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Trade Policy Review Body

TRADE POLICY REVIEW

Report by the Secretariat

THE STATE OF KUWAIT

Revision

This report, prepared for the first Trade Policy Review of The State of Kuwait, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from the State of Kuwait on its trade policies and practices.

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Document WT/TPR/G/258 contains the policy statement submitted by The State of Kuwait.

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SUMMARY

1. The State of Kuwait is implementing a new development strategy centred on a liberal trade regime with the objective of reducing the economy's high dependence on crude oil and natural gas, which accounts for nearly half of GDP, 95% of export revenues, and more than 80% of government income. To this end, steps are being taken to improve the country's business environment, increase productivity growth of the non-energy sectors, and increase the participation of the private sector (local and foreign) in the economy from its current low level of about 25%.

2. Kuwait also needs to further improve its infrastructure and logistics, reduce the State's heavy involvement in many economic activities, make the leasing of land more predictable over the long-term, and facilitate the establishment of new businesses in order to achieve its goal of becoming the international trade, logistical, energy, and financial services hub in the Northern Gulf region.

(1) ECONOMIC ENVIRONMENT

3. Reflecting developments in world oil markets, Kuwait's real GDP grew at an annual average rate of 5% during 2006-08, contracted in 2009 due to the impact of the global economic crisis, and resumed growth in 2010-11 at about 4.5%.

4. Large fiscal surpluses, accumulated over the years from government ownership of the energy sector, reached a record of 40% of GDP in 2007. This has largely obviated the need to levy taxes, although a new comprehensive income tax law is in preparation and the introduction of a VAT by 2014 is under consideration. The fiscal surpluses have been used, in part, to finance social welfare policies including subsidized public utilities and housing. There are concerns that pricing policy for public services reduces incentives to introduce efficiencies and cut waste, and promotes higher consumption than would otherwise be the case. Gradual phasing-out of such high government subsidies would be beneficial in the context of encouraging a more diversified and energy-efficient economy.

5. Kuwait has established reserve funds to ensure inter-generational economic equity in the exploitation of its non-renewable resources.

6. The Kuwaiti dinar is pegged to an undisclosed currency basket (between 2003 and May 2007 it was pegged to the U.S. dollar). In December 2009, Bahrain, Kuwait, Qatar and Saudi Arabia ratified an agreement to establish a monetary union. The date to achieve a single currency is yet to be determined.

7. Kuwait's external accounts reflect the dominance of energy exports and display the volatility created by its reliance on world oil markets. It had large and sustained current account surpluses of between 24% and 45% of GDP during the period under review. The economy is highly dependent on international trade, with the ratio of merchandise and services trade to GDP averaging almost 90% during 2007-09. Kuwait is a net importer of services, with a deficit that rose from about US$2.2 billion in 2006 to an estimated US$5.9 billion in 2010.

8. During the last few years, Kuwait has increased its investment abroad; annual FDI outflows averaged some US$7.5 billion in 2006-10. FDI inflows, on the other hand, are still relatively low. This is explained by strict limitations in the past on the sectors in which foreigners could invest, a relatively complex business environment (e.g. extensive licencing procedures, red tape, and out-of-date laws and regulations), and by corporate income tax that is applied only on profits made by foreign companies. Thus, a possible amendment to its 2001 Foreign Investment Law is being evaluated, *inter alia*, to set up a "one-stop shop" for foreign investors. The Government's intention to encourage more foreign investment is demonstrated by the recent decision to allow foreign partnership, for the first time, in the development of Kuwait's energy resources, specifically natural gas production, which aims to facilitate the acquisition of the technology and know-how necessary to exploit these resources more effectively.

9. An important economic and social challenge, according to the authorities, is for Kuwait to provide more employment opportunities for its citizens. The "Kuwaitization" programme is being implemented to help scale-back reliance on the public sector to absorb domestic labour and encourage more Kuwaitis to seek and find employment opportunities in the private sector. Nonetheless, public sector wages and benefits remain very attractive.

(2) INSTITUTIONAL FRAMEWORK

10. Formulation and implementation of Kuwait's trade policy is the responsibility of the Ministry of Commerce and Industry (MCI), in coordination with other ministries. The private sector participates in trade policy formulation mainly through the Kuwait Chamber of Commerce and Industry.

11. The public sector is the largest employer in Kuwait, and the State has direct and strong influence in the economy. In 2010, a new privatization law was passed based on a process of transferring ownership to the private sector (build-operate-transfer schemes) by identifying suitable partners from home and abroad and issuing shares through initial public offerings. However, a number of amendments to the law might reduce its impact since the healthcare, education, and energy sectors have been excluded. The Government is to retain an important share in all newly privatized companies, and the sale of major stakes in public holdings is expected to take place only slowly.

12. Meeting the objectives of Kuwait Vision 2035 and the Medium-term Development Plan (2010-14), in particular expanding the role of the private sector and attracting foreign investment, will require the Kuwait Government to speed-up the promulgation of new laws to modernize the business environment; and to start tackling excessive administrative and procedural obstacles to doing business, while increasing the transparency, accountability, and effectiveness of government administration.

13. Kuwait became a GATT signatory in 1963 and has been a WTO Member since 1995. It is a signatory to the WTO Information Technology Agreement. Kuwait has participated, as a third party, in one case under the WTO Dispute Settlement Mechanism. Kuwait lowered its outstanding notifications from 44 at the end of March 2011 to 22 by the end of June 2011 as part of its preparations for this first Trade Policy Review.

14. Kuwait participates in two overlapping regional trade agreements, the GCC, and the Greater-Arab Free Trade Area (GAFTA) in which all six states of the GCC participate. Kuwait has been harmonizing trade policies and practices under the GCC. GCC citizens and companies are allowed to exercise all economic activities and occupations in Kuwait as Kuwaiti nationals, with a few exceptions. As a group, the GCC has concluded FTAs with the EFTA states and Singapore, which are in the process of ratification. The GCC is also involved in trade negotiations with Australia, China, EU, India, Iran, Japan, Jordan, Korea, MERCOSUR, New Zealand, Pakistan, and Turkey. In most cases, the GCC is negotiating these FTAs as a group. Nonetheless, some GCC members (e.g. Bahrain and Oman) have also agreed FTAs on an individual basis, notably with the United States.

(3) TRADE POLICY INSTRUMENTS

15. Goods imported are subject only to customs tariffs, since Kuwait does not impose VAT, excise duties or any other internal tax or charge on either domestically produced or imported products. Kuwait started applying the GCC common external tariff in 2003. As a result, the simple average MFN applied tariff declined from 7.7% in 2002 to 4.8% in 2011. On the basis of the WTO definition, tariffs average 5.7% on agricultural products and 4.6% on non-agricultural products; 98.6% of all tariff lines are *ad valorem*, with 19 mixed tariff lines on tobacco and tobacco products. Kuwait bound all tariff lines, except on oil, petroleum, and petrochemicals. All bound rates are at 100%. Of total tax revenue (about 2% of government revenue), the customs tariff accounts for more than 60%.

16. Kuwait applies the GCC common laws on customs procedures and valuation. It requires documents to be authenticated, and charges consular fees on commercial invoices, certificates of origin, health and halal meat certificates, and manifests for all imports. A "general" import licence is required for all imports from all sources, and special permission from competent authorities is required for specific goods. Kuwait prohibits certain imports for security, health, safety, or religious reasons, or to meet the requirements of international conventions.

17. Kuwait has adopted the GCC Treaty provisions on contingency trade remedies, and notified the WTO that these were amended in December 2010. Kuwait has never imposed any anti-dumping, countervailing or safeguard measures. The GCC Ministerial Committee has not applied any trade remedy measures, although it initiated two safeguard investigations, which were terminated due to lack of injury in both cases.

18. Kuwait and other GCC countries are developing common GCC standards and technical regulations, which will replace the standards and technical regulations of individual GCC member countries. Kuwait standards are based on international standards with limited deviations due to climatic, geographical, and infrastructural conditions.

19. Export procedures are simple, and any natural persons or companies (including foreign ones) may export in Kuwait. Some goods are prohibited from exportation, while other are restricted and require a licence from the competent authority. Kuwait applies no export taxes, charges or levies.

20. In 2010, government procurement accounted for about 12% of GDP. Kuwait's procurement regime allows for a price preference of 10% for local products and 5% for GCC products. Persons who wish to submit tenders must be either Kuwaiti suppliers, or foreign suppliers with a Kuwaiti partner or agent. Also, an offset programme requires foreign firms that win government contracts above certain thresholds to make an investment that will add value to the Kuwaiti economy. Kuwait is not a party or an observer to the WTO Plurilateral Agreement on Government Procurement.

21. Kuwait's competition legislation was approved by the National Assembly in 2007. The Government is preparing its by law, and to set up a Competition Protection Authority. However, the competition legislation does not apply to facilities and projects owned and managed by the State.

22. Kuwait has national laws on some IPRs, while at the GCC-level there is a law on patents and a law on trade marks is in the pipeline. Once the GCC trade mark law is implemented, it will replace the Kuwait national law on trade marks. Both GCC-legislation and Kuwaiti legislation on patents are effective; dual protection is allowed.

(4) SECTORAL POLICIES

23. The oil and gas sector has underpinned Kuwait's economic development. Kuwait is the world's 9th-largest crude oil producer, has almost 8% of the world's proven crude oil reserves, and ranks 18th in global natural gas reserves. The MFN applied tariff on oil, gas, and petroleum products is 5%. Foreign investors may carry out economic activities in industries other than oil and gas exploration and production. Kuwait aims to become a key world player in petrochemicals on the basis of its comparative advantage in natural gas and through joint-ventures with foreign enterprises. The fully state-owned Kuwait Petroleum Corporation (KPC) and its subsidiaries benefit from certain concessionary rights and privileges with respect to oil and gas.

24. Electricity is highly subsidized by the Government. A newly promulgated law allows foreign investment in the electricity and water sectors, through public-private partnership whereby independent water and power projects (IWPP) will be established. Under the IWPPs, private companies may generate electricity and water and sell to the Ministry, which will then sell to consumers. Foreign investors are allowed up to 26% ownership of the projects. The first IWPP is under way.

25. Services is the largest non-oil sector in the economy, accounting for about half of GDP and over 80% of total employment. The sector is dominated by several state-owned enterprises, and in some activities, for example fixed-line telephony, there are state monopolies. Kuwait has opened some services subsectors to foreign investment, including financial services, air transport, mobile telephone services, and professional services.

26. Under the GATS, Kuwait scheduled commitments in 61 subsectors and 8 main sectors: business; construction and related engineering services; distribution; environmental services; health-related and social services; tourism and travel-related services; recreational and sporting services; and financial services. It maintains MFN exemptions under Article II of the GATS on air transport services and the promotion and protection of investment.

27. Despite the presence of a significant foreign working population (over 60% of the population are non-Kuwaitis), Kuwait made no commitments on the movement of natural persons under the GATS, except for entry and temporary stay of managers, specialists, and skilled technicians.

28. Although the share of agriculture and fisheries to GDP is very small and continues to decrease, the sector is important for the economy because of Kuwait's food security objective. Kuwait is a net importer of agricultural products, and food security is mainly promoted through relatively low applied MFN tariffs (3.2%), while private companies are being encouraged to invest in farm projects abroad. Government assistance in agriculture and fisheries is mainly provided through domestic support, such as subsidies and low cost credits to domestic producers.