Business environment

Kuwait: Government looks to improve the business environment

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Kuwait has been pushing ahead with reforms aimed at improving the overall business environment in the country. Laws pertaining to public-private partnerships (PPP), foreign direct investment (FDI) and small and medium-sized enterprises (SME) have recently gone into effect at a time when the government is seriously looking at ways to reduce its dependence on oil as the main source of state revenue.

Moreover, the current environment of low oil prices might provide just the right incentive to accelerate efforts even though Kuwait, with sufficient financial reserves and one of the lowest breakeven oil prices among oil exporters, is in a more comfortable position than some of its OPEC peers, for example, to weather the downturn.

Government pushes ahead with needed reforms

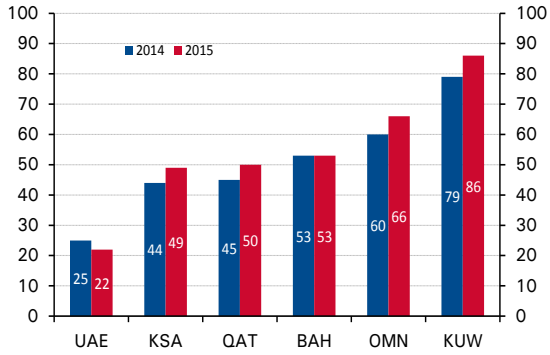
The government recently passed its second 5-year development plan (2015-2020). According to the plan, Kuwait has set three major economic goals: to increase the contribution of the non-oil sector to overall economic output (GDP) to 55% by 2020, from a current 37%; to increase the contribution of the private sector to overall GDP from the current average of 25% to 34%; and to increase the number of Kuwaitis employed in the private sector above the current 21%. Kuwait's plans are very much in line with the development goals being pursued by its neighbors in the GCC. All are looking to diversify their economies, stimulate non-oil activity and investment and boost employment of nationals in the private sector.

In Kuwait, the passage of legislative reforms has eased considerably since 2012; a permanent government committee for this purpose has been set up and key reforms relating to PPPs, FDI, and SMEs have been introduced. The government has also benefitted from closer links with the World Bank and the International Monetary Fund (IMF), whose advisors have been looking at ways to improve Kuwait's business environment, to diversify its economy and to reduce its traditional reliance on the oil sector.

New companies law aims to overhaul business practices

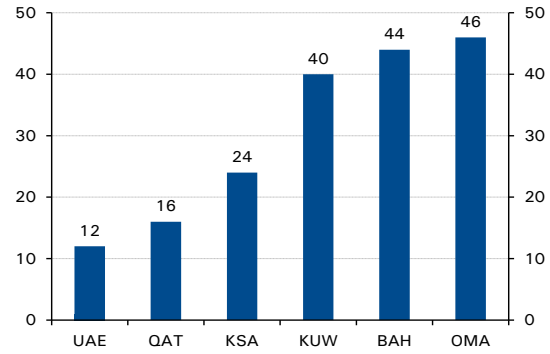
In 2012, the government passed a new law for companies to replace the previous law of 1960. Seen as a complete overhaul of the way business is done in Kuwait, the new law mandates the ministry of commerce to establish a 'one-stop shop' unit for all government agencies relating to starting a business. This should in theory help speed up the process of starting a business. Some key reforms in the new law include the introduction of professional, non-profit and single person companies as well as Special Purpose vehicles (SPVs). The law also made drastic changes to company management schemes, separating chairmanship from executive roles and mandating boards to hold at least six meetings annually and Sharia Compliant companies to have a Sharia board. However, potentially the most significant addition concerns the protection of minority investors, where shareholders now have the right to view corporate documents and appoint outside auditors to review company

Chart 1: GCC 'Doing Business' rankings 2014-2015
(lower rank indicates better performance)



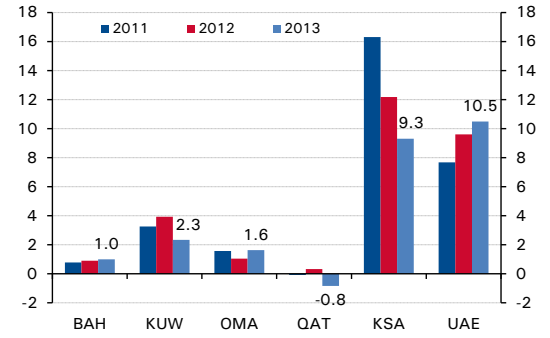
Source: World Bank Doing Business 2015 report

Chart 2: GCC competitiveness rankings 2014-2015
(lower rank indicates better performance)



Source: WEF Global Competitiveness Report 2014-2015

Chart 3: GCC FDI inflows (2011-2013)
($ billion)



Source: UNCTAD World Investment Report 2014

activities. The World Bank viewed this positively in last year's Doing Business report.

Challenges remain, however, with setting up the 'one-stop shop' and dealing with all the issues associated with starting a business such as issuing permits, securing electricity and registering property.

Kuwait is looking to its new FDI law to turn things around

In an effort to improve the attractiveness of Kuwait as a destination for FDI, the authorities unveiled in 2013 new draft regulations to supersede the previous set of FDI regulations dating from 2001. Law no 116/2013 regarding the promotion of direct investment, establishes a fully autonomous entity, the Kuwait Direct Investment Promotion Authority (KDIPA), to oversee the entire process of approving and licensing foreign investments in the country. Through the establishment of a 'one-stop shop' within KDIPA, the authorities hope to cut red tape and make the entire FDI licensing process less time consuming and more efficient. Under the new law, KDIPA will now be obliged to respond to investors' requests for FDI licenses within 30 days; the previous law had granted the authorities a turnaround time of up to 8 months.

Moreover, in an attempt to minimize uncertainty and confusion about which sectors of the economy are open to or off limits to foreign investment, the authorities have introduced a "negative list" to replace the "positive" list that was operating under the old law. Now, as well as theoretically opening up more sectors of the economy to FDI, foreign investors will be able to clearly identify the sectors in which FDI is not permitted. (See Table.) According to press reports, US technology giant IBM is the first company to be granted a license under the new structure.

Table : List of sectors not open to FDI

Extraction of crude petroleum
Extraction of natural gas
Manufacture of coke oven products
Manufacture of fertilizers and nitrogen compounds
Manufacture of gas; distribution of gaseous fuels through mains
Real Estate , excluding privately operated building development projects
Security and investigation activities
Public administration and defense; compulsory social security
Activities of membership organizations
Activities of hiring labor including domestic labor.

Source: KDIPA

For the authorities, stimulating FDI is a key strategic objective; the country's need for FDI is primarily in relation to the innovation and technology dividend that foreign investment could offer for the domestic economy rather than capital per se, which the country is not short of.

According to the World Investment Report 2014, published by the United Nations Conference on Trade and Development (UNCTAD), Kuwait ranks as the top exporter of FDI among GCC nations, investing over $8.4 billion abroad in 2013. Over the last 10 years, Kuwait has managed to attract only 3.3% of all FDI inflows to the GCC. And in 2013, the most recent year for which there is full year data, FDI inflows declined, to $2.3 billion from $4 billion the year before. (Chart 3.) As per its mandate, KDIPA is tasked with reversing the equation i.e. attracting more FDI towards Kuwait while keeping domestic capital inside the country.

Kuwait to lure the private sector with a KD 8 billion promise of PPPs

Since the rollout of Kuwait's first 5-year plan in 2009, the government has been promising to increase the participation of the private sector in economic development, particularly through public-private partnerships (PPPs). ‹Kuwait claimed its first successful PPP in 2013 with the launch of phase 1 of the KD 2.4 billion Al-Zour North Independent Water and Power Producer (IWPP) project. Following its launch, officials drafted a more comprehensive law regulating the sector, dealing with many of the issues that arose from the original PPP.

Prior to 2014, Kuwait only had the 2008 BOT law, which was limited in scope. However, the new law establishes a public authority to handle all PPP schemes. The Kuwait Authority for Partnership Projects (KAPP) has already announced that Al-Khairan IWPP and phase 2 of the Al-Zour North IWPP will be their next projects. KAPP will also be handling the Kuwait metro and railroad projects that have been reinstated. According to the new five-year plan (2015-2020), Kuwait has 22 PPP projects (including Al-Zour North IWPP Phase 1) with a combined value of KD 8 billion in the projects pipeline.

Kuwait establishes a KD 2 billion fund to stimulate small business

In 2013, parliament passed a law establishing a KD 2 billion Small and Medium Enterprises (SMEs) Fund to help small businesses secure financing by closing the lending gap between banks and SMEs. As the IMF noted in its recent Article IV on Kuwait, SMEs account for about 50% of licenses granted to new businesses but receive only about 2.3% of total corporate loans.

The law isn't the government's first attempt to promote SMEs as a means of developing the private sector; the country's first 5-year plan clearly stated the goal of increasing the percentage of Kuwaitis in the private sector from 6.7% to 9.2% by 2020. But the new law also guarantees Kuwaiti entrepreneurs who leave the public sector their old jobs should their private sector ventures fail. Recently in November 2014, a memorandum of understanding (MoU) was signed with Techstars, a prominent US startup accelerator, to help promote entrepreneurship and SMEs. The fund has begun operating after the bylaws were issued.

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