KUWAIT

INVESTMENT CLIMATE STATEMENT 2015

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Executive Summary

Kuwait has made strides over the past year to improve its investment climate. In 2014, the government issued regulations implementing a 2013 foreign direct investment (FDI) law that aims to ease constraints on doing business in Kuwait. Moves toward privatization continued in the stock exchange, as well as in the aviation, telecom, and postal services sectors, potentially bringing increased opportunities for more competition in the coming years. In 2014, the Central Bank of Kuwait (CBK) announced that foreign banks could open multiple branches in Kuwait – until that time, they could open only one branch. After years of delays, the state oil companies in 2014 awarded several high-value contracts to foreign consortia to upgrade refineries. In 2015, the Financial Action Task Force (FATF) removed Kuwait from its list of jurisdictions requiring monitoring of Anti-Money Laundering/Counterterrorism Finance (AML/CTF) standards. And despite the sharp decline in oil prices in 2014, Kuwait's economy – most notably its oil and financial sectors, and its sovereign wealth fund – remained robust.

Nevertheless, Kuwait is perceived as a difficult place in which to invest and do business, and challenges to operating in the country remain. Kuwait ranked 86th out of 189 in the world, and lowest in the Gulf Cooperation Council (GCC), on the World Bank's 2015 ease of doing business survey. Implementation of FDI legislation has lagged, and obstacles to foreign investment remain, including regulations barring foreign entities from the upstream petroleum and real estate sectors, bureaucratic hurdles that delay the start of new enterprises, and a business culture based on tribal or family ties that can be difficult for foreigners to penetrate. Kuwaiti law continues to restrict foreign banks from offering investment banking services and prohibits them from competing in the retail sector. While the new Kuwait Direct Investment Promotion Authority (KDIPA) commenced operations, its "one-stop shop" to assist investors is not yet operational. Though intellectual property violations do not appear particularly more widespread in Kuwait than in neighboring countries, Kuwait's copyright legislation is not consistent with its World Trade Organization (WTO) obligations. Kuwait was listed on the Priority Watch List in the 2014 Special 301 Report. Labor laws are not consistently applied or enforced.

Despite the many challenges to doing business in Kuwait, several U.S. companies have won lucrative contracts and operate successfully in the country. Kuwait is also one of the top 40 sources of FDI for the United States, with a USD1.3 billion total stock. From 2003 to 2015, Kuwaiti firms announced eight investment projects in the United States. The transportation sector receives the largest amount of investment, comprising roughly two-thirds of all announced projects from Kuwait in the United States.

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

In 2013, Kuwait attracted USD2.3 billion of FDI, more than GCC peers Bahrain, Oman, and Qatar, but less than Saudi Arabia and the United Arab Emirates (UAE). Low levels of FDI limited efforts to diversify the economy away from the petroleum sector. Barriers to foreign investment exist, including long bureaucratic delays in starting new enterprises, agency and sponsorship requirements, and a local business culture heavily based on clan and family relationships that often preclude foreign participation.

Foreign firms are barred from direct investment in the upstream petroleum and real estate sectors. They are permitted 100% foreign ownership in certain industries, including: infrastructure (water, power, waste water treatment, and communications); insurance; information technology and software development; hospitals and pharmaceuticals; air, land, and sea freight; tourism, hotels, and entertainment; housing projects and urban development; and investment.

Other Investment Policy Reviews

The WTO conducted its latest policy review of Kuwait in 2012. The WTO's findings noted that Kuwait was pursuing trade liberalization to reduce the economy's high dependence on crude oil and natural gas, which accounts for nearly half of GDP, 95% of export revenues, and more than 80% of government income. The WTO stated that steps were being taken to improve the country's business environment, increase the productivity and growth of non-energy sectors, and increase the participation of the private sector (local and foreign) in the economy from its low level of about 25% in 2012.

Laws/Regulations of Foreign Direct Investment

In December 2014, Kuwait issued a new FDI law to amend its 2001 Direct Investment Promotion Law. The new law was drafted as part of the Kuwait Development Plan (KDP), the government's long-term economic vision for the country. Spanning 2009 to 2035, the KDP aims to reduce oil dependency by transforming the state into a diversified commercial and financial hub. The KDP comprises five separate five-year plans. Running from 2015-20, the latest plan provides USD116 billion for a broad range of projects, including 45,000 new housing units, metro and railway systems, and a new refinery. According to the plan, Kuwait is seeking to propel the private sector's share of the economy to 41.9%, from its current level of 26.4%.

In a key development under the new FDI law, the government in December 2014 established KDIPA to facilitate licensing and incorporation procedures. In April 2015, IBM received KDIPA's first investment license. The license allowed IBM to establish a 100%-owned Kuwaiti company and "to benefit from the incentives and exemptions granted under Law No. 116 of 2013 governing the Promotion of Direct Investment."

KDIPA will plans to establish a "one-stop shop" unit to streamline registration and licensing procedures for investors, thereby reducing the bureaucracy that has caused concern among investors in the past. This innovation is envisioned to reduce incorporation processes from over six months to 30 days.

Other recent measures to facilitate FDI and economic growth include the introduction of a public-private partnership (PPP) law, implemented in October 2014, and a New Companies Law, enacted in November 2012.

Industrial Promotion

KDIPA places emphasis on attracting investment in technology and education. Kuwait's increasing need for engineering, design, construction, and management firms to execute planned infrastructure projects, as outlined in the state's national development plan, may attract additional FDI to Kuwait.

Limits on Foreign Control

As per KDIPA's "negative list" issued in February 2015 per Law No. 116/2013, foreign firms are barred from investment in the following sectors: extraction of crude petroleum, extraction of natural gas, manufacture of coke oven products, manufacture of fertilizers and nitrogen compounds, manufacture of gas; distribution of gaseous fuels through mains, real estate (excluding privately operated building development projects), security and investigation activities, public administration and defense, compulsory social security, activities of membership organizations, and activities of hiring labor including domestic labor.

Privatization Program

In May 2010, the Parliament passed a privatization law, creating a higher privatization council to be headed by the Prime Minister. The law stipulates that a public shareholding company should be established before privatizing any public service. Under the law, 40% of any such company's shares will be sold to citizens in an initial public offering, while 20% of the shares will be held by the government, and 5% will be distributed to existing Kuwaiti employees. The remaining 35% will be sold at an auction to a local or foreign investor. Kuwaiti employees will have the right to retain their jobs in the privatized service for at least five years with the same salary and benefits.

Kuwait is in the process of privatizing its stock exchange, national airline, telecommunications sector, and postal services. The Kuwait Stock Exchange (KSE) is the fourth-largest in the GCC (after Saudi Arabia, Qatar, and the UAE's combined stock markets), with a market capitalization of KD 30.6 billion (USD102 billion) as of February 28, 2015. In February 2010, the Parliament passed legislation to establish Kuwait's first Capital Markets Authority (CMA) to oversee the KSE's operations and procedures. The KSE began the several-year process of privatization by creating a shareholding company in 2014 to be funded with KD 60 million (USD 200 million). The KSE in July 2015 was renamed the Kuwait Bourse Company, which subsequently named its eight-member board. Ownership of its building was transferred to the CMA.

Parliament in January 2008 approved a law to privatize Kuwait Airways, and ratified an Amiri decree in January 2014 to execute its privatization. The decree appointed a new board of seven members to oversee the Kuwait Airways privatization process over a three-year timeline. Thirty-five percent of Kuwait Airways is to be sold to a core investor, either local or foreign, with the highest bid, and 40% is to be sold to Kuwaiti citizens through an initial public offering, while government institutions are to retain 20% ownership of the company.

Kuwait's telecom sector is the largest source of revenue after the oil sector. There are three private mobile telephone companies with the government maintaining significant minority interests in all, and foreign companies own the majority stakes in two. In April 2014, the National Assembly passed legislation creating an independent telecommunications regulation authority, the Communication and Information Technology Regulatory Authority (CITRA). It is intended to liberalize markets in the mobile communications and Internet industries, and privatize some elements of the telecom market now handled by the Ministry of Communication (MOC), such as fixed telephone lines. The authority consists of seven board members and falls under the supervision of the MOC. In 2015, CITRA was in the process of setting up operations.

In September 2014, the MOC announced that postal services would be transformed into a state-owned corporation. The announcement was controversial due to an absence of private participation in the enterprise. In 2015, MOCI was finalizing the draft law before submitting it to the Cabinet for final approval.

Screening of FDI

KDIPA screens and licenses proposed branches and representative offices of foreign companies. The process requires the submission of legal and financial documents by the applying company's head office, as well as a certification of its commitment to fulfill obligations by the branch or representative office in Kuwait. In reviewing requests for licensing, KDIPA places particular emphasis on the hiring of Kuwaitis, and on investments in technology and education.

Competition Law

Kuwait lacks comprehensive competition protection mechanisms. The government passed Protection of Competition Law No. 10 in 2007. It enacted by-laws in 2012 through the establishment of a Competition Protection Bureau (CPB) intended to safeguard free commerce, bar monopolies, investigate complaints, and refer to prosecution acts determined to undermine competition, supervise mergers and acquisitions, and fix commodity prices. As of April 2015, however, the CPB was not yet in operations. The World Bank is working with Kuwait to amend the law and redefine the CPB's mission.

Under the 1964 Public Tenders Law, all bids for government-funded infrastructure projects (excluding military and security programs) in excess of KD 5,000 (USD16,700) must be submitted to the Central Tenders Committee (CTC). Foreign companies may not bid on these contracts unless they partner with a Kuwaiti agent, who is responsible for submitting the tender documentation to the CTC. A new CTC bill is being reviewed by Parliament's Financial Committee. The bill calls for increasing the existing ceiling for direct contracts that do not require CTC approval to KD 20,000 (USD66,700), provides for a 15% cost differential preference for domestic companies, and mandates that a single tender not be allowed to be redistributed as a sub-tender.

Investment Trends

Kuwait has attracted little FDI, in part because of legal and bureaucratic impediments. U.S. engineering firms such as Fluor nevertheless figure largely in the execution of infrastructure development projects. General Electric operates power and desalination facilities with Kuwaiti partners. Citibank has a branch, and numerous U.S. retail chains operate successfully. Dow Chemical Company owns 42.5% of the EQUATE Petrochemical Company joint venture.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2014	67 of 175	transparency.org/cpi2014/results
World Bank's Doing Business Report "Ease of Doing Business"	2015	86 of 189	doingbusiness.org/rankings
Global Innovation Index	2014	69 of 143	globalinnovationindex.org/content.aspx?page=data-analysis
World Bank GNI per capita	2013	45,130	data.worldbank.org/indicator/NY.GNP.PCAP.CD

Millennium Challenge Corporation Country Scorecard

Not applicable.

2. Conversion and Transfer Policies

Foreign Exchange

The Kuwaiti dinar has been linked to an undisclosed basket of major world currencies since May 2007. There are no restrictions on current or capital account transactions, beyond the requirement that all foreign exchange purchases be made through a bank or licensed foreign exchange dealer. Equity, loan capital, interest, dividends, profits, royalties, fees and personal savings can all be transferred in or out of Kuwait without hindrance. Under the Direct Foreign Capital Investment Law, investors are also permitted to transfer all or part of their investment to another foreign or domestic investor and there are no restrictions on cash transfers.

Remittance Policies

Kuwait imposes no foreign exchange restrictions on remittances for investments. Nevertheless, each investee must ensure compliance with the Anti-Money Laundering policies of the CBK if making direct investments or dealing with counterparties. There are no time limitations or wait periods on remittances. No restrictions exist on the inflow or outflow of funds for remittances of profits or revenue, and foreign investors may remit through a legal parallel market, including one utilizing convertible, negotiable instruments. Kuwait is not known to engage in currency manipulation tactics. The CBK advises buy, sell, and middle rates on a daily basis. In February 2015, Kuwait was removed from the Financial Action Task Force's list of jurisdictions that require monitoring for AML/CTF compliance.

3. Expropriation and Compensation

There have been no recent cases of expropriation or nationalization involving foreign investments in Kuwait. As a safeguard, the Direct Foreign Capital Investment Law guarantees against expropriation or nationalization, except for the public benefit, in accordance with existing laws; in such cases, compensation will be provided without delay for the real economic value of the project at the time of expropriation. The last case of nationalization occurred in 1974, when the oil industry was nationalized, and the government negotiated with BP and American Gulf Oil Company to purchase the 40% share owned by the two companies.

4. Dispute Settlement

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

Kuwait has a developed legal system that is influenced by Islamic law. As a traditional trading nation, Kuwait's judiciary is familiar with international commercial laws. Kuwait has been a member of the General Agreement on Tariffs and Trade (GATT) since 1963 and joined the WTO in January 1995. Kuwait, however, is not a signatory to the WTO Government Procurement Code.

Kuwaitis and non-Kuwaitis, including U.S. citizens, who have been charged with criminal offenses, placed under investigation, or are involved in unresolved financial disputes with local business partners, are subject to travel bans. These bans, which are rigidly enforced, prevent the individual from leaving Kuwait for any reason until the matter is resolved. Travel bans can be initiated by any person for almost any reason and may remain in place for a substantial period of time while the case is being investigated.

To protect their interests, U.S. firms are advised to consult with a Kuwaiti or locally based foreign law firm when executing contracts with local parties. Contracts between local and foreign parties serve as the basis for resolving any future commercial disputes. The process of resolving disputes in the Kuwaiti legal system can take years depending on complexity and the parties involved.

Bankruptcy

Kuwait is working with the World Bank to draft bankruptcy legislation designed to assist businesses recover from financial difficulties rather than be liquidated. Bankruptcy is now governed under Code No. 68 of 1980, which does not meet international standards in covering the full range of companies, or in restructuring debt. Bankrupt individuals are not criminalized by the 1980 law, but their political rights become limited upon a proclamation of bankruptcy. A bankrupt individual may not serve as a candidate or elector in the political or the professional councils, be appointed to a public post or assignment, or serve as director or chairman in any company until the individual's rights are reinstated in accordance with law.

Investment Disputes

The Direct Foreign Capital Investment Law stipulates that Kuwaiti courts alone are responsible for adjudicating any disputes involving a foreign investor and other parties, although arbitration is permitted. Few contracts contain clauses specifying recourse to traditional commercial arbitration. The Kuwaiti judicial system recognizes and enforces foreign judgments only when reciprocal arrangements are in place.

International Arbitration

The recognition and enforcement of foreign arbitral awards is comparatively simpler when compared to the enforcement of foreign judgments. Enforcement of the former, however, must meet with the same reciprocity and procedural criteria of enforcing foreign judgments under Articles 199 and 200 of the Civil and Commercial Procedure Code No. 38 of 1980, according to which an award passed by a foreign arbitral panel or tribunal may be enforced in Kuwait provided that: A) the country where the award has been rendered is a member of the New York Convention; B) the foreign award is rendered by a competent arbitrator in accordance with the laws if the country in which it was awarded; C) the parties have been promptly summoned to appear and duly represented before the arbitral tribunal; D) the award must become a res judicata according to the laws of the country in which it was awarded; and E) the award must not be in conflict with an order judgment that has been rendered by a local court in Kuwait and additionally does not contradict mandatory provisions or constitutes a criminal conduct, or violations to morality or public policy, under Kuwaiti Laws.

Kuwait and the United States signed a bilateral agreement on investment guarantees in April 1989, as well as a Trade Investment Framework Agreement (TIFA) in February 2006.

Alternative Dispute Resolution (ADR) techniques include conciliation, negotiation, and mediation. These techniques depend on the parties' goodwill to settle their disputes with or without the help of a third party.

Law No. 11 of 1995 on Judicial Arbitration for Civil and Commercial Articles, the relevant organizing and explanatory Ministerial Resolutions thereof, and Civil and Commercial Procedure Code No. 38 of 1980 outline the formation, operation, jurisdiction, and procedures of the arbitral panel, and the issuance of arbitral awards. They also define regulations for international conventions, free trade agreements, and the due application of the reciprocal clause between parties.

ICSID Convention and New York Convention

Kuwait is a signatory to the International Center for the Settlement of Investment Disputes (ICSID Convention) and to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

Duration of Dispute Resolution

It normally takes three to 12 months to obtain a resolution on an investment or commercial domestic dispute. Factors that determine the length of dispute resolution litigated in local courts include the service of notices to parties, the nomination of the elected arbitrators, the timely payment of the arbitrators' fees, hearings dates and postponements, and the due presentation of documentary evidence and witnesses.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

Kuwait is a member of the WTO, and does not maintain measures that are inconsistent with Trade-Related Investment Measures (TRIMS) requirements. However, Kuwait requires a 10% preference for national products in public tenders, mandates that a minimum percentage of employees in listed companies are Kuwaiti (variable by industry), and may prohibit the export of certain goods if market shortages prevail.

Investment Incentives

Law No. 8 of 2001 provides for FDI incentives that include the following professions: 1) Exemption from income or other taxes for up to 10 years from starting operations. 2) Exemption of taxes on new investments in the same enterprise during the same period. Investors may also receive additional benefits as provided for in bilateral treaties on the protection and encouragement of investments, and on the avoidance of double taxation. 3) Total or partial exemption from customs duties on the following imports, as prescribed in the national economic development plan: a) machinery, equipment, and spare parts required for construction, expansion, and development; b) raw material, semi-processed goods, packing and other materials required for production purposes; c) allotment of lands and real estate required for investment purposes; and d) recruitment of required foreign labor.

Other exemptions exist. For example, no corporate tax is currently applied on entities incorporated in the GCC that are 100% owned by GCC nationals. Capital gains arising from trading in securities listed on Kuwait's stock market are exempt from tax. Foreign principals selling goods through Kuwaiti distributors are not subject to tax. There are no personal income, property, inheritance, or sales taxes in Kuwait.

Research and Development

There are no specific restrictions on foreign participation, public or private, in government-financed or subsidized research and development. Various U.S. governmental and non-governmental entities are engaged in scientific cooperation in Kuwait. The Kuwait Institute for Scientific Research (KISR) has expressed interest in working with foreign firms and national laboratories in establishing new renewable energy and energy efficiency programs. KISR is also discussing the possibility of establishing a national laboratory that will involve foreign institutions and firms in shared research projects, including renewable energy, energy efficiency, water technologies, and geological studies.

Performance Requirements

The government requires foreign firms to hire a mandated percentage of Kuwaitis in their work force. Referred to as "Kuwaitization, " the percentage varies by industry. The banking, communications, investment and finance, petrochemicals, and refining industries require 66%, 62%, 40%, and 30%, respectively. The lowest minimum quotas are the manufacturing and agriculture sectors, at three percent.

Employment requires the issuance of a work visa prior to arriving in the country. The Ministry of Social Affairs and Labor (MOSAL) controls the issuance of work permits, and in recent years has become more exacting in issuing work permits to limit non-essential employment of expatriates.

Law No. 37 of 1964 (Articles 43 and 44) specifies the use of local products, when available, in manufacturing processes and prescribes a 10% price advantage for local firms in government tenders.

In 1992, the Cabinet established the Counter-Trade Offset Program, whereby foreign contractors receiving large government contracts were required to undertake investments in the local economy. Offset obligations of 35% of contract values in specific sectors of the economy were applied to military contracts with a value equal to or above KD 3 million (USD10 million), civil/government contracts with a value equal to or above KD 10 million (USD33.3 million), and to all downstream oil or gas contracts. In September 2014, the Minister of Finance suspended the program for discouraging FDI. As of April 2015, KDIPA was reviewing the program for possible reinstatement, as required under its bylaws issued in December 2014.

Data Storage

Kuwait does not follow a "forced localization" policy with regard to data storage and foreign investors are not required to use Kuwaiti domestic content in locally manufactured goods and technologies. The government has no law that mandates any entity to store data, or that defines data storage requirements. However, banks and other financial institutions are required by AML/CTF Law 106 of 2014 to maintain their data for five years. Otherwise, each private or public entity may choose if or how to store data. Most governmental agencies follow International Organization for Standardization (ISO) certificate standards, which mandate the storage of data for five years.

6. Right to Private Ownership and Establishment

The Commercial Companies Law is intended to simplify the process for registering new companies in Kuwait and reduce wait-times associated with starting a new business, but a law mandating that a Kuwaiti national own at least 51% of all local companies remains in place. To overcome this requirement, foreign investors may apply for an investment license through KDIPA, which may grant 100% ownership for investments in qualifying sectors.

7. Protection of Property Rights

Real Property

Non-GCC citizens may not own land. Kuwait otherwise ranks 69 out of 189 in "Ease of Registering a Property" in the World Bank's "Ease of Doing Business" report.

Intellectual Property Rights

Kuwait is a member of the WTO and the World Intellectual Property Organization (WIPO), and is a signatory to the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement. However, intellectual property rights (IPR) in Kuwait are only nominally protected by a series of copyright and trademark laws adopted in 1999 and 2001.

Largely due to its non-WTO-compliant copyright law and its cessation of most copyright and trademark enforcement actions, an out-of-cycle USTR review in November 2014 resulted in moving Kuwait from the Special 301 Watch List to the Priority Watch List. Kuwait's copyright law does not provide for deterrent criminal penalties and there are insufficient resources allocated to enforcement. The U.S. government has provided technical assistance on several iterations of a new draft law to address these issues; however, the U.S. government remains deeply concerned that the draft does not yet meet international standards or WTO requirements. As of April 2015, the draft had not moved to the Council of Ministers or National Assembly. Until Kuwait implements a new copyright law that meets international standards, it is unlikely that its Special 301 status will change.

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

Embassy point of contact: KuwaitDirectLine@state.gov

Resources for Rights Holders

Ms. Aisha Y. Salem
Intellectual Property Attaché for the Middle East & North Africa, Embassy Kuwait
Tel: +965 2259 1455
Aisha.Salem@trade.gov

American Business Council Kuwait - www.abckw.org

Embassy list of local lawyers: http://kuwait.usembassy.gov/attorneys.html

8. Transparency of the Regulatory System

While Kuwait's open economy has generally promoted a competitive market, Kuwait has not developed effective antitrust laws to foster competition. When government intervention occurs, it is most frequently to the benefit of Kuwaiti citizens and Kuwaiti-owned firms.

9. Efficient Capital Markets and Portfolio Investment

Foreign financial investment firms operating in Kuwait characterize the government's attitude toward foreign portfolio investment as welcoming. An effective regulatory system exists to encourage and facilitate portfolio investment. Financial investment firms have told the Embassy that the KSE does not have sufficient liquidity, except in large cap companies (which comprise 15 of KSE's 192 companies). Existing policies and infrastructure facilitate the free flow of

financial resources into the capital market. Government bodies are in compliance with guidelines outlined by IMF Article VIII and refrain from restrictions on payments and transfers for current international transactions. The debt market is not developed in Kuwait; however, banks have the capacity to fulfill this function.
Financial investment firms characterize government authorities as slow, particularly in comparison to regional players perceived to be more active in encouraging foreign portfolio investment. They also note that the system is not sufficiently effective, a factor which causes foreign investors and investments to shy away from investing in Kuwait. While the CMA has been in existence since early 2010, it has failed to issue a regulation covering portfolio management. The CMA in early 2015 issued a draft regulation on this subject, but it does not cover foreign investments. Over the past three years, KSE has been illiquid, and observers are not optimistic it will gain liquidity in the short term. Existing policies do not facilitate the free flow of financial resources into the product and factor markets.

Credit is allocated on market terms. Foreign investors are able to obtain credit on the local market on terms determined by the foreign investor’s collateral level and the intended use of the financing. The private sector has access to a variety of credit instruments.

Money and Banking System, Hostile Takeovers

In January 2015, the CBK reported that the total assets for the banking sector equaled KD 54 billion (USD180 billion). Twenty-one banks currently operate in Kuwait: five conventional local banks, five Islamic banks, 10 foreign banks, and one specialized bank. Conventional banks include: market leader National Bank of Kuwait, Commercial Bank of Kuwait, Gulf Bank, Al-Ahli Bank of Kuwait, and Burgan Bank. Sharia-compliant banks include Kuwait Finance House, Boubyan Bank, Kuwait International Bank, Al-Ahli United Bank, and Warba Bank. The government-owned Industrial Bank of Kuwait provides medium and long-term financing to industrial companies and Kuwaiti citizens through customized financing packages.

Confidence in the local banking sector was affected by the global financial crisis and Gulf Bank’s announcement in October 2008 that it had incurred large losses. Following this announcement, the Council of Ministers and Parliament promulgated legislation guaranteeing deposits at local banks in an effort to rebuild confidence in Kuwaiti banks. The Central Bank worked with Gulf Bank and key shareholders to orchestrate a USD1.4 billion recapitalization subscription, with the KIA acting as the buyer of last resort. Since 2008, the banking sector, including Gulf Bank, has seen a steady recovery and regained liquidity.

The banking sector opened to foreign investment under the Direct Foreign Capital Investment Law. The CBK has granted licenses to 11 foreign banks thus far: BNP Paribas and HSBC, both of which began operations in 2005; Citibank and the National Bank of Abu Dhabi, which commenced operations in 2006; Qatar National Bank, which began operations in 2007; Doha Bank, which opened an office in 2008; Dubai-based Mashreq Bank, which commenced operations in 2009; the Bank of Muscat, and the Riyadh-based Al Rajhi Bank (the largest Sharia-compliant bank in the world) in 2010. The Bank of Bahrain and Kuwait (BBK) has operated in Kuwait since 1977. In September 2014, the Industrial and Commercial Bank of China (ICBC) officially opened its first, and so far only, branch in Kuwait City.

In March 2013, the CBK announced that foreign banks would be able to open multiple branches in Kuwait on a case-by-case basis. Until this time, foreign banks could only open one branch. The new rules also allow foreign lenders to open representative offices. Kuwaiti law restricts foreign banks from offering investment banking services, and prohibits them from competing in the retail sector. Foreign banks are also subject to a maximum credit concentration equivalent to less than half the limit of the largest local bank, and are expressly prohibited from directing clients to borrow from external branches of their bank or taking any other measures to facilitate such borrowing.

In April 2013, the National Assembly passed a law requiring banks to write-off interest on personal and consumer loans for Kuwaiti citizens, and to reschedule the principal debt over a minimum of 10 years, in exchange for government deposits. Under the law, both government and parliament reached a settlement to refer borrowers to the Family Support Fund, a public debt-relief program that allows the government to purchase outstanding loans acquired by Kuwaiti citizens prior to June 2013. Media reported that by 2014, the program had helped to relieve more than 18,000 borrowers through restructuring debt terms without interest, resulting in KD 122 million (USD406.7 million) in restructured loans by 2014. Some banks have complained to the Embassy that the program denies them anticipated revenues from the foregone interest, while it simultaneously requires them to absorb the administrative costs of recouping the principal on the loans.

10. Competition from State-Owned Enterprises

Kuwait has few fully state-owned enterprises (SOEs) outside the upstream oil sector, with the exception of Kuwait Airways. No published list of SOEs exists. The government owns shares in Kuwaiti shareholding companies across the spectrum of the economy, either through KIA or Kuwait's Public Institution for Social Security. Its stake in such companies varies from 24% to 100%.

SOEs benefit from tax exemptions and a 10% preference on national products in tendered projects. SOEs, furthermore, have independent budgets and are not subject to the same market constraints facing private companies. SOEs are, however, subject to strict government tendering rules and the oversight of the State Audit Bureau and Parliament.

OECD Guidelines on Corporate Governance of SOEs

Kuwait is not a member of the OECD, but Kuwaiti SOEs are guaranteed by the government. Each SOE has board members reporting to a relevant minister. Political influence factors strongly in the appointment of board members. Kuwaiti SOEs are guaranteed by the government. The judicial system does not appear to favor SOEs.

Sovereign Wealth Funds

Kuwait's Sovereign Wealth Fund, the Kuwait Investment Authority (KIA), manages the Kuwait General Reserve Fund and the Kuwait Future Generations Fund. In March 2012, the Amir enacted a budgetary decree to increase the portion of state oil revenues allocated to the Future Generations Fund from 10% to 25%. Given the sharp decline in oil prices in 2015, however, this figure will be slashed back to 10% in the state's FY 2015/2016 budget. KIA's management reports to a Board of Directors, the members of which are appointed by the Council of Ministers. The Board is chaired by the Minister of Finance and includes seats allocated to the Minister of Oil, the Central Bank Governor, the Undersecretary of the Ministry of Finance, and five representatives from Kuwait's private sector, three of whom are not allowed to hold any other public office. The five-member Executive Committee, of whom at least three are private sector appointees, is formed by the Board. The Chairman of the Executive Committee is the Managing Director, who is appointed by the Board. The primary role of the Executive Committee is to assist the Board of Directors in setting strategic goals and objectives for KIA.

KIA maintains both an internal audit office (which reports directly to the Board of Directors) and an external audit team. Additionally, KIA is overseen by a Board Audit Committee comprising two private sector Board members and chaired by the Minister of Finance. The Managing Director participates in Board Audit Committee meetings as an observer. The external auditor, the State Audit Bureau (SAB), audits KIA on a continuous basis and issues an annual report to the National Assembly. Various committees in the National Assembly, such as the Finance and Economic Committee, the Budget Committee, and the Closing Accounts Committee, review the comments of the SAB audits.

KIA is prohibited by law from publicly discussing the size of its holdings and avoids any but the most general discussions of asset allocation. KIA holds closed-door presentations on the full details of all funds under its management, including its strategic asset allocation, benchmarks and rates of return, for the Council of Ministers and the National Assembly. The Sovereign Wealth Fund Institute estimated that KIA manages over USD548 billion in assets.

11. Corporate Social Responsibility

Corporate social responsibility (CSR) in Kuwait is largely manifested through contributions to local charities and causes. Companies and the general public are aware of CSR as it pertains to contributions to local charities, and consumers hold charitable giving in high regard. For example, Dow sponsors the Lothan Youth Achievement Center, which provides educational and social programs aimed at developing and empowering Kuwaiti youth. Kuwait National Petroleum Company won the Arabia Networld Award for Corporate Social Responsibility champions from the Middle East North Africa region in 2012, while the EQUATE Petrochemical Company won the top Middle East Corporate Social Responsibility award for the third consecutive year in 2013.

OECD Guidelines for Multinational Enterprises

Local laws require all enterprises to respect residency laws for foreigners, and the human rights of employees. The latter specifically governs wages, holidays and vacations, health services, and protection against working in open areas during summer. The State Department's 2014 Trafficking in Persons Report listed Kuwait as a "Tier 3" country of concern. The Private Sector Labor Law of 2010 does not apply to domestic workers, and no legislation has been passed to regulate standards for their treatment.

12. Political Violence

Spontaneous and planned demonstrations take place in Kuwait occasionally in response to world events or local developments. At times, even demonstrations intended to be peaceful can turn confrontational, resulting in violence. American citizens are encouraged to remain in contact with the Embassy for up-to-date information. As the Department of State continues to develop information on potential security threats to American citizens overseas, it shares credible threat information through its Consular Information Program documents, including Travel Warnings, Travel Alerts, Country Specific Information, and Emergency and Security Messages, all of which are available on the Bureau of Consular Affairs website at http://travel.state.gov.

13. Corruption

The often lengthy procurement process in Kuwait occasionally results in accusations of attempted bribery or the offering of other inducements by bidders. Corruption is criminalized, and several investigations and trials involving current or former government officials accused of malfeasance are underway. In 1996, the government passed Law No. 25, which requires all companies securing contracts with the government valued at KD 100,000 (USD333,000) or more to report all payments made to Kuwaiti agents or advisors while securing the contract. The law similarly requires entities and individuals to report any payments they received as compensation for securing government contracts.

Transparency International's 2014 Corruption Perceptions Index (CPI) ranked Kuwait 67 out of 175 countries, making it sixth among the Gulf Nations after the UAE, Qatar, Bahrain, Oman, and Saudi Arabia. Kuwait's CPI score of 44 (out of 100) indicates it has a "serious corruption problem," according to Transparency International.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

Kuwait signed the UN Anticorruption Convention in 2003 and ratified it in 2007. Kuwait is not a participating country in the OECD Convention on Combating Bribery.

Resources to Report Corruption

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14. Bilateral Investment Agreements

Kuwait has signed bilateral investment treaties with 74 partners. In 2013, the United States and Kuwait initiated exploratory discussions toward a potential bilateral investment treaty. Discussions continued in 2015. Kuwait signed a TIFA with the United States in February 2004, which aims to deepen trade relations and to strengthen the overall U.S.-Kuwait economic relationship. At the first bilateral TIFA Council meeting, held in May 2004 in Washington, DC, it was agreed that the TIFA process would provide for periodic technical discussions on issues including intellectual property rights, standards-related issues, taxation, and service and investment requirements. The most recent TIFA Council meeting took place in 2008.

In October 2012, the United States signed a TIFA with the GCC; parliament ratified it in April 2014.

Bilateral Taxation Treaties

Kuwait does not have a bilateral taxation treaty with the United States.

15. OPIC and Other Investment Insurance Programs

Kuwait and the United States concluded an investment guarantee agreement in 1989, which facilitated the extension of programs from the Overseas Private Investment Corporation (OPIC) to Kuwait. In 2015, there were no active OPIC programs in Kuwait. Kuwait is also a member of the Multilateral Investment Guarantee Agency (MIGA).

16. Labor

Kuwait has a diverse labor force, with expatriate laborers accounting for approximately 65% of its population and approximately 85% of all employees. Kuwaiti nationals occupy most of the top management positions in the private and public sectors. Due to a welfare system that includes guarantees for government jobs, unemployment among Kuwaitis is less than five percent, but it is rising as a result of a growing influx of young Kuwaitis entering the labor force (USD20,000 to USD25,000 annually). The new entrants are reluctant to enter the private sector and cannot easily be absorbed by the government, where underemployment remains a serious problem. The Government of Kuwait currently employs approximately 90% of Kuwaiti nationals in the workforce.

A number of white-collar workers from OECD countries occupy primarily high-skilled positions and many middle management positions are occupied by Egyptian, Lebanese, and South Asian nationals. The vast majority of expatriate workers are low-paid laborers from other Middle Eastern countries, South Asia, and the Philippines, and abuse of the sponsorship system is widespread. Since 1991, the Government of Kuwait has adopted inconsistent policies intended to limit growth of the resident expatriate population. This has resulted in unfavorable working conditions for some expatriates, especially the lower-paid, unskilled workers. The government has instituted a tracking system for companies, allowing only enough work permits to be issued for pre-verified positions. The tracking system is designed to protect workers, following years of visa fraud whereby a Kuwaiti could create “ghost” positions and sell the visa for personal profit. This resulted in the importation of unnecessary workers who then found themselves without a job and on their own, technically in an illegal status and forced to find work on the street. Unskilled foreign workers are restricted from transferring from one sponsor to another within the private sector for a minimum of two years, but college graduates may transfer after one year. The government also levies fees on expatriate workers and their families to raise the cost of employing foreign workers.

Kuwaiti workers have the right to organize and bargain collectively, but Kuwaiti law restricts the right of freedom of association to only one union per occupational trade, and the law permits only one federation, the Kuwait Trade Union Federation, which comprises 15 of the 47 licensed unions. Foreign workers, who constitute the vast majority of the work force, are permitted by law to join unions only as non-voting members after five years of work in the particular sector the union represents. The right to strike is also recognized for private sector workers, although provisions calling for compulsory negotiation and arbitration in the case of disputes limit that right. Although public sector workers do not have the legal right to strike, several such strikes have occurred in the past four years. Kuwaiti labor law prohibits anti-union discrimination.

Separate Kuwaiti labor laws establish work conditions in the public and private sectors, with the exception of the oil sector. Forced labor is prohibited and the minimum age for employment is 18 years in industrial or dangerous jobs. Some youth under the age of 18 may be allowed to work part-time in some non-industrial positions. A two-tiered labor market ensures higher wages for Kuwaiti employees while foreign workers, particularly unskilled laborers, receive substantially lower wages. In the private sector, the minimum wage is KD 60 (USD200) per month. In the public sector, the minimum wage is KD 250 (USD833) per month for Kuwaiti bachelors and KD 325 (USD1,083) per month for married Kuwaitis, plus KD 50 (USD167) for each child, compared to a standard monthly minimum wage of KD 90 (USD300) for non-Kuwaitis in the public sector. Kuwaitis employed in both the private and public sectors also receive substantial government subsidies on top of their base salaries. The amended labor law of February 2010 did not change the previous work week limitation from 48 hours, but extended annual leave to 30 days after six months of employment. However, the law is not consistently enforced and disputes over the payment of salaries and contract-switching are common, especially among unskilled workers. The labor laws do not apply to domestic workers.

The International Labor Organization's (ILO) Committee of Experts has reiterated its longstanding criticisms of the discrepancies between the Kuwaiti Labor Code and ILO Conventions 1, 30, and 87 regarding work hours and freedom of association. Areas criticized by the ILO include the prohibition of more than one trade union for a given field; the requirement that a new union have at least 100 workers; the regulation that workers must reside in Kuwait for five years before joining a trade union; the denial of the right to vote and to be elected for foreign trade unions; the prohibition against trade unions engaging in any political or religious activity; and the reversion of trade union assets to MOSAL in the event of dissolution.

The State Department's annual Trafficking in Persons Report highlights the vulnerability of domestic workers to exploitation. Partly because of the plight of domestic workers and other workers in Kuwait, the State Department's 2014 Trafficking in Persons Report listed Kuwait as a "Tier 3" country of concern. In February 2010, Parliament enacted a private sector labor law, updating the antiquated 1964 law. The new law provides private sector workers with longer leave, higher severance pay, and maternity leave. It requires payment of salaries to bank accounts, rather than cash transfers. It also contains a provision for the establishment of a state-owned recruitment company to oversee the importation of foreign labor, a move intended to eliminate visa fraud and illicit recruitment of foreign workers. However, the new law's provisions do not apply to domestic workers, and no legislation has subsequently been passed to regulate standards for their treatment.

In June 2007, Parliament ratified a law that bans women from working between 8:00 p.m. and 7:00 a.m., except for sectors approved by MOSAL. The law also bans women from working in jobs that are hazardous, rough, and damaging to health, as well as in "immoral jobs that abuse women's femininity," and in places that exclusively serve men.

17. Foreign Trade Zones/Free Ports/Trade Facilitation

In July 1995, Parliament passed Law No. 26 authorizing the MOCI to establish free trade zones. In May 1998, the privately owned National Real Estate Company (NREC) signed a contract with the Ministry to operate, manage, and market the 50 square-kilometer Kuwait Free Trade Zone (KFTZ) at Shuwaikh port, which was inaugurated in November 1999. Many restrictions faced by foreign firms, such as corporate taxes, technically do not apply to offices or plants within the KFTZ. Some 90% of space within the KFTZ has been leased and the majority of firms operating in the zone are Kuwaiti. However, both Kuwaiti and foreign businesses report that the Shuwaikh Free Trade Zone is subject to a wide array of regulations by both the central and municipal governments.

In November 2006, the Cabinet Council issued Resolution No. 507, terminating the NREC's contract and suspending all its activities at the KFTZ area, due to accusations that the NREC was mismanaging the KFTZ. The NREC appealed this decision in the Kuwaiti courts, but as of April 2015, the case was still in litigation. In December 2013, MOCI finalized a new master plan for the KFTZ area and began issuing commercial licenses.

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Kuwaiti investment abroad consists of portfolio investment by KIA and direct investment by other government entities. According to the 2012 World Investment Report published by the secretariat of the United Nations Conference on Trade and Development (UNCTAD), Kuwait attracted USD2.3 billion in FDI in 2013, compared with FDI outflows of USD8.4 billion, making Kuwait the highest overseas investor in the GCC. U.S. enterprises invested USD331 million in Kuwait in 2012, up from 158 million in 2011. Despite the many challenges to doing business in Kuwait, several U.S. companies have won lucrative contracts and operate successfully in the country. With a USD1.3 billion total stock of FDI, Kuwait is one of the top 40 sources of FDI in the United States. From 2003 to 2015, eight investment projects were announced by Kuwaiti firms in the United States. The transportation sector receives the largest amount of investment, comprising roughly two-thirds of all announced projects from Kuwait in the United States.

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
Economic Data	**Year**	**Amount**	**Year**	**Amount**	
Host Country Gross Domestic Product (GDP) ($M USD)	2013	N/A	2013	175,800	www.worldbank.org/en/country
Foreign Direct Investment	**Host Country Statistical source***		**USG or international statistical source**		**USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other**
U.S. FDI in partner country ($M USD, stock positions)	2013	N/A	2013	301	http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm
Host country's FDI in the United States ($M USD, stock positions)	2013	N/A	2013	2,393	http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm
Total inbound stock of FDI as % host GDP	2013	N/A	2013	0.0017	http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm

Table 3: Sources and Destination of FDI

Direct Investment from/in Counterpart Economy Data					
From Top Five Sources/To Top Five Destinations *(US Dollars, Millions)*					
Inward Direct Investment			**Outward Direct Investment**		
Total Inward	6,830	100%	Total Outward	24,770	100%
Qatar	3,464	51%	Saudi Arabia	4,118	17%
Bahrain	1,417	21%	Bahrain	3,779	15%
United Arab Emirates	581	9%	Turkey	2,205	9%
Saudi Arabia	556	8%	Iraq	1,711	7%
Oman	440	6%	Jordan	1,300	5%
"0" reflects amounts rounded to +/- USD 500,000.					

Source: IMF Coordinated Direct Investment Survey

Table 4: Sources of Portfolio Investment

Portfolio Investment Assets								
Top Five Partners (Millions, US Dollars)								
Total			**Equity Securities**			**Total Debt Securities**		
All Countries	36,340	100%	All Countries	30,156	100%	All Countries	6,185	100%
Cayman Island	7,127	20%	Cayman Islands	6,659	22%	United Arab Emirates	1,595	26%
Saudi Arabia	6,254	17%	Saudi Arabia	6,074	20%	Bahrain	800	13%
Bahrain	5,225	14%	Bahrain	4,424	15%	Qatar	797	13%
United Arab Emirates	3,174	9%	United States	1,907	6%	United States	640	10%
United States	2,547	7%	United Kingdom	1,750	6%	Cayman Islands	468	8%

Source: IMF Coordinated Portfolio Investment Survey

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