PORTUGAL

INVESTMENT CLIMATE STATEMENT

2015

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Executive Summary

The country of Portugal is located in southwestern Europe in the western part of the Iberian Peninsula. Portugal emerged from an extended economic crisis and successfully completed its European Union-International Monetary Fund (IMF) bailout program in 2014, registering moderate growth for the year and decreased, but still high, unemployment. The structural reforms implemented since 2011 have created an economic and regulatory climate that is very favorable to foreign investment. Corporate taxes and unit labor costs have decreased, while new investment incentives have been established. The government has also taken important steps toward improving the efficiency of its judicial system, creating two specialized courts (for intellectual property and competition) and streamlining court districts and the Code of Civil Procedure. Portugal's ongoing privatization program offers immediate opportunities for U.S. investment. The country's foreign direct investment rules are among the most open in the OECD.

The European Central Bank (ECB) acts as central bank for the euro (€) and determines monetary policy for the 19 Eurozone member states, including Portugal. Portugal's banking sector has proven resilient in 2014, performing well in the ECB's asset quality review and stress tests. Still, the Bank of Portugal was forced to split and recapitalize one of the country's largest banks, Banco Espirito Santo, and the strength of its successor institution, Novo Banco, has yet to be tested.

Portugal's economy is tightly coupled to the European Union (EU). EU member states are both Portugal's biggest trading partners and its largest investors. Portugal complies with EU law for equal treatment of foreign and domestic investors. Outside of Europe, Portugal maintains significant links with former colonies Brazil, Angola, and Mozambique.

National legislative elections will be held in October 2015, and political considerations have reduced the momentum for additional reform. Tax rules, the privatization program, and other policies affecting foreign investment may be revisited if there is a change in government, though significant changes are not expected.

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

The Government of Portugal recognizes the value of foreign direct investment (FDI) and sees such investment as an important engine of economic growth. After two and half years of recession, Portugal has started to show signs of growth beginning in the second quarter of 2013, and registered actual 0.9 percent growth in 2014. The country exited its three-year EU-IMF bailout program in May 2014, and has successfully regained access to international bond markets with yields approaching historic lows.

The Portuguese Agency for Foreign Investment and Commerce (AICEP) is the lead agency for promotion of trade and investment. AICEP is responsible for the promotion of global Portuguese trademarks, the export of goods and services, and attraction of foreign direct investment (FDI). It is the point of contact for investors with projects of more than EUR 25 million or companies with a consolidated turnover of more than EUR 75 million. For foreign investments not meeting these thresholds, AICEP will make a preliminary analysis and direct the investor to assistance agencies such as the Institute of Support to Small- and Medium Sized Enterprises and Innovation (IAPMEI), a public agency within the Ministry of Economy that provides technical support, or to AICEP Capital Global, which offers technology transfer, incubator programs and venture capital support.

Other Investment Policy Reviews

Portugal underwent an OECD Investment Policy Review in 1994; the World Bank's "Doing Business 2015 Economic Profile" and Economist's Intelligence Unit provide current details on Portugal's investment climate.

Laws/Regulations of Foreign Direct Investment

The Central Bank of Portugal defines FDI as “an act or contract that obtains or increases enduring economic links with an existing Portuguese institution or one to be formed.” A non-resident who invests in at least 10 percent of a resident company’s equity and participates in the company’s decision-making is defined as a foreign direct investor. The Portuguese legal system is based on non-discrimination with regard to the national origin of investment, and foreigners are permitted to invest in all economic sectors open to private enterprise. However, there are limitations on both foreign and domestic investments with regard to certain economic activities. As is common in other countries, Portuguese government approval is required in the following sectors: defense, water management, public telecommunications operators, railway, maritime transportation, and air transport. Any economic activity that involves the exercise of public authority also requires government approval. Private sector companies can operate in these areas only through a concession contract.

Investors wishing to establish new credit institutions or finance companies, acquire a controlling interest in such financial firms, and/or establish a subsidiary must have authorization from the Bank of Portugal (for EU firms) or the Ministry of Finance (for non- EU firms). In both cases, the authorities carefully consider the proposed transaction, but in the case of non-EU firms, the Ministry of Finance especially considers the impact on the efficiency of the financial system and the internationalization of the economy. Non- EU insurance companies seeking to establish an agency in Portugal must post a special deposit and financial guarantee and must have been authorized for such activity by the Ministry of Finance for at least five years.

More information on laws, rules, procedures, and registration requirements for foreign investors in Portugal is available here, at AICEP’s website: http://www.portugalglobal.pt/EN/InvestInPortugal/investorsguide2/howtosetupacompany/Paginas/ForeignInvestment.aspx

Industrial Promotion

AICEP does not favor specific sectors for investment promotion. It does, however, provide a guide for designated Prominent Sectors on its website where it advocates investment in

Portuguese companies by sector:
www.portugalglobal.pt/EN/InvestInPortugal/ProminentSectors/Pages/ProminentSectors.aspx

Limits on Foreign Control

With the few common exceptions noted above, there are no restrictions in Portugal as to foreign investment. Portuguese law is based on a principle of non-discrimination irrespective of the investor's nationality. There are no requirements as to a mandatory Portuguese shareholder and no limitations on the repatriation of profits or dividends.

The rules that will apply to a foreign investor are the same that rule national investment and the foreign investment is not subject to any special registration or notification to any authority (without prejudice of mandatory registration obligations or compliance with regulatory obligations in specific activities).

Notwithstanding the above, shareholders that are not resident in Portugal must obtain a Portuguese taxpayer number for tax purposes. EU residents may obtain this number directly with the tax administration (in person or by means of an appointed proxy); non-EU residents must appoint a Portuguese resident representative to handle matters with tax authorities.

Privatization Program

Portugal launched an aggressive privatization program in 2011 as part of its EU-IMF bailout, covering state-owned enterprises in the air transportation, land transportation, energy, communications, and insurance sectors.

The bidding process has been public, transparent, and non-discriminatory to foreign investors. Indeed, foreign companies have been among the most successful bidders since the beginning of the program. Chinese, Omani, and French companies have purchased large stakes in Portugal's electricity utility (EDP), its electricity and natural gas grid operator (REN), its airport operator (ANA), and the insurance arm of the state-owned bank (Caixa Seguros). In addition, Portugal's postal service (CTT) sold 70 percent of its shares to public investors on the Lisbon stock exchange in 2013. The government is looking to sell up to 66 percent of the national airline, TAP, in 2015.

Screening of FDI

The government of Portugal does not screen, review, or approve foreign direct investments.

However, there are limitations on both foreign and domestic investments with regard to certain economic activities. As is common in other countries, Portuguese government approval is required in the following sectors: defense, water management, public telecommunications operators, railway, maritime transportation, and air transport. Any economic activity that involves the exercise of public authority also requires government approval. Private sector companies can operate in these areas only through a concession contract.

Competition Law

Law No. 18/2003, dated June 6, governs protection and promotion of competition in Portugal. It specifically prohibits collusion between companies to fix prices, limit supplies, share markets or sources of supply, discriminate in transactions, or force unrelated obligations on other parties. Similar prohibitions apply to any company or group with a dominant market position. The law also requires prior government notification of mergers or acquisitions that would give a company more than 30 percent market share in a sector, or mergers or acquisitions among entities that had total sales in excess of EUR 150 million in the preceding financial year. The Competition Authority has 60 days to determine if the merger or acquisition can proceed. The European Commission may claim authority on cross-border competition issues or those involving entities large enough to have a significant EU market share.

Investment Trends

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2014	31 of 175	transparency.org/cpi2014/results
World Bank's Doing Business Report "Ease of Doing Business"	2015	25 of 189	doingbusiness.org/rankings
Global Innovation Index	2014	32 of 143	globalinnovationindex.org/content.aspx?page=data-analysis
World Bank GNI per capita	2013	USD 26,170	data.worldbank.org/indicator/NY.GNP.PCAP.CD

2. Conversion and Transfer Policies

Foreign Exchange

Portugal is a member of the Eurozone and uses the euro. Portugal does not have exchange controls and there are no restrictions on the import or export of capital. Any party that transfers EUR 10,000 or more outside of the country in foreign banknotes, gold, travelers' checks, or bearer securities must declare it to the Portuguese customs authorities.

The Eurozone has a freely floating exchange rate.

Remittance Policies

There are no limitations on the repatriation of profits or dividends.

3. Expropriation and Compensation

Under Portugal's Expropriation Code, the government may expropriate property and its associated rights if it is deemed to support the public interest, and upon payment of fair compensation. The code outlines criteria for calculating fair compensation based on market valuation. The decision to expropriate as well as the fairness of compensation can be challenged in national courts.

In 2005, the Portuguese Parliament passed a Water Resources Law that required owners of properties bordering coasts, rivers, and reservoirs to present evidence of private ownership dating to at least 1864 by a deadline of January 2014, or otherwise face government seizure of the land. The law elicited public protests from property owners, including many British expatriates, which in turn pressed Parliament in May 2014 to establish broad exemptions and eliminate the deadline for presentation of evidence of ownership. To date, there have been no public cases of expropriation of such properties.

There have been no other cases of expropriation of foreign assets or companies in Portugal in recent history.

4. Dispute Settlement

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

The Portuguese legal system is a civil law system, based on Roman Civil Law. The hierarchy among various sources of law is as follows: (i) Constitutional laws and amendments; (ii) the rules and principles of general or common international law and international agreements; (iii) ordinary laws enacted by the Parliament; (iv) instruments having an effect equivalent to that of laws, including approved international conventions or decisions of the Constitutional Court; (v) regulations used to supplement and implement laws. The country's Commercial Company Law and Civil Code define Portugal's legal treatment of corporations and contracts. Portugal has specialized family courts, labor courts, commercial courts, maritime courts, intellectual property courts, and competition courts.

The judicial system is independent of the executive branch. Indeed, adverse Constitutional Court rulings during the country's bailout period served as a check on the government's ability to implement many austerity measures, including pension cuts and tax increases.

Bankruptcy

The Insolvency and Corporate Recovery Code defines insolvency as a debtor's inability to meet his commitments as they fall due. Corporations are also considered insolvent when their liabilities clearly exceed their assets. A debtor, creditor, or any person responsible for the debtor's liabilities can initiate insolvency proceedings in a commercial court.

The court assumes the key role of ensuring compliance with legal rules governing insolvency proceedings, with particular responsibility for ruling on the legality of insolvency and payment plans approved by creditors.

After declaration of insolvency, creditors may submit their claims to the court-appointed insolvency administrator for a specific term set for this purpose, typically up to 30 days. Creditors must submit details regarding the amount, maturity, guarantees, and nature of their claims. Claims are ranked as follows: (i) claims over the insolvent's estate, i.e. court fees related to insolvency proceedings; (ii) secured claims; (iii) privileged claims; (iv) common, unsecured claims; (v) subordinated claims, including those of shareholders.

Portugal ranked highly, 10 out of 189 economies in the World Bank's 2015 Doing Business Report in the category of Resolving Insolvency measure.

Investment Disputes

There are no cases on public record of investment disputes, pending or concluded, between foreign investors of any nationality against the Portuguese Republic.

International Arbitration

Portugal is a signatory to the convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York convention). In essence adherence to this conventions obligates the local courts from the member State to enforce international arbitration awards that meet certain conditions. Portugal has also ratified the 1927 Geneva Convention on the Execution of Foreign Arbitral Awards, and in 2002 ratified the 1975 Inter-American Convention on International Commercial Arbitration.

The government promotes non-judicial dispute resolution through the Ministry of Justice's Office for Alternative Dispute Resolution (GRAL), including conciliation, mediation, or arbitration.

More information is available in English at AICEP's website: http://www.portugalglobal.pt/EN/InvestInPortugal/investorsguide2/howtosetupacompany/Paginas/DisputeResolution.aspx

The GRAL website, in Portuguese, is here: http://www.dgpj.mj.pt/sections/gral

Portugal's Voluntary Arbitration Law, enacted in 2011, is based on the UNCITRAL Model Law, and applies to all arbitration proceedings based in Portugal. The leading commercial arbitration institution is the Arbitration Centre of the Portuguese Chamber of Commerce and Industry: www.centrodearbitragem.pt

ICSID Convention and New York Convention

Since 1965, Portugal has been a member state to the International Centre for the Settlement of Investment Disputes (ICSID Convention) since 1965. Portugal is a signatory to the convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958 New York Convention) since January 1995.

Duration of Dispute Resolution

Portugal's judicial system has historically been inefficient, though the country has taken several important steps to increase the efficiency and quality of judicial proceedings. According to the World Bank's 2015 Doing Business Report, enforcing a contract in Portugal takes an average of 547 days (the OECD average is 539.5 days), costs 13.8 percent of the value of the claim (OECD average 21.4 percent), and requires 34 procedures (OECD average 31.5).

As part of its 2011 bailout program, Portugal committed to reforms to restructure its court system and reduce the number of backlogged cases. The country has since established new specialized courts for intellectual property and for competition, reduced the number of court districts, closed underutilized courts, and modified the Code of Civil Procedure to streamline judicial proceedings. Since the fourth quarter of 2012, the number of resolved cases has exceeded the number of new cases, and the speed of resolution has doubled from 2011 to 2013. Portugal also created a new government agency in 2014, the Commission to Supervise Court Officers (CAAJ), to supervise and monitor the work of court officers and judicial administrators.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

Portugal is a member of the World Trade Organization (WTO), though with the entry into force of the 2009 Treaty of Lisbon, trade policy and rules on foreign direct investment are exclusive EU competencies, forming part of the common commercial policy.

The EU has been accused of violating Trade-Related Investment Measures (TRIMs) in six of the 40 TRIMs-related disputes catalogued by the WTO:
https://www.wto.org/english/tratop_e/dispu_e/dispu_agreements_index_e.htm?id=A25

Investment Incentives

The Portuguese government offers investment incentives which can be tailored to individual investors' needs and capital based on industry, investment size, and project sustainability. For example, for smaller investors, 20 percent of investments up to a maximum of EUR 5 million may be deducted from future tax obligations. More information on investment incentives is available at: www.portugalglobal.pt

Research and Development

U.S. and other foreign institutions participating in research and development projects in Portugal may not receive funding from the Portuguese government or from the European Regional Development Funds, except when there is an international agreement or reciprocity mechanism in effect with Portugal's Science and Technology Foundation (FCT). Government funds may be used, however, to reimburse foreign scientists for travel, lodging, and consulting services provided. More information on the regulation of access to funding is available at:
http://www.fct.pt/apoios/projectos/regulamento

Performance Requirements

Portugal does not mandate local employment for foreign investors. As a member country of the EU, there is a high level of labor mobility between Portugal and other member states. To work in Portugal, non-EU foreign nationals must be sponsored for a work permit by a Portuguese employer. Alternatively, non-EU foreign nationals may apply for residency through the "Golden Visa" program launched in 2012 by: (i) acquiring property worth EUR 500,000 or more; (ii) transferring funds of EUR 1,000,000 or more; or (iii) creating at least 10 jobs in Portugal.

Data Storage

While Portugal does not force data localization, according to the Portuguese Data Protection Law (pursuant to the EU's 1995 Data Protection Directive) "data controllers," i.e. people or corporations that process personal data, must register in Portuguese with the national Data Protection Authority (CNPD). Data transfers outside of the EU are only allowed if the recipient country or company ensures an adequate level of protection.

With the negotiation of the U.S.-EU Safe Harbor Principles, data may be transferred to companies in the United States that abide by certain data protection standards, under the supervision of the Federal Trade Commission. Portugal will be subject to any new rules established by the EU's General Data Protection Regulation currently being negotiated between the European Parliament, Council, and Commission.

6. Right to Private Ownership and Establishment

Foreign firms have the right to establish themselves in all economic sectors open to private enterprise under the same conditions as local investors. Investment projects of particular interest for the Portuguese economy (over EUR 4.9 million; with a job creation component, industrial reconversion, ensuring the development of a priority region, or introducing new technologies) are subject to a particular procedure managed by AICEP.

Private ownership is limited to 49 percent in the following sectors: basic sanitation (except waste treatment), international air transport, railways, ports, arms and weapons manufacture, and airports. The government requires private firms to obtain concessions, contracts, and licenses to operate in a number of sectors (public service television, waste distribution, waste treatment), but grants these on a non-discriminatory basis. Foreign investments affecting public health, public order or security, or relating to the arms industry require government approval.

7. Protection of Property Rights

Real Property

The Portuguese Constitution provides for the right to private property and grants Parliament the power to establish rules on the renting of property, the determination of property in the public domain, and the rules of land management and urban planning. The Civil Code of 1967, modelled after the Bürgerliches Gesetzbuch, provides for the right to absolute and full ownership, which can be restricted by mortgage, liens, or other security interests. Apart from the

Civil Code, additional laws have established or modified rules on time-sharing, condominiums, and land registration.

Property registration is fairly easy in Portugal, and can be done quickly online (https://www.predialonline.pt/PredialOnline/). According to the World Bank's 2015 Doing Business Report, registration is faster and simpler than in most other OECD countries, taking one day to complete one process. The cost, however, is slightly higher than the OECD average at 7.3 percent of the property value.

Intellectual Property Rights

The government adopted the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) and provisions of the General Agreement on Tariffs and Trade (GATT) in 2003. Portuguese legislation for the protection of intellectual property rights has been consistent with WTO rules and EU directives since 2004. The Arbitration Centre for Industrial Property, Domain Names, and Company Names (ARBITRARE) was established in 2009 to facilitate voluntary arbitration of intellectual property disputes in English or Portuguese, and in 2012, the government created an intellectual property court with two judges.

It is fairly easy for investors to register copyrights, industrial property, patents, and designs with Portugal's Institute of Industrial Property (INPI) and the Inspectorate-General of Cultural Activities (IGAC). Intellectual property can be registered online for a small fee.

Portugal is a participant in the eMAGE and eMARKS projects, which provide multilingual access to databases of trademarks and industrial designs. These international efforts assist participating customs authorities in combating sales of counterfeit goods. Other participating countries include France, Austria, Hungary and Spain. Portugal's Food and Economic Security Authority (ASAE), in partnership with other national law enforcement agencies, provides statistics on seizures of counterfeit goods at: http://anti-contrafaccao.com/estatisticas/

Portugal has not been listed in the USTR's Special 301 or Notorious Markets reports, though it was nominated for inclusion in the 2013 Special 301 report by the Pharmaceutical Research and Manufacturers of America (PhRMA), who claimed the country had "ineffective mechanisms to enforce patents," "unrealistic pharmaceutical budgets," and inefficient pricing and reimbursement policies. The country has since established a mandatory arbitration process to more efficiently handle pharmaceutical patent disputes.

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/

Resources for Rights Holders

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parkc@state.gov

American Chamber of Commerce
www.amcham.org.pt
amchamportugal@mail.telepac.pt

8. Transparency of the Regulatory System

As part of its bailout program, Portugal updated its Competition Law in 2012 to align its regulations with the EU's legal standards on the subject. Among the changes, the 2012 law allowed the Portuguese Competition Authority to prioritize cases, and granted new powers of investigation. The new law revamped merger control rules, modifying market share/turnover thresholds for mandatory filings and eliminating a previous deadline of seven business days to submit a merger filing to the Competition Authority. Finally, in a move to increase transparency, the law mandates that the Competition Authority publish its final decisions in antitrust cases. In parallel with the new law, the government also established a specialized competition court to speed up judicial proceedings. These changes should help foster competition and establish more clear rules for foreign investors, consistent with those of the EU.

According to an IMF review published in October 2014, Portugal's fiscal practices meet most principles of transparency at good or advanced levels. Fiscal reporting is consistent with EU standards, and forecasting and budgeting have improved significantly since the beginning of the bailout. The government regularly publishes budget proposals and execution reports online, and created a user-friendly web application to explain the 2015 budget, available here: http://www.dgo.pt/BIORC/Paginas/Site/index.html

Parliament publishes draft bills on its website, www.parlamento.pt, allowing public review of proposals before they become law.

Portugal is a member of the U.N. Conference on Trade and Development's international network of transparent investment procedures: http://www.eregulations.org. Foreign and national investors may be able to find information on administrative procedures applicable to investment and income generating operations including the number of steps, name and contact details of the entities and persons in charge of procedures, required documents and conditions, costs, processing time, and legal bases justifying the procedures at: https://bde.portaldocidadao.pt/evo/login.aspx

9. Efficient Capital Markets and Portfolio Investment

The Portuguese Securities Market Commission (CMVM) supervises and regulates securities markets, and is a member of the Committee of European Securities Regulators and the International Organization of Securities Commissions.

The Portuguese stock exchange is managed by Euronext Lisbon, part of the NYSE Euronext Group, which allows a listed company access to a global and diversified pool of investors. In February 2015, the total market capitalization of Euronext Lisbon-listed companies was EUR 266.4 billion, with monthly trading volume of EUR 2.4 billion. The Portuguese Stock Index-20 (PSI20), launched in 1993, is Portugal's benchmark index representing the twenty largest and most liquid companies listed on the exchange.

The Portuguese government returned to the bond market in 2013, and has taken advantage of favorable monetary policies from the ECB to secure financing at record-low yields. In early 2015, Portugal issued EUR 2 billion of 30-year bonds at 4.131 percent, and EUR 1.5 billion of 10-year bonds at 2.04 percent. As of March 2015, yields on these securities had dropped to 2.23 percent and 1.56 percent, respectively.

Many debt issuances by Portuguese corporations have also been successful over the last year. Energias de Portugal, the electricity utility, issued USD 750 million in 7-year bonds at 5.25 percent and EUR 650 million in 5-year bonds at 2.625 percent in the first half of 2014, while Galp, Portugal's oil and gas company, issued 500 million in 6.5-year bonds at 3 percent in July 2014.

Money and Banking System, Hostile Takeovers

The Bank of Portugal is the country's central bank, and a member bank of the European System of Central Banks. As a member of the Eurozone, Portugal's monetary policy is managed by the ECB, with the sole mandate of maintaining price stability.

Thirty-five banks and 15 credit institutions are registered with the Bank of Portugal. Total bank assets stood at EUR 430 billion in December 2014, representing a steady decrease from EUR 460 billion in 2013 and EUR 496 billion in 2012. According to the ECB, the five largest banking groups accounted for more than 70 percent of total assets at the end of 2013. One of these, Caixa Geral de Depositos (CGD), is state-owned.

In August 2014, the Portuguese government forced Banco Espirito Santo (BES) – one of the country's largest banks – into resolution after the announcement of record losses for the second quarter of 2014. Following the rules outlined in the EU's Bank Resolution and Recovery Directive, the Bank of Portugal announced BES would be split into good bank Novo Banco, holding healthy assets and EUR 4.9 billion in new capital from the Portuguese Resolution Fund, and a bad bank left with BES equity and potentially unrecoverable loans. Senior creditors and uninsured depositors were transferred in full to Novo Banco and fully protected from losses.

At the end of 2014, the Portuguese banking system's Tier 1 Capital ratio and Common Equity Tier 1 (CET 1) ratio stood at 6.9 percent and 11.3 percent, respectively. The ECB's 2014 asset quality review and the "baseline scenario" of the stress test confirmed that Portugal's three largest banks – CGD, Millennium BCP, and Banco BPI – were adequately capitalized. Millennium BCP failed the adverse scenario of the stress test, but has since completed a EUR 2.25 billion rights issue to strengthen its capital ratios. Due to the resolution of BES in 2014, the ECB postponed the review and stress tests for its successor institution, Novo Banco. The World Bank estimated that 10.8 percent of total gross loans in Portugal were nonperforming in 2014.

In a January 2015 post-bailout program monitoring report, the IMF warned that despite sufficient capital buffers and improvements in bank supervision, the Portuguese banking system continued to struggle with low profitability and persistent balance sheet challenges, which would limit its ability to finance new investment in the country.

Takeovers in Portugal are regulated by the Portuguese Security Code, which follows the EU Directive on Takeover Bids (Directive 2004/25/EC). The CMVM is the competent authority to supervise takeover bids when target securities are listed in a regulated market located or operating in Portugal, and the issuing company is headquartered in Portugal. More information is available here: http://www.cmvm.pt/EN/Legislacao_Regulamentos/Codigo%20Dos%20Valores%20Mobiliarios/Pages/Title%20III%20-%20Public%20Offers.aspx?nrmode=unpublished

10. Competition from State-Owned Enterprises

Portuguese law defines a State-owned enterprise (SOE) as any company in which the State, or other public entities, can directly or indirectly exercise a dominant influence. Further, a dominant influence is defined as ownership of the majority of share capital, the control of a majority of voting rights, the capacity to designate a majority of the board of directors or management, or the possession of any other special rights that grant a determinant influence on decision-making. SOEs are active in the banking, healthcare, transportation, and media & entertainment sectors. The Ministry of Finance publishes an annual report on SOEs, presenting annual performance data by company and sector.

In sectors that are open to private competition, SOEs often hold dominant market share. In the Portuguese banking sector, state-owned Caixa Geral de Depositos has the largest market share in customer deposits, commercial loans, mortgages, and many other banking services. Similarly, state-owned airline TAP is the leading European carrier to Brazil. On the other hand, RTP, which held a monopoly on television until 1992, currently controls less than 20 percent of the market, behind private broadcasters TVI and SIC.

According to Law No. 133/2013, dated October 3, SOEs must compete under the same terms and conditions as private enterprises, subject to Portuguese and EU competition laws. The state, through the Ministry of Finance, annually approves plans of action and budgets for SOEs.

Through its membership in the EU, Portugal is a party to the Agreement on Government Procurement (GPA).

OECD Guidelines on Corporate Governance of SOEs

Even before entering the bailout program, the OECD’s 2011 SOE Governance Reform Report lauded Portugal as one of the most active jurisdictions in introducing new legislation and guidelines for SOE governance. In March 2008, Portugal’s Council of Ministers approved resolution no. 49/2007 which defined the Principles of Good Governance for SOEs according to the OECD Guidelines. The resolution requires SOEs to have a governance model that ensures the segregation of executive management and supervisory roles, to have their accounts audited by independent entities, to observe the same standards as those for companies publicly listed on stock markets, and to establish an ethics code for employees, customers, suppliers, and the public. The resolution also requires the Ministry of Finance’s Directorate-General of the Treasury and Finances to publish annual reports on SOEs’ compliance with the Principles of Good Governance.

As mentioned in the prior section, Law No. 133/2013 requires SOEs to compete under the same terms and conditions as private enterprises, subject to Portuguese and EU competition law. Credit and equity analysts generally criticize SOEs' over-indebtedness and inefficiency, rather than poor governance and ties to government.

Sovereign Wealth Funds

The Ministry of Solidarity, Employment, and Social Security manages the Social Security Financial Stabilization Fund (FEFSS), with total assets of EUR 11.3 billion. Among other restrictions, the law requires that at least 50 percent of assets are invested in Portuguese public debt, and limits FEFSS investment in equity instruments to those of EU or OECD members. FEFSS acts as a passive investor and does not take an active role in the management of portfolio companies.

FEFSS publishes an annual report, and the fund is periodically audited by the country's independent Court of Auditors.

11. Corporate Social Responsibility

There is strong awareness of corporate social responsibility in Portugal and broad acceptance of the need to consider the community among the key stakeholders of any company. Group of Reflection and Support for Business Citizenship (GRACE) was founded in 2000 by a group of companies, primarily multinational corporations, to expand the role of the Portuguese business community in social development. It was the first non-profit organization in Portugal dedicated to corporate social responsibility.

Since its founding, GRACE has engaged in various community projects, participating in the International Day of Volunteers and partnering with local civic groups to rehabilitate public spaces and facilities, create community gardens, and improve the environment. GRACE's GIRO project, the largest corporate volunteer project in Portugal, has organized over 3100 volunteers to the benefit of more than 50 institutions and 13,000 people throughout Portugal. There are several other prominent organizations, such as the Portuguese Business Ethics Association, dedicated to corporate social responsibility in collaboration the Ministry of Economy's General Directorate of Economic Activities.

OECD Guidelines for Multinational Enterprises

As an OECD member, Portugal adheres to the OECD Guidelines for Multinational Enterprises. The National Contact Point function is shared between the Ministry of Economy and Ministry of Foreign Affairs/AICEP: http://mneguidelines.oecd.org/ncps/portugal.htm Any person or group believing a company is having an adverse impact can contact the NCP for assistance with mediation efforts.

12. Political Violence

Since the 1974 Carnation Revolution, Portugal has had a long history of peaceful social protest. Portugal experienced its largest political rally since its revolution in response to proposed budgetary measures in 2012. Subsequent demonstrations against government austerity measures and economic policies have resulted in isolated and low levels of vandalism, generally directed at parliamentary facilities. Public workers, including nurses, doctors, teachers, aviation professionals, and public transportation workers have organized strikes periodically in protest of salary cuts and other austerity measures throughout 2014.

13. Corruption

The administration has made recent legislative strides toward further criminalizing corruption and better detecting its presence. In 2010, the country adopted a law that criminalized violation of urban planning rules and increased transparency in political party funding. In 2013, an additional anti-corruption proposal was submitted to Parliament, which included expanding the criminal code on corruption, increasing sanctions in the private sector, and criminalizing trading in influence.

Nonetheless, Portugal does continue to struggle with corruption. In 2013, more than 30 former government officials faced trial charged with graft, money laundering, and influence peddling in cases dating to 2009. The judiciary is also slow in processing cases resulting in a large backlog of pending trials.

The government's Council for the Prevention of Corruption, formed in 2008, is an independent administrative body that works closely with the Court of Auditors to prevent corruption in public and private organizations that use public funds. Transparencia e Integridade Associação Civica, the local affiliate of Transparency International, also actively publishes reports on corruption and supports would-be whistleblowers in Portugal.

Portugal is a member of the Council of Europe's Group of States against Corruption (GRECO), where it is represented by officials from the Ministry of Justice.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

Portugal has ratified and complies with both the UN Convention against Corruption and the OECD Anti-Bribery Convention.

Resources to Report Corruption

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14. Bilateral Investment Agreements

Portugal has not signed an investment treaty or trade agreement with the United States. With the entry into force of the Lisbon Treaty in 2009, the European Union has exclusive competence to negotiate trade and investment agreements which if successful, will include Portugal. The EU is currently in negotiations with the United States for the Transatlantic Trade and Investment Partnership.

Portugal has bilateral investment treaties with Albania, Algeria, Angola, Argentina, Bosnia and Herzegovina, Brazil, Bulgaria, Cape Verde, Chile, China, Democratic Republic of Congo, Congo, Croatia, Cuba, Czech Republic, Egypt, Equatorial Guinea, Gabon, Germany, Guinea-Bissau, Hungary, India, Jordan, South Korea, Kuwait, Latvia, Libya, Lithuania, Macao, Mauritius, Mexico, Morocco, Mozambique, Pakistan, Paraguay, Peru, Philippines, Poland, Qatar, Romania, Russia, Sao Tome and Principe, Senegal, Serbia, Slovakia, Slovenia, Timor-Leste, Tunisia, Turkey, Ukraine, United Arab Emirates, Uruguay, Uzbekistan, Venezuela, and Zimbabwe.

Bilateral Taxation Treaties

Portugal signed an Income Tax Treaty with the United States in 1994 to prevent double taxation and tax evasion.

15. OPIC and Other Investment Insurance Programs

Portugal is a country with low political risk, and the potential for significant Overseas Private Investment Corporation (OPIC) insurance programs in Portugal is limited. Portugal is a member of the Multilateral Investment Guarantee Agency (MIGA) of the World Bank.

16. Labor

Numerous labor reform packages aimed at improving the productivity of Portugal's workforce have been implemented in recent years. A package of labor reform laws took effect in 2003 permitting greater geographic and functional mobility for employees. The Labor Code limits the role of unions and makes it more difficult for workers to strike. It also addresses absenteeism and fraudulent leave. Additional changes were implemented in 2009 concerning intermittent and seasonal employment, specifying leave flexibility for parenthood and family support, and other issues.

However, low productivity and difficulty in firing workers have hampered Portugal's ability to attract foreign investment. In 2012, Portugal enacted a series of labor market reforms geared toward increasing productivity and flexibility in the Portuguese workforce. Notable reforms include reduced unemployment benefits, severance pay decreases, flexible work-time arrangements, and restrictions on collective bargaining practices.

Unemployment remains high in Portugal, registering at 14.1 percent in February 2015, though it has improved steadily since peaking at nearly 18 percent in 2013. Youth unemployment stood at 35 percent in January 2015. In response, the government launched in 2012 the Impulso Jovem policy package, creating government-funded internships for youth unemployed in public administration and the private sector.

The Labor Code caps the work schedule at eight hours per day, and 40 hours per week. Employees are entitled to at least 22 days of annual leave per year. Portugal's minimum wage increased in 2014 to EUR 505 per month. In addition, the employer must pay employees a Christmas bonus and vacation bonus, equivalent to one month's salary.

Employers are allowed to conduct collective dismissals due to adverse market or economic conditions, or due to technological advancement, but must provide advance notice and severance pay. Depending on the seniority of each employee, an employer must provide between 15 to 75 days of advance notice, and pay severance ranging from 12 days' to one month's salary per year worked. Employees may challenge termination decisions before a Labor Court.

The Labor Code also allows employees to establish unions, workers' committees, and other collective structures. Labor unions are independent from the state, political parties, and religious institutions, which are prohibited from directing or providing financial support to labor unions. The Portuguese Constitution establishes the right to strike as a worker's inalienable right. Unions must communicate their intention to strike with a minimum notice of five business days. For those employed by companies or organizations deemed to provide indispensable social services, the striking entity must provide at least ten business days' notice to the employer or the sector-specific government ministry, including a proposal to maintain a minimum level of service. During a strike, the employer generally may not hire others to perform the employees' tasks, but is also not obligated to pay salaries of striking employees.

Labor strikes are more common than in the United States, but are nonviolent and of short duration. In recent years, work stoppages have been more common among public sector workers, including transportation workers, teachers, and nurses.

Portugal is a member of the International Labor Organization (ILO), and has ratified all eight Fundamental Conventions as well as all four Governance (Priority) Conventions.

17. Foreign Trade Zones/Free Ports/Trade Facilitation

Portugal has one foreign trade zone (FTZ)/free port in the Autonomous Region of Madeira, established in 1987. Continued operation of this foreign trade zone/free port was authorized in accordance with EU rules on incentives granted to member states. Industrial and commercial activities, international service activities, trust and trust management companies, and offshore financial branches are all eligible. Companies established in the foreign trade zones enjoy import- and export-related benefits, financial incentives, tax incentives for investors, and tax incentives for companies.

Under the terms of Portugal's agreements with the EU, companies incorporated in the Madeira FTZ until December 31, 2014 can take advantage of a reduced corporate tax rate of 5 percent until 2020.

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

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)	2014	231,700	2013	227,300	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 ($M USD, stock positions)	N/A	2013	1,985	BEA data available 3/19/14 at http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm
Host country's FDI in the United States ($M USD, stock positions)	N/A	2013	363	BEA data available 3/19/14 at http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm
Total inbound stock of FDI as % host GDP	N/A	2013	0.87%	

* National Statistics Institute, Bank of Portugal. FDI figures not available from host country sources.

Table 3: Sources and Destination of FDI

EU member states, namely Spain and the Netherlands, remain Portugal's primary sources of inward direct investment, while Angola and Brazil are slowly gaining weight as targets for Portuguese investment abroad. IMF figures roughly coincide with Bank of Portugal data.

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	125,362	100%	Total Outward	62,417	100%
Spain	31,397	25%	Netherlands	22,709	36%
Netherlands	31,317	25%	Spain	7,814	13%
Luxembourg	14,582	12%	Germany	5,580	9%
France	7,885	6%	Angola	5,441	9%
U.K.	7,845	6%	Brazil	4,609	7%
"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	167,387	100%	All Countries	37,652	100%	All Countries	129,735	100%
Spain	25,489	15%	Luxembourg	13,265	35%	Italy	21,247	16%
Italy	21,480	13%	Spain	5,522	15%	Spain	19,967	15%
Netherlands	18,591	11%	United States	4,703	12%	Netherlands	18,061	14%
Luxembourg	18,189	11%	Ireland	2,406	6%	Ireland	12,533	10%
Ireland	14,940	9%	U.K.	2,301	6%	France	12,366	10%

Source: IMF Coordinated Portfolio Investment Survey. IMF figures roughly coincide with Bank of Portugal data.

19. Contact for More Information

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