KUWAIT

TRADE SUMMARY

U.S. goods exports in 2013 were $2.6 billion, down 3.3 percent from the previous year. Corresponding U.S. imports from Kuwait were $12.6 billion, down 2.9 percent. The U.S. goods trade deficit with Kuwait was $10.0 billion in 2013, down $295 million from 2012. Kuwait is currently the 54th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Kuwait was $331 million in 2012 (latest data available), up from $158 million in 2011.

IMPORT POLICIES

Tariffs

As a member of the Gulf Cooperation Council (GCC), Kuwait applies the GCC common external tariff of 5 percent, with a limited number of GCC-approved country-specific exceptions. Kuwait's exceptions include 417 food and agriculture items that are exempt from customs duties. Tobacco products are subject to a 100 percent tariff rate.

Import Prohibitions and Licenses

Kuwait prohibits the importation of alcohol and pork products and requires a special import license for firearms. Used medical equipment and automobiles over five years old cannot be imported. The importation of books, periodicals, or movies that insult religion and public morals, and all materials that promote political ideology, is prohibited. All imported meat requires a health certificate issued by the country of export and a halal food certificate issued by an approved Islamic center in that country.

Kuwait also maintains import bans on certain agricultural products due to health safety concerns.

GOVERNMENT PROCUREMENT

The Public Tenders Law (No. 37 of 1964, modified by Laws No. 13 and 31 of 1970 and 1977, respectively) regulates government procurement in Kuwait and requires that any procurement with a value greater than KD 5,000 (approximately $17,727) be conducted through the Central Tenders Committee. Kuwait's government procurement policies require the purchase of local products, where available, and provide a 10 percent price preference for local firms.

Kuwait is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Kuwait remained on the Watch List in the 2013 Special 301 Report, largely as a result of its failure to draft and pass amendments to its 1999 copyright law that would help provide adequate and effective protection of copyrights. This is in spite of repeated urging over time by the U.S. Government that the law be improved. Kuwait's current copyright law does not provide for sufficient deterrent criminal penalties, and there are insufficient resources allocated to IPR enforcement at the border. Although the U.S. Government has provided technical assistance on several iterations of draft legislation since 1999 to address these issues, the U.S. Government remains concerned that the proposed legislation does not yet meet international standards.

As the six Member States of the GCC explore further harmonization of their IPR regimes, the United States will continue to engage with GCC institutions and the Member States and provide technical cooperation on intellectual property policy and practice.

SERVICES BARRIERS

Banking

Kuwait continues to limit investment in the banking sector under the 2001 Direct Foreign Capital Investment Law. Foreign non-GCC banks operating in Kuwait may only open one branch, may only offer investment banking services, and are prohibited from competing in the retail banking sector. As of October 2013, GCC banks operating in Kuwait may now open two branches and may compete in the retail banking sector. Although no GCC bank has yet to open a second branch, local Kuwaiti banks are reportedly unhappy with this new foreign competition. Foreign banks are still subject to a maximum credit concentration equivalent to less than half the limit of the largest local bank and are expressly prohibited from directing clients to borrow from external branches of their bank or taking any other measures to facilitate such borrowing.

Telecommunications

The Ministry of Communications is responsible for overseeing the telecommunications sector, but it also continues to own and operate the incumbent provider of wireline services, which also provides broadband services. Although the National Assembly passed a law to establish an independent commission to oversee mobile, landline, and broadband services, Kuwaiti officials have not taken the necessary steps to implement the law. The wireless sector is competitive, with three mobile providers.

INVESTMENT BARRIERS

Major barriers to foreign investment in Kuwait include: regulations prohibiting foreigners from investing in natural resources exploration and production, real estate, and publishing, continued long delays associated with starting new enterprises, difficulty in finding a required local sponsor and agent in certain circumstances, and obstacles created by a business culture heavily influenced by clan and family relationships. Foreign investment is not allowed in projects involving oil and gas exploration and production. Kuwait does permit foreign firms to participate in some midstream and downstream activities in the oil and gas sector, but foreign investors in this sector have faced numerous challenges.

In June 2013, Kuwait issued a new Foreign Direct Investment Law (Law No. 116 of 2013 Regarding the Promotion of Direct Investment in the State of Kuwait), which updates the 2001 Direct Foreign Capital Investment Law in an effort to encourage more foreign direct investment (FDI) in Kuwait by making it easier for investors to obtain an "Investment License." Under the new law, the Kuwaiti government will create a new public authority led by a board of directors composed of public and private sector representatives and chaired by the Minister of Commerce and Industry and will establish a one-stop shop composed of all necessary government entities to streamline the approval and licensing process for investors. The processing time for the issuance of the "Investment License" will be capped at a maximum of 30 days from the date the public authority receives a completed application. The new law also mandates the issuance of a "Negative List" by the Council of Ministers that will clearly indicate the sectors in which foreign investment is prohibited under Kuwaiti law. Significantly, the new law provides that foreign firms will be permitted to wholly-own companies in all sectors not specifically listed on the

"Negative List." Once the new public authority issues the necessary bylaws and regulations, the Kuwait Foreign Investment Bureau, established in accordance with the previous FDI law of 2001, will transfer all its funds, assets, obligations, and liabilities to the public authority.

Offset Requirements

Kuwait's National Offset Company (NOC) administers requirements that foreign companies awarded military contracts valued at or above KD 3 million ($11 million), civil/government contracts valued at or above KD 10 million ($36.5 million), and all downstream oil/gas contracts, dedicate 35 percent of the contract value to target investment into specific sectors of Kuwait's economy that either create jobs for Kuwaitis, train Kuwaitis, or transfer technology to Kuwaiti companies. Financial incentive offset multipliers reduce the total amount of the offset obligation and are available to foreign companies that invest in projects that achieve NOC objectives. A bank guarantee of 6 percent of the contract value is expected to be provided to the NOC until the offset obligation is fulfilled. The NOC's most recent offset program guidelines are available online at http://www.kuwaitnoc.com. Foreign companies are also now able to take advantage of Kuwait's new Foreign Direct Investment Law when establishing new companies to satisfy their offset obligations, including the establishment of 100 percent foreign-owned companies, tax and customs exemptions, and the employment of foreign labor.