attributable to instituting a contemporary IEZ regime.

IEZs can also serve as the most effective policy prescription to carry out the principle of decentralization as espoused by the 1987 Haitian Constitution, as amended. In this vein, a new Haitian IEZ legal/regulatory/institutional framework can effectively incorporate provisions to devolve political and administrative authority through law and regulations among national, regional, and local government authorities. By providing Haitian municipalities with the legal authority and economic means to execute reconstruction and economic development at the local level, Haiti's future IEZs can enable local government administrators and the central government to share this common purpose under the Constitution as Haiti "Rebuilds Better".

B. Global Good Practice: IEZ Laws and Regulations and IEZ Institutional Frameworks

B.1. Global Good Practice IEZ Laws and Regulations

To establish an enabling legal environment for the effective development of a competitive and sustainable IEZ regime, the host country in question (as further explained in Annex E to this Report) should generally adopt the following good-practice principles in its IEZ law that today characterize model IEZ regimes on a worldwide basis:

- **Standard Provisions and Statutory Definitions:** Standard provisions that, *inter alia*, establish comprehensive definitions for key statutory terms (*e.g.*, "expropriation") and codify effective pre-emption clauses (*e.g.*, Aqaba Special Economic Zone (SEZ) Law, Philippines SEZ Act, Thailand Industrial Estate Authority Act);
- **Linkages with the Domestic Economy:** Provisions that treat national goods and services originating from the domestic customs territory of a host country and sold in an IEZ as exports for customs-duty drawback and indirect tax-remission purposes (*e.g.*, Tangiers Free Zone Law);
- **Extra-Territoriality for Customs Purposes:** Free zone areas of IEZs should generally fall outside the national customs territory of the zone country for purposes of exempting customs-import duties and indirect taxes, including value-added taxes (VATs) (*e.g.*, Senegal DISEZ Law);

- **Fiscal and Customs Exemptions and Incentives:** Performance-based fiscal and customs exemptions and incentives that accord extra-territorial treatment to IEZ goods and services that are consistent with the WTO Subsidies Agreement (*e.g.*, Aqaba SEZ Law, Philippines SEZ Act);
- **Customs Administration:** Streamlined IEZ customs procedures, including customs clearance, that adhere to World Customs Organization (WCO) principles and standards (*e.g.*, Philippines SEZ Act);
- **IEZ Licensing/Permitting Procedures, Including Business Formation/Registration:** Transparent criteria for the issuance of zone authorizations for zone developers/operators, users, and residents, as well as automatic approvals facilitated through a “one-stop shop” institutional framework;
- **Multi-Purpose Economic Activities:** Legal authority for any zone enterprise or resident to undertake any lawful economic or social activity in an IEZ (*e.g.*, Philippines SEZ Law);
- **Dispute Resolution:** Effective alternative dispute resolution (ADR) mechanisms that are consistent with the International Center for Settlement of Investment Disputes (ICSID) and New York Conventions (*e.g.*, Senegal DISEZ Law);
- **IEZ Land Regulation:** Transparent land-acquisition, ownership, registration, tenure, use, transfer, and anti-speculation provisions governing IEZ land (*e.g.*, Philippines SEZ Act);
- **IEZ Environment Regulation:** Provisions that comply with international environmental conventions (*e.g.*, Aqaba SEZ Environmental Regulations);
- **Labor Organization Standards:** Adherence to International Labor Organization (ILO) conventions within an IEZ, including equal treatment protections for female workers (*e.g.*, Rules and Regulations of RAK Free Trade Zone);
- **Market-Based Physical Development and Management Standards:** Market-driven provisions, including market-based zone-location/selection/designation criteria, private property protections, and effective demarcation of the rights and obligations of IEZ owners, developers/operators, users, and residents *vis-à-vis* the IEZ regulator (*e.g.*, Mozambique Industrial Free Zone Council Decree, Mauritius Freeport Act); and
- **Other Physical Development and Management Features:** Adoption of building-permit provisions that comply with internationally-recognized seismic, hurricane, and construction criteria (*e.g.*, Chilean Free Zone Regime).

B.2 Global Good Practice Institutional Framework Principles

As further explained in Annex F to this Report, successful IEZ administrative authorities around the globe are public-sector entities that share the following institutional features:

- **Administrative Regulatory Function:** Administrative function that focuses on regulatory responsibilities and generally avoids undertaking development/operation activities based on the Authority’s own initiative (*e.g.*, Guangdong/China SEZ Regulations);
- **Autonomous Authority Organized as a “One Stop Shop”:** Autonomous institutional authority organized as a “one-stop shop” (based on the “account-executive” model)⁵ to streamline applicable registration/permit procedures in each IEZ (*e.g.*, Philippines SEZ Law), with administrative/financial autonomy (*e.g.*, Aqaba SEZ Law);
- **MOUs:** MOUs to facilitate administrative coordination between the IEZ institutional authority and other government agencies having concurrent or shared regulatory jurisdiction over IEZ activities (*e.g.*, Aqaba SEZ Law);
- **Public/Private Board of Directors Oversight:** An IEZ board of directors comprised of public- and private-sector representatives that is directly responsible for the oversight of the regulatory functions discharged by the IEZ authority (*e.g.*, Philippines SEZ Authority); and
- **Public-Private Partnership Mechanisms:** Availability of all PPP mechanisms in the enabling IEZ statute, including joint ventures, concessions, leases, management contracts, and Build-Operate-Transfer (BOT) arrangements (*e.g.*, Panama SEZ Law).

It is against this benchmark of international IEZ principles that this Report evaluates Haiti’s existing economic zones regime. As explained below, Haiti is at the crossroads with regard to its economic zones development and regulation, because the governing regulatory framework – namely, the FZ Law, the IP Law, and the IC – does not comply with the majority of the international good-practice standards, conventions, and principles that govern IEZs worldwide.

C. Haiti’s Current Economic Zones Regime in Light of International Good Practice Standards

C.1. General Diagnostic Analysis of Haiti’s Economic Zones Legal/Regulatory/Institutional Framework: FZ/IP Laws and Investment Code

Even though the current Haitian FZ, IP, and IC legal frameworks do adhere in large part to international good practices with respect to creating linkages with the domestic economy, providing competitive fiscal and customs incentives, and codifying land anti-speculation

⁵ Under the “account executive” model, government agencies with concurrent or shared regulatory jurisdiction over IEZ matters retain their legal powers, authorities, and attributes, but enter into MOUs with the IEZ administrative authority. Pursuant to these MOUs, the IEZ authority typically appoints an “account executive” who interfaces directly with the IEZ investors by collecting from them all forms, documents, and other information needed to process business start-up activities. The “account executive” then coordinates with the competent government agencies to streamline all necessary requirements. The “account executive” approach has proved to be the most effective model in implementing “one-stop shops” around the world. For more information on the “account executive one-stop shop,” see Annex F.

provisions, the Haiti FZ/IP/IC regimes do not conform to international standards with regard to licensing/permitting procedures, customs controls, dispute resolution, land titling/cadastre systems, environmental/labor regulation, building permits, private development rights/obligations, zone site-designation criteria, MOUs, and PPP mechanisms.⁶

Moreover, three separate, overlapping, and sometimes conflicting laws apply to FZs, IPs, and investment projects in Haiti. In this context, multiple government entities have competing and often conflicting jurisdictional mandates over free-zone affairs, including DZF, CNZF, and CFI at MCI, as well as CII at MEF. These deficiencies have resulted in investor confusion that has been partly responsible for an underperforming zones regime when compared with those of its neighbor countries, including the Dominican Republic and Nicaragua.

Specific shortcomings characterizing Haiti's economic zones regime include the following:

- **WTO Issues:** A mandatory 70% free-zone export requirement that constitutes an actionable government subsidy that can trigger future U.S. countervailing duty actions;
- **Incentives:** Confusing overlap among the FZ Law, IP Law, and the IC with respect to customs-duty and fiscal incentives;⁷
- **Zone Designation Criteria:** Absence in the applicable legal framework of several good-practice zone selection/designation/location criteria;
- **FZ Authorization/Concession Process:** Ambiguous zone-authorization mechanism that fails to codify into law a statutory deadline by which CNZF must issue free-zone authorizations to applicants;
- **Unwarranted Bureaucracy:** Excessive involvement of the Council of Ministers and the President of the Republic in the free-zone authorization process;
- **Zone-User Feasibility Studies:** Unnecessary requirement for potential FZ users to prepare complex feasibility studies;
- **DZF/CNZF Responsibilities:** Confusion and overlapping jurisdictional competencies and duties between DZF and CNZF with regard to the supervision, administration, and regulation of free-zone operations;

⁶ For a detailed diagnostic analysis of Haiti's economic zones regime in light of international good-practice standards, see Annex G to this Report.

⁷ For a summary of the zone incentives under the Free Zones Law, the Industrial Park Law, and the Investment Code, see Annex D to this Report. As relevant here, the GoH often does not comply with its statutory and contractual obligations when private enterprises are eligible for customs-duty and fiscal incentives under the FZ Law, the IC, and the governing FZ concession agreement. As a result, MCI and MEF should establish an oversight mechanism to ensure that lower-level government administrators grant customs-duty and fiscal exemptions when such treatment is mandated by Haitian law and contractual obligation.

- **“One-Stop Shop”:** Absence “one-stop shops” to facilitate the issuance of government registrations, permits, authorizations, and certifications;
- **MOUs:** No MOU mechanism to coordinate zone duties, responsibilities, and functions between DZF/CNZF at MCI (or SONAP) and other government agencies having concurrent or shared regulatory jurisdiction over zone activities; and
- **Public Infrastructure:** Lack of clarity concerning the Haitian State's obligation to provide off-site infrastructure for an FZ or IP.

C.2. Additional Customs, Land, and Environment Issues that Adversely Affect Haiti’s Economic Zones Regime⁸

MEF Customs and Other Import/Export Requirements

Notwithstanding the GoH policy objective to streamline customs procedures,⁹ several long-standing Haitian practices have been inhibiting Haitian zones trade, including:

- **Document-Entry System:** Absence of an electronic customs document-entry system to streamline customs clearance;
- **Customs Audit/Verification:** Lack of an electronic audit/verification scheme to facilitate pre-entry customs cargo inspection;
- **Excessive Demurrage Charges:** Demurrage charges applied beginning on the 14th day of temporary storage at the Port-au-Prince port;¹⁰
- **Delays:** Unnecessary and unexplained delays for importers to process customs entries;
- **Redundant Customs Control:** Additional customs control and verification carried out in Haiti, including at the CODEVI free zone, despite inspection undertaken at the foreign port of embarkation by SGS S.A. (*Société Générale de Surveillance*);¹¹

⁸ For a discussion of other legal issues adversely affecting Haiti's economic zones regime, see Annex A to this Report.

⁹ Imported goods of foreign origin entering into the Haitian national customs territory are subject to the following traditional channels of customs control as applied at a designated customs check point: (i) “green channel” procedures; (ii) “yellow channel” verification; or (iii) “red channel” inspection. The national customs authorities apply non-public risk-assessment criteria to determine whether an import entry is subject to green, yellow, or red channel treatment.

¹⁰ The demurrage-charge issue is subject to debate. According to its Managing Director, the General Customs Administration does not own any warehouses. Therefore, the national customs authorities cannot collect demurrage charges for warehouse-stored goods. According to national customs authorities, private parties at the Port-au-Prince port are responsible for charging excessive demurrage charges.

¹¹ Every export shipment bound for Haiti with a commercial value exceeding USD 5,000 is subject to customs inspection in the foreign country of origin to determine the customs value of the shipment in question and to ascertain whether the shipment conforms to the information set forth in the commercial invoice. One private company that provides such services internationally and to the GoH is SGS S.A. When an inbound shipment has

- **Administrative Bureaucracy:** Customs documents with simple typographical errors requiring a formal letter of correction issued by the Managing Director of the General Customs Administration;
- **Administrative Delegation:** Lack of adequate delegation of administrative powers and responsibilities to subordinates within the General Customs Administration; and
- **Fiscal *Quitus* Requirement:** Requirement that every exporter/importer in Haiti obtain a fiscal *quitus* certificate that demonstrates that the enterprise in question is in compliance with its fiscal obligations before such enterprise can engage in export/import activities.¹²

Additionally, national customs and MCI representatives acknowledge that administrative coordination problems exist between the General Customs Administration and DZF/CNZF at Haiti's only FZ, CODEVI. To facilitate the required administrative coordination in this context, the General Customs Administration recommends entering into an MOU arrangement with DZF/CNZF at MCI pursuant to which the national customs authorities can receive DZF/CNZF instructions through proper administrative channels.

Lack of a Land Titling and Land Registry/Cadastre System

Verifying legal title to a private freehold estate in Haiti can be burdensome, because no uniform legal document (*e.g.*, land deed) is available in Haiti, and because no centralized office exists in the country that can provide a definitive ruling concerning the validity of a purported land title.¹³ The only known *cadastre* (Land Registry) dates back to 1786.

The following Haitian administrative government entities and individuals play a role in determining whether a purported land owner has valid legal title to the real property in question: (i) public notaries; (ii) lawyers; (iii) surveyors; (iv) *Le Conservateur Foncier de la Jurisdiction du Tribunal Civil compétent*; (v) judges; (vi) *Office Nationale du Cadastre*; (vii) *Direction Générale des Impôts* (DGI); (viii) *Direction de Conservation Foncière*; (ix) *Direction des Impôts Cadastrals*; and (x) *Centre National de l'Information Géospatiale*.

undergone SGS inspection at the foreign port of embarkation, customs clearance in Haiti should, in principle, be streamlined. Nevertheless, SGS inspection at the foreign port of embarkation does not result in the automatic customs clearance of the subject merchandise upon its entry into Haiti.

¹² The validity of each fiscal *quitus* certificate issued by the *Direction Générale d'Impôt* (DGI) can vary from 3 to 5 months. The DGI fiscal *quitus* certificate constitutes a *de facto* export- and import-licensing requirement and an administrative barrier to trade.

¹³ Lands in Haiti are classified as (i) public state lands (*terres du domaine de l'Etat*) and (ii) private lands (*terres du domaine privé*) that can be owned on a freehold basis by private corporate or natural persons. Public state lands are further divided into two sub-categories: (i) traditional public state lands (*terres du domaine public de l'Etat*) that cannot be alienated (*i.e.*, transferred), such as coastal areas, rivers, and mines; and (ii) private state lands (*terres du domaine privé de l'Etat*) which can be alienated or transferred to the private sector on a freehold basis or through lease arrangements. Ninety-five (95) percent of land in Haiti is privately-owned, with the majority of such land subject to legal disputes.

The National Office of Land Registry – that is, the *Office Nationale du Cadastre* – is unable to verify with 100% accuracy that a particular land title is valid. Similarly, DGI¹⁴ – which includes the *Direction de Conservation Foncière* and the *Direction des Impôts Cadastrals* that attempt in tandem to act as the *de facto* land registry in Haiti – merely provides evidence that a corporate or natural person has paid real-property taxes on a given plot of land. Even though such persons often use real property-tax receipts issued by DGI as proof of land ownership, a person that does not own the real property in question may begin paying the applicable real-property taxes to give the false impression of real-property ownership.

Based on the above, Haiti can greatly benefit of land-titling/cadastral reform that will apply to all land in Haiti, including all IEZ land.¹⁵ Such land reform requires, as a threshold matter, the unification of all of the disparate and disjointed Haitian administrative agencies that are involved in land titling/cadastral matters. In this regard, the GoH should consider adopting a modern land-titling/cadastral framework similar to that implemented in France, because, *inter alia*, the French and Haitian legal systems trace their origins to the same Napoleonic Civil Code.

Furthermore, any land reform in Haiti must be undertaken via the enactment of a new law or the amendment of an existing law. Regulatory responses are not sufficient because, (i) the legislative branch, instead of the executive branch, has the exclusive power under the 1987 Haitian Constitution, as amended, to create, regulate, and enforce real property rights, and (ii) a subsequent government can rescind previously-adopted regulations.¹⁶

Environmental Regulation

The national environmental law in Haiti is the Environmental Decree Law of January 26, 2006. This law merely codifies general principles and lacks the necessary detail to constitute an effective legal instrument with enforcement teeth. As a result, the procedural implementation

¹⁴ Technically, the DGI plays no role in determining whether a purported land owner has valid legal title to the real property at issue. Rather, DGI simply records the purchase-sale agreement for purposes of assessing the applicable real property taxes.

¹⁵ Haiti's future IEZ law could serve as the suitable vehicle to establish a new IEZ legal-titling/cadastre system in each IEZ whereby IEZ developers, operators, end users, and residents could acquire and pass valid legal title to real property in the economic zones. After successfully implementing the new IEZ land-titling/cadastre system on a zone-by-zone basis, the GoH could then extend this land reform to the rest of the country. The Organization of American States (OAS) – which is the international donor agency responsible for carrying out land-titling and cadastre reform with Haitian government stakeholders – has already endorsed such an IEZ piloting approach.

¹⁶ The creation of a new IEZ land-titling/cadastre system as an IEZ “demonstration area” that can eventually be applied to the rest of the nation is of paramount importance to the Haitian Central Bank. Such a piloting program would enable Haitian commercial banks to start using IEZ land as collateral for loans. As pertinent here, Haitian banks generally do not have any liquidity problems, given that their available financial assets total to approximately USD 900,000,000 in the aggregate. The real issue for the Haitian banking sector is one of commercial risk. As emphasized in the Market/Demand Report, collateralized land made feasible by a new IEZ land-titling/cadastre regime could help dissipate commercial risk and spur IEZ investment that is needed to increase production and job creation.

of substantive Haitian environmental legal standards and requirements is at a standstill. The Ministry of Environment has not yet established regulatory environmental impact assessment (EIA) procedures for Haiti.

Based on the above, the Ministry of the Environment should adopt and implement contemporary EIA procedures that can first be piloted in the future IEZs before being extended to the rest of the nation. Other environment and quasi-environment reforms that Haiti should consider adopting in the future IEZs and elsewhere in the country are set forth in footnote 16 to this Report.¹⁷

Finally, the Ministry of Environment does not oppose entering into an administrative MOU arrangement with any future IEZ institutional authority to coordinate IEZ environmental regulation matters under a future Haitian IEZ law. The Ministry of Environment is also amenable to enter into a *de facto* coordination relationship with the competent Haitian IEZ administrative authorities in the absence of an IEZ law to ensure immediate, effective environmental regulation in the future IEZs.




C.3 Summary Evaluation Table



The following table lays out a detailed summary of the previous diagnostic analysis of Haiti's existing economic zone legal, regulatory, and institutional regime in light of international good-practice standards. After providing a rating for each relevant legal, regulatory, and institutional area, the table sets forth the corresponding pro-market reform that the GoH can adopt through the initial issuance of IEZ implementing regulations and the subsequent enactment of new legislation, including a new IEZ law and amendments to the Labor and Customs Codes.





Figure 3. Haiti's policy/regulatory framework in light of good practice standards





Zone Principle	International Best Practice	Haiti's Rating	Comments on Haitian Zones Regime	Recommendations for Reform
● = Good Practice ○ = Sub-Standard Practice				
INVESTMENT INCENTIVES AND REGULATORY FRAMEWORK				



¹⁷ In addition to applying contemporary EIA procedures in its future IEZs, the GoH should consider adopting certain other IEZ environment and quasi-environment reforms, such as: (i) implementation of effective pollution controls for hazardous and toxic wastes, materials, substances, chemicals, and properties, including biodegradable substances and radioactive materials; (ii) application of good-practice environmental accident-prevention provisions; and (iii) implementation of internationally-recognized phyto-sanitary standards in any agricultural IEZ.




Zone Principle	International Best Practice	Haiti's Rating	Comments on Haitian Zones Regime	Recommendations for Reform
Linkages with the Domestic Economy	<ul style="list-style-type: none"> • Zone sales to the domestic market treated as imports into the domestic market (<i>e.g.</i>, Senegal DISEZ Law) • Zone purchases from the domestic market treated as exports from the domestic market (<i>e.g.</i>, Tangiers Free Zone Law) • Enterprises eligible for indirect exporter benefits (<i>e.g.</i>, Panama SEZ Law) 		<ul style="list-style-type: none"> • Zone sales to the domestic market treated as imports into the domestic market • Purchases from the domestic market permitted in the zones • Domestic-origin sales made in a zone are eligible for customs-duty drawback and VAT remissions 	<ul style="list-style-type: none"> • Current regulatory framework is adequate.
Extra-Territoriality for Customs Purposes	<ul style="list-style-type: none"> • Extra-territorial status (<i>i.e.</i>, outside domestic customs territory) accorded to zone goods and services (<i>e.g.</i>, Senegal DISEZ Law) • Such goods eligible for national certificates of origin to benefit from applicable international trade agreements (<i>e.g.</i>, Jebel Ali FZ) • Consistency with WTO Subsidies Agreement (<i>e.g.</i>, Senegal DISEZ Law) 		<ul style="list-style-type: none"> • In principle, Haiti's export-processing zones (EPZs) meet international standards; however, the 70% FZ export requirement is inconsistent with the WTO Subsidies Agreement 	<ul style="list-style-type: none"> • The existing regulatory framework should be harmonized with the WTO Subsidies Agreement.
Fiscal and Customs Exemptions and Incentives	<ul style="list-style-type: none"> • Transparent and unified incentives regime (<i>e.g.</i>, Tangiers Free Zones Law) • Duty-free treatment for admitted construction materials and equipment, production inputs, machinery, and spare parts of foreign origin, as well as the availability of other non-fiscal incentives (<i>e.g.</i>, Philippines SEZ Act and Regulations) • Performance-based incentives (<i>e.g.</i>, Dominican Republic Free Zone Law; Rwanda SEZ Law) 		<ul style="list-style-type: none"> • Confusing overlap between FZ Law and IC concerning customs-duty and fiscal incentives • Room exists for rationalizing and harmonizing the zones tax regime with national policies • Absence of performance-based incentives 	<ul style="list-style-type: none"> • <u>Medium-Term: New IEZ Law</u> to clarify IEZ incentives regime and to establish performance-based fiscal and customs incentives that are consistent with the WTO Subsidies Agreement



Zone Principle	International Best Practice	Haiti's Rating	Comments on Haitian Zones Regime	Recommendations for Reform
Customs Administration	<ul style="list-style-type: none"> Streamlined procedures for customs controls (<i>e.g.</i>, Philippines SEZ Act) Enforced primarily at zone perimeter (<i>e.g.</i>, Jebel Ali FZ) Electronic record-based mechanisms to monitor compliance (<i>e.g.</i>, Mauritius Freeport Act) Risk-based criteria inspection (<i>e.g.</i>, Mauritius Freeport Act) Implementation of streamlined/electronic zones customs procedures, including customs clearance (<i>e.g.</i>, Philippines SEZ Act) 		<ul style="list-style-type: none"> Redundant customs control/verification procedures No electronic audit or customs document-entry system Excessive demurrage charges Delays for importers to process customs entries Inadequate delegation of administrative powers and responsibilities Importers/exporters required to obtain fiscal <i>quitus</i> certificate before engaging in export/import activities 	<ul style="list-style-type: none"> <u>Short-Term: New IEZ Regulations</u> to streamline customs procedures; General Customs Administration and DZF/CNZF enter into <i>de facto</i> MOU <u>Medium-Term: Amend Customs Code</u> to incorporate Kyoto Convention and WTO principles; codify <i>de facto</i> MOU and good-practice customs-clearance measures, including electronic document-entry, verification, and ASYCUDA computerized tracking systems
Licensing and Permitting Procedures, Including Business Formation and Registration	<ul style="list-style-type: none"> Transparent and clear zone-selection/designation criteria, including minimum land area (<i>e.g.</i>, Mozambique Industrial FZ Regulations) “One-stop shops” and streamlined approvals for zone authorizations and company formation and registration (<i>e.g.</i>, Tanzania SEZ Act) 		<ul style="list-style-type: none"> Incomplete and ambiguous zone selection/designation criteria No time limit for CNZF to issue zone authorizations No automatic authorization provisions Requirement for potential zone users to prepare complex feasibility studies 	<ul style="list-style-type: none"> <u>Short-Term: New IEZ Regulations</u> to establish clear market-based IEZ selection/designation criteria and to adopt <i>de facto</i> “account-executive one-stop shops” at DZF and SONAPI to facilitate IEZ authorizations and company formations and registrations on a “fast-track” basis <u>Medium-Term: New IEZ Law</u> to codify zone selection/designation criteria into law

Zone Principle	International Best Practice	Haiti's Rating	Comments on Haitian Zones Regime	Recommendations for Reform
Multi-Purpose Activities/ Eligibility for General Zone Benefits and Privileges	<ul style="list-style-type: none"> • Authorization of multi-purpose economic and social activities (<i>e.g.</i>, Philippines SEZ Law) • No minimum export requirements (<i>e.g.</i>, Senegal DISEZ Law) • Allows foreign and local firms to receive zone benefits and privileges (<i>e.g.</i>, Jebel Ali FZ) • Free transfer of funds/ capital (<i>e.g.</i>, Tanzania SEZ Law) 		<ul style="list-style-type: none"> • Multi-purpose economic and social activities • Minimum 70% export requirement contrary to the WTO Subsidies Agreement • Not all zone privileges available to zone users under FZ Law • Private developers entitled to zone benefits and free transfer of funds inside and outside Haiti 	<ul style="list-style-type: none"> • <u>Medium-Term: New IEZ Law</u> to clarify benefits and privileges for all zone users and to remove minimum export requirement
Dispute Resolution	<ul style="list-style-type: none"> • Effective ADR mechanisms consistent with the ICSID and New York Conventions (<i>e.g.</i>, Senegal DISEZ Law) 		<ul style="list-style-type: none"> • Administrative appeals process codifies patent conflict of interest into FZ Law 	<ul style="list-style-type: none"> • <u>Medium-Term: New IEZ Law</u> to adopt good-practice international arbitration and mediation mechanisms
ZONE LAND REGULATION				
Anti-Speculation	<ul style="list-style-type: none"> • Requirements that zone developers, operators, users, and residents undertake construction or other activities by a date certain (<i>e.g.</i>, Philippines SEZ Law) 		<ul style="list-style-type: none"> • Adequate anti-speculation provisions, but need additional enforcement teeth 	<ul style="list-style-type: none"> • <u>Medium-Term: New IEZ Law</u> to establish good-practice anti-speculation provisions and authorize IEZ institutional authority to enforce provisions
Land Titling and Land Registry/ Cadastre System	<ul style="list-style-type: none"> • Solid title-deed mechanisms to establish ownership of real property and to identify the parcel of land in question through formal cadastre/land registry (<i>e.g.</i>, Singapore Land Management Regime) • Established system of land title-identification numbers (<i>e.g.</i>, Singapore Land Management Regime) 		<ul style="list-style-type: none"> • No cadastre since 1786 • No uniform title-deed system • Multiple individuals and administrative government entities involved in determining valid legal title to land • Privately-owned land is often subject to conflicting ownership claims 	<ul style="list-style-type: none"> • <u>Medium-Term: New IEZ Law</u> or amend existing law to establish a new IEZ legal-titling/cadastre system with transparent land-acquisition, ownership, registration, tenure, use, transfer, and anti-speculation provisions • Provides a starting ground for national land reform

Zone Principle	International Best Practice	Haiti's Rating	Comments on Haitian Zones Regime	Recommendations for Reform
Other Land Ownership Issues	<ul style="list-style-type: none"> Freedom from restraints on alienation/transfer (e.g., Philippines SEZ Law) Allowance of private and public ownership of land (e.g., Philippines SEZ Law) Accessible and well-documented real property ownership records and conveyance mechanisms (e.g., Singapore Land Management Regime) 		<ul style="list-style-type: none"> Joint-tenancy (<i>indivision</i>) ownership creates restraints on alienation of land 	<ul style="list-style-type: none"> <u>Medium-Term: Amend Legislation</u> related to joint-tenancy ownership <u>Medium-Term: New IEZ Law</u> to incorporate provisions that enable IEZ development on both publicly- and privately-owned lands and enable foreign enterprises to purchase private lands
SOCIO-ECONOMIC PROVISIONS				
Environmental Regulation	<ul style="list-style-type: none"> Consistency with national regulations (e.g., Panama SEZ Law) Promotion of good environmental practices consistent with international standards (e.g., Aqaba SEZ Environment Regulations) 		<ul style="list-style-type: none"> Absence of EIA procedures and a streamlined environmental permitting process Lack of effective monitoring and enforcement of environmental rules 	<p><i>Outside New IEZ Regulations/Law:</i></p> <ul style="list-style-type: none"> <u>Short-Term: New Environmental Regulations</u> to adopt and implement EIA procedures in IEZs Ministry of Environment and IEZ institutional authority enter into MOU
Labor Standards	<ul style="list-style-type: none"> Consistency with ILO labor standards (e.g., RAK Free Trade Zone) Specialized dispute settlement mechanism (e.g., India SEZ Act) Relaxed labor/ immigration standards (e.g., Aqaba SEZ Law) Market-based incentives for zone enterprises that promote labor-gender sustainability (e.g., Philippines SEZ Act) 		<ul style="list-style-type: none"> Delay in implementing freedom of association in EPZs Restrictions on 24/7 multi-labor shifts 	<p><i>Outside New IEZ Regulations/Law:</i></p> <ul style="list-style-type: none"> The government might consider amending the labor code to allow for multiple labor shifts and paying straight-time wages in night w not exceeding the legal 8 hour-shifts in accordance with ILO conventions and standards.
MARKET BASED PHYSICAL DEVELOPMENT AND MANAGEMENT PRACTICES				
IEZ Location Criteria	<ul style="list-style-type: none"> Proximity to population centers (e.g., Mozambique Industrial FZ Regulations) Access to infrastructure linkages (e.g., water, power, gas, transportation) (e.g., U.S. Free Zone Law/Regulations) 		<ul style="list-style-type: none"> Current regime requires clarification 	<ul style="list-style-type: none"> <u>Short-Term: New IEZ Regulations</u> to consider proximity of IEZ site to population centers and existing public infrastructure as part of the zone-location criteria

Zone Principle	International Best Practice	Haiti's Rating	Comments on Haitian Zones Regime	Recommendations for Reform
Private-Sector Zone Development and Rights and Obligations	<ul style="list-style-type: none"> • Specific zone developer/operator selection/designation criteria specified in zones law (<i>e.g.</i>, Mauritius Freeport Act) • Clear zone developer/operator rights/obligations <i>vis-à-vis</i> the IEZ regulator, zone users, and zone residents set forth in the enabling law (<i>e.g.</i>, Kenya EPZ Law) • Effective private property rights protections codified in the zones law (<i>e.g.</i>, Senegal DISEZ Law) 		<ul style="list-style-type: none"> • Private EPZ regime has operated effectively at CODEVI despite lack of uniform selection criteria and coherent rights and obligations for developers and operators • Absence of adequate private property protections set forth in the zones law 	<ul style="list-style-type: none"> • <u>Short-Term: New IEZ Regulations</u> to clarify zone and developer/operator selection/designation criteria and developer/operator rights/obligations <i>vis-à-vis</i> the IEZ regulator, zone users, and zone residents • <u>Medium-Term: New IEZ Law</u> to codify good-practice zone and developer/operator selection criteria and developer and operator rights/obligations
Private Infrastructure Facilities and Services	<ul style="list-style-type: none"> • Serviced land available on freehold or long-term leasehold basis (<i>e.g.</i>, Philippines SEZ Law) • Development of on-site infrastructure/facilities by private developers (<i>e.g.</i>, Kenya EPZ Act) • Private-sector participation in provision of utilities/services (<i>e.g.</i>, Senegal DISEZ Law) • Value-added facilities/services provided on commercial basis (<i>e.g.</i>, Senegal DISEZ Law) 		<ul style="list-style-type: none"> • Freehold ownership is precarious in Haiti due to the absence of a land registry/cadastre • Lack of private provision of necessary infrastructure and utilities (<i>e.g.</i>, central effluent treatment plants); however, availability of private provision of electricity in EPZs • Absence of commercially-driven supply of services • Restrictions on private provision of off-site services 	<ul style="list-style-type: none"> • <u>Medium-Term: New IEZ Law</u> to enact private property protection mechanisms and infrastructure incentives to encourage private provision of on-site and off-site infrastructure facilities and utilities/services

Zone Principle	International Best Practice	Haiti's Rating	Comments on Haitian Zones Regime	Recommendations for Reform
Building Permits	<ul style="list-style-type: none"> • Zone institutional authority issues building permits (e.g., Senegal DISEZ Law) • Building codes include internationally-recognized seismic/ hurricane norms (e.g., Chilean Free Zone Regime) 		<ul style="list-style-type: none"> • Absence of modern construction code and procedures, including good-practice building permits 	<ul style="list-style-type: none"> • <u>Short-Term: New IEZ Regulations</u> to give IEZ Authority power to regulate IEZ zoning and construction • Adopt internationally-recognized seismic/ hurricane norms • Streamline issuance of building permits <p><i>Outside New IEZ Regulations/Law:</i></p> <ul style="list-style-type: none"> • <u>Amend Construction Code</u> to codify all IEZ regulatory reforms
ZONE INSTITUTIONAL FRAMEWORK				
Administrative Regulatory Function	<ul style="list-style-type: none"> • Separation of regulatory and operational functions (e.g., Guangdong/China SEZ Regulations) • Institutional authority as a public source of applicable laws, information, and data (e.g., Aqaba SEZ Law) 		<ul style="list-style-type: none"> • DZF and CNZF have overlapping authorities that inhibit administrative efficiency • Absence of public source of applicable laws, information, and data 	<ul style="list-style-type: none"> • <u>Short-Term: New IEZ Regulations</u> to clarify roles of DZF and CNZF (as well as SONAPI) • <u>Medium-Term: New IEZ Law</u> to establish a new autonomous IEZ institutional authority based upon good-practice standards
Autonomous Authority Organized as a "One-Stop Shop" as Implemented by MOUs	<ul style="list-style-type: none"> • Autonomous institutional authority – organized as a “one-stop shop” – with authority to enter into contracts, own land, and manage staff (e.g., Philippines SEZ Act) • MOUs designed to facilitate administrative coordination with other government agencies having concurrent or shared regulatory jurisdiction over IEZ activities, including business formation and registration (e.g., Aqaba SEZ Act) 		<ul style="list-style-type: none"> • No autonomous free-zones authority • Lack of a “one-stop shop” to streamline general zone procedures • Absence of MOU mechanism to facilitate coordination between DZF/CNZF and SONAPI, on the one hand, and other government agencies having concurrent regulatory jurisdiction over zone matters (e.g., MEF), on the other hand 	<ul style="list-style-type: none"> • <u>Short-Term: New IEZ Regulations</u> to implement <i>de facto</i> MOU mechanism to enable DZF/CNZF to coordinate with all government agencies having concurrent regulatory jurisdiction over IEZ matters through the DZF “one-stop shop” to ensure efficient IEZ administration/regulation (e.g., streamline Haitian business formation and registration procedures) • <u>Medium-Term: New IEZ Law</u> to codify into law <i>de jure</i> “one-stop shop” and MOU mechanisms

Zone Principle	International Best Practice	Haiti's Rating	Comments on Haitian Zones Regime	Recommendations for Reform
Public/Private Board of Directors Oversight	<ul style="list-style-type: none"> Strong private-sector participation on zone board of directors (<i>e.g.</i>, Philippines SEZ Act) 		<ul style="list-style-type: none"> SONAPI Board of Directors lacks private-sector representation 	<ul style="list-style-type: none"> <u>Medium-Term: New IEZ Law</u> to include private-sector participation on IEZ authority board of directors
Public-Private Partnership Mechanisms	<ul style="list-style-type: none"> Availability of all PPP mechanisms (<i>e.g.</i>, joint venture, concession) in enabling law (<i>e.g.</i>, Panama SEZ Law, Mozambique Industrial FZ Regulations) “Level playing field” between private and public zones (<i>e.g.</i>, Philippines SEZ Act) 		<ul style="list-style-type: none"> No coherent and transparent legal framework to govern zone developers and operators Enabling laws do not set out full spectrum of PPP mechanisms Haiti's economic zone legal regime does not favor public over private zones 	<ul style="list-style-type: none"> <u>Medium-Term: New IEZ Law</u> to permit all forms of PPP modalities (<i>e.g.</i>, concessions, long-term leases, joint-venture arrangements) and to provide enhanced incentives and benefits to public- and private-sector developers to create “level playing field”

The preceding diagnostic analysis and accompanying summary evaluation table establish, on balance, that the Haitian zones have room for improvement in light of international good-practice standards. The noted deficiencies have resulted in investor confusion that has been partly responsible for an underperforming Haitian zones regime when compared with those of neighbors (*e.g.*, Dominican Republic). Since the enactment of the Haitian Free Zones Law in 2002, only one FZ (CODEVI) has become operational in the country. The conclusion is inescapable that the current legal/regulatory/institutional framework in Haiti can be greatly improved to accommodate the development of a new generation of multi-purpose IEZs that can effectively leverage the country's regional and global competitive advantages to jump-start needed reconstruction and economic development.

As a case in point, Korean entrepreneurs have been one of the driving forces behind Haiti's recent economic zone movement. Korean investors selected Haiti as an export platform to ship garments to the U.S. market given Haiti's strategic location, its relatively low labor costs, and favorable U.S. legislation (*e.g.*, HOPE II, HELP). Nonetheless, the single most important factor that now is impeding the Government of Korea and Korean entrepreneurs from making additional investments in Haiti is the lack of an international good-practice economic zones legal/regulatory/institutional regime.

Consequently, to launch IEZ reconstruction development projects ready for implementation based on current market-demand findings, the GoH should adopt a new, unified national IEZ legal/regulatory regime that is consistent with international standards, as followed by the enactment of a new IEZ law. Such a regime should be designed to promote the multi-use development of agricultural, industrial, manufacturing, commercial, high-technology,

electricity-generation, scientific-research, service, warehousing/logistics, tourism, residential, health-care, recreational, and educational activities on a decentralized basis.

III. Legal/Regulatory/Institutional Framework Approach

A. Short- and Medium-Term Strategies

To establish a new IEZ legal/regulatory/institutional regime that will create the necessary enabling environment to jump-start Haitian economic zone development, the GoH should adhere to the following three-phased approach during both the short and medium terms: (i) Phase One – promulgate within the next 2 months good-practice IEZ regulations in accordance with the existing Haitian zones laws via Presidential Executive Order; (ii) Phase Two – draft within the next 6 months a new IEZ law and perform all necessary pre-legislative tasks; and (iii) Phase Three – enact within the next 9 months a new IEZ law that establishes an autonomous institutional authority to regulate all IEZs in Haiti.

B. Short Term Solution: Promulgate IEZ Regulations in Accordance with Existing Haitian Zones Laws

B.1 Major Policy Features of the New IEZ Implementing Regulations

Prominent Haitian jurists agree with the approach of having the President of the Republic issue new IEZ implementing regulations via Presidential Executive Order in conformity with existing Haitian laws, including the Haitian Investment Code, the Free Zones Law, and Industrial Park Law, before seeking passage of any new IEZ legislation. The enactment of a new IEZ law is not the optimum short-term strategy, because the Haitian National Assembly will require significant time to deliberate over the technical provisions of any IEZ legislative proposal.¹⁸

Given that Haiti needs a unified national IEZ regulatory framework to activate pending IEZ projects ready for development, and given that Article 1 of the IP Law, Articles 50 and 52 of the IC, and Article 9 of the FZ Law empower the President of the Republic to establish, by Executive

¹⁸ Leading Haitian jurists are also of the view that presenting two separate legislative initiatives before the Haitian legislature – with one initiative introducing preliminary modifications to the FZ Law and another initiative proposing a new IEZ or FZ Law – is misplaced. It is more practical to seek the passage of a new IEZ law after the issuance of the new IEZ regulations and bypass altogether the preliminary legislative amendment phase. The risk associated with presenting two separate legislative initiatives before the Haitian legislature is that the second and more important IEZ initiative could be defeated. Many Haitian jurists believe that the Haitian legislature would question the rationale of the executive branch for seeking a more expansive IEZ legal regime during the second initiative, especially after the GoH would have already had the opportunity during the first initiative to seek major legislative reforms. Moreover, the executive branch could exhaust all of its political capital during the preliminary legislative amendment process to the detriment of achieving major IEZ legal reform. Based on the above, the appropriate course of action is to have the executive branch issue via Presidential Executive Order new IEZ regulations during Phase 1 of the project pursuant to the IC, the FZ Law, and the IP Law, to be followed by the presentation of a new IEZ legislative proposal before the Haitian legislature sometime in 2012.

Order, the regulatory framework governing economic zone regimes with special characteristics, including IEZs, the President should consider issuing an Executive Order to promulgate the new IEZ regulations pursuant to such laws and establish a unified national IEZ regulatory regime thereunder.

As a result, the new IEZ implementing regulations will constitute the short-term, focused policy tool that the GoH can begin implementing during 2011 to catalyze infrastructure reconstruction, decentralization, and economic development in a sequenced fashion.¹⁹ In addition, the GoH can rapidly begin piloting under the new IEZ regulations certain “demonstration effect” reforms on a targeted, zone-by-zone basis, including:

- **Streamlined Customs Procedures:** Adoption of good-practice customs-clearance measures, including electronic document-entry, verification, and computerized tracking systems;
- **Building Permits:** Issuance of building permits that comply with internationally-recognized seismic and hurricane norms;
- **Security:** Implementation of IEZ security provisions; and
- **Authorizations/Permits:** Creation of *de facto* “account-executive one-stop shops” at DZF and SONAPI to facilitate IEZ authorizations, business registrations, and environment permits on a “fast-track” basis.

The short-term, tangible benefits that the GoH will derive from the application of the new IEZ regulations will include the following:

- **Enhanced Zone Authorization/Operation Procedures:** Implementation of efficient procedures governing definitive zone authorizations, zone-user authorizations, and zone certificates of residency;
- **Public/Private Rights and Obligations:** Clarification of zone developer/operator, user, and resident rights and obligations *vis-à-vis* the IEZ regulator;
- **Private Energy Provision:** Authority for the private provision of energy inside and outside the zones to reduce costs;
- **Environment Reform:** Adoption of EIA procedures;
- **Improved Customs:** Adherence to internationally-recognized customs standards applied by the General Customs Administration in coordination with DZF; and
- **Rapid Traction:** Launch of IEZ projects ready for implementation during 2011.

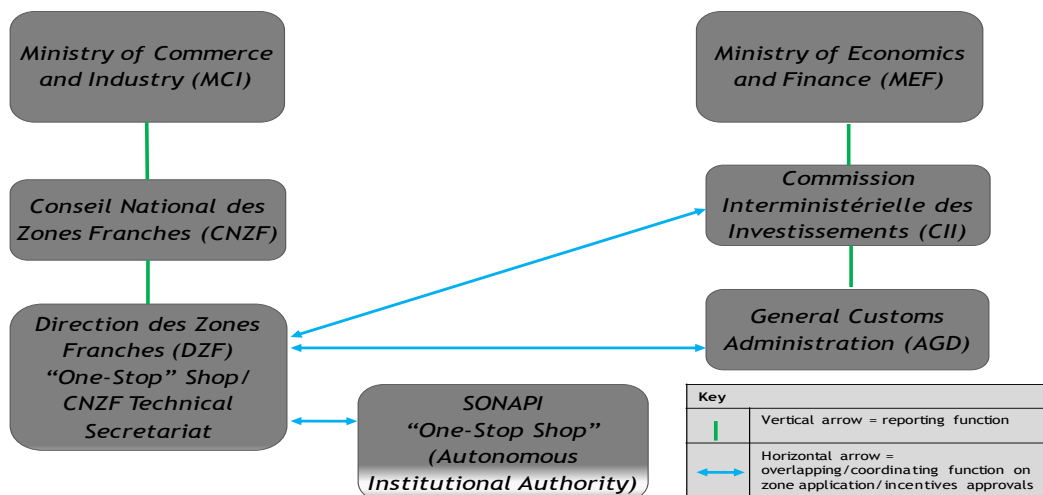
B.2 Major Institutional Features of the Proposed IEZ Regulatory Provisions

As illustrated by the diagram set forth below, and as further described in Annex H, the proposed IEZ regulations that the IFC recommends the GoH to adopt will immediately enhance

¹⁹ For a detailed analysis of the proposed IEZ Regulations, see Annex H to this Report.

the administrative powers, duties, functions, and responsibilities of both DZF and CNZF, *without creating a new institutional authority.*²⁰

Figure 4. Administrative Structure of the IEZ Regime under the Proposed Regulations



B.3 Next Steps for IEZs to be Established in the North and in the Port Au Prince Areas Pursuant to the Proposed IEZ Regulations

In the event that the President of the Republic adopts the proposed IEZ regulations pursuant to a Presidential Executive Order, prospective IEZ project owners will have to obtain definitive zone authorizations (in accordance with the terms and conditions of such regulations) to establish, develop, operate, and maintain their respective IEZs. To receive a definitive zone authorization under the new regulations to establish an IEZ at a particular site, a potential IEZ developer/operator will have to submit a written application with the competent IEZ authority that demonstrates the fulfillment of, *inter alia*, the following illustrative conditions and criteria:

- Adherence to all zone-investment capital, financial, and other requirements by means of a technical/economic feasibility study submitted to the IEZ authority;
- Undisputed legal rights to the subject IEZ lands;
- Compliance of the proposed IEZ land area, master planning, and construction with the governing master-planning, construction, and public works laws in Haiti;
- Accessibility of the proposed land area to actual or proposed off-site infrastructure and population centers;

²⁰ Under the current Haitian economic zones legal/regulatory regime, DZF and CNZF have overlapping administrative responsibilities; however, under the proposed IEZ regulations, DZF would take over the vast majority of the day-to-day administration of all IEZs by acting on behalf of CNZF in all instances, except in cases in which the existing legal framework exclusively delegates certain authority to CNZF (e.g., issuance and revocation of zone authorizations).

- An IEZ master plan designed for multiple zone users, zone residents, or zone-enterprise employees of Haitian nationality;
- Favorable job-creation and technical training/capacity-building potential of the IEZ; and
- Positive economic and financial rates of return of the planned IEZ as demonstrated in the applicant's technical-economic feasibility study and business-financial plan.²¹

In addition to obtaining a definitive zone authorization, prospective IEZ project owners will have to satisfy the requirements necessary for the issuance of any required building and environmental permits pursuant to the new IEZ regulations and all applicable laws. To streamline the licensing/permitting process, the proposed IEZ regulations specify that any prospective IEZ project owner may apply concurrently for the required building permits, environmental permits, and definitive zone authorization.²²

If the proposed IEZ is to be developed and operated by a public-private partnership, the GoH and the private sector developer/operator must select the suitable development model, such as a joint-venture, concession, or BOT arrangement, before submission of an application for a definitive zone authorization. The PPP arrangement should clearly set out the private-sector's responsibility for electricity generation as contemplated by the existing Free Zones Law.²³

C. Medium Term Solutions: Draft and Enact a New IEZ Law and Create a New IEZ Institutional Authority

C.1 New IEZ Law

Notwithstanding the expediency of the proposed IEZ regulations, that legal instrument does not constitute the required medium-term solution to effect across-the-board zone reform in Haiti. This conclusion follows from the legal principle that regulations cannot implement reforms that require the enactment of a law, such as:

- IEZ Land-Titling/Cadastre Improvements²⁴ (to be piloted in the IEZs before being extended to the rest of the country);

²¹ For more information on the market-based zone selection/designation criteria set forth in the proposed IEZ Regulations, see Annex H to this Report.

²² For more information concerning applications for definitive zone authorizations and building and environmental permits, see Annex H, arts. 17(3), 48, and 52(3).

²³ See Free Zones Law, arts 60-61. These statutory articles provide the developer/operator with the authority to generate, transmit, and distribute electricity inside any free zone.

²⁴ In accordance with the 1987 Haitian Constitution, as amended, land-titling and cadastre improvements can be carried out only pursuant to a new law or legislative amendments. Under the proposed IEZ regulations, the only short-term solutions for land-titling issues in the absence of legal reform are as follows: (i) a prospective private developer/operator must conduct its own legal due diligence to ensure that land tenure for a specified site is not subject to any constraint, impediment, or contingency; or (ii) the GoH can expropriate tracts of land from the private sector. For a discussion of the legal issues adversely affecting Haiti's expropriation procedures, see Annex A to this Report.

- Co-Property and Joint-Tenancy Property Reform;²⁵
- Establishment of an Autonomous Institutional Authority;
- Special IEZ Investment Guarantees;
- IEZ Dispute Resolution;
- IEZ Construction Code Reforms;
- IEZ Security Provisions;
- *De Jure* “One-Stop Shop”;
- Administrative MOU Mechanism;²⁶
- IEZ Labor Reforms;²⁷ and
- IEZ Performance-Based Fiscal Incentives.

Hence, the GoH should consider undertaking legislative reform as its medium-term strategy. In this vein, the GoH can pursue one of two options to achieve legislative change: (i) amending the existing Free Zones Law in conformity with international good-practice standards to cover a new generation of IEZs, including free zones, industrial parks, integrated geographical areas, and other economic zones, while simultaneously repealing the Industrial Park Law; or (ii) enacting an altogether new IEZ law that embraces all classes or kinds of integrated economic zones, while concurrently repealing the Industrial Park Law.

C.1.1 Option 1 – Enactment of Legislative Amendments

The main advantage of the legislative amendment option is the avoidance of creating an altogether new legal regime. This result could actually increase the likelihood of legislative passage. The principal disadvantage to this option is that investors will probably view the amended statutory framework as a continuation of the previous underperforming regime, an outcome that could hinder IEZ investment in Haiti.

C.1.2 Option 2 – Passage of a New IEZ Law

The major advantage of passing a new IEZ law is that such an approach will provide the GoH with a fresh start for IEZ administration, regulation, and marketing activities and will send a strong, positive signal to IEZ investors. Such a strategy will also help increase transparency in a new legal framework with transparent legal principles and procedures. The disadvantage of this option is that an entirely new IEZ legal regime will require significant technical training to

²⁵ For a discussion on the joint-tenancy land issues arising under Haitian law, see Annex A to this Report.

²⁶ The most important MOU to be executed is the one between the General Customs Administration and the IEZ authority which should address and resolve, *inter alia*, the following issues: (i) redundant customs control/verification procedures; (ii) unnecessary administrative bureaucracy; and (iii) unexplained delays for importers to process customs entries.

²⁷ Amendments to the Labor Code should include the *automatic* right to three (3), 8-hour daily work shifts subject to straight-time wages.

be imparted to government administrators to enable the latter to implement the new regime in an efficient manner.

C.1.3 Recommendation – Adoption of a New IEZ Law

After balancing the advantages and disadvantages of both options, IFC recommends the enactment of a new IEZ law as the preferred strategy to carry out meaningful zone legal reform in Haiti today. First, as explained more fully in the next sub-section to this Report, a new law will provide the GoH with a more suitable legislative vehicle to create a new and financially autonomous institutional authority to regulate the new Haitian national IEZ regime. Second, a new law will send strong, positive signals to foreign and local IEZ investors that the GoH is truly committed to safeguarding IEZ investments and combating corruption. Such positive results should fuel growing IEZ investment in Haiti.

To ensure legislative success in Haiti, the new IEZ enabling law should incorporate all of the international good-practice standards discussed in this Report, including the following as applied to Haiti's unique circumstances:

- **IEZ Definition:** Flexible IEZ definition that embraces all multi-purpose development areas, such as integrated geographic areas, free zones, industrial parks, residential areas, and medical and education zones;
- **IEZs in the North and Beyond:** Establishment throughout Haiti of multiple economic zones protected by buffer areas to avoid massive national migration to a particular IEZ;
- **Incentives:** Adoption of performance-based fiscal incentives in the law to galvanize off-site infrastructure development for reconstruction;
- **Public/Private Lands:** Incorporation of statutory features pursuant to which IEZs can be developed on both publicly- and privately-owned lands;
- **Grandfathering of Vested Legal Rights:** Authority for both public and private developers/operators to continue to develop/operate relevant sites to preserve the vested rights already acquired by any public and private entities in Haiti (*i.e.*, SONAPI, CODEVI);
- **Development Agreements:** Legal authority for development agreements to be executed with private developers in the form of concessions;
- **Operation Agreements:** Legal authority for operation agreements to be concluded with private operators in the form of long-term concessions/lease agreements of up to 99 years (which period may be renewable); and
- **Technical Capacity Building:** Availability of universities or technical capacity-building and training centers at the IEZs to respond to Haiti's "brain drain" abroad.²⁸

²⁸ For an illustration of CODEVI's good-practice free-zone framework that includes a world-class training facility/program for local Haitian workers, see Section III.5.4 of the Haiti Market Analysis Report.

One practical goal for the GoH through the enactment of a new IEZ law is to encourage the construction of IEZs on publicly-owned lands in order to obtain public funding from international organizations, such as the Inter-American Development Bank and the World Bank, as well as from foreign governments. To maximize its resources, the GoH should not be involved in the day-to-day development and operation of any *new* IEZ. Instead, the GoH should enter into PPP arrangements, including concession agreements, long-term leases, or joint-venture arrangements, with private-sector enterprises to develop and operate *any* new IEZ situated on public lands. Thus, the availability of all PPP arrangements in the new IEZ law is an essential component of that legislation.

C.2 New IEZ Institutional Authority

The GoH may avail itself of two options concerning the selection of the suitable institutional framework to govern Haiti's future IEZ regime for medium-term purposes:

- **Option 1 – Enhanced *Status Quo* Option:** Transforming DZF into the new IEZ authority, as supervised by a transformed CNZF, with the General Customs Administration at MEF continuing to supervise customs matters; or
- **Option 2 – Autonomous Institutional Authority Option:** Establishing an altogether new and autonomous institutional authority – namely, the Haitian Integrated Economic Zone Authority (HIEZA) – that reports to the Office of the Prime Minister (OPM) or the President, with the General Customs Administration continuing to supervise customs affairs.

Even though SONAPI would continue to have regulatory jurisdiction over public industrial parks under the enhanced *status quo* option, SONAPI would not have any regulatory authority over any industrial parks under the second option. Rather, SONAPI would constitute the public-sector developer/operator of all public industrial parks under institutional framework option.

C.2.1 Option 1 – Enhancement of the *Status Quo*

The transformed DZF and CNZF under the enhanced *status quo* option would continue to exercise their same powers and perform their same functions as those bodies do under the existing FZ Law, but with such powers and functions being enhanced and adapted to an IEZ scenario. By contrast, CFI and CII would no longer play any IEZ administrative role under the enhanced *status quo* option.

The main advantage of the enhanced *status quo* option is that this approach avoids establishing an entirely new administrative entity. Additionally, implementation of the enhanced *status quo* option will enable the GoH to retain and build upon the zones experience already acquired by

DZF and CNZF. The principal disadvantage of this approach is that zone investors will probably view this option as a continuation of the existing underperforming regime..

C.2.2 Option 2 – Establishment of an Autonomous IEZ Authority

The chief advantage of establishing a new and autonomous institutional authority is that successful zone regimes around the world are typically regulated by financially-autonomous authorities organized as stand-alone corporate or administrative entities. Autonomous entities can enter into contracts, own land, manage staff, and make their own decisions, as well as focus exclusively on IEZ regulation and policy-making. Another advantage of this option is that an autonomous institutional authority is less likely than a civil-service government department to become captive to politics. Placing ultimate IEZ oversight authority with the OPM or the President also provides the initiative with strong political leadership.

The major disadvantage of creating a new and autonomous institutional authority involves, *inter alia*, establishing a new organization, acquiring new physical premises, and transferring all DZF and some SONAPI staff to a new entity. International donor support in the form of financial assistance and technical training and capacity building can overcome challenges related to lack of these resources.

C.2.3 Recommendation – Establish a New Autonomous IEZ Authority

After assessing the advantages and disadvantages of both of the institutional options described above, IFC recommends the creation of a new and financially-autonomous administrative authority under the new IEZ law that reports directly to the OPM or the President as the preferred medium-term strategy. This conclusion follows from the observation that successful zone regimes are typically regulated by autonomous entities that can enter into contracts, own land, manage staff, and focus exclusively on IEZ regulation and policy-making. ***A critical assumption underlying this recommendation is that international donor support in the form of additional financial assistance and continual technical training and capacity building will be available to the GoH to overcome the lack of financial resources and personnel capacity.***

Specifically, an international technical training program for Haitian public servants is urgently needed. As underscored above, technical capacity at the administrative level in the GoH is extremely low. Moreover, although the public-private sector relationship in Haiti has improved in recent years, the public-sector mentality still views private investors as actors that seek to exploit the public good.²⁹ Thus, international donor support should focus on technical training and capacity building for all new Haitian ventures, including the IEZ initiative.

²⁹ Distrust and rivalry still characterize the relationship between the private and public sectors in Haiti. Within the private sector, significant distrust and rivalry still exist among Haiti's elite families which control the bulk of Haiti's

D. Action Plan for the Implementation of the Short-Term and Medium-Term IEZ Legal/Regulatory/Institutional Framework Strategies

As emphasized elsewhere in this Report, the existing Haitian regulatory regime is not conducive to the development of a new generation of IEZs that can effectively exploit Haiti's regional and global comparative advantages. To resolve these shortcomings, the GoH should consider adopting a new legal, regulatory, and institutional framework³⁰ that is compatible with international good-practice standards by adhering to a three (3)-phased³¹ process that consists of the following individual steps and components:

PHASE 1 – ISSUE NEW IEZ REGULATIONS AND BEGIN IEZ IMPLEMENTATION

Step One: The GoH Should Undertake the Following IEZ Policy Actions Within the Next 2 Months

- **Issue IEZ Implementing Regulations via a Presidential Executive Order:** The President should quickly adopt the proposed IEZ implementing regulations to promote the development of multi-purpose IEZs on a decentralized basis.
- **Issue IEZ Environmental Regulations:** The Minister of the Environment should issue new IEZ environmental regulations immediately in accordance with the Environmental Decree Law to permit the new IEZs to adhere to international good-practice environmental procedures and processes.³²
- **Perform Legal Due Diligence at all Proposed IEZ Sites:** The GoH should ensure that the ownership of the proposed IEZ land sites is not in dispute or subject to any legal contingency.
- **Select Suitable PPP Arrangements:** (e.g., joint venture, concession, lease, or management contract) for any IEZs to be situated on publicly-owned land. The PPP mechanism is the vehicle through which to determine the responsibility for the provision of off-site infrastructure by either the GoH or the private developer/operator or some combination thereof.

PHASE 2 – DRAFT NEW IEZ LAW AND PERFORM PRE-LEGISLATIVE TASKS

Step Two: The GoH Should Prepare a Draft IEZ Law that Achieves the Following Objectives:

businesses. Public-sector rivalry is also present across different ministries. The net result of this unhealthy environment is a milieu in which legal/economic reforms are extremely difficult to adopt and implement.

³⁰ All reforms undertaken must be in line with international and local labor, environmental, and social codes.

³¹ For a summary of the proposed IEZ Legal/Regulatory plan of action see figure 1 in page 4.

³² For the draft text of the new environmental regulations, see Annex J to this Report.

- **Provides Solutions that Resolve Property Ownership/Land Titling/Cadastre Issues**³³
- **Codifies IEZ International Good-Practice Principles**³⁴
- **Addresses Country-Specific IEZ Issues**³⁵

Step Three: The GoH Should Perform Additional Pre-Legislative Tasks Before Submitting the Draft IEZ Law for Enactment

- **Engage in Effective Dialogue With Local Communities Regarding IEZ Land Treatment under the Haitian Constitution:** The GoH should establish an effective dialogue with local communities, as well as with the private sector, so that the government can obtain the necessary political “buy-in” from the Haitian people, especially with regard to IEZ land disposition/ownership issues arising under the Haitian Constitution.
- **Attain Ministerial IEZ “Buy-In”:** The GoH should obtain across-the-board political IEZ “buy-in” from key ministries to ensure effective administrative coordination of the IEZ regime in the future.³⁶
- **Place the IEZ Initiative on the Legislative Agenda:** The GoH should place the IEZ initiative on the legislative agenda at the earliest date practical to ensure passage of the initiative during the current legislative session.
- **Present Draft Legal Texts to Newly-Elected Representatives and Senators:** The GoH should present the new IEZ legislation to members of the Haitian legislature during the current legislative session to obtain the necessary political “buy-in.”

Step Four: The GoH Should Submit the New IEZ Proposal to the Haitian National Assembly/Parliament

- **Submit the IEZ Proposal to the National Assembly:** The Council of Ministers should submit the IEZ proposal to the Haitian Parliament during the current legislative session.
- **Lobbying Efforts:** The GoH should execute an effective lobbying/marketing campaign to ensure that the new legislation is well known as well as its advantages.

³³ These solutions include, *inter alia*, (i) establishing a special IEZ cadastre/land-titling system based on proven precedents in Jordan, Sierra Leone, and Honduras, and (ii) ensuring that Haitian and foreign investors are able to obtain land on a freehold or leasehold basis.

³⁴ For more information on the international good-practice principles to be included in the new IEZ law, see Section III.C.1 of this Report, together with Annex E and Annex F.

³⁵ For more information on Haiti-specific IEZ issues to be addressed in the new IEZ law, see Section III.C.1.3 of this Report.

³⁶ Key ministries include the Ministry of Commerce and Industry, the Ministry of Economics and Finance, the Ministry of the Environment, the Ministry of Planning and External Cooperation, the Ministry of the Interior and Territorial Collectives, and the Ministry of Labor and Social Affairs.

PHASE 3 – ENACT NEW IEZ LAW AND FORM THE IEZ INSTITUTIONAL AUTHORITY

Step Five: After the Legislature Enacts the New IEZ Law, the GoH Should Organize the Administration of the New IEZ Authority

- **Conduct Initial Administrative Tasks:** Establish Personnel; Provide Training to Staff.

Step Six: After the Legislature Enacts the New IEZ Law, the GoH Should Amend the IEZ Regulations

- **Amend the New IEZ Implementing Regulations in Conformity with the new IEZ Law to Clarify and Provide Administrative Enforcement Teeth to the Regulatory Regime.**

Step Seven: The IEZ Administering Authority Should Execute MOUs with All Government Agencies Having Concurrent or Shared Jurisdiction Over IEZ Activities to Avoid Jurisdictional Conflicts and Administrative Bottlenecks

- **Target Administrative Authorities:**
 - Ministry of Commerce and Industry
 - Ministry of Environment
 - Ministry of Economics and Finance
 - Ministry of Planning and External Cooperation
 - Ministry of the Interior and Territorial Collectives
 - Ministry of Labor and Social Affairs
 - National Port Authority
 - Ministry of Agriculture, Natural Resources, and Rural Development
 - Ministry of Public Works, Transportation, and Communication
- **Key MOU Provisions**
 - Parties to the MOU
 - Preamble
 - Definitions
 - Scope and Undertakings: Respective Administrative Roles and Responsibilities
 - Cooperation Between Parties
 - Adherence to Pertinent Legislation/International Agreements
 - Exchange of Data/Information
 - Contact Officers of the Parties
 - Rules for Exchange of Employees Between the Parties
 - Training of Relevant Personnel
 - Standard Operating Procedures
 - Dispute Resolution