

# 2020 Investment Climate Statements: Kuwait

## EXECUTIVE SUMMARY

Kuwait is a country of 1.4 million citizens and 3.3 million expatriates. It occupies a land mass slightly smaller than New Jersey, but possesses six percent of the world's proven oil reserves and is a global top ten oil exporter. The economy is heavily dependent upon oil production and related industries, which are almost wholly owned and operated by the government. The energy sector accounts for more than half of GDP and close to 90 percent of government revenue. The fall in oil prices after OPEC+ failed to agree on production targets in 2019 greatly exacerbated Kuwait's fiscal deficit. This was only heightened with the onset of the COVID-19 pandemic, which resulted in dramatically reduced oil demand in the first and second quarters of 2020. No one can predict what a post-pandemic economy will look like, except that it is likely to be very different from what it has been. In the background looms the prospect for economic reforms and diversification as outlined by the government in its national development plan, called New Kuwait Vision 2035.

As it develops the private sector to reduce the country's dependence upon oil, the government faces two central challenges. It must improve the business climate to enable the private sector, and prepare its citizens to successfully work in the private sector. The government has made progress on the business climate, improving from 97 to 83 among 190 countries the World Bank's 2020 Doing Business Report. Nonetheless, Kuwait remains the lowest ranked of its fellow Gulf Cooperation Council (GCC) countries. Preparing Kuwaitis to work successfully in the private sector and compete internationally may be more difficult. Today, more than 85 percent of all Kuwaitis with jobs work in the public sector, where they receive generous salaries and benefits. Convincing young Kuwaitis that their future is in the private sector will require changing in social attitudes and raising the level of local education so that they may compete internationally.

With a view to attracting foreign investment the government passed a new foreign direct investment law in 2013 that permits up to 100 percent foreign ownership of a business, if approved by the Kuwait Direct Investment Promotion Authority (KDIPA). All other foreign businesses must abide by existing law that mandates that Kuwaitis, or a GCC national, own at least 51 percent of any enterprise. In approving applications from foreign investors seeking 100 percent ownership, KDIPA looks for job creation, the

provision of training and education to Kuwaiti citizens, technology transfer, diversification of national income sources, contribution to exports, support for small- and medium-sized enterprises, and the utilization of Kuwaiti products and services. KDIPA reported that it had sponsored 37 foreign firms, including six U.S. companies. KDIPA may also provide certain investment incentives such as tax benefits, customs duties relief, and permission to recruit certain foreign employees.

The government remains committed to executing its long-term Vision 2035 national development plan, which focusses on improving the country's economic infrastructure, such as the construction of new airports, ports, roads, industrial cities, large residential developments, hospitals, a railroad, and a metro rail. The Northern Gateway initiative, which encompasses the Five Islands or Silk City projects, envisions public and private sector investment in the establishment of an international economic zone that could exceed USD 400 billion over several decades.

Measure	Year	Index/Rank	Website Address
TI Corruption Perceptions Index	2019	85 of 180	<a href="https://www.transparency.org/cpi2019?news/feature/cpi-2019">https://www.transparency.org/cpi2019?news/feature/cpi-2019</a>
World Bank's Doing Business Report	2020	83 of 190	<a href="http://www.doingbusiness.org/en/rankings">http://www.doingbusiness.org/en/rankings</a>
Global Innovation Index	2019	60 of 129	<a href="https://www.globalinnovationindex.org/analysis-indicator">https://www.globalinnovationindex.org/analysis-indicator</a>
U.S. FDI in partner country (\$M USD, historical stock positions)	2018	\$313 million	<a href="https://apps.bea.gov/international/factsheet/factsheet.cfm?Area=506">https://apps.bea.gov/international/factsheet/factsheet.cfm?Area=506</a>
World Bank GNI per capita	2018	\$34,290	<a href="https://data.worldbank.org/indicator/NY.GNP.PCAP.CD?locations=KW">https://data.worldbank.org/indicator/NY.GNP.PCAP.CD?locations=KW</a>

# 1. Openness To, and Restrictions On, Foreign Investment

## Policies Towards Foreign Direct Investment

Kuwait reintroduced its national development plan in 2018 as New Kuwait Vision 2035. Key plan objectives include creating a business environment that promotes private sector growth and foreign investment. Subject to approval, the Foreign Direct Investment Law of 2013 permits up to 100 percent foreign ownership in the following industries: infrastructure (water, power, wastewater 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 management. The law also established KDIPA (<http://kdipa.gov.kw/en>) to solicit investment proposals, evaluate their potential, and assist foreign investors with licensing. The government believes that providing foreign companies with greater access to the Kuwaiti market will encourage investment in the Northern Gateway/Five Islands initiative and other projects that comprise the New Kuwait development plan.

In 2015, KDIPA approved IBM's proposal to establish the first 100 percent foreign-owned company in Kuwait, and to benefit from the incentives and exemptions granted under the 2013 investment law. Since then, KDIPA has granted foreign ownership licenses to 36 additional foreign firms, including U.S. companies GE, Berkeley Research Group, Malka Communications, Maltbie, and McKinsey & Company. In July 2019, KDIPA announced that the workforce of one of its approved companies would have to employ at least 30 percent Kuwaiti citizens to qualify for 100 percent ownership.

U.S. companies operate successfully in the country. American engineering firms such as Fluor have participated in large infrastructure development projects, including the USD 30 billion Al-Zour Refinery and Clean Fuels Project. Dow Chemical Company participates in several joint ventures in the petrochemical industry. General Electric is a major vendor to power generation and desalination facilities. Citibank operates a branch in Kuwait City. Numerous franchises of U.S. restaurants and retail chains operate successfully.

### **Limits on Foreign Control and Right to Private Ownership and Establishment**

The Companies Law No. 1 of 2016 simplified the process for registering new companies and has helped to reduce wait-times associated with starting a new business. This law maintained the requirement that a Kuwaiti or GCC national own at least 51 percent of a local company. If non-GCC investors qualify to invest through KDIPA, this requirement may be waived. In 2017, the law was amended to eliminate prohibitive requirements placed on limited liability companies.

Council of Ministers Decision No. 75 of 2015 directs KDIPA to exclude foreign firms from sensitive sectors. Sensitive sectors include the 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, security and investigation activities, public administration, defense, compulsory social security, membership organizations, and recruitment of labor.

### **Other Investment Policy Reviews**

During the past three years, no investment policy reviews on Kuwait were conducted by the Organization of Economically Developed Countries, the World Trade Organization (WTO), or the United Nations Conference on Trade and Development.

### **Business Facilitation**

Kuwait's ranking in the World Bank's Doing Business Index improved to 82 in 2020 from 133 in 2019 for Starting a Business. The World Bank's *Doing Business* project lists the steps required to start a business in Kuwait in the following link:

(<http://www.doingbusiness.org/data/exploreeconomies/kuwait/starting-a-business>).

Its time-to-complete estimates may be optimistic, as anecdotal reports indicate that starting a new business in Kuwait can take up to a year. The government has been working with the World Bank to resolve doing business issues in Kuwait.

In 2016, the Ministry of Commerce and Industry (MOCI) inaugurated the Kuwait Business Center (KBC) (visit website: <http://www.kbc.gov.kw>) to facilitate the issuance of commercial licenses and to start limited liability and single owner companies within three to five working days. However, the business center has encountered challenges in coordinating interagency cooperation. The government outlines steps for starting a business in the following website:

<https://www.e.gov.kw/sites/kgoenglish/Pages/Business/InfoSubPages/StartingABusiness.aspx>.

KDIPA also established a unit to streamline registration and licensing procedures for qualifying foreign investors. Its goal is to approve licenses within 30 days of the completed application.

The April 2013 Law No. 98 established the National Fund for the Support and Development of Small- and Medium-sized Enterprises, which it defines as enterprises that employ up to 50 Kuwaitis and require less than Kuwaiti Dinars (KD) 500,000 in financing. Financing is limited to enterprises established by Kuwaiti citizens.

### **Outward Investment**

The government neither promotes nor restricts outward private investment. The largest, single outward investor is the country's Fund for Future Generations sovereign wealth fund, managed by the Kuwait Investment Authority (KIA). By law, KIA may not disclose the total amount of its investments. The Sovereign Wealth Fund Institute estimated that KIA manages one of the world's largest sovereign funds with more than USD 533 billion in assets as of May 2020. It is unclear how the COVID-19 pandemic crisis affects this estimate. Kuwaiti officials have indicated that KIA has invested more than USD 300 billion in the United States across a wide portfolio. The press has reported that KIA holds a significant interest in the New York City Hudson Yards project, one of the largest private redevelopment projects in U.S. history. Another large Kuwaiti investment

involves MEGlobal, a subsidiary of Equate, which is a partnership between Kuwait's Petrochemical Industries Company and Dow Chemical Company. MEGlobal opened a billion-dollar monoethylene glycol production facility in Texas in September 2019. Individual Kuwaitis regularly invest in U.S. securities and real estate.

## 2. Bilateral Investment and Taxation Treaties

Kuwait has signed bilateral investment treaties with 91 countries, 68 of which are in force, and 12 other treaties with investment provisions, 6 of which are in force. More information about these may be found at the following website:

<http://investmentpolicyhub.unctad.org/IIA/CountryBits/112#iialInnerMenu>.

Kuwait signed a Trade and Investment Framework Agreement (TIFA) with the United States in 2004. The last bilateral TIFA Council meeting took place in 2008. In October 2012, however, the United States signed a TIFA with the GCC, which the Kuwait National Assembly ratified in April 2014. The last U.S.-GCC TIFA Council meeting took place in June 2015. Kuwait and the United States signed a bilateral agreement on investment guarantees in April 1989 that entered into force in October 1989. Kuwait and the United States also signed a memorandum of understanding for the reciprocal tax exemption on income derived from the operation of aircraft in March 2011.

Kuwait does not have a bilateral taxation treaty with the United States. However, Kuwait and the United States signed an intergovernmental Foreign Account Tax Compliance Act (FATCA) agreement in 2015, which can be accessed via the following website: <https://www.treasury.gov/resource-center/tax-policy/treaties/Pages/FATCA.aspx>.

## 3. Legal Regime

### Transparency of the Regulatory System

Kuwait does not have a centralized online location where key regulatory actions are published akin to the Federal Register in the United States. The regulatory system does not require that regulations be made available for public comment. The government frequently passes draft regulations to interested parties in the private sector, such as the Kuwait Chamber of Commerce and Industry or the Bankers Association, for comment.

The State Audit Bureau reviews government contracts and audits contract performance but does not publicly share the results.

Kuwait does not participate in the Extractive Industries Transparency Initiative (EITI), nor does it incorporate domestic transparency measures requiring the disclosure of payments made to other governments related to the commercial development of oil, natural gas, or mineral deposits. However, the Kuwait economy is almost wholly dependent upon oil, the extraction of which is deemed a responsibility of the government and is subject to close National Assembly oversight.

## **International Regulatory Considerations**

Kuwait joined the General Agreement on Tariffs and Trade (GATT) in 1963 and became a founding member of the WTO in 1995. However, Kuwait is not a signatory to every WTO plurilateral agreement, such as the Agreement on Government Procurement. In April 2018, Kuwait deposited its Trade Facilitation Agreement instrument of ratification with the WTO after Kuwait's National Assembly approved the agreement the previous month.

Kuwait has been part of the GCC since its formation in 1981. The GCC launched a common market in 2008 and a customs union in 2015. The GCC continues to forge agreements on regional standards and coordinate trade and investment policies. American standards and internationally recognized standards are typically accepted. For more information regarding GCC standards and policies, please refer to the following GCC website: <http://www.gcc-sg.org/en-us/Pages/default.aspx>

## **Legal System and Judicial Independence**

Kuwait has a developed civil legal system, based in part on Egyptian and French law and influenced by Islamic law. Having evolved in a historically active trading nation, the court system in Kuwait is familiar with international commercial law. Kuwait's judiciary includes specialized courts, including a commercial court to adjudicate commercial law. Residents who are not Kuwaiti citizens involved in legal disputes with citizens have frequently alleged the courts show bias in favor of Kuwaiti citizens. Holders of legal residence have been detained and deported without recourse to the courts.

Persons who have been charged with criminal offenses, placed under investigation, or are involved in unresolved financial disputes with local business partners have in some cases been subjected to travel bans. Travel bans are meant to prevent an individual from leaving Kuwait until a legal matter is resolved or a debt settled. Travel bans may remain in place for a substantial period while the case is investigated, resolved, and/or prosecuted. Failure to repay a debt can result in a prison term ranging from months to years, depending upon the amount owed.

U.S. firms are advised to consult with a Kuwaiti law firm or the local office of a foreign law firm before executing contracts with local parties. Fees for legal representation can be very high. 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 be subject to lengthy delays, sometimes years, depending on the complexity of the issue and the parties involved. During these delays, U.S. citizens can be deprived of income streams related to their business venture and be forced to surrender assets and ownership rights before being allowed to depart the country. Sentences for drug-related convictions can include lengthy prison terms, life sentences, and even the death penalty.

## **Laws and Regulations on Foreign Direct Investment**

In an attempt to diversify the economy by attracting foreign investment and grow private sector employment, Kuwait passed a new foreign direct investment law in 2013 permitting up to 100 percent foreign ownership of a business – if approved by KDIPA. Without KDIPA approval, all businesses incorporated in Kuwait must be 51 percent-owned by Kuwaiti or GCC citizens and seek licensing through the Ministry of Commerce and Industry. In reviewing applications from foreign investors, KDIPA places emphasis on creating jobs and the provision of training and education opportunities for Kuwaiti citizens, technology transfer, diversification of national income sources, increasing exports, support for local small- and medium-sized enterprises, and the utilization of Kuwaiti products and services. KDIPA has sponsored 37 foreign firms, including six U.S. companies. In addition to KDIPA assistance in navigating the bureaucracy, available investment incentives include tax benefits, customs duties relief, and permission to recruit required foreign labor. Government control of land limits its availability for development.

In 2019, a set of criteria was introduced to assess applications and grant licenses to foreign investors. Decision No. 329 of 2019 enacted five main criteria for assessing licensing and granting incentives. The criteria covered the following: (i) transfer and settlement of technology, including tangible and intangible technological innovation and the enablement of knowledge creation; (ii) human capital, stressing job creation for nationals and employee development programs; (iii) market development; (iv) economic diversification; and (v) sustainable development in the areas of corporate social responsibility and environmental sustainability. Decisions on licenses and the granting of incentives are based on a “Points Scoring Mechanism” (PMS). Other recent legal measures to facilitate foreign direct investment and economic growth include Law No. 116 of 2014 regarding public-private partnerships (PPP) and a new Companies Law No. 1 of 2016. The PPP law created the Kuwait Authority for Partnership Projects (<http://www.kapp.gov.kw/en/Home>).

## **Competition and Anti-Trust Laws**

Kuwait’s open economy has generally promoted a competitive market. In 2007, the government enacted the Protection of Competition Law No. 10 and by-laws in 2012 that facilitated the establishment of a Competition Protection Authority to safeguard free commerce, ban monopolies, investigate complaints, and supervise mergers and acquisitions. The Competition Protection Authority presented a restructuring plan with the assistance of the World Bank to the Cabinet in 2018, which is still under review. In some previous years, U.S. investors have alleged instances of discrimination.

The Commercial Agency Law No. 13 of 2016 removed exclusivity, enabling foreign firms to have multiple agents to market their products.

In 2016, the National Assembly passed a new Public Tenders Law No. 49. All bids on government-funded infrastructure projects (excluding military and security tenders) in excess of KD 75,000 (USD 250,000) must be submitted to the Central Agency for Public Tenders. The law requires that foreign contractors bidding on government contracts purchase at least 30 percent of their inputs locally and award at least 30 percent of the work to local contractors, where available. The law favors local sourcing by mandating a 15 percent price preference for locally- and GCC-produced items, however this provision may be waived on a case-by-case basis.

### **Expropriation and Compensation**

Kuwait has had no recent cases of expropriation or nationalization involving foreign investments. The 2013 Foreign Direct Investment (FDI) Law guarantees investors against expropriation or nationalization, except for public benefit as prescribed by law. In such cases, investors should be compensated for the real value of their holdings at the time of expropriation. The last nationalization occurred in 1974.

### **Dispute Settlement**

#### *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.

#### *Investor-State Dispute Settlement*

The FDI law stipulates that Kuwaiti courts alone are responsible for adjudicating disputes involving a foreign investor, 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 Commercial Arbitration and Foreign Courts*

The recognition and enforcement of foreign arbitral awards occurs more expeditiously than 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. Accordingly, 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 of 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 ordered judgment that has been rendered by a local court in Kuwait and additionally does not contradict mandatory provisions or constitute criminal conduct, or violations to morality or public policy, under Kuwaiti laws.

Alternative Dispute Resolution (ADR) mechanisms include conciliation, negotiation, and mediation. These mechanisms 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 through the Kuwait Arbitration Center, located at the Kuwait Chamber of Commerce and Industry. They also define regulations for international conventions, free trade agreements, and the just application of the reciprocal clause between parties.

### **Bankruptcy Regulations**

Bankruptcy is still governed under Law No. 68 of 1980, which does not meet international standards in covering the full range of companies, or in restructuring debt. While the 1980 law does not criminalize bankrupt individuals, indebtedness may result in incarceration, and a bankruptcy declaration limits political rights. A bankrupt individual may not serve as a candidate or elector in any political position, 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. Kuwait is working with the World Bank to draft bankruptcy legislation designed to assist businesses to recover from financial difficulties as an alternative to liquidation. The Council of Ministers approved new legislation to support competition and create bankruptcy protections and sent it to the National Assembly, whereas of May 2020 it was in committee.

## **4. Industrial Policies**

### **Investment Incentives**

Incentives under the 2013 FDI Law include tax benefits (15 percent corporate tax on foreign firms may be waived for up to 10 years), customs duties relief, land and real estate allocations, and permissions to recruit required foreign labor.

Other tax benefits exist. For example, entities incorporated in the GCC that are 100 percent owned by GCC nationals are exempt from paying a tax on corporate profits.

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.

Kuwait does not have personal income, property, inheritance, or sales taxes; the government is preparing legislation to implement a value added tax and certain excise taxes.

### **Foreign Trade Zones/Free Ports/Trade Facilitation**

The Kuwait Free Trade Zone was established at Shuwaikh port in 1999. The Council of Ministers approved legislation that would establish a new Free Trade Zone area as part of Kuwait's Northern Gateway megaproject. The legislation is pending in the National Assembly. Many restrictions normally faced by foreign firms, as well as corporate taxes, would not apply within the free trade zone. KDIPA is planning to utilize existing legislation to develop two new free trade zones at Al-Abdali and Al-Nuwiseeb. The Council of Ministers issued a resolution dissolving the Free Trade Zone status at Shuwaikh port because that area will be used for other purposes.

### **Performance and Data Localization Requirements**

The government requires foreign firms to hire a percentage of Kuwaitis that varies according to sector. The percentages are as follows: banking: 75 percent

- banking: 75 percent
- communications: 65 percent
- investment and finance: 40 percent
- petrochemicals and refining industries: 30 percent
- insurance: 22 percent
- real estate: 20 percent
- air transportation, foreign exchange, cooperatives: 15 percent
- manufacturing and agriculture: 3 percent

Employers must obtain a no-objection certificate for a work permit for foreign employees from the Public Authority for Manpower (PAM) prior to the employee's arrival in the country. Obtaining a no-objection certificate requires submission of the employee's criminal history and a completion of a health screening through a Kuwaiti Embassy or Consulate. Upon arrival, the employee must obtain a work permit from PAM and complete health and security screenings before receiving final status as a resident foreign worker from the Ministry of Interior.

Kuwait does not require that foreign companies store data locally, or that foreign investors use Kuwaiti domestic content when manufacturing goods locally. Each company may determine whether and how it chooses to store data. Most governmental agencies follow International Organization for Standardization (ISO) certificate standards, which mandate the storage of data for five years. Banks and other financial institutions are required by the Anti-Money Laundering/Combating the Financing of Terrorism Law 106 of 2013 to maintain transactions data for five years.

## 5. Protection of Property Rights

### **Real Property**

Non-GCC citizens may own properties only under special conditions that require Cabinet approval. Kuwait ranked 45 out of 190 in Ease of Registering a Property in the World Bank's *Doing Business 2020* report.

### **Intellectual Property Rights**

Kuwait has taken significant strides to improve intellectual property rights. Kuwait acceded to the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) in 1995 and the World Intellectual Property Organization (WIPO) Patent Cooperation Treaty in 2016. The government enacted the GCC Trademark Law in 2015. In 2019, Kuwait passed the Copyright and Related Rights Law and related Implementing Regulations. The Office of the U.S. Trade Representative (USTR) moved Kuwait from the Priority Watch List to the Watch List in its 2020 Special 301 Report because of the new copyright legislation and an increase in intellectual property enforcement actions. The Special 301 Report identifies countries that are trading partners that do not adequately or effectively protect and enforce intellectual property rights (IPR).

Right holders continue to raise concerns regarding the lack of transparency of administrative and criminal enforcement proceedings. The government did not prioritize the prosecution of criminal behavior in such cases nor reduce the undue delays in the judicial process.

The following descriptions characterize the protection of IPR in Kuwait:

- Trademarks: strong; trademark applications can be filed at the Kuwaiti Trademark Office, organized under the Ministry of Commerce and Industry. Kuwait applies the GCC trademark law.
- Patents: strong; the Kuwait Patent Office announced that it began accepting Patent Cooperation Treaty compliant national applications in March 2018.
- Copyright: medium; can be protected by the Ministry of Information/National Library of Kuwait. The IPR enforcement regime has improved, most notably in the following areas:

- The Ministry of Information (MOI) has conducted raids, seized pirated goods (such as DVDs), and referred cases for prosecution. In addition, it continued blocking Internet domains that allow downloads of pirated copyrighted materials and websites that sell counterfeit goods.
- The Criminal Investigations Department (CID) established a specialized IPR unit to combat counterfeit goods. Brand owners are able to bring complaints directly to this unit for action in cooperation with the Ministry of Commerce and Industry. The CID conducted raids and criminal proceedings on a range of pirated and counterfeit physical goods.
- Ministry of Commerce and Industry performed raids and seizures under the direction of the Assistant Undersecretary of Trade Control but focused more on small retail shops than more strategic targets like sources and suppliers of counterfeit goods.
- General Administration of Customs officials improved enforcement in part due to their close collaboration with U.S. Customs and Border Protection. Kuwait Customs' Intellectual Property Rights Unit reported 340 seizures of counterfeit or pirated goods last year, enhanced outreach and communication with brand owners and copyright owners, and no longer permitted the re-export of seized counterfeit goods. For additional information about national laws and points of contact at local IP offices, please see WIPO's country profiles at the following website: <http://www.wipo.int/directory/en>

#### **Resources for Rights Holders**

Mr. Peter Mehravari

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Embassy list of local lawyers:

<http://2016.export.gov/kuwait/businessserviceproviders/index.asp>

## 6. Financial Sector

### **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. Existing policies and infrastructure facilitate the free flow of financial resources into the capital market.

Government bodies comply with guidelines outlined by IMF Article VIII and refrain from restricting payments and transfers on current international transactions. In November 2015, the Capital Markets Authority issued a regulation covering portfolio management, but it does not apply to foreign investors.

The privatized stock exchange, named the Boursa, lists 172 companies. In February 2019, a consortium led by Kuwait National Investment Company that included the Athens Stock Exchange won a tender to acquire 44 percent of the Kuwaiti Boursa. In December 2019, the Capital Markets Authority sold its 50 percent stake in the Kuwaiti Boursa as part of an Initial Public Offering. The offering was oversubscribed by more than 8.5 times. Kuwait's Public Institution for Social Security owns the remaining six percent of shares.

FTSE Russell upgraded the status of the Boursa to Secondary Emerging Market in 2017. In March 2019, MSCI announced a proposal to reclassify the MSCI Kuwait Index from Frontier to Emerging Markets. MSCI aims to implement the potential reclassification to coincide with the May 2020 Semi-Annual Index Review.

While the debt market is not well developed, local banks have the capacity to meet domestic demand. Credit is allocated on market terms. Foreign investors can obtain local credit on terms that correspond to collateral provided and intended use of financing. The private sector has access to a variety of credit instruments. The Central Bank restricts commercial banks' use of structured and complex derivatives but permits routine hedging and trading for non-speculative purposes. In March 2017, the government issued USD 8 billion in five- and ten-year notes but was unable to secure approval from the National Assembly for issuance of 30-year notes.

### **Money and Banking System**

The Central Bank of Kuwait reported that banking sector assets totaled KD 72.77 billion (USD 232.42 billion) in March 2020.

Twenty-two banks operate in Kuwait: five conventional local banks, five Islamic banks, 11 foreign banks, and one specialized bank. Conventional banks include: 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. Foreign banks include: BNP Paribas, HSBC, Citibank, Qatar National Bank, Doha Bank, Dubai-based Mashreq Bank, the Bank of Muscat, Riyadh-based Al Rajhi Bank (the largest Sharia-compliant bank in the world), the Bank of Bahrain and Kuwait (BBK), the Industrial and Commercial Bank of China (ICBC), and Union National Bank. The government-owned Industrial Bank of Kuwait provides medium- and long-term financing to industrial companies and Kuwaiti citizens through customized financing packages. In December 2018, the Ministry of Commerce and Industry began permitting more than 49 percent foreign ownership in local banks with the approval of the Central Bank of Kuwait.

Following the global financial crisis in 2008 when large losses reduced confidence in the local banking sector, the Council of Ministers and the National Assembly passed legislation to guarantee deposits at local banks to rebuild confidence.

Foreign banks can offer retail services. In 2013, the Central Bank announced that foreign banks could open multiple branches on a case-by-case basis. In 2017, the Al-Rajhi Bank opened its second branch. Qatar National Bank received CBK's approval in 2014 and opened its second branch in 2018. Kuwaiti law restricts foreign banks from offering investment banking services. Foreign banks are subject to a maximum credit concentration equivalent to less than half the limit of the largest local bank and are prohibited from directing clients to borrow from external branches of their bank. Foreign banks may also open representative offices.

## **Foreign Exchange and Remittances**

### *Foreign Exchange*

The Kuwaiti dinar has been tied to an undisclosed and changing basket of major currencies since May 2007. Reverse engineering suggests that the U.S. dollar accounts for some 70-80 percent of this basket. Foreign exchange purchases must be processed through a bank or licensed foreign exchange dealer. Equity, loan capital, interest, dividends, profits, royalties, fees, and personal savings can be transferred into or out of Kuwait without hindrance. The Foreign Direct Investment Law permits investors to transfer all or part of their investment to another foreign or domestic investor, including cash transfers.

### **Remittance Policies**

No restrictions exist on the inflow or outflow of remittances, profits, or revenue. Foreign investors may elect to remit through a legal parallel market, including one using convertible, negotiable instruments. Nevertheless, each investor must ensure compliance with Kuwait's anti-money laundering laws. Time limitations or waiting periods do not apply to remittances. Kuwait is not known to engage in currency manipulation. The Central Bank advises buy, sell, and middle rates daily.

### **Sovereign Wealth Funds**

The Kuwait Investment Authority (KIA) manages the Kuwait General Reserve Fund and the Kuwait Fund for Future Generations. By law, ten percent of oil revenues must be deposited each year into the Fund for Future Generations. KIA management reports to a Board of Directors that is appointed by the Council of Ministers. The Minister of Finance chairs the board; other members include 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 must not hold any other public office). An internal audit office reports directly to the Board of Directors and an external auditor. This information is provided to the State Audit Bureau, which audits KIA continuously and reports annually to the National Assembly.

The 1982 law establishing the KIA prohibits the public disclosure of the size of sovereign wealth holdings and asset allocations. KIA conducts closed-door

presentations for the Council of Ministers and the National Assembly on the full details of all funds under its management, including its strategic asset allocation, benchmarks, and rates of return. The Sovereign Wealth Fund Institute estimated that KIA manages one of the world's largest sovereign funds with more than USD 533 billion in assets as of May 2020.

## 7. State-Owned Enterprises

The energy sector is dominated by parastatals, as law precludes private participation in most sector activities. Outside the energy sector, Kuwait has few fully state-owned enterprises (SOEs). One notable exception is Kuwait Airways. No published list of SOEs exists. The government owns shares in various Kuwaiti companies through the Fund for Future Generations managed by the KIA or the Social Security Fund managed by Kuwait's Public Institution for Social Security. SOEs are permitted to control their own budgets.

### **Privatization Program**

The National Assembly has passed several privatization laws since 2008. One legal stipulation is that Kuwaiti employees have the right to retain their jobs in a privatized company for at least five years with the same salary and benefits. Another stipulation is that the privatization of any public service must offer shares as follows: 40 percent of shares reserved for Kuwaiti citizens;

- 40 percent of shares reserved for Kuwaiti citizens;
- 20 percent of shares retained by the government;
- five percent of shares distributed to Kuwaiti employees, both former and current; and
- the remaining 35 percent of shares sold at auction to a local or foreign investor.

Telecommunications is the largest service sector in Kuwait. The Ministry of Communications owns and operates landlines and owns a fiber optic network. Internet providers may access both landlines and fiber optic networks. Three private mobile telephone companies provide cellular telephone and data services to the country. The government owns a significant minority interest in each, but foreign companies own majority interests in two of them. In 2014, the National Assembly passed legislation creating the independent Communication and Information Technology Regulatory Authority (CITRA), in part to prepare for the liberalization of mobile communications and Internet markets. Officially opened in 2016, CITRA serves as the primary national telecom regulator and cybersecurity agency. CITRA also has a mandate to attract hi-tech investment.

## 9. Corruption

Corruption is criminalized, and several investigations and trials involving current or former government officials accused of malfeasance are active.

Transparency International's 2019 Corruption Perceptions Index ranked Kuwait 85 out of 180 countries. Within the GCC, Kuwait ranked behind UAE, Qatar, Saudi Arabia, and Oman, ahead of only Bahrain. According to Transparency International, Kuwait's numeric score of 40 (out of 100) indicated that the country has a serious corruption problem.

The often-lengthy procurement process in Kuwait occasionally results in accusations of attempted bribery or the offering of other inducements by bidders. In 1996, the government passed Law No. 25, which required all companies securing contracts with the government valued at KD 100,000 (USD 330,000) 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.

Kuwait signed the UN Convention Against Corruption in 2003 and ratified it in 2007. In 2016, the National Assembly passed legislation to establish the Anti-Corruption Authority, also known as Nazaha (integrity). The legislation was passed to comply with the United Nations Convention Against Corruption. Nazaha has sent several cases to the Public Prosecution Office for failure to comply with financial disclosure requirements.

### **Resources to Report Corruption**

Contact information for the government agency responsible for combating corruption is as follows:

Mr. Abdulrahman Nimash Al-Nimash.  
President  
Kuwait Anti-Corruption Authority (Nazaha)  
Shamiya, Block 2, Opposite Wahran Park, Kuwait City, Kuwait  
Tel: +965 2464-0200/118  
Email: [contact@nazaha.gov.kw](mailto:contact@nazaha.gov.kw)

## 10. Political and Security Environment

The U.S. Embassy occasionally receives threat information indicating possible targeting of official and private U.S. citizens for terrorist attacks. Soft targets are vulnerable to

terrorist attack, although many have made improvements to their perimeters and internal security. There have been no terror incidents in Kuwait since 2016. There have been no attacks targeting businesses or infrastructure. Since late 2013, Kuwait has seen no large-scale, politically motivated demonstrations. U.S. citizens are encouraged to enroll in the U.S. Department of State's Smart Traveler Enrollment Program (STEP) for up-to-date information from the Embassy. The Department of State shares credible threat information through its Consular Information Program, including Travel Advisories, Alerts, and Country Information for Kuwait, available at <https://travel.state.gov/content/travel.html> or the Embassy's website: <https://kw.usembassy.gov/>.

## 11. Labor Policies and Practices

Kuwait has a diverse labor force. According to the Public Authority for Civil Information (PACI), 2.5 million expatriate workers account for 86 percent of Kuwait's 2.9 million workers. Many expatriate workers are low-paid laborers from other Middle Eastern countries, South Asia, and the Philippines working in Kuwait under a legally established "sponsorship" system. Abuse of the sponsorship system is widespread.

A number of white-collar workers from advanced countries occupy high-skilled positions in Kuwait, while many middle management positions are occupied by Egyptian, Lebanese, and South Asian nationals.

Kuwaiti nationals occupy most of the top management positions in the private and public sectors. Unemployment among Kuwaitis is quite low, despite the growing influx of young Kuwaitis moving into the labor force. The new entrants are reluctant to enter the private sector and cannot easily be absorbed by the government. According to the Public Authority for Manpower, the number of Kuwaiti citizens working in the private sector totaled 72,000 as of February 2020.

Given the fiscal deficit, IMF staff have stressed that limiting public sector employment growth should be part of broader public sector reforms and accompanied by efforts to boost private sector job and entrepreneurship opportunities for the youth.

Since 1991, the government has adopted inconsistent policies intended to limit growth of the resident expatriate population, however this population has continued to increase steadily. Lower-paid, unskilled workers often suffer unfavorable working conditions. The government has a labor tracking system to allow companies 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 Kuwaiti sponsors could create ghost positions and sell the visas for personal profit. The consequence of the fraud was the

importation of workers who then found themselves unemployed. These workers often remained in country working illegally. 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.

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. The law permits only one federation, the Kuwait Trade Union Federation, which comprises 15 of the 47 licensed unions. Foreign workers are permitted by law to join unions only as non-voting members after five years of work in the particular sector the union represents. Private sector workers have the right to strike; however, negotiation and arbitration are compulsory in the case of disputes. Public sector workers do not have the legal right to strike, though groups of public sector workers threatened to strike on occasion during the past few years. Kuwaiti labor law prohibits anti-union discrimination.

Separate Kuwaiti labor laws establish work conditions in the public and private sectors, except for the oil sector. Kuwaiti law prohibits forced labor. Workers in industrial and dangerous jobs must be at least 18 years old; youth under the age of 18 can work part-time in some non-industrial positions. A multi-tiered labor market ensures higher wages for Kuwaiti employees. In the private sector, the minimum wage is KD 75 (USD 250) per month. In the public sector, the minimum wage is KD 250 (USD 825) per month for Kuwaiti bachelors and KD 325 (USD 1,070) per month for married Kuwaitis, plus KD 50 (USD 165) for each child, compared to a standard monthly minimum wage of KD 90 (USD 295) for non-Kuwaitis in the public sector. Kuwaitis, whether employed in the private or public sector receive substantial government payments on top of their base salaries. The amended labor law of 2010 did not change the previous workweek maximum from 48 hours but extended annual leave to 30 days after six months of employment. Labor laws are not consistently enforced and disputes over the payment of salaries and contract switching are common, especially among unskilled workers. A different set of laws and regulations cover domestic (household) workers.

The International Labor Organization's (ILO) Committee of Experts has longstanding criticisms concerning 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 to trade union leadership positions for foreign workers; the prohibition against trade unions engaging in political or religious activity; and the reversion of trade union assets to the Public Authority for Manpower in the event of dissolution.

During recent years, the Government of Kuwait has taken several measures to address human trafficking and to improve protections for workers. In 2016, the government

passed several new amendments to the 2010 private sector labor law that increased penalties for those involved in visa trading and illegally employing workers.

Since 2007, labor laws have banned women from working between 10:00 p.m. and 7:00 a.m., except for sectors approved by the Public Authority for Manpower such as nurses. The law also banned women from working in jobs that are judged to be hazardous, rough, and damaging to health, as well as in immoral jobs that abuse women's femininity and in places that exclusively serve men.

Kuwait's Public Authority for Manpower assists all residents of Kuwait with private sector employment and labor disputes. Offices assist residents according to the location of the employer and are open Sunday through Thursday, 8:00 a.m. – 1:00 p.m. Some expatriate residents have reported that the offices were unable to provide any assistance. It is recommended that residents seeking assistance be accompanied by an Arabic speaker. Following is information on Public Authority for Manpower offices:

Capital Business Administration: Sharq,  
Mohammad al-Haqan Street  
Tel: +965 2246-6830 and 2246-6831

Hawalli Business Administration: Hawalli  
Tunis Street, opposite Ahli Bank of Kuwait  
Tel: +965 266-0229 and 2266-0228

Al-Farwaniya Business Administration: Dajeej  
Adjacent to General Department of Criminal Evidence  
Tel: +965 2431-9555

Al-Jahra Business Administration: Saad al-Abdullah (Amgarah)  
Street 1, Block 10  
Tel +965 9494-5446

Al-Ahmadi Business Administration: Al Ahmadi  
Next to Kuwait Oil Company  
Block 1, Street 20  
Tel: +965 2398-2059

Mubarak Al-Kabeer Business Administration: Mubarak Al-Kabeer  
Co-op #4, beside National Bank of Kuwait and Kuwait Finance House  
Tel: +965 2543-8595

The Public Authority for Manpower offers Arabic and English responses via their Twitter handle: @manpower\_KWT, or Instagram account: pr.manpower. The Authority attempts to answer inquiries within one business day.

## 12. U.S. International Development Finance Corporation (DFC) 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, now the U.S. International Development Finance Corporation (DFC). There are no active DFC programs in Kuwait currently. Kuwait is a member of the Multilateral Investment Guarantee Agency.

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

According to the 2019 World Investment Report published by the United Nations Conference on Trade and Development, Kuwait attracted USD 346 million in foreign direct investment in 2018, compared to USD 3.75 billion in foreign direct investment outflows.

According to the U.S. Department of Commerce Bureau of Economic Analysis, 2018 U.S. direct investment in Kuwait was USD 313 million, up from USD 296 million in 2017. Kuwait's FDI position in the United States totaled USD 1.26 billion in 2018. Kuwaiti direct investment in the United States is primarily in real estate. Estimates of total Kuwaiti investment in the United States, including securities and real estate, range from USD 500 billion to USD 1 trillion.

Economic Data	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) (\$M USD)	2017	\$117,267	2019	\$134.761,645	<a href="https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=KW">https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=KW</a>
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	N/A	2018	\$313 million	

Host country's FDI in the United States (\$M USD, stock positions)	N/A	N/A	2018	\$1,257	<a href="https://apps.bea.gov/international/factsheet/factsheet.cfm">https://apps.bea.gov/international/factsheet/factsheet.cfm</a>
Total inbound stock of FDI as % host GDP	N/A	N/A	2019	10.9%	<a href="https://unctad.org/en/Pages/DIAE/World%20Investment%20Report/Country-Fact-Sheets.aspx">https://unctad.org/en/Pages/DIAE/World%20Investment%20Report/Country-Fact-Sheets.aspx</a>

\*Host country source:

<https://www.cbk.gov.kw/en/statistics-and-publication/publications/quarterly-statistical-bulletin>

#### 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	14,742	100%	Total Outward	32,852	100%
Qatar	3,464	23%	Saudi Arabia	4,722	14%
Bahrain	967	7%	Bahrain	3,768	11%
UAE	727	5%	Cayman Islands	3,754	11%
Saudi Arabia	691	5%	Iraq	3,178	10%
Oman	491	3%	Turkey	2,693	8%

"0" reflects amounts rounded to +/- USD 500,000.

#### Portfolio Investment Assets

##### Top Five Partners (Millions, current US Dollars)

Total			Equity Securities			Total Debt Securities		
All Countries	16,649	100%	All Countries	9,501	100%	All Countries	7,148	100%
Bahrain	4,462	27%	Bahrain	3,786	40%	UAE	1,795	25%
UAE	2,324	14%	Saudi Arabia	1,425	15%	Saudi Arabia	893	12%
Saudi Arabia	2,318	14%	United States	1,102	12%	Malaysia	876	12%
United States	1,670	10%	Cayman Islands	814	9%	Bahrain	676	9%
Cayman Islands	923	6%	United Kingdom	696	7%	Qatar	617	9%

## 14. Contact for More Information

Economic Section  
U.S. Embassy Kuwait

P.O. Box 77

Safat 13001

Kuwait

+965 2259 1001

**[KuwaitDirectLine@state.gov](mailto:KuwaitDirectLine@state.gov)**