



Executive Summary

Turkmenistan is a relatively large country (slightly larger than the state of California), but sparsely inhabited (about 5.6 million), with abundant hydrocarbon resources, particularly natural gas. Turkmenistan's economy depends heavily on the production of natural gas, oil, petrochemicals and, to a lesser degree, cotton and textiles. Based on data provided by the Government of Turkmenistan, the country's 2013 Gross Domestic Product (GDP) was \$36.4 billion.

In 2008, in an effort to improve investment conditions in the country, the government adopted legal reforms on foreign investment and licensing. Nevertheless, the lack of established rule of law, inconsistent regulatory practices, and unfamiliarity with international business norms are major disincentives to foreign investment. Corruption remains widespread in both public and private sectors in Turkmenistan, and the ability to develop and maintain good relationships with the government is essential for doing business in the country. The government strictly controls foreign exchange flows, and the conversion of excess amounts of the local currency, the manat, remains problematic. Although expropriation is not common in Turkmenistan, the government's dispute settlement clause in contracts generally does not allow for arbitration in a venue outside of Turkmenistan. While Turkmenistan has undertaken some initiatives to improve Intellectual Property Rights (IPR) protection, including the creation of the State Agency for Intellectual Property and the signing of some WIPO (World Intellectual Property Organization) conventions, it has not adopted comprehensive administrative and civil procedures to improve the enforcement of IPR.

Although Turkmenistan is incrementally amending its laws to meet international standards, the country's regulatory system is not implemented transparently, and the government has influence over courts' decision making processes. The country's autocratic political system has been stable. Turkmenistan has not had much success in attracting FDI from American companies. Although slowly maturing and diversifying, the economy is still underdeveloped.

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude Toward FDI

Turkmenistan regularly announces its desire to attract more foreign investment, but tight state control of the economy, the slow pace of economic reform, and a restrictive visa regime have hindered the creation of an attractive foreign investment climate. In January 2013, Turkmenistan created an agency to oversee international investment in Turkmenistan. While the scope of its authority is still unclear, it is likely that this new agency will further increase already arduous bureaucratic procedures.

Historically, the most promising areas for investment are in the oil and gas, agricultural, and construction sectors. The government continues to seek foreign technology and investment in order to diversify its economy through the development of domestic chemical and petrochemical industry facilities. As a result of President Gurbanguly Berdimuhamedov's policy to provide Internet access to every home, school and kindergarten, the visibility of Turkmenistan's communication sector has also risen. Decisions to allow foreign investment are politically driven; companies from "friendly" countries are often more successful in winning tenders and signing contracts.

In October 2012, the Chairman of the Central Bank reported that 21 percent of investment in Turkmenistan came from foreign sources. While the Government of Turkmenistan remained the largest domestic investor (40 percent), significant investment also came from private enterprises (22 percent). In 2012, according to government sources, the majority of foreign investment was concentrated in the energy (57 percent), chemical (27 percent), and transportation (14 percent) sectors. In 2012, the government announced that it intended to invest \$80.6 billion to construct 450 industrial and social facilities throughout the country this decade.

The country remains one of the world's largest gas producers. Key industries are state-owned. According to a 2011 EBRD estimate, the private-sector share of GDP in 2010 was 25 percent, mostly in retail trade, services and food processing. No independent estimates are available for the period 2011-13. The top economic priorities for the government remain achieving self-sufficiency in food supplies and an increase in import-substitution production. Recent emphasis has been placed on transforming Turkmenistan from a commodity producer to a value-added manufacturer. The government has been most receptive to foreign investment in the textile and communication sectors.

In May 2010, the government adopted its National Program for the Socio-Economic Development of Turkmenistan (2011-2030). The program envisages the diversification of the economy and recognizes the importance of market and institutional reform. The program also includes the privatization of small and medium enterprises (SMEs). In October 2006, Turkmenistan adopted the Oil and Gas Development Plan (2007-2030). Despite these initiatives, however, Turkmenistan's investment climate remains generally closed.

The government selectively chooses its investment partners, making a strong relationship with a government official often essential for commercial success. Officials may seek rents for permitting or assisting foreign investors to enter the local market. Some foreign investors have found success working through foreign business representatives who are able to leverage their personal relationships with senior leaders to advance their business interests.

Turkmenistan has accepted financing from international financial institutions (IFIs) since its independence in 1991. In 2009, the government reportedly accepted a \$4 billion loan from the Chinese Development Bank (CDB) to develop Galkynysh, the world's second largest natural gas field, as well as several significantly smaller loans from the Chinese Export-Import Bank for transportation- and communication-related projects. In 2011, Turkmenistan secured a second \$4.1 billion loan from CDB to further develop the Galkynysh field. The government also accepted a \$1 billion dollar loan in 2010 from the Islamic Development Bank to fund

infrastructure projects. In 2011, the Asian Development Bank (ADB) provided a \$125 million loan to the government to finance the procurement and installation of power and signaling equipment to a 311-kilometer section of the Kazakhstan–Turkmenistan–Iran railway. Reportedly, in 2010 and 2011, Turkmenistan approached a number of international financial organizations and foreign governments in an attempt to secure additional loans to fund large-scale government projects. In November 2013, the Asian Development Bank was appointed a transaction advisor for the Turkmenistan-Afghanistan-Pakistan-India (TAPI) natural gas pipeline project and will work closely with the TAPI countries to attract foreign investment for the project.

Other Investment Policy Reviews (IPRs)

The Government of Turkmenistan has not undergone an investment policy review by the Organization for Economic Cooperation and Development (OECD) or World Trade Organization (WTO). While Turkmenistan has expressed interest in exploring the WTO accession process and created an intergovernmental commission in January 2013 to review the benefits of accession, the country has not yet formally applied to join the organization. UNCTAD's World Investment Report (WIR) for 2012 ranked Turkmenistan among the top ten countries in the world in its foreign direct investment (FDI) attraction index. According to the report, the volume of foreign direct investments in Turkmenistan accounted for 15.6 percent of the country's GDP. The ranking is largely attributable to the \$8.1 billion in soft loans Turkmenistan received from the Chinese Development Bank. UNCTAD has not evaluated the country's legal, regulatory and institutional framework for foreign direct investment.

Laws/Regulations on FDI

Incoming foreign investment is regulated by the Law on Foreign Investment (last amended in 2008), the Law on Investments (last amended in 1993), and the Law on Corporations (1999), which pertains to start-up corporations, acquisitions, mergers and takeovers. Foreign investment activities are affected by bilateral or multilateral investment treaties, the Law on Enterprises (2000), the Law on Business Activities (last amended in 2008), and the Land Code (2004). Foreign investment in the energy sector is subject to the 2008 Petroleum Law (also known as the Law on Hydrocarbon Resources, which was amended in 2011 and 2012). The Tax Code provides the legal framework for the taxation of foreign investment. The Civil Code (2000) defines what constitutes a legal entity in Turkmenistan.

The Government of Turkmenistan has taken a number of steps to promote economic reform, including a law to combat money laundering and terrorism financing, and a presidential decree that mandates the use of International Financial Reporting Standards (IFRS). In January 2010, Turkmenistan established a Financial Intelligence Unit under the Ministry of Finance to strengthen its anti-money laundering (AML) efforts and its ability to combat the financing of terrorism (CFT). In June 2010, Turkmenistan became a full member of the Eurasian Group (EAG), a regional AML/CFT organization part of the Financial Action Task Force (FATF). In October 2012, President Berdimuhamedov announced that Turkmenistan will join the Egmont Group, an international organization specializing in the exchange of best practices on AML/CFT. Turkmenistan's membership, he said, would demonstrate to the international community its

commitment to combating money laundering and terrorism financing. Turkmenistan has not yet, however, joined the Egmont Group. In March 2014, the parliament adopted a Combatting Corruption law that details the legal and institutional framework necessary to identify and prosecute corruption cases. The law prohibits government officials from accepting gifts (in person or through an intermediary) from foreign states, international organizations and political parties. It also severely limits the ability of the officials to travel on business at the expense of foreign entities.

On January 1, 2012, Turkmenistan's banks switched to International Financial Reporting Standards (IFRS). Government agencies transitioned to National Financial Reporting Standards (NFRS) in January 2014. Despite these positive steps, however, Turkmenistan remains one of the most closed economies in the region.

Much foreign investment is governed by project-specific presidential decrees, which can grant privileges not provided by legislation. Legally, there are no limits on the foreign ownership of companies. In practice, however, the government has allowed fully-owned foreign operations only in the oil sector and, in one case, in cellular communications. (Note: This cellular company reportedly filed an international arbitration case against Turkmenistan when its license was suspended by the government in December 2010. After months of negotiations, the company re-entered the Turkmenistan market in September 2012. Since re-entry, however, the company has struggled to regain the market share it lost to a Turkmen state monopoly in the intervening period. End Note.) There are several ways for the government to discriminate against investors, including excessive tax examinations, license extension denial, and customs clearance and visa issuance obstacles. In most cases, the government has insisted on maintaining a majority interest in any joint venture (JV). A Western soft drink company opened a factory in Turkmenistan in the mid-1990s through a JV with the government. Foreign investors have been reluctant to enter JVs controlled by the government, as a result of competing business cultures and conflicting management styles. Although there is no specific legislation requiring foreign investors to receive government approval to divest, in practice they are expected to coordinate such actions with the government. Generally, arbitration disputes associated with FDI are handled in Turkmenistan, as the government is reluctant to codify the right to international arbitration in contracts with foreign companies.

Industrial Promotion

In 2007, Turkmenistan created the Awaza Tourist Zone (ATZ) to promote tourism and the development of its Caspian Sea coast. It granted some tax incentives to those willing to invest in the construction of hotels and recreational facilities. Amendments to the Tax Code in October 2007 exempted construction and tourist facilities in the ATZ from Value Added Tax (VAT). Services offered at tourist facilities, including catering and room accommodations, are also exempt from VAT until 2020. In general, tax and investment incentives for the ATZ can be negotiated on a case-by-case basis.

Limits on Foreign Control

There are no legal limits on the foreign ownership or control of companies. In practice, the government has only allowed fully-owned foreign operations in the oil sector and, in one case, in cellular communications. The nature of government-awarded contracts may vary in terms of the requirements for ownership of local enterprises. All contractors operating in Turkmenistan for a period of at least 183 days a year must register at the Main State Tax Service. National accounting and international financial reporting standards apply to foreign investors. Seventy percent of the workforce of foreign-owned enterprises must be citizens of Turkmenistan. In the energy sector, Turkmenistan precludes foreign investors from investing in the exploration and production of its onshore gas resources.

Privatization Program

Efforts to privatize former state enterprises have attracted little foreign investment. Privatization has been limited by the government to the service and trade sectors; most industry remains under state control. Outdated technology, poor infrastructure, and bureaucratic obstacles make privatized enterprises unattractive for foreign investors.

In November 2012, Turkmenistan adopted a national program related to the privatization of state-owned enterprises and facilities. The document identifies the main goals and procedures for privatizing state property. The program is scheduled to be implemented in three phases: in 2013, during the period 2014-2015, and 2016. The privatization of state enterprises in the sectors of construction, transportation, communications, and the creation of joint stock companies are planned within the framework of the program. Strategic facilities, as identified by the government, are not subject to privatization, including those related to natural resources. Other property not subject to privatization include objects of cultural importance, the property of the Armed and Security Forces, government institutions, research institutes, the facilities of the Academy of Sciences, the integrated energy system, and the public transportation system.

The rules and procedures governing privatization in Turkmenistan lack transparency, leading to corruption. Foreign investors are allowed to participate in the bidding process only after they have been approved by the State Agency for Protection from Economic Risks under the Ministry of Economy and Development. In December 2013, the parliament passed the Law on the Denationalization and Privatization of State Property, which will take effect in July 2014. In the intervening period, however, many state enterprises are being sold through closed processes. Despite official comments regarding the priority of the growth of the private sector, supporting privatization has been low on the government's agenda. All land is government-owned, for example, and neither domestic nor foreign businesses can receive long-term land-use rights for "non-agricultural" purposes. While private citizens have some land usage rights, these rights exclude the sale or mortgage of land. Land rights can be transferred only through inheritance. Foreign companies or individuals are permitted to lease land for non-agricultural purposes, but only the president has the authority to grant the lease.

The government has attempted to introduce an element of competition for state contracts by announcing international tenders for some projects. Often these projects are driven by political rather than economic considerations. The tender process is often badly managed and nontransparent. In one case, an American company was told that it had won a tender and began

investing in the project's design, only to be informed that the government was considering other options. The project ultimately was awarded by the government to a new company at twice the American company's bid.

Screening of FDI

Foreign companies that seek to participate in international tenders must go through a lengthy approval process that includes the Agency. Before the contract can be signed, the State Commodity and Raw Materials Exchange, the Central Bank, the Supreme Control Chamber, and the Cabinet of Ministers must approve the agreement. The approval process is not transparent and is often politically driven. There is no legal guarantee that the information provided by companies to the Government of Turkmenistan will be kept confidential.

Competition Law

Turkmenistan does not have a law that governs competition.

Investment Trends

Turkmenistan possesses the world's fourth largest natural gas reserves. Potential investors are attracted to Turkmenistan's energy, petrochemicals, textile and construction sectors. In 2012, President Berdimuhamedov announced that Turkmenistan will spend \$41 billion on domestic construction projects. According to government data, more than 400 manufacturing and cultural facilities worth \$13.3 billion were commissioned in 2013. While the government has expressed interest in establishing a securities market, Turkmenistan is still in the process of developing the necessary legislative and regulatory framework required for its formation.

TABLE 1:

Measure	Year	Index or Rank	Website Address
TI Corruption Perception index	2013	168 of 175	http://cpi.transparency.org/cpi2013/results/
Heritage Foundation's Economic Freedom Index	2013	171 of 178	http://www.heritage.org/index/ranking
World Bank's Doing Business Report "Ease of Doing Business"	2013	Not ranked	http://www.doingbusiness.org/rankings
Global Innovation Index	2013	Not ranked	http://www.globalinnovationindex.org/content.aspx?page=gii-full-report-2013
World Bank GNI per capita	2013	\$5,410	http://data.worldbank.org/indicator/NY.GNP.PCAP.CD

2. Conversion and Transfer Policies

Foreign Exchange

The government tightly controls the country's foreign-exchange flows. On January 1, 2009, Turkmenistan introduced the redenominated manat (Denominated Turkmen Manat, or DTM), which has a fixed exchange rate of 2.85 manat per \$1. An unofficial exchange market still operates on a very small scale, providing exchanges at rates that are very close to official rates. In October 2011, Turkmenistan adopted the Law on Hard Currency Control and the Regulation of Foreign Economic Relations as a step towards bringing the national legislation into compliance with international standards. The Central Bank controls the fixed rate by releasing U.S. dollars into the official and unofficial (but legal) exchange markets. Foreign exchange regulations adopted in June 2008 allow the Central Bank to provide banks with ready access to foreign exchange. These regulations also allowed commercial banks to open correspondent accounts.

The government has been able to keep up with the growing demand for U.S. dollars. The currency, however, is not fully convertible, and holdings of excess manat are problematic for many companies operating in Turkmenistan. Oil producers operating under the Petroleum Law (2008) receive a share of their profit in crude oil, which they ship to other Caspian Sea littoral states. In many cases, petrochemical investors have negotiated deals with the government to recoup their investment in the form of future petroleum products. Foreign investors generating revenue in foreign currency do not generally have problems repatriating their profits. Some foreign companies receiving income in Turkmen manat seek indirect ways to convert local currency to hard currency through the local purchase of petroleum and textile products for resale on the world market.

Turkmenistan imports the vast majority of its industrial equipment and consumer goods. The government's foreign-exchange reserves and foreign loans pay for industrial equipment and infrastructure projects. The demand for hard currency in Turkmenistan's private retail sector seems to be satisfied by the official and unofficial, but legal, exchange markets. Due to continuing concerns about foreign exchange, Turkmenistan is taking some steps toward trading in the national currencies of select countries. In January 2012, for example, during a meeting of the Turkish-Turkmen joint inter-governmental economic committee, Turkey's Economic Minister announced that Turkey and Turkmenistan would begin to trade in their national currencies once the central banks of their respective countries instituted the necessary regulations. At the Commonwealth of Independent States Heads of States Summit in December 2012, President Berdimuhamedov signed an agreement to develop an integrated CIS currency market as well as an agreement to create a coordination council for the heads of member states' financial intelligence services.

3. Expropriation and Compensation

Expropriation Policies

Turkmenistan's legislation does not provide for private ownership of land. Article 21 of the Investment Law (amended in 1993) allows investors' property to be confiscated via an official court decision. Although there have been no reported expropriation actions against foreign investors in 2013, the government has a history of arbitrarily expropriating the property of local businesses and individuals. Under former President Niyazov, the government frequently refused to recompense those affected when the government exercised its right of eminent domain. However, during a March 2007 Cabinet of Ministers meeting, President Berdimuhamedov stated that residents of affected apartments or houses would be provided alternative housing before their homes were demolished.

4. Dispute Settlement

Most contracts negotiated with the government have an arbitration clause. The Embassy strongly advises U.S. companies to include an arbitration clause identifying a venue outside Turkmenistan. There have been commercial disputes involving U.S. and other foreign investors or contractors in Turkmenistan, though not all disputes were filed with arbitration courts. Investment and commercial disputes involving Turkmenistan have three common themes: non-payment of debts, non-delivery of goods or services, and contract renegotiations. The government may claim the provider did not meet the terms of a contract as justification for non-payment. Several disputes have centered on the government's unwillingness to pay in hard currency as contractually required. In cases where government entities have not delivered goods or services, the government has often ignored demands for delivery. Finally, a change in leadership in the government agency that signed the original contract routinely triggers the government's desire to re-evaluate the contract, including profit distribution, management responsibilities and payment schedules.

Bankruptcy

Turkmenistan adopted a Bankruptcy Law (1993), which protects certain rights of creditors, such as the satisfaction of creditors' claims in case of the debtor's inability or unwillingness to make payments. The law allows for criminal liability for intentional actions resulting in bankruptcy. The law does not specify the currency in which the monetary judgments are made.

Investment disputes

A Western energy company and Turkmennebit, Turkmenistan's state-owned oil company, have been in litigation since 1996. Under the auspices of the International Chamber of Commerce, the Western company was awarded \$495 million in damages in 2001. In 2006, the U.S. Court of Appeals upheld the 2001 decision and bound the Government of Turkmenistan to an arbitral award. In November 2006, the U.S. Supreme Court denied Turkmenistan's petition for a writ of certiorari; to date, the award has not been paid.

A U.S. telecommunications company has been pursuing payment from the Ministry of Communications since 2006. The Ministry acknowledges its contract with the company and that it has an outstanding debt, but disagrees on the amount owed. The issue remains unresolved.

Although Turkmenistan has adopted a number of laws designed to regulate foreign investment, the laws have not been consistently or effectively implemented. The Law on Foreign Investment, as amended in 2008, is the primary legal instrument defining the principles of investment. The law also provides for the protection of foreign investors. A foreign investor is defined in the law as an entity owning a minimum of 20 percent of a company's assets. The following is an ad hoc list of legislation regarding foreign investments:

- According to the 2008 Law on Foreign Investment, all foreign and domestic companies and foreign investments must be registered at the Ministry of Economy.
- The Petroleum Law of 2008 (Law on Hydrocarbon Resources, last amended in May 2012) regulates offshore and onshore petroleum operations in Turkmenistan, including petroleum licensing, taxation, accounting and other rights and obligations of state agencies and foreign partners. The Petroleum Law supersedes all other legislation pertaining to petroleum activities, including the Tax Code.
- According to the Land Code (2004), foreign companies or individuals are permitted to lease land for non-agricultural purposes, but only the president has the authority to grant the lease. Foreign companies may own real estate property other than land.
- Turkmenistan adopted a Bankruptcy Law in 1993. Other laws affecting foreign investors include the Law on Investments (last amended in 1993), the Law on Corporations (1999), the Law on Enterprises (2000), the Law on Business Activities (last amended in 1993), the Civil Code enforced since 2000, and the 1993 Law on Property.

International arbitration

The Government of Turkmenistan usually does not accept the international arbitration of investment disputes. Turkmenistan has been a Party to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID) since 1992, but it has not joined the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards.

The commercial law enforcement system includes the Arbitration Court of Turkmenistan which tries 13 categories of disputes, both pre-contractual and post-contractual, including taxation, legal foundations, and bankruptcy issues. The court does not interfere in an enterprise's economic relations, but reviews disputes upon the request of either party involved. Appeals to decisions of the Arbitration Court can be filed at the Arbitration Committee of the Supreme Court of Turkmenistan.

Duration of Dispute Resolution

Since the government generally does not accept arbitration outside Turkmenistan, the proceedings of an investment/commercial dispute may last several years with no guarantee that the dispute will ever be resolved.

5. Performance Requirements and Incentives

WTO/TRIMs

Turkmenistan is not a member of the WTO. While the president indicated an interest in 2013 in exploring the accession process and the government created an interagency committee to review the benefits of WTO accession, Turkmenistan may not apply for membership. Turkmenistan has enacted a number of laws that mirror WTO standards, including those related to investment, banking, intellectual property rights, customs, and privatization. These standards are not uniformly enforced.

Turkmenistan is not a signatory to and is not in compliance with the Agreement on Trade-Related Investment Measures (TRIMs).

Foreign investors are more disadvantaged because they face higher tax rates than most local companies. Amendments to the 2005 Tax Code did not impact tax rates. The value added tax rate (VAT) is 15 percent, an income tax of 8 percent is applied to JVs, and an income tax of 20 percent is applied to wholly-owned foreign companies and state-owned enterprises. Dividends are taxed at 15 percent. The personal income tax rate is 10 percent.

The president has issued special decrees granting exemptions from taxation and other privileges to specific investors while they recoup their initial investment. The assets and property of foreign investors should be insured with the State Insurance Company of Turkmenistan pursuant to Article 53 of the 2008 Petroleum Law and Article 3 of the 1995 Insurance Law. National accounting and financial reporting requirements apply to foreign investors. All contractors operating in Turkmenistan for a period of at least 183 days a year must register at the Main State Tax Service. Seventy percent of the workforce of a company owned by a foreign investor must be citizens of Turkmenistan, though the government has made exceptions for foreign construction and energy companies executing large-scale turnkey projects.

Turkmenistan requires that all export and import contracts and investment projects be registered at the State Commodity and Raw Materials Exchange (SCRME) and at the Ministry of Economy. The procedure applies not only to the contracts signed at the SCRME, but also to contracts signed between third parties. The SCRME is state-owned and is the only exchange in the country. The contract registration procedure includes an assessment of “price justification.” All import contracts must be registered before goods are delivered to Turkmenistan. The government generally favors long-term investment projects that do not require regular hard-currency purchases of raw materials from foreign markets. Textile factories operated by Turkish companies using domestic resources and labor serve as model investment projects supported by the government. These companies encounter relatively few currency conversion problems and enjoy tax incentives. Otherwise, there are no requirements for local sourcing or exporting output.

Petroleum Production Sharing Agreement (PSA) holders are regulated by the 2008 Petroleum Law. They are subject to a 20 percent income tax and royalties up to 15 percent, depending on the level of production. The social welfare tax, which is 20 percent of the total local staff payroll, is paid by all foreign investors and their subcontractors. PSA holders' employees and their subcontractors pay a personal income tax of 10 percent. Under the Petroleum Law, PSA concessions have been made to eight foreign energy companies: five offshore and three onshore concessions for periods ranging from 20-25 years. Subcontractors of PSA holders can bring their equipment into the country only for the duration of a valid contract. There is no specific legislation that regulates the operations of oil and gas subcontractors. Turkmenistan currently lists 49 import and 20 export goods and materials that are subject to customs duties. Goods and materials not on these lists are subject to a 0.2 percent customs fee payment and a charge of \$1.76 for every hour a Customs official spends inspecting the imported goods. The Customs Service maintains a list of goods subject to customs duty payment. State enterprises often receive preferential treatment; for example, wool carpets produced at state factories are exempt from customs duties. In contrast, private carpet producers pay \$20 per square meter in customs duties to export a carpet. Foreign investors are required to adhere to the sanitary and environmental standards of Turkmenistan and should produce products of equal or higher quality than prescribed in national standards.

The State Migration Service controls access to the country and monitors the movement of foreign citizens. All visitors are required to register with the Migration Service upon entry. Visa-related decisions are not transparent and may not be appealed. Travel to most border areas requires a special permit. Representatives of foreign businesses seeking to enter Turkmenistan for the first time often have difficulty obtaining an entry visa unless invited by a government agency or by a local business partner. Established investors frequently complain about bureaucratic delays in securing visas to return to the country.

6. Right to Private Ownership and Establishment

Private entities in Turkmenistan have the right to establish and own business enterprises. The 2000 Law on Enterprises defines the legal forms of state and private businesses (state enterprises, sole proprietorships, cooperatives, partnerships, corporations and enterprises of non-government organizations). The law allows foreign companies to establish subsidiaries, though the government does not currently register subsidiaries. The Civil Code of Turkmenistan and the Law on Enterprises govern the operation of representative and branch offices in Turkmenistan. Enterprises must be registered with the Registration Chamber at the Ministry of Economy. The 2008 Law on the Licensing of Certain Types of Activities lists 44 activities that require government licenses. The Law on Enterprises and the Law on Corporations allow acquisitions and mergers. Turkmenistan's legislation is not clear, however, about acquisitions and mergers involving foreign parties, nor does it have specific provisions for the disposition of interests in business enterprises, both solely domestic and those with foreign participation. Governmental approval is necessary for acquisitions and mergers of enterprises with state shares.

7. Protection of Property Rights

All land is owned by the government. The 1993 Law on Property defines the following types of property owners: private, state, non-government organizations, cooperative, joint-venture, foreign states, legal entities and citizens, international organizations and mixed private and state. A small number of dwellings have been privatized, allowing Turkmenistan's citizens to rent and sell apartments and houses. Turkmenistan adopted a new Land Code in 2004, which addressed the land rights of farmers. According to the new Land Code, citizens have the rights to use three hectares of land, but they cannot sell, exchange, or transfer it, except to their children. By law, foreign citizens and stateless persons, foreign states, and companies and international organizations may only lease land. The October 2007 amendments to the Land Code provide for up to 40-year land leases for hotels and recreational facilities in National Tourist Zones. Land and facilities subsequently built on the parcel must be transferred to the state after the expiration of the contract. According to the Law on Foreign Investment, foreign investments in Turkmenistan are not subject to nationalization and requisition; foreign properties may be confiscated only following a court decision.

The government has enacted laws designed to protect intellectual property rights (IPR) domestically, but these laws are either arbitrarily implemented or not implemented at all. Among them are the 1993 Law on the Protection of Scientific Research, the 1993 Patent Law, the 2008 Law on Inventions and Industrial Designs, and the Law on Trade and Service Marks and Places of Origin. These regulations provide legal protection to intellectual property registered with the Patent Agency, which was established in 1993. However, due to significant deficiencies in Turkmenistan's intellectual property protection regime, there is an ongoing review of Turkmenistan's status as a beneficiary country under the U.S. Generalized System of Preferences (GSP) program. Turkmenistan has been on the United States government's Special 301 Watch List since 2000.

The Law on Foreign Investment guarantees the protection of intellectual property of foreign investors, including literary, artistic and scientific works, software, databases, patents and other copyrighted items. Turkmenistan has not yet adopted more explicit and comprehensive administrative and civil procedures and criminal penalties for IPR violations. Turkmenistan has not adopted a separate Copyright Law and consequently does not provide any protection to foreign sound recordings or pre-existing works. The 1993 Most Favored Nation Agreement between the United States and Turkmenistan also provides for favorable treatment of copyrighted materials. The agreement envisages Turkmenistan's accession to the 1971 Berne Convention for the Protection of Literary and Artistic Works and the Creation of a Working Group on Intellectual Property Matters. To date, Turkmenistan has not joined the Berne Convention or the Geneva Phonograms Convention. It is a challenge to purchase legally recorded material in Turkmenistan. Border enforcement of IPR material is weak, allowing pirated recordings to easily cross into Turkmenistan for sale. Additional personnel and training courses are needed for more effective border enforcement. Turkmenistan's laws do not provide for either civil or criminal ex-parte search procedures needed for effective anti-piracy enforcement.

Turkmenistan signed the World Intellectual Property Organization's (WIPO) documents on industrial property rights and patent cooperation in 1995. Turkmenistan has also joined the Eurasian Patent Organization created as part of the WIPO for CIS countries. Turkmenistan has

not signed the 1996 WIPO Copyright Treaty (WCT), WIPO Performances and Phonograms Treaty (WPPT), or WIPO Internet Treaties. The Copyright Law was enacted in 2000 as part of Turkmenistan's Civil Code. This law defines copyrighted products and the rights of owners of the copyrighted products, and it provides for their legal protection. In January 2012, the law was amended to include IPR-related provisions, including exclusive rights (absolute title), licensing agreements, and the collective management of ownership rights. There is a Patent Department in the Ministry of Economy and Development which issues patents on intellectual property, but it does not enforce copyright laws. Turkmenistan has not adopted criminal penalties for IPR violations. Currently articles such as videos, cassette tapes, software, and literature are freely copied and sold. In general, products manufactured by government-owned entities increasingly dominate local markets and are well-protected by law enforcement bodies.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at <http://www.wipo.int/directory/en/>.

Embassy point of contact: trade-Ashgabat@state.gov

Local lawyers list: <http://turkmenistan.usembassy.gov/attorneys.html>

8. Transparency of Regulatory System

The government does not use transparent policies to foster competition and foreign investment. Laws have frequent references to bylaws that are often not publicly available. Most bylaws are passed in the form of presidential decrees. Such decrees are not categorized by subject, which makes it difficult to find relevant cross references. Personal relations with government officials can play a decisive role in determining how and when government regulations are applied. Bureaucratic procedures are confusing and cumbersome. There is no single body that coordinates registration and activities of domestic and foreign private companies. The government does not generally provide information support to investors, and officials can use this lack of information to their personal benefit. As a result, foreign companies may spend months conducting due diligence in Turkmenistan. A serious impediment to foreign investment is the lack of knowledge of internationally-recognized business practices, as well as the fact that there are few fluent English speakers in Turkmenistan. English-language material on Turkmenistan legislation is scarce, and there are very few business consultants to assist investors. Proposed laws and regulations are not published in draft form for public comment. The general public is not invited to make contributions during parliamentary deliberations on the proposed bills or amendments to legislation.

There are no standards-setting consortia or organizations besides the Turkmen State Standards and the licensing agency. There is no independent body for filing complaints. Financial disclosure requirements are neither transparent nor consistent with international norms. Government enterprises are not required to publicize financial statements, even to foreign partners. Financial audits are often conducted by local auditors, not internationally recognized firms.

The legal framework contained in the Law on Petroleum (2008) was a partial step toward creating a more transparent policy in the energy sector.

9. Efficient Capital Markets and Portfolio Investment

Turkmenistan's underdeveloped financial system significantly hinders the free flow of financial resources. The largest state banks include: The State Bank for Foreign Economic Relations (Vnesheconombank), Dayhanbank, Turkmenbashy Bank, Turkmenistan Bank, Halk Bank, and President Bank. These banks have narrow specializations— foreign trade, agriculture, industry, social infrastructure, savings and mortgages, respectively. There are two smaller state banks, Senagat Bank and Garagum Bank, which provide only general banking services. In September 2011, the government established the State Development Bank to provide loans to state-owned and private enterprises implementing projects that increase production and create jobs. There are also five foreign commercial banks in the country: a joint Turkmen-Turkish bank (with Ziraat Bank), a branch of the National Bank of Pakistan, the German Deutsche and Commerz Banks, and a branch of Saderat Bank of Iran. The two German banks provide European bank guarantees for companies and for the Turkmen government; they do not provide general banking services.

The total assets of the country's largest bank, Vnesheconombank, are estimated at \$1 billion (2007). No information is available regarding Vnesheconombank's current assets. The assets of other banks are believed to be much smaller. All banks, including commercial banks, are regulated by the state. Commercial banks are prohibited from providing services to state enterprises. The U.S. Export Import (EXIM) Bank announced in January 2010 that it had extended its available financing to include long-term public sector transactions in Turkmenistan. Previously, EXIM had only been open for short- to medium-term public sector financing. Short-term financing is available for up to two years, medium-term for up to seven years, and long-term for up to 18 years. In January 2014, EXIM announced that it upgraded Turkmenistan's private sector credit risk from "9" to "8" and expanded its offerings to include private sector short- and medium-term transactions. For private sector transactions, EXIM requires detailed financial information to enable the bank to reach a credit conclusion. Financial statements provided in support of the transaction should be audited by an affiliate of an international accounting firm and prepared in accordance with International Financial Reporting Standards (IFRS). Coverage under the Working Capital Guarantee Program requires that the transaction be supported by an irrevocable Letter of Credit issued by a bank acceptable to EXIM. Exceptions may be made for private sector transactions that are insured for comprehensive political and commercial risk.

State banks primarily service state enterprises and allocate credit on subsidized terms to state entities. Foreign investors are only able to secure credit on the local market through the Pakistan National Bank and EBRD equity loans. There is no capital market in Turkmenistan, although the 1993 Law on Securities and Stock Exchanges outlines the main principles for issuing, selling and circulating securities. The 1999 Law on Corporations further provides for the issuance of common and preferred stock and bonds and convertible securities in Turkmenistan, but in the absence of a stock exchange or investment company, there is no market for securities. In November 2011, the government approved the State Program for Stock Market Development

(2012-2016), which portends that new regulations and procedures might be developed in this area.

10. Competition from State Owned Enterprises (SOEs)

State-owned enterprises still dominate Turkmenistan's economy and control the lion's share of the country's industrial production, especially in the sectors of onshore hydrocarbon production, transportation, refining, electricity generation and distribution, chemicals, transportation, and construction material production. Education, healthcare, and media enterprises are state-owned and tightly controlled. State-owned enterprises are also heavily involved in agriculture, food processing, textiles, communications, construction, trade, and services. Although state-owned enterprises are often inefficient, the government considers them strategically important. While there is a growing number of small-scale private enterprises in Turkmenistan, the government continues to exert significant influence over these enterprises. There are no mechanisms to ensure transparency or accountability in the business decisions or operations of state-owned enterprises.

11. Corporate Social Responsibility

Corporate social responsibility (CSR) is not a familiar concept in Turkmenistan. In the past, foreign companies operating in Turkmenistan were not required to implement social projects. CSR activities in Turkmenistan generally take the form of financial sponsorship of cultural or athletic events, providing academic scholarships to Turkmen students, or the construction of small-scale facilities, such as a medical clinic, to benefit the locality around a company's facilities.

12. Political Violence

Turkmenistan's political system has remained stable since Gurbanguly Berdimuhamedov became president in February 2007.

The government does not permit political opposition and maintains a tight grip on all politically sensitive issues by, in part, requiring all organizations to register their activities. The country's parliament passed a Law on Political Parties in January 2012 that defines the legal grounds for the establishment of political parties, including their rights and obligations. In August 2012, under the directive of President Berdimuhamedov, Turkmenistan created a second political party, the Party of Industrialists and Entrepreneurs. This pro-government party, created from the membership of the Union of Industrialists and Entrepreneurs, has a platform nearly identical to the President's Democratic Party. No politically-motivated demonstrations or violent actions were noted in 2013. Organized crime is rare, and authorities have effectively rooted out organized crime groups and syndicates.

Turkmenistan does not publish crime statistics or information about crime.

13. Corruption

Although Turkmenistan has legislation to combat corruption, laws are not generally enforced, and corruption remains a problem. Formally, the Ministry of Internal Affairs, the Ministry of National Security, and the General Prosecutor's Office are responsible for combating corruption. President Berdimuhamedov has publicly stated that corruption will not be tolerated.

Turkmenistan joined the UN Convention against Corruption in March 2005. The opaque nature of Turkmenistan's economic, financial, and banking systems provides fertile soil for corruption. Transparency International ranked Turkmenistan 168 among 175 countries in the world in its Corruption Perceptions Index in 2013. American firms have identified widespread government corruption, usually in the form of rent seeking, as an obstacle to investment and business throughout all economic sectors and regions. It is most pervasive in the areas of government procurement, the awarding of licenses and customs. In March 2014, the parliament adopted a law on Combatting Corruption that establishes a legal and institutional framework to help identify cases of corruption. Given Turkmenistan's weak legal institutions, however, it is difficult to see how this law could be effectively enforced. Turkmenistan acceded to the UN Anticorruption Convention in March 2005, but it is not a party to the OECD convention on Combatting Bribery of Foreign Public Officials in International Business Transactions. There is no independent "watchdog" organization operating in the country that monitors corruption.

14. Bilateral Investment Agreements

The governments of Turkmenistan and the United States began negotiations on a bilateral investment treaty in 1991, though talks were suspended in early 1994. The government expressed interest in renewing discussions in 1998, but negotiations have not recommenced. The United States government considers the Convention with the Union of Soviet Socialist Republics on Matters of Taxation, which entered into force in 1976, to continue to be in effect between the United States and Turkmenistan.

Turkmenistan has signed bilateral investment agreements with Armenia, Bahrain, China, Egypt, France, Georgia, Germany, India, Iran, Ireland, Malaysia, Pakistan, Romania, Slovakia, Switzerland, Turkey, Ukraine, the United Arab Emirates, the United Kingdom, and Uzbekistan. In July 2009, EU Ministers passed a trade agreement with Turkmenistan reasoning that economic and trade engagement with the country would stimulate political reforms in Turkmenistan.

15. OPIC and other Investment Insurance Programs

Turkmenistan signed an Investment Incentive Agreement with the United States in 1992, but there has been no investment insurance, investment guarantees or financing provided by the Overseas Private Investment Corporation (OPIC) for Turkmenistan.

16. Labor

Labor issues are governed by the Labor Code of Turkmenistan (last amended in July 2009), the Social Welfare code, and a number of regulations approved by presidential resolutions. Turkmenistan joined the International Labor Organization in 1993. Unemployment and underemployment are major societal issues, particularly among Turkmenistan's youth and in its rural communities. While there are no official unemployment figures available, unofficial

estimates range from 35-50 percent. The Law on Child Labor (2004) prohibits the employment of children under the age of 16 and makes employment in hazardous and harmful labor illegal for any individual under the age of 18. The government continues to be the largest employer in the country, with seventy to eighty percent of employment originating in the public sector.

Turkmenistan's labor regulations require that all vacancies be posted at local employment offices. Most vacancies are for low-skilled jobs. Employment offices have not been effective tools in reducing unemployment, or in providing suitable candidates for international companies. Investors recruit directly, although candidates still pay a nominal fee to the relevant employment office. The Association of Trade Unions of Turkmenistan, the successor to the Soviet-era system of government-controlled trade unions, is the only trade union allowed in the country. The Association's unions are divided along both sectorial and regional lines.

The official workday in Turkmenistan is eight hours in length, with the standard workweek consisting of 40 hours over five days. In practice, government and many private sector employees are required to work 10 hours a day or a sixth day without compensation. The 2009 Labor Code reconfirmed a 40-hour work week, protected workers' rights by promoting the role of trade unions, guaranteed job security by restricting short-term contracts, and extended the duration of annual leave from 24 calendar days to 30 calendar days. Health and safety regulations exist, but are not commonly enforced. Foreigners with the government's permission to reside in Turkmenistan may work and are subject to the same labor regulations as citizens unless otherwise specified by law.

17. Foreign Trade Zones/Free Ports

The Law on Economic Zones for Free Enterprise was enacted in 1993. The law guarantees the rights of businesses, both foreign and domestic, to operate in free economic zones (FEZs) without profit ceilings. The law forbids the nationalization of enterprises operating in the zones and discriminating against foreign investors. Other rights guaranteed include:

- Preferential tax status, including an exemption from profit tax if profits are reinvested in export-oriented, advanced technology enterprises;
- Repatriation of after-tax profits;
- Exemption from customs duties, except on products of foreign origin;
- Export of products; and
- Setting product prices.

There are ten FEZs in Turkmenistan: Mary-Bayramaly; Ekerem-Hazar; Turkmenabat-Seydi; Bakharly-Serdar; Ashgabat-Anew; Ashgabat-Abadan; Saragt; Guneshli; Ashgabat International Airport; and Dashoguz Airport. The FEZs have not been successful in drawing increased economic activity, as the government interferes in the business decisions of firms located in the zones and has not financially supported zones' infrastructure.

In September 2011, the government announced it was working on a new Law on Special Economic Zones. The new Law has not been passed.

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Government data on most economic indicators, including Foreign Direct Investment (FDI), remains generally unavailable and unreliable. According to various independent analysts, however, most foreign investment is directed toward the country's oil and gas sector. Such investments include three onshore Production Sharing Agreements (PSAs): the Nebitdag Contractual Territory operated by Burren Energy UK/ENI; the Khazar project operated jointly by the Turkmennebit state oil concern and Mitro International of Austria; and the Bagtyarlyk Contractual Territory operated by the Chinese National Petroleum Corporation (CNPC). In addition, there are six PSAs for offshore operations: Block I operated by Petronas of Malaysia; Block II (Cheleken Contractual Territory) operated by Dragon Oil (UAE); Block III operated by Buried Hill (Canada); Blocks 11 and 12 operated jointly by Maersk Oil of Denmark and Wintershall of Germany; Block 23 operated by RWE of Germany; and Block 21 operated by Itera of Russia.

TABLE 2: Key Macroeconomic data, U.S. FDI in Turkmenistan

	Host Country Statistical source*		USG or international statistical source		USG or international Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
Economic Data	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) (<i>Millions U.S. Dollars</i>)	2013	\$36.4 bln	2012	\$35.16 bln	http://www.worldbank.org/en/country
Foreign Direct Investment	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country (<i>Millions U.S. Dollars, stock positions</i>)	N/A	N/A	2012	-9mln	(BEA) click selections to reach. Bureau of Economic Analysis Balance of Payments and Direct Investment Position Data U.S. Direct Investment Position Abroad on a Historical-Cost Basis By Country only (all countries) (Millions of Dollars)
Host	N/A	N/A	2012	-5mln	(BEA) click selections to reach

country's FDI in the United States (Millions U.S. Dollars, stock positions)					Balance of Payments and Direct Investment Position Data Foreign Direct Investment Position in the United States on a Historical-Cost Basis By Country only (all countries) (Millions of Dollars)
Total inbound stock of FDI as % host GDP (calculate)	N/A	N/A	N/A	N/A	

TABLE 3: Sources and Destination of FDI

The IMF does not detail the sources and destination of FDI for Turkmenistan (<http://cds.imf.org>.)

Table 3-1: Inward Direct Investment Positions as Reported by Turkmenistan and Outward Direct Investment Positions as Reported by Counterpart Economy (Figures as of December 2012)

US Dollars, Millions

Investment from:	Direct Investment Positions		Equity Positions (Net)		Debt Instruments Positions (Net)	
	Inward Reported by Economy	Outward Reported by Counterpart Economy	Inward Reported by Economy	Outward Reported by Counterpart Economy	Inward Reported by Economy	Outward Reported by Counterpart Economy
Italy	N/A	36	N/A	36	N/A	0
Kazakhstan	N/A	2	N/A	0	N/A	1
Pakistan	N/A	2	N/A	2	N/A	0
Turkey	N/A	120	N/A	72	N/A	48
United States	N/A	-9	N/A	c	N/A	C
Total	N/A	152	N/A	111	N/A	50

TABLE 4: Sources of Portfolio Investment

The IMF does not provide sources of portfolio investment for Turkmenistan (<http://cpis.imf.org>).

19. Contact at Post:

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