III. TRADE POLICIES AND PRACTICES BY MEASURE

(1) MEASURES DIRECTLY AFFECTING IMPORTS

(i) Customs procedures

1. The Unified Customs Law of the Cooperation Council for the Arab States of the Gulf (the GCC Common Customs Law) regulates customs procedures in Kuwait. Customs procedures and the documents required are the same for all GCC members.

2. Import declarations are generally made before the goods' arrival. Declarations may be made either by the owners of the goods (and their authorized representatives), or licensed customs brokers (who must be GCC nationals). Non-GCC nationals may work through the office of a licensed customs broker. In Kuwait, 95% of import declarations (including invoices, delivery orders, bills of lading, packing lists of goods, certifications of origin, import licences, and commercial registration certificates) are made through an electronic system. The system automatically identifies goods that are prohibited from importation or require special permission, and whether the goods need to be inspected. Where the importation requires special permission, the system identifies the competent agency for permission. Customs auditors check the particulars of the declaration, determine whether the documents are complete, and assess the value of the goods and the amount of duty to be collected through the electronic system. According to the authorities, if the documentation is complete, the goods may be cleared within a few hours.

3. Kuwait does not have preshipment inspection requirements.

4. Pursuant to Article 22.2 of the Agreement on Implementation of Article VII of GATT 1994, Kuwait notified its legislation related to customs valuation, which includes: Emir decree No. 10/2003 on issuing the GCC Common Customs Law (in particular, Articles 26-29 and 61-62, the explanatory notes, as well as sections IV and VI), and Emir decree No. 200/2003 on issuing the Rules of Implementation of the GCC Common Customs Law.

5. Customs value is determined as the transaction value of the imported goods. If the transaction value cannot be determined, the following alternative methods may be used in sequential order: (1) transaction value of identical goods; (2) transaction value of similar goods; (3) deductive value; (4) computed value. The importer may request that "deductive value" and "computed value" be applied in reverse sequence. If the customs value of the imported goods cannot be determined under these methods, it is then determined by reasonable methods that are in line with the general principles and provisions of the Agreement on Customs Valuation, by referring again to the above methods, with more flexibility of application.

6. A Valuation Committee was set up in accordance with Article 61 of the GCC Common Customs Law, to resolve any value disputes between Customs and the importers.[1] This Committee consists of Customs officials of Kuwait and a representative of the Kuwait Chamber of Commerce and Industry. Importers who are not satisfied with the Committee decisions, may appeal to courts. According to the authorities, there has been no dispute regarding customs valuation in recent years, and thus no appeal to judicial authorities.

7. Kuwait does not apply non-preferential rules of origin. Its preferential rules of origins are listed in Table III.1.

[1] WTO document G/VAL/N/1/KWT/1, 7 December 2007.

Table III.1
Kuwait's preferential rules of origin, 2011

Agreement/country	Rules
Goods of Arabic origin (GAFTA)	All goods of Arab origin are exempted from customs tariffs if consignments are: (a) accompanied by a certificate of origin issued by the relevant authorities of the country of production; (b) the added value of the production taking place in the Arabic country is no less than 40% of its final value; (c) the added value resulting from assembly industries in Arab countries is no less than 20% of its final value; (d) the certification of origin must be issued from the producing entity, and be authenticated by the relevant authority of issuance in Arabic country of origin.
Goods of GCC origin	Products are generally considered as originating from the country where they are wholly obtained or where they underwent substantial transformation, with at least 40% of local value-added. The country of origin should be written clearly for import clearance.
EFTA	Products are generally considered as originating from the EFTA states if they are wholly obtained in the EFTA states; or if they have undergone sufficient working or processing. Sufficient working or processing must satisfy product-specific rules of origin listed in Appendix 2 of the Agreement, where in most cases, the value of all non-originating materials must not exceed 60% of the ex-works price of the product.
Singapore	Goods are wholly obtained in Singapore; or have undergone sufficient working or production: if the sufficient working or production (a) satisfies product-specific rules of origin in Annex 3 of the Agreement; or (b) attains a qualifying value added of not less than 35% based on the ex-works price.

Source: Kuwait Chamber of Commerce and Inudstry online information. Viewed at: http://www.kcci.org.kw/. EFTA online information. Viewed at: http://www.efta.int/ free-trade/free-trade-agreements/gcc/rou-annexes-letters.aspx [27/01/11]. Singapore Government online information. Viewed at: http://www.fta.gov.sg/fta_C_gsfta.asp?hl=30 [17/05/2011]; and information provided by the Kuwaiti authorities.

(ii) Tariffs

(a) MFN tariffs

8. Kuwait bound 99.5% of its tariff lines, leaving oil, petroleumm, and petrochemicals unbound. All bound rates are at 100%.

9. Kuwait charges at most MFN duty rates to WTO Members. Tariff revenue accounts for a large portion of total tax revenue: 69.7% in 2010/11, although tax revenue accounts for less than 2% of total government revenue. Kuwait does not have tariff-rate quotas.

10. Under the "single entry" principle, goods imported into Kuwait (or any other GCC State) are subject to customs duty only at the first point of entry into the GCC, with a redistribution system for collected tariffs among the GCC countries. All goods that enter Kuwait are subject to the common external tariff, at 0% and 5% for most products, and 100% and a specific duty for tobacco products, with some GCC-approved specific exceptions for each member state. According to the authorities, Kuwait has no country-specific exceptions.

11. Article 18 of the Industrial Law (No. 56 of 1996) stipulates that Customs duties on imports of products, if similar to those produced domestically, may be increased for a specified duration based on a proposal by the Board of Directors of the Public Authority for Industry (PAI), taking into consideration whether local production is satisfactory as regards quantity, type, quality, and consumer interest. According to the authorities, Kuwait does not apply this article in practice.

12. Based on data supplied by the authorities, Kuwait's 2011 applied MFN tariff consisted of 7,100 lines at the HS 8-digit level (HS 2007) (Table III.2) and AIII.1): 7,001 lines (98.6%) carry *ad valorem* rates (zero, 5%, and 100%) (Chart III.1). The dispersion in applied MFN rates, indicated by the coefficient of variation, was up slightly from 1.0 in 2003 to 1.1 in 2011, reflecting the increase in the number of duty-free lines.

13. Non-*ad valorem* rates (mixed tariffs) apply to 19 tariff lines on tobacco and tobacco products.[2] The *ad valorem* equivalents (AVEs) of non-*ad valorem* tariffs are calculated using average unit prices of import (based on import value and quantity data for 2009), where they exist. Although the bound tariff rates for tobacco products are at 100%, the AVEs calculated for non-*ad valorem* tariff lines show that eight lines with AVEs of 100%, while three have AVEs of 104.8%, 140%, and 534.9% (HS24031090: other manufactured tobacco and manufactured tobacco substitutes; "homogenized" or "reconstituted" tobacco; tobacco extracts and essences – other), respectively. Data for calculating the AVEs for the remaining eight lines, were not available to the Secretariat.

Table III.2
Summary analysis of the MFN tariff, 2003, 2007, 2011
(%)

	2003	**2007**	**2011**
Bound tariff lines (% of all tariff lines)	99.5	99.5	99.5
Simple average rate	5.0	4.7	4.8
Agricultural products (HS 01-24)	5.4	5.4	5.4
Industrial products (HS 25-97)	4.9	4.6	4.6
WTO agricultural products[a]	5.7	5.7	5.7
WTO non-agricultural products[b]	4.9	4.6	4.6
By ISIC sector [c]			
ISIC 1 - Agriculture, hunting, forestry, and fishing	3.3	3.2	3.2
ISIC 2 – Mining and quarrying	5.0	4.9	4.9
ISIC 3 - Manufacturing	5.1	4.8	4.9
By stage of processing			
First stage of processing	4.0	3.9	3.9
Semi-processed products	4.9	4.8	4.8
Fully processed products	5.2	4.9	4.9
Domestic tariff "spikes" (% of all tariff lines)[d]	0.3	0.6	0.6
International tariff "peaks" (% of all tariff lines)[e]	0.3	0.6	0.6
Overall standard deviation of tariff rates	5.2	5.3	5.3
Coefficient of variation of tariff rates	1.0	1.1	1.1
Tariff quotas (% of all tariff lines)	0.0	0.0	0.0
Duty-free tariff lines (% of all tariff lines)	5.8	10.6	9.4
Non-*ad valorem* tariffs (% of all tariff lines)	1.1	1.3	1.4
Non-*ad valorem* tariffs with no AVEs (% of all tariff lines)	1.1	1.3	1.4
Nuisance applied rates (% of all tariff lines)[f]	0.0	0.0	0.0
Number of lines	7,154	7,121	7,100
Ad valorem	98.9	98.7	98.6
Non-*ad valorem*	1.1	1.3	1.4
Specific	0.0	0.0	0.0
Compound	0.0	0.0	0.0
Mixed	0.3	0.3	0.3
Others (prohibited and special goods)	0.8	1.0	1.1

Table III.2 (cont'd)

[2] Other lines include items prohibited from importation or that require special import permission, and 6 lines with no duty rates.

	2003	2007	2011
Memo: some comparisons			
By WTO definition[g]			
WTO Agriculture	5.7	5.7	5.7
Live animals and products thereof	2.8	2.7	2.7
Dairy products	5.0	5.0	5.0
Coffee and tea, cocoa, sugar, etc.	4.0	4.0	4.0
Cut flowers and plants	4.5	4.5	4.5
Fruit and vegetables	3.5	3.5	3.5
Grains	0.5	0.5	0.5
Oil seeds, fats, oils, and their products	4.9	4.8	4.8
Beverages and spirits	5.0	4.9	4.9
Tobacco	100.0	100.0	100.0
Other agricultural products	4.4	4.1	4.2
WTO Non-agriculture (excluding petroleum)	4.9	4.6	4.6
Fish and fishery products	3.2	3.2	3.2
Mineral products, precious stones, and precious metals	4.8	4.7	4.7
Metals	5.0	5.0	5.0
Chemicals and photographic supplies	4.8	4.5	4.5
Leather, rubber, footwear, and travel goods	5.0	5.0	5.0
Wood, pulp, paper, and furniture	4.6	4.5	4.6
Textiles and clothing	5.0	5.0	5.0
Transport equipment	4.4	4.4	4.4
Non-electric machinery	5.0	4.2	4.6
Electric machinery	5.0	3.4	3.8
Non-agricultural articles n.e.s.	5.0	4.6	4.7
Oil and petroleum	5.0	5.0	5.0

a WTO Agreement on Agriculture definitions.
b Excluding petroleum.
c International Standard Industrial Classification (Rev.2). Electricity, gas, and water are excluded (1 tariff line).
d Domestic tariff spikes are defined as those exceeding three times the overall simple average applied rate.
e International tariff peaks are defined as those exceeding 15%.
f Nuisance rates are those greater than zero, but less than or equal to 2%.
g 34 tariff lines on petroleum products are not taken into account.

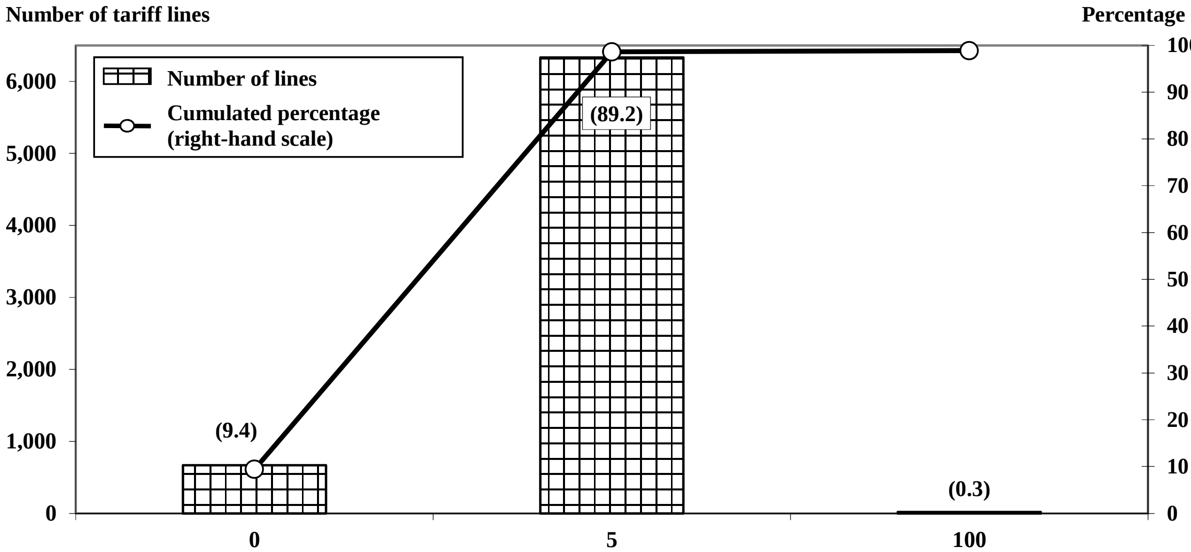
Note: The 2003 tariff is based on HS 02 nomenclature, and the 2007 and 2011 tariffs are based on HS 07 nomenclature. For non-*ad valorem* tariff lines, the *ad-valorem* part of alternate rates was taken into account for the calculations.

Source: WTO Secretariat calculations, based on data provided by the Kuwaiti authorities.

14. Overall, Kuwait's applied MFN tariff displays positive escalation from unprocessed to fully processed products (Chart III.2). This escalation is mainly because the average applied tariff rate on the first stage of processing is relatively low. At a more disaggregated level, the tariff structure reflects that a large number of sectors are subject to flat tariff protection: uniform tariff applies for the three stages of processing for textiles and apparels, wood products, non-metallic mineral products, and other manufacturing. Nonetheless, for certain industries the tariff depicts negative escalation, such as in paper and printing, chemicals and plastics, and fabricated metal products.

15. As a result of the implementation of the GCC common external tariff, Kuwait's simple average applied MFN tariff was reduced from 7.7% in 2002, to 5.0% in 2003 (when the Customs Union was launched) and 4.7 % in 2007. The simple average tariff rate increased slightly, to 4.8% in 2011.

Chart III.1
Breakdown of import duty rates, 2011



Note: The figures in brackets correspond to the percentage of total lines. Totals do not add to 100% due to the exclusion of prohibited and special goods rates.

Source: WTO Secretariat calculations, based on data provided by the Kuwaiti authorities.

16. In September 2010, Kuwait joined the WTO Information Technology Agreement (ITA). The authorities stated that Kuwait applied zero tariffs on most IT products before it joined the ITA. It committed to further eliminate tariffs on all IT products as of 2012.

(b) Tariff exemptions and reductions

17. GCC Member States agreed to exempt "national industry inputs" from Customs duties. These inputs are: machinery, equipment, parts, raw materials, semi-manufactured materials, and packing materials required for immediate industrial production. The manufacturing plant must have an industrial licence from the competent authority (PAI). Exemption is valid as long as the plant is in business. The purpose of the exemption is to lower production costs, increase competitiveness, encourage industrial investment and increase industry's contribution to the economy.[3] According to the authorities, there has been no study on the effects of tariff exemptions on domestic industry development.

18. The GCC Common Customs Law specifies the agencies and goods that are exempt from duty, including the diplomatic corps, military forces, personal effects, imports by charitable societies, and returned goods.[4]

19. Goods imported into Kuwait, on which customs duties and other taxes were not collected, must be re-exported, or used in the free-trade zone.[5] Customs duties and other taxes collected on

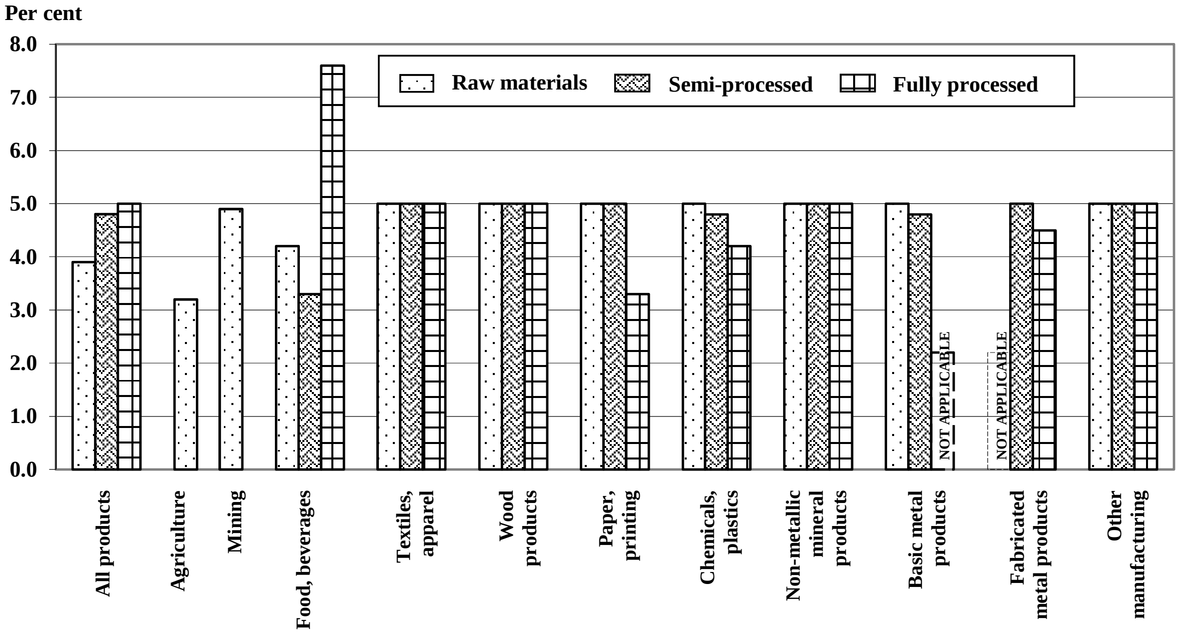
[3] GCC Secretariat General, Amended Controls for Exemption of Industry Inputs from Customs Duties in GCC Member States, 2009.

[4] Article 98-106 of the GCC Customs Law.

[5] Article 95-97, Unified Customs Regulation (Law) of the Cooperation Council for the Arab States of the Gulf.

foreign goods may be totally or partially refunded at re-exportation (depending on whether entire or part of the imported goods are re-exported).

Chart III.2
Tariff escalation by ISIC 2-digit industry, 2011



Source: WTO Secretariat estimates, based on data provided by the Kuwaiti authorities.

(iii) Other fees and charges

20. Customs collects *ad valorem* fees on imported goods, including special services fees for temporary entry of products, transit services fees, and non-*ad valorem* fees for certificates. According to information from the authorities, in 2009/10, Kuwait Customs collected US$19 million in fees and charges, down from US$22 million in 2008/09 and US$48 million in 2005/06 (Table III.3). The decline was attributed to the collection of a large part of fees and charges being entrusted to the private sector.

Table III.3
Customs duty and fees, 2003-10
(US$ million)

Fiscal year	Fees and charges	Customs duty
2003/04	20.9	491.6
2004/05	31.5	565.8
2005/06	48.1	602.1
2006/07	16.9	655.7
2007/08	19.1	787.6
2008/09	21.9	798.5
2009/10	18.9	662.5

Source: Customs information.

21. Kuwait requires authentication of documents such as commercial invoices, certificates of origin, health and halal meat certificates, and manifests, for all imports. These documents must be authenticated by the Kuwaiti embassy or an assigned embassy in the exporting country. Consular

authentication costs KD 5-10 per page, and the authorities are preparing a study to reassess these fees. According to the authorities, the purpose of consular authentication is to prevent the importation into Kuwait of problematic goods through fake and fraudulent documentation.

(iv) Free-trade zones

22. The Law Concerning Free Trade Zones (No. 26 of 1995) allows for the establishment of one or more free-trade zones (FTZs). The Ministry of Commerce and Industry assumes supervision of the free-trade zones, although it may entrust their management to the private sector. Firms can obtain licences on the spot and face little state intervention.[6] They are exempted from corporate income tax and customs duties (although firms outside the zones are also exempted from customs tariff when importing "national industry inputs"). Exports and imports into the zone are not subject to the import and export restrictions, although they may not import goods that are prohibited. Foreign invested firms established in the zones are subject to the offset programme if they obtain government procurement contract (section (3)(iii)).

23. In 1998, Kuwait established a free-trade zone in the industrial and commercial area at Shuwaikh Port. The FTZ is owned and financed by the private sector. The objective of the zone is to "attract national and foreign investment for the restoration of Kuwait as a pioneering trade country, by providing investors with commercial and investment opportunities, so as to carry out all permissible activities without restriction or limitation, which will to boost exports and revive national economy".[7]

(v) Import prohibitions, restrictions, and licensing

(a) Import prohibitions

24. Kuwait prohibits the importation of certain goods mainly for religious considerations, as well as meeting the requirements of international conventions and following UN sanctions, security, health and safety, moral, and environment protection. Products prohibited from importation cover, *inter alia*, food products containing alcohol, pork and their derivatives, as well as cars and trucks with the steering wheel to the right or the modified steering wheel (Table AIII.2).

(b) Import licensing

25. Kuwait maintains a non-automatic, "general" import licensing system, in accordance with the Import Law (No. 43 of 1964).[8] The licensing system applies to all goods from all countries. Importers must obtain a commercial licence, then an import licence, both from the Ministry of Commerce and Industry (MCI). The MCI is the single administrative body in charge of issuing licences. According to the authorities, licensing is not in place to restrict the quantity or value of imports; it is to ensure that goods do not enter Kuwait if they do not meet the requirements of its different laws, regulations or decisions.

26. Import licences may be further grouped into those granted to firms and companies, and those given to persons and some companies according to their activities. The conditions and validity of these licences are listed in Table III.4. There is no penalty for non-use of a licences; licences are not transferable. There are no fees or administrative charges, or deposit or advance payment requirements associated with the issuance of a licence.

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[6] Abdullah Kh. Al-Ayoub & Associates. Viewed at: http://www.al-ayoub.org/index.html [04/02/11].
[7] Ministry of Commerce and Industry (2010), p. 55.
[8] WTO document G/LIC/N/3/KWT/1, 25 October 2010.

Table III.4
Import licences, 2004-10

Type of licence	**Conditions**		**Validity**
Import licences to firms and companies	Granted to companies and establishments upon provision of: 1. Application signed by the person concerned 2. Copy of valid commercial license 3. Copy of signature certificate of the person concerned 4. Copy of Chamber of Commerce certificate valid for the current year 5. Copy of Commercial Register certification 6. Original import licence, in case of renewal 7. A letter from concerned company/establishment requesting a replacement, if the original is lost		One year; extension may be granted.
Import licences to persons, firms, and companies according to activities	Granted upon provision of A: persons: 1. Application signed by the relevant person 2. Copy of shipment policy 3. Copy of civil identity card B: Establishment/company: 1. Application signed by the concerned person 2. Copy of valid commercial licence 3. Copy of shipment policy 4. Copy of signature certificate of the concerned person		One-shipment licence
Year	**Newly issued import licences**	**Import licences to firms and companies (new and renewed)**	**Import licences to persons and some companies**
2004	2,152	9,619	5,409
2005	1,928	10,084	5,776
2006	1,704	10,214	6,111
2007	1,801	10,536	7,116
2008	1,754	10,955	8,509
2009	1,401	10,944	6,998
2010	1,343	10,076	6,214

Source: MCI (2010), *Annual Report 2009*, Department of Planning and Research, p. 43; and information provided by the Kuwaiti authorities.

27. For certain goods, importers require special permission from competent agencies, in addition to the "general" import licence from the MCI (Table III.5).

Table III.5
Imports requiring special permission

HS code	**Description**	**Agency of release**
Chapters 1-5	Live animals, animal products	Public Authority of Agriculture Affairs and Fish Resources (PAAF)
Chapter 6	Live trees other plants; bulbs, roots and the like; cut flowers and ornamental foliage	(Fresh) PAAF
Chapter 7	Edible vegetables and certain roots and tubers	
Chapter 8	Edible fruits and nuts; peel of citrus fruit or melons	
Chapter 9	Coffee, tea, mate and spices	(Chilled and frozen)
Chapter 10	Cereals	Kuwait Municipality
Chapter 11	Products of the milling industry; malt; starches; inulin; wheat gluten	
Chapter 12	Oil seeds and oleaginous fruits; miscellaneous grains, industrial or medicinal plants; straw and fodder	
Chapter 15	Animal or vegetable fats and oils, and their cleavage products and prepared edible fats; animal or vegetable waxes	PAAF

Table III.5 (cont'd)

HS code	Description	Agency of release
Chapter 16-23	Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured tobacco substitutes	Kuwait Municipality
Chapter 24	Tobacco and manufactured tobacco substitutes	Ministry of Health
25010010	Common salt (table salt)	Kuwait Municipality
Chapter 28	Inorganic chemicals; organic or inorganic compounds of metals, of rare earth metals, of radioactive elements or of isotopes	Environment Public Authority
Chapter 29	Organic chemicals	
Chapter 31	Fertilizers	
Chapter 32	Tanning or dyeing extracts; tanning and their derivatives, dyes, pigments and other colouring matter; paints and varnishes; putty and other mastics; inks	
Chapter 35	Albuminoidal substances; modified starches; glues; enzymes	
Chapter 38	Miscellaneous chemical products	
Chapter 30	Pharmaceutical products	Ministry of Health
Chapter 33	Essential oils and resinoids; perfumery, cosmetic or toilet preparations	
Chapter 34	Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, candles and similar articles	
Chapters 44-46	Wood and articles of wood; wood charcoal	Public Authority for Industry (PAI)
56081100	Made up fishing nets of man-made textiles	PAAF
Chapters 84-85	Machinery and mechanical appliances; electrical equipment; parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, parts and accessories of such articles	PAI
8424.1000	Fire extinguishers	Kuwait Fire Service Directorate
8424.9090	Other parts for mechanical or jet projecting appliances, not elsewhere classified	
8413.1910	Fire pumps	
8705.3000	Fire fighting vehicles	
6506.1020	Firemen's helmets	
8905.9010	Fire-floats	
Chapter 87	Private cars (1,000 to 3,000cc) of the current year model, or the model of the previous five years maximum (in Chapter 8703)	Ministry of Commerce and Industry
9020.0000	Other breathing appliances and gas masks	Kuwait Civil Defence Directorate

Source: Information provided by the Kuwait Customs Authority.

(vi) Contingency measures

(a) Legislation framework

28. Kuwait notified to the WTO that the GCC Common Law on Anti-dumping, Countervailing Measures and Safeguard was most recently amended in December 2010.[9] It agreed to notify the Rules of Implementation when its translation into English has been completed. Under the amended Law, the GCC Ministerial Committee, the Permanent Committee (PC), and the Technical Secretariat are responsible for implementing this law and its implementing rules.

29. Complaints may be made by, or on behalf of the GCC industry, if supported by those GCC producers who account for more than 50% of the total production of the like product produced by GCC producers who support or oppose the complaint; GCC producers expressly supporting the complaint must account for at least 25% of the total production of the like product produced by the GCC industry.

[9] WTO document G/ADP/N/1/KWT/1, G/SCM/N/1/KWT/1, G/SG/N/1/KWT/1, 20 June 2011.

30. All complaints must be submitted to the Technical Secretariat. Within 30 days of receipt of a complaint, the Technical Secretariat examines the accuracy of the evidence provided and prepares an initial report to the Permanent Committee with its proposal whether to initiate an investigation. Within 15 working days of receipt of the initial report, the PC must decide either to initiate an investigation, as there appears to be sufficient evidence within the meaning of the Law and its regulation; or to reject the complaint because of insufficient evidence. The Technical Secretariat informs the complaining party of the PC's decision within 7 working days of issuance of the decision.

31. If the PC decides to initiate an investigation, the Technical Secretariat must send questionnaires to interested parties, including domestic producers, importers, exporters, and foreign producers and consumer associations. Parties receiving questionnaires have 40 days to reply; an extension of 10 days may be granted depending on parties' circumstances. The Technical Secretariat may disregard any reply that is not submitted within the time provided and in the form requested.

32. The Technical Secretariat normally makes a preliminary determination no later than 180 days following initiation of investigation, and publishes a report containing details of the finding and conclusions reached, as well as the reasons that led to the conclusions, while protecting confidential information. Parties must submit comments, if any, on information disclosed to them, in writing within 15 days of the disclosure.

33. An investigation must be terminated immediately if (a) the volume of imports (actual or potential) is negligible, i.e. if the volume of imports from a particular country accounts for less than 3% of the total imports of that product[10]; and (b) if it is determined that the price margin is *de minimis*, i.e. if this margin is less than 2% of the export price.

34. The decision to terminate the investigation, to impose anti-dumping duties, countervailing measures, or safeguard measures, must be published by the Technical Secretariat in the Official Gazette. The decision to impose any trade remedy measures enters into force on the date of its publication in the Gazette.

35. The Ministerial Committee, which is the GCC industrial cooperation committee consisting of industrial ministers from member states, is responsible for applying definitive measures upon recommendations of the PC. A national governmental body, assists the GCC authorities in carrying out the investigation.

36. The GCC Ministerial Committee has not applied any trade remedy measures to date. Two safeguard investigations have been initiated: Notice No. 1/2009 against increased imports of other uncoated paper and paperboard in rolls or sheets; and Notice No. 2/2009 against increased imports of angles, channels and beams. The two investigations were terminated by the GCC Permanent Committee, which determined that there was a lack of injury in both cases. In accordance with the Law, affected parties may apply to the Ministerial Committee for review. If the case is rejected by the Ministerial Committee, the party may appeal to a judicial body in a member state.

[10] However, the volume of dumped imports is not negligible if more than one country is under investigation, and collectively imports from these countries account for more than 7% of total imports of the investigated product.

(b) Anti-dumping

37. The PC may impose provisional anti-dumping measures if the following conditions are met: (a) an investigation has been initiated and notice has been given to that effect; (b) interested parties have been given adequate opportunities to submit information and make comments; and (c) an affirmative preliminary determination has been made of dumping, injury, and causal link, and confirms that provisional measures are necessary to prevent injury being caused during the investigation. Provisional measures may take the form of provisional duty or a security (by cash deposit or bond), not greater than the estimated dumping margin. The provisional duties may be imposed no earlier than 60 days from initiation of the investigation. They may be applied for four months and may be extended for another two months.

38. The need for the continued imposition of provisional measures may be reviewed. Upon initiation of a review, the Technical Secretariat must publish a notice in the Official Gazette. After the review, the PC submits a proposal to the Ministerial Committee to: (a) repeal the measures if it is determined that the anti-dumping duty is no longer warranted; (b) maintain the measure if it is determined that dumping and injury would likely continue or recur if the measure were removed; (c) amend the measure. A review must be concluded within 12 months of its initiation.

39. Based on the proposal from the PC, the Ministerial Committee may adopt definitive anti-dumping duties, which must not exceed the margin of dumping. Such duties are imposed on the dumped imports from all sources, for a period not exceed five years, which may be extended after a review.

40. If a product is subject to definitive anti-dumping duties, a review must be carried out to determine individual dumping margins for new exporters. No anti-dumping duties are levied on imports from such exporters or producers during the review process. However the PC, upon proposals from the Technical Secretariat, may withhold appraisal or request guarantees to ensure that anti-dumping duties may be levied retroactively to the date of the initiation of the review. Such a review must be completed within nine months from initiation, and in any case no more than twelve months.

41. Kuwait notified in 1998 that it did not adopt any anti-dumping actions during the period 1 July to 31 December 1997.[11] According to the authorities, Kuwait (or the GCC) has not taken any anti-dumping actions.

(c) Countervailing duties

42. The PC may impose provisional countervailing duties if the following conditions are met: (a) an investigation has been initiated and a notice has been given to that effect; (b) interested parties have been given adequate opportunities to submit information and make comments; (c) an affirmative preliminary determination has been made that provisional measures are necessary to prevent injury being caused during the investigation.[12] Provisional measures may take the form of a provisional duty or a security (by cash deposit or bond), not greater than the estimated amount of the countervailable subsidy. Provisional duties must be imposed no earlier than 60 days from the initiation of the investigation, and must be applied for a period not exceeding four months.

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[11] WTO document G/ADP/N/35/Add.1, 30 March 1998.

[12] A negative preliminary determination does not automatically terminate the investigation, but no provisional measures may be imposed in such a case.

43. A countervailing measure may remain in force only as long as, and to the extent that, it is necessary to counteract the countervailable subsidy that is causing injury. A definitive countervailing duty expires five years from its imposition, or five years from the date of initiation of the most recent review.

44. The need for the continued imposition of countervailing duties may be reviewed. Upon initiation of a review, the Technical Secretariat must publish a notice in the Official Gazette. After the review, the PC submits a proposal to the Ministerial Committee to: (a) repeal the measure; (b) maintain the measure if it is determined that subsidization and injury would likely continue or recur if the measure were removed; or (c) amend the measure. A review must be concluded within 12 months.

45. Kuwait notified that it did not adopt any countervailing duty action during the period 1 January to 30 June 1995[13], or 1 January to 30 June 1996.[14] According to the authorities, Kuwait (or the GCC) has not taken any countervailing measures.

(d) Safeguard measures

46. The Technical Secretariat is responsible for reporting to the PC if it finds that the import quantity of an investigated product is increasing so fast as to cause or threaten to cause serious injury to the GCC industry producing like or directly competitive products, and that the application of a definitive safeguard measure is in the public interest. The PC may recommend that the Ministerial Committee apply a definitive safeguard measure. The duration and level of any such measure must not be more than necessary to prevent or remedy serious injury and to facilitate adjustment.

47. A definitive safeguard measure may take the form of a quota on imports of the investigated product, or safeguard duties; the measure must not reduce the quantity of those imports below the average level registered in the most recent three representative years for which statistics are available, unless there is clear justification that a different level is necessary.

48. According to the authorities, Kuwait (or the GCC) has not taken any safeguard measures.

(vii) Standards and other technical requirements

(a) Standards and technical regulations

Standardization

49. According to the authorities, Kuwaiti standards are based on international standards with limited deviations due to climatic, geographical, and infrastructural conditions; more than 90% of Kuwaiti standards are equivalent to international standards.

50. A decision was taken through the Gulf Standardization Organization (GSO), to develop common unified standards and technical regulations that will eventually replace the standards and technical regulations of individual GCC member countries. According to the authorities, the GCC common standards and technical regulations are to be based on international standards wherever possible, and deviations are to be kept to an absolute minimum for climatic, geographic, infrastructure, and moral reasons.[15] Before adopting a unified GCC standard, individual GCC

[13] WTO document G/SCM/N/7/Add.1/Rev.1, 7 February 1996.
[14] WTO document G/SCM/N/19/Add.1, 9 October 1996.
[15] WTO document G/TBT/2/Add.105, 6 April 2011.

countries apply their own standards; a product that meets the requirements of a technical regulation of another GCC country but not Kuwait's is not allowed to enter Kuwait.

51. Kuwait's Standards Unification Law No. 128/1977 covers the adoption of standards, technical regulations, and conformity assessment procedures, and established the Public Authority for Industry (PAI) as the government agency responsible for enforcing the Law. The PAI reviews current standards at least every five years. The Standards and Metrology Department (KOWSMD) under the PAI is in charge of developing and publishing national standards, adopting foreign and international standards as national standards, quality mark licensing, and issuing conformity certificates for local and imported products.[16]

52. Article 11 of the Law designated the Official Gazette as the official publication for announcing the adoption of standards. The ongoing drafting work on standards and technical regulations is announced in the *Consumer Magazine*. According to the authorities, proposed drafts are available upon request.

53. Kuwaiti standards take into consideration the opinions of various stakeholders (producers, traders, consumers, relevant authorities, and experts) through their participation in the work of the specialized Technical Committees (TCs), which draft standards and conduct relevant studies. Foreign producers and exporters may participate as TC members through their local agents. They may also submit their comments on draft standards directly.

54. The authorities state that provisions of the Standards Unification Law are compatible with the TBT Agreement. Kuwait applies the Code of Good Practice for the Preparation, Adoption, Application and Notification of Standards and Technical Regulations in accordance with the TBT Agreement. Its acceptance of the Code was notified to the TBT Committee on 29 October 2002.

55. Article 13 of the Standards Unification Law stipulates that Kuwaiti standards are voluntary, and the Ministry of Commerce and Industry may convert them into mandatory technical regulations for considerations of health, safety, or national security. The Technical Committee for the sector concerned, in the KOWSMD, discusses and recommends the conversion, and prepares a draft technical regulation. Once approved by the Director of the KOWSMD, the draft technical regulation is notified to the WTO for comments within 60-90 days. A tentative enforcement date is assigned, which allows a sufficient period for importers and local manufacturers to comply. If the measure is likely to have a major effect on importers or local manufacturers, advertisements are placed in newspapers, and stakeholders are invited to meetings and seminars to express their views. In most cases, the period allowed for enforcement is no less than six months from publication of the technical regulation in the Official Gazette. The finalized regulation must be approved by the Minister of the Ministry of Commerce and Industry.

Kuwait Conformity Assurance Scheme (KUCAS)

56. From June 2006, PAI has implemented the Kuwait Conformity Assurance Scheme (KUCAS) Guidelines to verify the conformity of all "regulated products" (imported or domestically produced), i.e. products subject to technical regulations, including electrical toys, household and commercial electrical and gas appliances, automotive, chemical, and building materials (Table AIII.3). According to the authorities, this is to protect consumers and prevent deceptive practices.[17] The authorities state that all Kuwaiti technical regulations and conformity assessment procedures target consumer products

[16] WTO document G/TBT/CS/N/148, 13 November 2002.

[17] PAI online information, "Kuwait Conformity Assurance Scheme (KUCAS) Guidelines". Viewed at: https://www.pai.gov.kw/portal/page/portal/pai/KUCAS/Guidelines/KUCAS_Guidelines_en_r.pdf [13/01/11].

that pose a high risk to Kuwaiti consumers due to health and safety hazards associated with their use, or as a result of prevailing deceptive practices.[18]

57. For imported products, conformity assurance procedures may be completed either by the exporters, in the exporting country, through a certification/inspection body (CIB) approved by PAI (four CIBs have been approved); or by importers, who complete conformity procedures upon arrival of consignments at Kuwaiti ports, through KUCAS Conformity Unit under the KOWSMD. In order to avoid "full testing" of frequently exported/imported regulated products, the exporter/importer may apply for a Technical Evaluation Report (TER) or a Technical Evaluation Certificate (TEC), valid for two years.

58. Consignments of regulated products that have obtained a TEC/TER are subject to selective technical inspection. After inspection, the Conformity Unit issues a Certificate of Clearance (CoC), the importer may obtain customs clearance, and the products are allowed for sale on Kuwait market. If the product fails the test, it is considered as non-conforming and a re-export order is issued. The importer must show evidence that the consignment has been re-exported within two weeks of the order.

59. For regulated products considered high risk by the KUCAS' Risk Assessment System, the Conformity Unit must conduct market surveillance on samples picked up randomly in the market. This is done in cooperation with the Directorate of Consumer Protection in the Ministry of Commerce and Industry. If the product fails to meet applicable standard requirements, a product recall or re-export order is issued. According to the authorities, the Risk Assessment System takes into consideration several risk factors: type of product (process or batch production versus non-process), compliance history as determined in pervious consignments and through market surveillance, confidence in the product (whether the exporting country adheres to international standards and conformity assessment procedures), application of quality management system by the manufacturer (such as ISO 9001 or equivalent), and the frequency of consignments.

60. Some regulated products are exempted from KUCAS conformity procedures: products holding the Kuwait Quality Mark; diplomatic cars imported by foreign embassies; products imported in small non-commercial quantities; products imported on a temporary basis (e.g. for display purpose); products forming contents of large industrial or government projects. In addition, the GSO issues GCC certificates for road vehicles and tyres, both of which are exempted from KUCAS conformity procedures.

61. Locally manufactured regulated products that do not have a Kuwait Quality Mark licence are subject to the same conformity procedures as imported products. If the product fails to meet the requirements of the applicable technical regulations, a Production suspension and product recall order is issued. The manufacturer must rectify the deficiencies in all stock and recalled products before being allowed to re-market them. If this is not feasible, the manufacturer must either destroy the products, or export them to countries whose standards consider these products as compliant (according to the authorities, this has never happened in practice). A manufacturer must obtain Approval to Market for his product, without which he cannot renew his annual manufacturing license.

[18] When assessing the risks and hazards involved, the PAI considers the apparent hazards in the product; information received about accidents and injuries to consumers in Kuwait and neighbouring Gulf countries, as well as information from several product recall databases in the United States, U.K., Australia, and other countries; technical regulation status of the relevant product in the United States, Canada, EU, and Australia; and extent of voluntary compliance of products and the prevalence of deceptive practices assessed by the market surveillance activities carried out by the PAI.

This approval is only granted to manufacturers whose products are compliant with KUCAS, or the Kuwait Quality Mark Scheme.

62. The Kuwait Quality Mark is a voluntary system assuring the quality of products. Manufacturers may request a Quality Mark on their products from the Quality Control and Development section of the PAI. A Quality Mark is valid for one year; after that the product must be re-evaluated and re-inspected in the factory. Manufacturers must to pay for the Quality Mark: KD 225 for the first year of a new application, and KD 80 for annual renewal.

TBT notifications

63. Up to 13 October 2011, Kuwait had made 69 notifications of standards and technical regulations to the WTO; 56 were notified under Article 2.9 of the TBT Agreement, 52 by the Standards and Metrology Department (KOWSMD), and the other 4 by the PAI directly. The period for comment for these notifications was 60 days. Around 70% of the notifications were on technical regulations (i.e. mandatory); more than half related to motor vehicles, while the rest covered foodstuffs, and halal food.

64. Between January 2008 and October 2011, WTO Members raised one concern in the TBT Committee over Kuwait's technical regulations.[19] Australia encouraged GCC members to nominate one member to act as a single TBT notification authority on behalf of the GSO or the GCC Secretariat.[20] Kuwait authorities noted that they agreed with Australia's comments.

(b) Sanitary and phytosanitory requirements

65. Kuwait adopts the GCC Laws on Veterinary Quarantine and Plant Quarantine, aiming to protect human, animal, and plant life and health.

66. The Public Authority of Agriculture Affairs and Fish Resources (PAAF) is the national enquiry point under the WTO SPS Agreement.[21] Kuwait is a member of the OIE (World Organization for Animal Health), IPPC (International Plant Protection Convention), and CODEX (the Codex Alimentarius Commission). The authorities stated that SPS requirements in Kuwait are based on international standards.

67. An importer of animals and animal products, and plants and plant products must register with PAAF to obtain import permission; an official sanitary or phytosanitary certificate is required from the exporting country. PAAF conducts testing/inspection through its legal entity at the border, in accordance with the GCC SPS laws. According to the PAAF, it bears the cost of conformity assessments and inspections. If a consignment is not in conformity with SPS requirements, the importer may either destroy the consignment or re-export within a maximum of one week.

68. In accordance with the GCC Veterinary Quarantine Law, animals suspected of having been infected with an epizootic or contagious disease must be held in quarantine for a period not less than the incubation period for the epizootic disease, in order to allow the necessary tests to be carried out. In accordance with the GCC Plant Quarantine Law, if an imported item presents any risk of introducing or spreading pests, the competent authority may require the item to undergo appropriate

[19] WTO document G/TBT/GEN/74/Rev.6, 19 October 2010.

[20] WTO document G/TBT/M/49, 22 December 2009.

[21] Animal health affairs are the responsibilities of Department of Animal Health, Animal Quarantine Section. Plant wealth affairs are the responsibilities of Department of Research and Nursery, Plant Quarantine Section, Plant Protection and Pest Controlled Section, Soil and Water Section.

treatment to remove the risk within one week; to be re-exported to the originating country or another country; or to be destroyed by a means specified in the notice.

69. The PAAF is also in charge of issuing phytosanitary certificates for exporters of animals and animal products, and plants and plant products. An exporter/re-exporter must submit an application to the PAAF, to obtain a phytosanitory certificate. Consignments must be exported within one week of issuance of the phytosanitory certificate.

70. Imports of foodstuffs of animal origin must be inspected by municipal officials, while medicines and drugs are subject to laboratory testing by the authorities in the Ministry of Public Health.[22]

71. Kuwait has made three notifications under the Agreement on the Application of Sanitary and Phytosanitory Measures (Table III.6). All the notifications were made by the PAAF, and were on emergency measures.

Table III.6
Notifications on sanitary and phytosanitary measures, 13 October 2011

Date of notification/ symbol of document	Products covered	Objective/rationale	Nature of the urgent problem(s) and reason for urgent action	Regions/countries likely to be affected	International standard applicable
30/05/2007 G/SPS/N/KWT/1	Live birds, their products (including poultry meat, day-old chicks, eggs) and by-products	Food safety, animal health, and protect humans from animal disease, to prevent the entry of avian influenza virus	Import restriction imposed due to the reported detection of highly pathogenic avian influenza (HPAI) virus serotype H5N1 in Kuwait	All countries	OIE
31/07/2009 G/SPS/N/KWT/2	Live birds, their products (including poultry meat, day-old chicks, eggs) and by-products	Food safety, animal health, and protect humans from animal disease, to prevent the entry of avian influenza virus	Import restriction imposed due to the reported detection of low pathogenic avian influenza (LPAI) virus serotype H7N9 in the State of Kentucky, United States	United States, State of Kentucky	OIE
31/07/2009 G/SPS/N/KWT/3	Equine breed	Food safety, animal health, and protect humans from animal disease, to prevent the entry of equine influenza virus	Import restriction imposed due to the reported detection of highly pathogenic equine influenza (HPEI) virus serotype H3N8 in India	India	OIE

Source: WTO documents; and information provided by the Kuwaiti authorities.

72. According to the authorities, import restrictions were imposed temporarily in 2010 due to reported HPAI virus serotype H5N1 in Romania and Denmark.

73. Kuwait has signed bilateral/regional agreements covering SPS measures with: Algeria, Argentina, Australia, Bulgaria, Egypt, Indonesia, Iran, Jordan, Laos, Mongolia, Morocco, Sudan, Syria, Turkey, Tunisia, Viet Nam, Yemen, and ICARDA.

(c) Labelling and packaging requirements

74. Kuwait has three technical regulations covering labelling of pre-packaged foodstuffs, food additives, and packaged tobacco products. All packaging containing foods should have a sticker

[22] Kuwait Chamber of Commerce and Industry online information. Viewed at: http://www.kcci.org.kw/.

showing the name of the product, the contents, the net and gross weights, the country of origin, date of production, and date of expiry in Arabic. In general, labels must be in Arabic and any other language.

75. Technical regulations are applied on the packaging of non-returnable glass bottles for carbonated beverages, tea and herbs bags, and food packages. A voluntary standard applies to the production, processing, labeling and marketing of organically produced food; and a standard (GSO150:2007) on shelf life covers expiry periods for food products, which includes both a mandatory and a voluntary expiry period. According to the authorities, this standard is under modification.

76. Kuwait has two technical regulations on halal food. One is a general requirement that must be followed when producing, preparing, dealing, and storing halal food and its products; the other is a guideline for halal food certification bodies and the accreditation requirement.

77. Currently, genetically modified organisms (GMOs) are not allowed to be imported into Kuwait.

(2) MEASURES DIRECTLY AFFECTING EXPORTS

(i) Procedures

78. Kuwait maintains simple export procedures. According to the authorities, any natural persons or legal entities, Kuwaiti, GCC or foreign, may export in Kuwait. The same declaration, registration, and documentation requirements apply as for imports.

(ii) Export prohibitions and licensing

79. Kuwait prohibits the following products from exportation, for economic, safety, security, and environmental reasons, and to ensure compliance with international obligations (Table III.7).

Table III.7
Products banned from exportation, 2011

HS code	Description
11010010	Wheat or meslin flour
Chapter 93	Arms and ammunition; parts and accessories thereof
01041090, 01041010,	Live sheep and goats
10030000, 10059090 10059030, 10059020 10059010	Maize (corn), barley, bran
Chapter 97	Works of art, collectors' pieces and antiques
03062300, 03061300	Crustaceans, whether or not in shell, live, fresh, chilled, frozen, dried
0303, 0302,0301	Live fish, fresh, chilled or frozen
73251010, 8544	Other articles of iron and steel, cable
1006, 1512, 2940, 0401, 0402, 0403, 0702, 1104	Rice, sugars, sunflower-seed oil, milk and cream, cereals grains otherwise worked, tomatoes, fresh or chilled

Source: Information provided by Kuwait Customs.

80. Certain goods require an export licence from the competent authorities (Table III.8).

81. Kuwait does not apply export quotas.

Table III.8
Export licensing

HS code	Description	Authority	Rationale
Chapter 27	Mineral fuels, mineral oils and products of their distillation; bitumen substances; mineral wax	Kuwait Petroleum Corporation	"Strategic" products
Chapters 1, 2, 3, 4, 7, 8, 9, 10, 11, 15, 17, 18, 19, 20, 21, 2201, 2002	Foods	Kuwait Municipality	Health, SPS
09082000 12079100 12079910 12079920 12113000 12114000 12119020 12119060 13021100 13021910 29399110	Oil seeds, oleaginous fruit, manufactured	Ministry of Health	Health
2844	Radioactive isotopes	Ministry of Health	Health
90182000, 9022	Apparatus based on the use of X-rays or of alpha	Ministry of Health	Health
28416100 29143100 29163400 29163500 29224300 29329100 29329200 29323000 29329400 29333200 29394100 29394200 29396100 29396200 29396300	Psychotropic substances	Ministry of Health	Health
Chapter 3	Fish, crustaceans and aquatic invertebrates	Public Authority of Agriculture and Fish Resources (PAAF)	SPS
23099010	Preparations of a kind used in animal feeding	PAAF	SPS
Chapters 1, 41, 5, 4301, 4302, 4303	Animal ecology and leather	PAAF	SPS
9706	Antiques of an age exceeding 100 years	Dept. of Antiques and Museum	Culture
71181000	Coin (other than gold coin), not being legal tender	Central Bank	Security
Chapter 0101	Live horses	PAAF	SPS
3825	Residual products of chemical or allied industries	Environment Public Authority	Protecting environment
3915	Waste, parings and scrap, of plastics	Environment Public Authority	Protecting environment
40170010	Including waste and scrap; articles of hard rubber	Environment Public Authority	Protecting environment
Chapter 30	Pharmaceutical products	Ministry of Health	Health
8506-8507	Primary cells and primary batteries	Environment Public Authority	Protecting environment
27101901	Engine oil	Environment Public Authority	Environment protection

Table III.8 (cont'd)

HS code	Description	Authority	Rationale
7204, 7404, 7503, 7602, 7802, 7902, 8002, 81019700 81027900 81033000 81042000 81053000 81060000 81073000 81083000 81093000 81102000 81121300 81122200 81125200 81130000	Ferrous waste and scrap	Ministry of Energy Ministry of Defence	Environment protection

Source: Information provided by Kuwait Customs.

(iii) Export duties, duty concessions, and subsidies

82. Kuwait applies no export taxes, charges, or levies.

83. According to the authorities, Kuwait applies no export subsidies. Kuwait notified that it provided no export subsidies to agricultural products from 1995 to 2010[23], and no export subsidies to agricultural products were provided in 2011.

84. The Arab Investment and Export Credit Guarantee Corporation, through an MOU with the PAI, provides insurance to exporters for commercial and non-commercial risks. It aims to promote capital mobility in Arab countries and to enhance Arab exports worldwide, by providing guarantee coverage to Arab and non-Arab investments in its member countries against non-commercial risks, and by providing export credit guarantees against commercial and non-commercial risks. In 2010, of a total value of US$768 million export credit contracts, 8% (US$65 million) were for Kuwait exporters.[24] Loans are not subject to any interest rates, although the Corporation charges some fees (depending on the project).

85. Exporters may obtain a credit line from the Islamic Development Bank (IDB). Between 1976 and 2010, Kuwait exporters obtained a total of US$1.4 billion from the IDB, of which 80% went on trade financing.[25] The Islamic Corporation for the Insurance of Investment and Export Credit (ICIEC) provides export credit guarantees to member states. It also provides member states investment insurance and guarantees against non-commercial risks.

(iv) Export promotion and marketing assistance

86. The Ministry of Commerce and Industry promotes Kuwaiti exports through export exhibitions, financed jointly by the MCI, PAI, and Kuwait Chamber of Commerce. In 2009, the MCI agreed to establish 113 exhibitions, of which 6 were held abroad; 74 of the 107 exhibitions in Kuwait were private exhibitions.[26]

[23] WTO documents G/AG/N/KWT/1, 28 July 2010, and G/AG/N/KWT/2, 21 March 2011.
[24] Arab Investment and Export Credit Guarantee Corporation (2011), p. 17.
[25] IDB (2011), Table 2.
[26] Ministry of Commerce and Industry (2010), p. 51.

87. The PAI has signed bilateral agreements to promote exports, with Jordan, Morocco, Oman, Syria, and Tunisia; the parties agree to promote their national exports by facilitating the participation of private/public sectors in international exhibitions, and organizing conferences, seminars, and discussions.

88. The PAI's Industrial Establishment Exports Development Programme, is aimed at increasing the share of Kuwaiti industrial exports in international markets, by providing accurate and updated market information; developing training programmes for the national labour force; and creating new opportunities for Kuwaiti export products.

(3) MEASURES AFFECTING PRODUCTION AND TRADE

(i) Taxation and subsidies

89. Tax revenue accounts for a very small portion of government revenue in Kuwait; most government revenue comes from oil income. In 2009/10, tax revenue accounted for about 1.7% of total government revenue, while oil income accounted for 93.7% (Table III.9).[27]

90. Kuwait does not levy value-added tax, or excise tax. Major taxes include taxes and fees on trade (including tariffs), corporate income tax (for foreign companies), and national labour support tax (Chapter II(3)(ii)). While foreign companies are subject to corporate income tax, Kuwaiti (and GCC) companies are not.

Table III.9
Tax revenue and percentage in total taxes, 2006-10
(KD million)

	2006/07	2007/08	2008/09	2009/10	Share in total gov. revenue (%) (2009/10)
Total government revenue	15,509	19,022	21,005	17,688	100.00
Tax revenue	287	355	349	296	1.7
Indirect taxes	205	246	227	202	1.14
Fees on properties	13	20.5	10	9	0.05
Fees on goods and services	1.8	2.3	2	1.9	0.01
Taxes and fees on trade	190	224	214	190	1.1
Direct taxes	82	111	127	94	0.5
Zakat	0	0.17	4.5	16	0.1
National labour support tax	49	72	79	31	0.2
Corporate income tax	33	38	43	47	0.2
Other major government revenue	14,511	17,719	19,710	16,584	93.7
Total government expenditure	10,306	9,698	18,262	11,250	n.a.

n.a. Not applicable.

Source: Ministry of Finance.

91. According to the authorities, Kuwait maintains no trade-related investment measures.

92. The Government has adopted a welfare state model since independence in 1961. People receive a number of free social services (e.g. health care and education), while paying a small fraction of the cost of public services (e.g. communications, water, and electricity). Most fees for public services have not changed for decades.

[27] The remaining 4.6% of government revenue came from services revenues, and miscellaneous revenues and fees.

(ii) State trading, state-owned enterprises, and privatization

93. According to the authorities, Kuwait has no state trading enterprises.

94. The Kuwait Petroleum Corporation (KPC) is a State-owned corporation run by an independent management and Board of Directors. The KPC conducts its business in accordance with commercial considerations and, according to the authorities, does not influence the level or direction of import and export through its purchases or sales.

95. The public sector is Kuwait's largest employer with 76% of the Kuwaiti labour force working in the sector. The State has a direct and strong influence in the economy: it fully owns companies such as the Kuwait Petroleum Corporation (KPC), and the petroleum sector accounts for half of GDP. The State also has full/majority ownership in the telecoms, banking, and electricity generation sectors. The authorities provided a list of selected SOEs with full/majority state ownership (Table III.10), although the share of SOEs in the economy in terms of contributions to GDP and employment was not available.

96. The Government considers privatization as a means of increasing State revenue, and help the economy to diversify from oil. Under Law No. 37 of 2010 Regarding the Organization of the Privatization Programs and Operations (Privatization Law), a Technical Bureau is expected to be established soon, to consider details on how to implement the Privatization Law in Kuwait. Ministry of Finance is working with the World Bank through technical assistance programme to prepare a Kuwait privatization vision; a guidebook on the drafting of an implementing regulation; and to establish a technical bureau.

97. Even before the Privatization Law is implemented, progress has been made in privatization. For example, the Kuwait Airways Corporation (KAC) is undergoing transition to a private shareholding company pursuant to Law No. 6 of 2008 (Regarding Conversion of KAC into a Joint Stock Company). Also, the Kuwait Stock Exchange is to be privatized in accordance with the Capital Markets Law (Law No. 7 of 2010) (Chapter IV).

Table III.10
Selected SOEs, 2011

SOEs	Government share (%)	Major activities
Kuwait Investment Company	76.194	- Investing and trading in stock exchange - Investing in real estate market - Writing bills and issuance of the certificate of deposit - Accepting term deposits and investing in financial institutions - Contracting foreign currencies - Organizing international, regional and local exhibitions - Managing the portfolio of customers
Kuwait Public Transport Company	100	- Public transport including road transport inside and outside of Kuwait, and sea transport among Kuwaiti islands - purchasing, using and selling vehicles and any necessary means of transport for sea and land public transport - Building industries related to public transport for sea and land transport - Renting any means of transport for the services of sea and land public transport
National Offset Company	100	- Managing offset programme in the name of Ministry of Finance - Guiding foreign companies to carry out their liabilities to the Kuwait offset programme by implementing long-term partnerships in the Kuwait private sector, and guaranteeing transparency - Encouraging and attracting foreign investment - Supporting the private sector in the national economy

Table III.10 (cont'd)

SOEs	Government share (%)	Major activities
Kuwait Real Estate Investment Consortium	99.127	- Coordinating real estate companies in Kuwait - Investing in real estate for profit - Building construction, and importing and trading materials related to building - Establishing the management of hotels, clubs, restaurants, coffees, motels, chalets, and all facilities of tourism, sport and entertainment - Investing in other real estate companies - Managing the properties of third parties - Establishing real estate companies in other countries, to strengthen Arab and international cooperation
Touristic Enterprise Company	99	- Entertainment projects - Establishing and managing entertainment centres, including amusement parks - Managing tourism projects - Establishing and managing hotels and entertainment places with cooperation of hotel companies
National Technology Enterprise Company	100	- Establishing or participating in private projects with international technology - Helping the development of technical skills and technology, and encouraging citizens to engage in advanced technology projects - Studying the highly automated industrial, commercial, professional, occupational, and service projects - Employing national labour force, and providing with the needed experts - Establishing, participating in portfolios

Source: Ministry of Commerce and Industries.

98. According to the Kuwait Investment Authorities (KIA), the privatization process has been conducted through ownership transfer, and the Government retains 24% of the shares of the new company, with the rest divided between a strategic partner, and the public. The KIA, as a passive investor, has some influence on the Board of Directors. In parallel, efforts have also been made to encourage competition, to avoid having a private company replacing a public company as a monopoly.

99. Through privatization, the Government intends to increase the share of the private sector in the economy; it currently accounts for 25% of GDP.[28] In particular, the aim is to increase the share of private investment in total investment from 31% in 2009/10 to 49% in 2011/12 (Table III.11).

Table III.11
Public and private sectors in the economy, 2009-12

	2009/10	2010/11[a]	2011/12[a]
Total investment (KD million)	6,172.8	7,712.6	8,265
Government investment/total investment	68.5%	64.8%	51.1%
Private investment/total investment	31.5%	35.2%	48.9%

a Estimates.

Source: Information provided by the Kuwaiti authorities.

(iii) Government procurement

100. According to the authorities, the main objective of government procurement in Kuwait is to achieve the best value for money, and to maximize competition through transparency and unbiased procurement procedures.

[28] Oxford Business Group (2011), p. 24.

(a) Legislative framework

101. Government procurement is regulated under Circular 16 of 1995 on Purchasing Systems of State Authority, Circular of Collective Purchasing, and Law No. 37 of 1964 concerning Public Tenders (Table III.12). Procurement by state-owned enterprises, or public utilities, is not considered part of government procurement in Kuwait. This section focuses on government procurement above KD 5,000 and regulated under Law No. 37 of 1964.

Table III.12
Government procurement methods and corresponding legislation

Procurement methods and description	Legal instruments	Threshold	Value 2008/09	Value 2009/10
	Kuwaiti dinar (KD)			
Direct order An order to the supplier to provide the state authority with materials or services	Circular 16 of 1995 on Purchasing Systems of State Authority	< 2,000	19 million	16 million
Tender with lower threshold Bids submitted by more than one supplier, for goods or services; selection is through the purchasing committee in the state authority (Mumarasah)	Circular 16 of 1995 on Purchasing Systems of State Authority	2,000-5,000	5 million	7 million
Collective purchase Special requirements of materials and services,are standardized for a group of government authorities. The standardized requirements are announced by the Collective Purchase Committee under the Ministry of Finance	Circular of Collective Purchasing	< 5,000 (if over KD 5,000, Central Tenders Committee must approve)	6 million	3 million
Tender Buying materials and services that are not monopolized or controlled by administrated pricing; process through the CTC	Law No. 37 of 1964 on Public Tender	> 5,000	2009: 2,709 million	2010: 4,783 million

Source: Information provided by the Kuwaiti authorities.

102. Public procurements above KD 5,000 are supervised and managed by the Central Tenders Committee (CTC), which was set up under Law No. 37 of 1964. The threshold is the same for goods, services, and works. The CTC, affiliated to the Cabinet, comprises six full-time independent members appointed by the Council of Ministers, as well as representatives from, *inter alia*, the Ministry of Finance, FATWA (Legislative Department), and the General Secretariat of the Supreme Council for Planning and Development.

103. Annual government procurement managed by the CTC was KD 4,783 million (12% of GDP) in 2010, up from KD 2,709 million (9% of GDP) in 2009 (Table III.13). The authorities do not have data on the annual value or proportion of procurement of foreign products and services.

104. Kuwaiti suppliers, or non-Kuwaiti suppliers with a Kuwaiti partner or agent may submit tenders. Suppliers must register with the CTC, the Kuwait Commercial Registry, and the Kuwait Chamber of Commerce. Suppliers of construction works are classified into the following categories after registration: category I – suppliers that have the ability to undertake projects with initial cost exceeding KD 1 million (but less than KD 5 million); category II – suppliers with technical and financial abilities to participate in tenders not exceeding KD 1 million; category III – local suppliers with total works value not exceeding KD 500,000; category IV – local suppliers with total works value not exceeding KD 250,000. After one year of classification, the supplier may ask the CTC to reconsider the classification category, and transfer to a higher category.

Table III.13
Government procurement value, 2009-11
(KD million)

Procurement	2009	2010	2011 (April–August)
Total	**2,708.8**	**4,783.3**	**1,717.5**
Procurement by public administrators	1,998.9	2,281.8	1,605.0
Procurement by oil companies	709.9	2,501.6	112.5

Source: Information provided by the CTC.

(b) Procedures

105. The Government allows a 10% price preference for local products and 5% for GCC products. However, if no Kuwaiti company is participating in a tender, GCC products are treated as Kuwaitis and receive a 10% price preference.

106. For procurements managed by the CTC, two procurement methods are used: open tendering and restricted tendering. The Ministry of Finance must approve the projects, and FATWA reviews contracts above KD 75,000. For open tendering, advertisement is open; for restricted tendering, advertisement is to a list of registered contractors or suppliers (usually more than six). The State Audit Bureau must review contracts above KD 100,000 before they are signed. According to the authorities, restricted tendering accounts for more than half of all government procurement managed by the CTC, as most mega projects are awarded to a list of international companies.

107. The CTC awards tenders to bidders who submitted the lowest total price if the quality is satisfactory. The CTC may award a tender to the bidder who offered a higher price if the lowest price offered is unreasonably low.

108. Any interested party has the right to appeal against the CTC's decisions, and the CTC must hold a meeting to discuss the grievance urgently. The Council of Ministers makes final decisions. The CTC noted that 813 grievances arose during September 2010 to August 2011, and all the cases were addressed during the meetings of the CTC.

109. To ensure transparency in government procurement, according to the authorities, information on government procurement should be made available publicly, through CTC online announcement.[29] In addition, Law No. 25 of 1996 on the Disclosure of Commissions requires transparency and accountability in all government contracts exceeding KD 100,000. Under the Law, the contracting party must declare whether it has paid, or will pay a commission of any kind to a disclosed or concealed intermediary. The Law also requires both the payer and the payee to disclose, separately, the amount of the commission, the type of the currency, and the place and the manner of the commission. Any actions of non-disclosure or misinformation result in sanctions ranging from civil and criminal penalties, to imprisonment.[30]

(c) International agreements on government procurement

110. Kuwait is not a party, nor an observer, to the WTO Plurilateral Agreement on Government Procurement (GPA).

[29] The CTC website is: www.ctc.gov.kw (only in Arabic).
[30] Kuwait Foreign Investment Bureau online information, "Investors Guide". Viewed at: http://www.kfib.com.kw/kfibclient/clientpages/Index.aspx?id=64 [10.01.2011].

111. The GCC has signed two bilateral agreements covering government procurement, i.e. FTAs with EFTA and with Singapore. Under the GCC–EFTA FTA, for a transition period of ten years, GCC countries may provide price preferences of 10% to goods of domestic origin. For Kuwait, government procurement refers to purchases by central government entities (except Defence and Interior), with thresholds of SDR 400,000 for goods, SDR 400,000 for services, and SDR 5 million for construction services. Kuwait includes no public utilities or SOEs, but includes public authorities, Kuwait University, Port Authority, Kuwait Institute for Research, with thresholds of SDR 400,000 for goods, SDR 800,000 for services, and SDR 5 million for construction services.

112. The GCC–Singapore FTA has the same arrangement for government procurement, with the same coverage of entities and the same thresholds. Further, under the GCC–Singapore FTA, Singapore enterprises may participate in Kuwait's government procurement market with the same 10% price preference as for local firms.

(d) Exceptions

113. Kuwaiti government agencies may request permission from the CTC to conduct particular tenders outside the Public Tenders Law; according to the government online information, this rarely occurs.[31] Military procurement by the Ministries of Defence, Interior, and National Guard is excluded.

114. Procurement by oil and petrochemical companies may be excluded from the Public Tenders Law. However, specific rules cover purchases by the Kuwait Oil Company (KOC), Kuwait National Petroleum Company (KNPC), Kuwait Oil Tanker Company (KOTC), and Petrochemical Industries Company (PIC): purchases of products/services/construction works with a value above KD 5 million, or purchases whose value changes by more than 10% of the contract value, must be managed by the CTC under the Public Tenders Law.

(e) Offset programmes

115. The Government plays a big role in the economy, and government contracts are of significant weight. To facilitate the development of a private sector, Kuwait's offset programme requires foreign firms that win government contracts above certain thresholds to make an investment that will add value to the economy. Primary objectives of offset programme includes the transfer of advanced technology, creation of job opportunities for Kuwaiti nationals, and provision of training for Kuwaitis.

116. The offset programme commenced in 1992 when the Council of Ministers established a Counter-Trade Offset Programme (Offset Programme) through its Decision No. 694. Between 2004 and August 2005, the programme was suspended, as in many cases offset obligations had not been fulfilled. The offset obligation was reinstated in August 2005, and in March 2006 a National Offset Company (NOC), a state-owned shareholding corporation, began to manage the offset programme on behalf of the Ministry of Finance. NOC works with foreign contractors by reviewing and approving their offset proposals and ensuring their offset obligations are fulfilled.

117. For foreign firms, offset obligations apply to military contracts of KD 3 million and above, civilian contracts of KD 10 million and above, and oil and gas contracts (with the exception of

[31] Kuwait Government online information. Viewed at: http://www.e.gov.kw/sites/kgoenglish/portal/Pages/Visitors/DoingBusinessInKuwait/GoverningBodyOverView.aspx [25/01/11].

exploration and production contracts). Since 1992, 112 offset contracts have been signed; defence contracts accounted for 60%.[32]

118. Before they may receive government contracts foreign firms must invest 35% of the contract value in an approved offset business venture. Offset investment can be either direct or indirect. Direct investment involves projects in which foreign contractors help the Government to acquire and deploy new technologies, or to train Kuwaiti citizens in their use, such as establishing a laboratory, training programme on high technology equipment or software. Indirect investment involves projects that help the Government develop the private sector, such as grants or donations to approved and licensed organizations in Kuwait providing educational, health care, and public services. The NOC uses a multiplier system to encourage offset projects in the most needed areas. A higher multiplier value means a smaller financial obligation for the foreign firm. Projects in health, education, environment, social, manufacturing, and services typically receive higher multiplier values, and direct projects are given a higher multiplier value than indirect ones.

119. Foreign contractors subject to offset must provide an unconditional and irrevocable bank guarantee, equal to 6% of the contract value. The bank guarantee is to ensure that foreign contractors implement their offset obligations. The value of the bank guarantee is reduced gradually until the obligation is fulfilled and the guarantee is cancelled.

(iv) Competition law and price controls

(a) Competition law

120. In April 2007, Kuwait National Assembly approved the Law for Protecting Competition (No. 10, 2007), regulating competition policy issues. However, this Law does not apply to facilities and projects owned or managed by the State; thus, its scope is limited to private businesses.

121. The aim of the Law is to ensure fair competition in the market, protect consumers and producers, and provide legal and fair principles and rules to encourage investment and stimulate business activities. The authorities state that the implementing regulation is still awaiting ratification. At the same time, the GCC is preparing a common Anti-Unfair Competition Law, which will replace Kuwait's competition law.

122. The Competition Law prohibits any agreements, contracts, practices or decisions that adversely affect competition. These include fixing prices, restricting the free flow of products, selling below cost, bid rigging, sharing or allocating markets, and eliminating equal opportunities between competitors through preferring some to the others. Violations are subject to a penalty of KD 100,000 maximum, or equal to the amount of realized illegal gains, whichever is higher. The relevant commodities may be confiscated. In case of repetition of violation, the penalty is doubled. The business may be suspended for a maximum of three years.

123. Some anti-competitive behaviours may be allowed, provided they may achieve certain and specific benefits for consumers, and the benefits are greater than the negative impact of restriction of competition. The Ministry of Commerce and Industry determines whether specific behaviours can be exempted.

124. The Law applies to the abuse of IPRs, trade marks, patents, and publishing rights if these rights have resulted in an adverse effect on competition.

[32] Oxford Business Group (2011), p. 26.

125. A Competition Protection Authority is to be established and will report to the Minister of Commerce and Industry. Mergers and acquisitions must be notified if the combined market share is more than 35%. The Authority must examine and decide on such mergers and acquisitions, against a fee of 0.1% of the paid-up capital, or the total value of assets of the respective persons, whichever is less, subject to a maximum of KD 100,000.

(b) Price controls

126. With some exceptions, prices of goods and services are freely determined by the market. The Government controls the prices of public utilities such as electricity and water, as well as public transportation prices. Domestic calls on the fixed-line network are free, and calls from fixed-line to mobile phones in Kuwait are free. The Government also subsidies food for food security reasons. The regulated prices are applied to all consumers, regardless of their nationality.

(v) Intellectual property rights

(a) Legal framework

127. Under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), Kuwait must pass intellectual property laws that meet the minimum standards for the protection and enforcement of intellectual property rights set out in the Agreement. Other international treaties on IPRs that Kuwait has signed, as well as its national legislation are listed in Table III.14.

Table III.14
IPR legal framework

Area	Description
International conventions	Convention Establishing the WIPO, signed in 1998
	Arab Convention on Copyright Protection, signed in 1981
GCC	GCC Patent Law, 1998
	The GCC is preparing a common law on trade marks; which will replace corresponding national laws of GCC members
Kuwait national legislation	
Copyright	Law on Copyright and Neighbouring Rights (Law No. 64 of 1999). Kuwait has drafted a new copyright law under the MCI, it is before the competent authorities for approval
Patent, designs and industrial models	Law on Patents, Designs and Industrial Models (Law No.4 of 1962 and amended by Law No. 3 of 2001)
Trade marks	Articles 61-85 of the Law of Commerce No. 68 of 1980 (as amended by Law No. 1 of 2001)
Geographical indications	Article 62.3 of the Law of Commerce No. 68 of 1980 (as amended by Law No. 1 of 2001)
Major responsible agencies	
MCI	Patents, designs, industrial models, copyrights, trade marks, geographical indications
National Council for Arts, Culture and Letters	Intellectual property rights regarding traditional knowledge and traditional cultural expressions/folklores. The Council is chaired by the Minister of the Ministry of Information
Customs	Enforcement of IPRs at the border

Source: WTO Secretariat, based on information provided by the Kuwaiti authorities.

128. The Copyright Department moved from the Ministry of Information, to the Ministry of Commerce and Industry (MCI) in 2006, when the MCI became the sole ministry supervising intellectual property rights. The MCI is also the contact point under Article 69 of the TRIPS Agreement.[33]

129. Kuwait does not provide preferential treatment to GCC countries or other Arab countries, in the area of intellectual property rights.

130. Kuwait is seeking to diversify its economy away from oil by attracting foreign investment and encouraging the development of the private sector. The Government believes that IPR protection tends to encourage invention and innovation, and enforcing IPR protection against counterfeiting and piracy could encourage the development of creative industries and promote competition. The MCI aims to foster greater public awareness of IPRs by coordinating with other government bodies, the private sector, and civil society entities.

131. Compulsory licensing is allowed under copyright legislation, as regards translation into Arabic (Article 16 of Law 64 of 1999).[34] It is also allowed for patents, for purposes of state interests.

132. Parallel import of copyright protected goods is not addressed in the current Copyright Law. The authorities state that parallel imports are allowed in respect of trade marks, but not in respect of patents and industrial designs.

133. Kuwait has not adopted any specific procedures regarding the General Council Decision on the implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health.

(b) Copyright

134. Copyright is regulated by Law No. 64 of 1999 (Copyright Law). Article 43 stipulates that, for non-Kuwaiti citizens, copyright protection is limited to works that are published for the first time in Kuwait. For works of Arab authors, who are citizens of Members of the Arab Agreement for the Protection of Author’s Rights, copyright protection is limited to works published in any of those Member countries. If the authors are citizens of WIPO member states, copyright protection is limited to works published for the first time in one of those states.

135. Deposit and registration of works of authorship are not a condition for copyright protection. Nonetheless, Ministerial Order No. 30 of 2003 designates the Kuwait National Library as the place for depositing and registering works of authorship, where copyright and assignment of right applications are examined, and the necessary certificates issued. There is a fee of KD 10 per certificate.

136. The Copyright Law defines a non-exhaustive list of protected works (Article 2), and the terms of protection of the author's economic rights (Article 17). These are:

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[33] WTO document IP/N/3/Rev.11/Add.5, 13 October 2010.

[34] Article 16 of Law 64 of 1999: "The protection of the right of an author of a work made in a foreign language and the right of the translator of that work into another foreign language to translate that work into the Arabic language shall lapse if the author or translator fails to exercise that right within 5 years from the date of the first publication of original or translated work. However, the Minister of Information may issue a license for translation of the work into the Arabic language or publication of the work after a year from the date of the first publication of the original or translated work. In such case, the author or beneficiary of the translation right shall be entitled to a fair compensation".

- 50 years from the death of the author or from the death of the last surviving author for a joint work;

- 50 years from the end of the calendar year of publication for (a) works published under a pseudonym or anonymously, unless the author reveals his identity or his true name becomes publicly known, in which case the term lapses 50 years after his death; (b) works in which the owner of the copyright is a legal personality; (c) cinematographic and photographic works, works of applied art, computer programs and databases; and (d) works published for the first time after the author's death;

- 50 years from the end of the calendar year in which the performance or recording took place;

- 20 years from the end of the calendar year in which the broadcast of a programme first occurred.

137. In case of infringement or potential infringement of copyright, at the request of the author or the successor, a judge may temporarily suspend the publication, production, or presentation of a work (Article 36). If the judge deems appropriate, he may order destruction of the illegally published copies of the work, and the court may decide compensation for the use of such work (Article 38).

138. Penalty for copyright infringement is detention for a period of one year or a fine of KD 500, or both. Compared to a one-year detention, a fine of KD 500 seems rather low. According to the authorities, the new copyright law is to address this issue.

(c) Trade marks

139. The GCC is preparing a common law on trade marks which will replace corresponding national laws of GCC members.

140. Currently, the Commercial Code (Law No. 68 of 1980 and amended by Law No. 1 of 2001) governs trade mark registration and penalties for infringement. Article 64 stipulates that any person may apply for registration of his trade mark at the Register of Trademarks. If the Registrar accepts the application, the application must be published in three consecutive issues of the Official Gazette. Within 30 days of the publication, any concerned person may write a notice of objection. If no objection is raised, a certificate of registration is granted to the applicant. It takes approximately six months to one year to obtain a registration certificate, if no objection is raised.

141. Registered takes effect retroactively from the date of submission of the application. Protection is for ten years from the date the application is approved. It may be renewed for further ten year intervals.

142. A decision by the Registrar to reject or suspend the registration of a trade mark may be challenged by the applicant before the Court. The Court may order cancellation of the registration, upon application by any persons, if the mark has not been used effectively for five consecutive years. The cancellation or renewal of the registration must be published in the Official Gazette: a cancelled mark cannot be re-registered in favour of a third party for the same products, until three years after the date of cancellation.

143. Based on information from the authorities, in 2010, 8,410 trade mark applications were filed (Table III.15): 6,402 were foreign trade marks, and 2,008 were Kuwaiti trade marks.

Table III.15
Trade marks, 2008-10

	2008	2009	2010
Trade mark filing	8,825	7,852	8,410
Trade mark examination	7,377	9,147	9,263
Notification of acceptance	7,520	9,086	9,898
Registered trade marks	6,522	6,954	7,923
Published Trade marks	7,315	7,602	8,980

Source Ministry of Commerce and Industry (2010), *Annual Report 2009*, Department of Planning and Research, p. 45; and information provided by the Kuwaiti authorities.

144. The Law protects well-known marks and provides civil remedies against infringement and counterfeit use for owners of unregistered well-known marks. Infringers of trade marks may be imprisoned for a maximum of three years, or liable to a fine not exceeding KD 600.[35] Again, comparing to a three-year detention, a fine of KD 600 seems to be low. The Government is planning to modify the penalty through the GCC unified trade mark law.

(d) Patent

145. The GCC Patent Law entered into force on 3 October 1998, and a GCC Patent Office was set up in Riyadh, Saudi Arabia. Kuwait also has national patent legislation, and a national patent office. Currently, dual protection is allowed, i.e., applying for both national and GCC patents for the same invention.

146. To apply for a national patent in Kuwait, an inventor must register with the Patents Office at the Trademark and Patent Department of the MCI. Non-Kuwaiti citizens, companies, and other juristic personalities may register patents in Kuwait if they are nationals or residents of countries that offer Kuwait reciprocity, such as WTO Members. Currently, patent protection is for 20 years starting from the date of the application.

(e) Industrial designs and layout designs of integrated circuits

147. Industrial designs and layout designs of integrated circuits must be registered in the Trademark and Patent Department under the MCI. They are protected for ten years, renewable for a further five years.

148. Table III.16 shows the number of requests for industrial designs and patents, by local and foreign applicants; however, the number granted was not available to the Secretariat.

(f) Other intellectual property rights

149. Geographical indications are protected under the law regulating trade marks (the Commercial Law No.68 of 1980 as amended by Law No. 1 of 2001, Article 62.3). In the WTO TRIPS Committee, Kuwait stated that it does not import or export any alcohol, for religious reasons, and that participation in the registration system for GIs should be voluntary and without any legal effect.

[35] Abdullah Kh. Al-Ayoub and Associates online information. Viewed at: http://www.al-ayoub.org/index.html.

Table III.16
Intellectual property rights applications, 2001-10

Year	Industrial models – total number of requests			Patents – total number of requests		
	Local	**Foreign**	**Total**	**Local**	**Foreign**	**Total**
2001	15	11	26	35	80	115
2002	23	49	72	44	94	138
2003	37	112	149	56	74	130
2004	19	54	73	75	89	164
2005	28	29	57	70	42	112
2006	10	95	105	75	56	131
2007	28	91	119	102	102	204
2008	40	117	157	75	108	183
2009	70	77	147	76	71	147
2010	36	63	99	18	65	83

Source: Ministry of Commerce and Industry, *Annual Report 2009* Department of Planning and Research, p. 46; and information provided by the Kuwaiti authorities.

150. Kuwait does not have legislation on plant varieties, or on undisclosed test or other data.

(g) Enforcement at the border

151. Kuwait Customs may act upon applications from right holders, or upon information about importation of counterfeit and infringing goods. For goods suspected of infringing IPRs, Customs may detain the goods and refer to the legal department to determine whether the goods infringe IPRs. The number of seizures by Customs rose from 188 in 2004 to 382 in 2005, and averaged around 330 annually between 2006 and 2010. Most concern consumer goods, such as electrical appliances, car parts, and clothing, bags, and accessories. According to the authorities, all these goods are destined towards the Kuwait market, not for transit. The value of the detained/seized goods was not available to the Secretariat.