

Djibouti

RISK & COMPLIANCE REPORT

DATE: March 2018

Executive Summary - Djibouti	
Sanctions:	None
FAFT list of AML Deficient Countries	No
Higher Risk Areas:	Compliance with FATF 40 + 9 Recommendations Not on EU White list equivalent jurisdictions Corruption Index (Transparency International & W.G.I.) World Governance Indicators (Average Score) Failed States Index (Political Issues)(Average Score)
Medium Risk Areas:	US Dept of State Money Laundering assessment
<p>Major Investment Areas:</p> <p>Agriculture - products: fruits, vegetables; goats, sheep, camels, animal hides</p> <p>Industries: construction, agricultural processing</p> <p>Exports - commodities: reexports, hides and skins, coffee (in transit)</p> <p>Exports - partners: Somalia 80.1%, UAE 4.4%, Yemen 4.1% (2012)</p> <p>Imports - commodities: foods, beverages, transport equipment, chemicals, petroleum products</p> <p>Imports - partners: China 24.4%, Saudi Arabia 16.4%, India 10.6%, Indonesia 7.3% (2012)</p>	

Investment Restrictions:

Djibouti's laws encourage foreign investment. In principle, there is no screening of investment or other discriminatory mechanisms. In practice, however, navigating the bureaucracy can be complicated. Certain sectors - most notably public utilities - are state-owned and are not open to investors.

Djiboutian laws guarantee rights for foreign and domestic private entities to establish and own business enterprises. Legally established private-sector companies have the same access to markets, land ownership, credit, and other business facilities as public enterprises. Although restrictions on private enterprises are minimal, competitive equality in regard to public enterprises, namely public utilities, remains limited.

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Section 1 - Background

The French Territory of the Afars and the Issas became Djibouti in 1977. Hassan Gouled APTIDON installed an authoritarian one-party state and proceeded to serve as president until 1999. Unrest among the Afar minority during the 1990s led to a civil war that ended in 2001 with a peace accord between Afar rebels and the Somali Issa-dominated government. In 1999, Djibouti's first multiparty presidential elections resulted in the election of Ismail Omar GUELLEH as president; he was reelected to a second term in 2005 and extended his tenure in office via a constitutional amendment, which allowed him to begin a third term in 2011. Djibouti occupies a strategic geographic location at the intersection of the Red Sea and the Gulf of Aden and serves as an important shipping portal for goods entering and leaving the east African highlands and transshipments between Europe, the Middle East, and Asia. The government holds longstanding ties to France, which maintains a significant military presence in the country, and has strong ties with the United States. Djibouti hosts several thousand members of US armed services at US-run Camp Lemonnier.



Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

Djibouti is not on the FATF List of Countries that have been identified as having strategic AML deficiencies

Compliance with FATF Recommendations

Djibouti has not yet undertaken a Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards.

US Department of State Money Laundering assessment (INCSR)

Djibouti was deemed a Jurisdiction of Concern by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

Perceived Risks:

Djibouti is one of the most stable countries in the Horn of Africa. Djibouti's GDP continues to grow by over 6 percent a year due to a surge in foreign investment in the port, construction, and tourism sectors, primarily from the countries of the Gulf Cooperation Council and China. Djibouti aspires to be a regional financial hub, touting its U.S. dollar-pegged currency and lack of foreign exchange controls as key characteristics of the monetary system.

Djibouti hosts no offshore banks, although its banking laws explicitly permit offshore institutions. Hawala and other money/value transfer services are prevalent in the region, and informal markets for goods are sometimes used for counter-valuation.

Smuggled goods consist primarily of highly-taxed cigarettes and alcohol. A khat import quota instituted in 2014 has resulted in increased khat smuggling. Djibouti's cultural and historical trading ties with neighboring Somalia present a risk factor. Many Djibouti-based financial institutions have operations in Somalia, a jurisdiction which has no AML/CFT legislation or other controls. There are also allegations of Djibouti-based financial facilitation on behalf of the Somali terrorist group al-Shabaab.

There are currently two free zones administered by the Djibouti Ports and Free Zone Authority (DPFZA). The chief executive officer of DPFZA reports directly to the Office of the President. One free zone is located at the "old" port. The other, Djibouti Free Zone (DFZ), is located on 40 hectares and offers office space, warehouses, light industrial units, and hangars. Jebel Ali

Free Zone, based in Dubai, manages the commercial and operational aspects of the DFZ. The purpose of both free zones is to promote foreign investment in Djibouti with the goal of making Djibouti the gateway to regional and East African markets. There are plans to build two additional free zones in the coming years.

DO FINANCIAL INSTITUTIONS ENGAGE IN CURRENCY TRANSACTIONS RELATED TO INTERNATIONAL NARCOTICS TRAFFICKING THAT INCLUDE SIGNIFICANT AMOUNTS OF US CURRENCY; CURRENCY DERIVED FROM ILLEGAL SALES IN THE U.S.; OR ILLEGAL DRUG SALES THAT OTHERWISE SIGNIFICANTLY AFFECT THE U.S.: NO

CRIMINALIZATION OF MONEY LAUNDERING:

"All serious crimes" approach or "list" approach to predicate crimes: List approach

Are legal persons covered: criminally: YES civilly: NO

KNOW-YOUR-CUSTOMER (KYC) RULES:

Enhanced due diligence procedures for PEPs: Foreign: NO Domestic: NO

KYC covered entities: Banks, credit establishments, financial and investment intermediaries and advisors, money transfer agents, money changers, casinos, notaries, and attorneys

REPORTING REQUIREMENTS:

Number of STRs received and time frame: 3 in 2015

Number of CTRs received and time frame: 0 in 2015

STR covered entities: Banks, credit establishments, financial and investment advisors and intermediaries, money transfer agents, money changers, casinos, notaries, and attorneys

MONEY LAUNDERING CRIMINAL PROSECUTIONS/CONVICTIONS:

Prosecutions: 0 in 2015

Convictions: 0 in 2015

RECORDS EXCHANGE MECHANISM:

With U.S.: MLAT: NO Other mechanism: NO

With other governments/jurisdictions: YES

Djibouti is not a member of a FATF-style regional body (FSRB).

ENFORCEMENT AND IMPLEMENTATION ISSUES AND COMMENTS:

The Government of Djibouti recognizes its banking sector is vulnerable to money laundering and requires monitoring by the Central Bank's Fraud Investigation Unit (FIU), Djibouti's financial intelligence unit. Although the government enacted its AML law in 2002, enforcement of the law continues to be a challenge. The FIU is not operationally independent from the Central Bank and does not appear to be carrying out the core FIU functions of receiving, analyzing, and disseminating suspicious transaction reports (STRs).

Djibouti makes an effort to control all formal transaction points. Informal remittance and value-transfer systems are not monitored. Although Law no. 112/AN/11/6ème requires the reporting of large transactions, specifically, transactions involving an amount exceeding 1,000,000DJF (approximately \$5,600), the FIU tracks large currency transactions only if there is

an accompanying STR. Greater resources and independence would improve the oversight capabilities of the Central Bank and the FIU.

Severe resource limitations constrain the FIU's ability to carry out its investigative and supervisory functions, as well as its ability to collect and analyze basic financial intelligence. Because of Djibouti's free zones and the introduction of bank-free cash transfers via mobile phones, additional training and resources for the FIU continue to be a critical need. At the regional level, the FIU works in collaboration with FIUs from member states of the Intergovernmental Authority on Development.

The lack of coordination among different law enforcement authorities, especially security agencies, impedes investigations and makes staffing in-depth investigations difficult. Law enforcement expertise in financial investigations and targeting financial crimes is minimal. Djiboutian magistrates and judges also lack both experience and expertise in prosecuting and hearing cases involving financial crimes. The Ministry of Justice examines each predicate offense and seldom considers links to money laundering or terrorism financing unless currency is directly involved.

The Government of Djibouti should take steps to increase the capacity of its supervisory, enforcement and prosecutorial entities. Djibouti should apply its AML/CFT regime in all current and planned free zones, and to all professionals involved in financial matters. Law enforcement should not wait for a money laundering or terrorism financing referral from the FIU, but rather should investigate financial crimes at the street level and in the ports. The government should continue to focus on improving customs controls on cross-border currency movements, especially at land borders. The government also should enhance its record-keeping requirements and create regulatory and law enforcement benchmarks so as to measure progress in its AML/CFT regime. It should continue to pursue observer status and, ultimately, full membership in an appropriate FSRB.

Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):

According to the US State Department, Djibouti does not conform with regard to the following government legislation: -

Arrangements for Asset Sharing - By law, regulation or bilateral agreement, the jurisdiction permits sharing of seized assets with third party jurisdictions that assisted in the conduct of the underlying investigation.

EU White list of Equivalent Jurisdictions

Djibouti is not currently on the EU White list of Equivalent Jurisdictions

World Governance indicators

[To view historic Governance Indicators Ctrl + Click here and then select country](#)

Failed States Index

[To view Failed States Index Ctrl + Click here](#)

Offshore Financial Centre

Djibouti is not considered to be an Offshore Financial Centre

Latest US State Dept Narcotics Report 2011 (introduction):

No report available

US State Dept Trafficking in Persons Report 2016 (introduction):

Djibouti is classified a Tier 3 country - a country whose government does not fully comply with the minimum standards and is not making significant efforts to do so.

Djibouti is a source, transit, and destination country for men, women, and children subjected to forced labor and sex trafficking. Over 90,000 men, women, and children from Ethiopia, Somalia, and Eritrea transit Djibouti as voluntary and often undocumented economic migrants en route to Yemen and other locations in the Middle East, particularly Saudi Arabia. Some of these migrants are subjected to forced labor and sex trafficking in their intended destinations. In early 2015, the crisis in Yemen created a reverse influx of persons fleeing Yemen to Djibouti; the Government allowed over 30,000 people of diverse nationalities to enter freely and take refuge, some of whom endured various types of exploitation, possibly including trafficking, before their transit to Djibouti. Some Djiboutian and migrant women and girls are subjected to domestic servitude or sex trafficking in Djibouti City, the Ethiopia-Djibouti trucking corridor, and Obock, the main departure point for Yemen. Some migrants intending to be smuggled may be transported or detained against their will and subsequently subjected to trafficking, and other forms of abuse, in Djibouti. Smuggling networks, some of whose members are likely Djiboutian, sometimes charge exorbitantly high rents or kidnap and hold migrants, including children, for ransom; some migrant women reportedly were subjected to domestic servitude and forced prostitution in Djibouti to pay these ransoms. In addition, traffickers based in Yemen or Saudi Arabia, who reportedly intend to exploit migrants or sell women into prostitution or domestic servitude upon their arrival there, sometimes pay these ransoms. Some of Djibouti's older street children reportedly act as pimps of younger children. Parents sometimes force their children to beg on the streets as a source of familial income; children may also travel from foreign countries—including Ethiopia and Somalia—for begging in Djibouti. Children are also vulnerable to forced labor as domestic servants and, at times, coerced to commit petty crimes, such as theft.

The Government of Djibouti does not fully meet the minimum standards for the elimination of trafficking and is not making significant efforts to do so. In March 2016, the government passed and officially promulgated a new anti-trafficking law to supersede the existing 2007 anti-trafficking law; however, it did not use the prior law to prosecute traffickers during the reporting period. Djiboutian officials did not investigate any potential sex or labor trafficking cases or initiate prosecutions of any suspected trafficking offenders; two cases from previous reporting periods remained pending, including one case allegedly involving five officials complicit in trafficking crimes. The government did not fully operationalize its national action plan to combat trafficking, which it finalized during the previous reporting year. The government did not identify or provide protection for any trafficking victims in 2015 due largely to capacity and resource constraints; in 2014, it identified three victims and provided

them with basic health care. Djiboutian officials continued to work cooperatively with an international organization to publish and disseminate anti-trafficking training materials.

US State Dept Terrorism Report 2016

Overview: Overview: Djibouti offered an important platform for regional counterterrorism and countering violent extremism (CVE) efforts in 2016. Djibouti continued to contribute troops to the African Union Mission in Somalia (AMISOM), and its military (Forces Armees Djiboutiennes, or the FAD) and received U.S. assistance to train and prepare for this mission from the Global Peace Operations Initiative through the Africa Contingency Operations Training and Assistance program. Djiboutian Brigadier General Osman Noor Soubagleh assumed command of AMISOM in July. Djibouti is home to the Intergovernmental Authority on Development (IGAD), an eight-country trade bloc in Africa that includes governments from the Horn of Africa, Nile Valley, and the African Great Lakes.

Camp Lemonnier served as headquarters to the U.S. Africa Command's Combined Joint Task Force-Horn of Africa (CJTF-HOA) and is the only enduring U.S. military installation in Africa. Djibouti's relations with Eritrea, its neighbor to the north, remained hostile after a 2008 border conflict in which dozens of Djiboutian soldiers lost their lives. To the south, Somalia's struggle with al-Shabaab continued to pose a threat Djibouti's security. The Somalia-based al-Shabaab claimed responsibility for the May 2014 suicide attack against a popular restaurant in Djibouti City. As a result, enhanced security measures in Djibouti City remained in place throughout 2016.

Djibouti's proximity to important waterways, such as the Bab al-Mandeb and the Gulf of Aden, make the country a prime destination and transit point for migrants, refugees, and asylum seekers fleeing ongoing conflicts in Ethiopia, Somalia, and Yemen. This influx of people taxed the government's resources and revealed vulnerabilities in port and immigration security procedures. The United States supported Djibouti's efforts to build counterterrorism capacities in the areas of border security, investigations, justice sector reform, and countering violent extremism.

Djibouti has publicly condemned violent ISIS acts, such as beheadings, as well as the group's focus on recruiting vulnerable youth and its use of Islam to advance its goals. Djibouti works closely with regional neighbors in IGAD to build sustainable institutions to counter radicalization to violence and violent extremism. Recognized by IGAD as being a low threat for home-grown violent extremism, Djibouti is eager to play a leadership role for activities in this field.

Legislation, Law Enforcement, and Border Security: Counterterrorism remained a high priority for all Djiboutian law enforcement entities due to Djibouti's geographic location, porous borders, and the 2014 al-Shabaab attack in Djibouti City. Djibouti maintained a system of checkpoints and cordon-and-search operations within the capital city. Djibouti remained focused at border-control points to screen for potential security threats. The government maintained enhanced protection of soft targets, including hotels and grocery stores, which it first implemented after the 2014 attack. Djibouti law enforcement extended vehicle searches throughout the city in an effort coordinated through the Ministry of Foreign Affairs.

Djiboutian law enforcement personnel acknowledged the difficulty of securing their land borders, as well as the sea coast. The Djiboutian National Police (DNP) controls border checkpoints and the FAD has responsibility for patrolling land borders in remote locations, with support from the Gendarme patrolling between border posts. Djibouti continued to process travelers on entry and departure with the U.S.-provided Personal Identification Secure Comparison and Evaluation System (PISCES). While the airport and seaport in the capital remain important entry points, the vast majority of travelers cross into Djibouti by land at one of three land border points, one of which is the Loyada border crossing at the Somali border, which was refurbished with U.S. funding and receives technical assistance through the Department of State's Antiterrorism Assistance (ATA) program.

Djibouti has a legal framework for investigating and prosecuting terrorism-related crimes and bringing terrorism cases to its criminal courts using its penal code. Djibouti's law enforcement organizations routinely interacted with U.S. government counterparts and frequently sought U.S. input to identify potential terrorist suspects. Djibouti's law enforcement organizations include the DNP, the Djiboutian National Gendarmerie, the National Security Judiciary Police (NSJP), and the Djiboutian Coast Guard. Through the Departments of State, Justice, and Defense, the United States provided Djibouti with substantial security assistance and counterterrorism-related training to build critical capacities within its security and law enforcement sectors. In 2016, the DNP, the National Gendarmerie, and the NSJP received training through the ATA program, as well as the International Law Enforcement Academy in Gaborone. ATA assistance focused primarily on building technical capacity for improved crisis response, counterterrorism investigations, and border security capabilities. The DNP, the National Gendarmerie, and the NSJP also received training through the U.S. Federal Bureau of Investigation's Legal Attaché office in Addis Ababa, Ethiopia. The United States funds a Resident Legal Advisor based in Addis Ababa who also assists Djiboutian justice sector officials in counterterrorism rule of law issues. Separately, CJTF-HOA provided the FAD with two counter-improvised explosive devices (IED) pre-deployment training programs on how to recognize, find, counter, or avoid an IED for Djiboutian military personnel deploying to Somalia under AMISOM.

Countering the Financing of Terrorism: Djibouti is not a member or an observer of a Financial Action Task Force-style regional body. The Central Bank of Djibouti houses a financial intelligence unit known as the Fraud Investigation Unit (FIU). Given its limited financial and human resources, the FIU has been unable to perform its core functions and instead focused on banking supervision. The FIU made no referrals of cases to law enforcement involving suspected terrorist financing in 2016.

The Central Bank of Djibouti places the responsibility for staying updated on sanctions lists with the financial institutions themselves. Many of the financial institutions operating in Djibouti have software packages that include links to the UN sanctions lists and the lists of designated terrorists or terrorist entities from the European Union and the U.S. Department of the Treasury's Office of Foreign Assets Control. The Central Bank of Djibouti monitors compliance with these lists through routine supervision and audits of the financial institutions.

There are no international sanctions applicable against Djibouti.

Arab League

The Arab League (comprising 22 Arab member states), of which this country is a member, has approved imposing sanctions on Syria. These include: -

- * Cutting off transactions with the Syrian central bank
- * Halting funding by Arab governments for projects in Syria
- * A ban on senior Syrian officials travelling to other Arab countries
- * A freeze on assets related to President Bashar al-Assad's government

The declaration also calls on Arab central banks to monitor transfers to Syria, with the exception of remittances from Syrians abroad.

The Arab League has boycotted Israel in a systematic effort to isolate Israel economically in support of the Palestinians, however, the implementation of the boycott has varied over time among member states.

There are three tiers to the boycott. The primary boycott prohibits the importation of Israeli-origin goods and services into boycotting countries. The secondary boycott prohibits individuals, as well as private and public sector firms and organizations, in member countries from engaging in business with any entity that does business in Israel. The Arab League maintains a blacklist of such firms. The tertiary boycott prohibits any entity in a member country from doing business with a company or individual that has business dealings with U.S. or other firms on the Arab League blacklist.

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	31
World Governance Indicator – Control of Corruption	30

Corruption and Government Transparency - Report by US State Department

No U.S. firms have specifically noted corruption as an obstacle to direct investment in Djibouti, although corruption is seen as one of the typical hurdles to be overcome when doing business in the region. Officially, Djibouti has laws and regulations prohibiting corrupt practices, but consistent prosecution and punishment for corruption is rare.

There are two government entities responsible for investigating corruption and enforcing the regulations. The State General Inspection (SGI) is tasked with ensuring human and material resources in the public sector are properly utilized. The Chamber of Accounts and Fiscal Discipline (CAFD) has the authority to verify and audit all public establishments for transparency and accountability, and to implement necessary legal sanctions. While both institutions are mandated to produce annual corruption reports, these are rarely completed in a timely fashion.

Section 3 - Economy

Djibouti's economy is based on service activities connected with the country's strategic location as a deepwater port on the Red Sea. Three-fourths of Djibouti's inhabitants live in the capital city; the remainder are mostly nomadic herders. Scant rainfall and less than 4% arable land limits crop production to small quantities of fruits and vegetables, and most food must be imported.

Djibouti provides services as both a transit port for the region and an international transshipment and refueling center. Imports, exports, and re-exports represent 70% of port activity at Djibouti's container terminal. Reexports consist primarily of coffee from landlocked neighbor Ethiopia. Djibouti has few natural resources and little industry. The nation is, therefore, heavily dependent on foreign assistance to help support its balance of payments and to finance development projects. An official unemployment rate of nearly 50% - with youth unemployment near 80% - continues to be a major problem. Inflation declined to 3% in 2014 due to low international food prices and a decline in electricity tariffs.

Djibouti's reliance on diesel-generated electricity and imported food and water leave average consumers vulnerable to global price shocks, though in mid-2015 Djibouti passed new legislation to liberalize the energy sector. The government has emphasized infrastructure development for transportation and energy and Djibouti - with the help of foreign partners - has begun to increase and modernize its port capacity.

Agriculture - products:

fruits, vegetables; goats, sheep, camels, animal hides

Industries:

construction, agricultural processing, shipping

Exports - commodities:

reexports, hides and skins, coffee (in transit), scrap metal

Exports - partners:

Somalia 79.8%, US 5.4%, Yemen 4.6%, UAE 4% (2015)

Imports - commodities:

foods, beverages, transport equipment, chemicals, petroleum products, clothing

Imports - partners:

China 42.1%, Saudi Arabia 14.3%, Indonesia 5.9%, India 4.4% (2015)

Executive Summary

Djibouti, a country with few resources, recognizes the crucial need for foreign investment to stimulate economic development. The country's assets include a strategic geographic location, Free Zones, an open trade regime, and a stable currency. Djibouti has identified a number of priority sectors for investment, including transport/logistics, financial services, energy, and tourism. Djibouti's investment climate has improved in recent years, which has led to a renewed interest by U.S. and other foreign firms. There are, however, a number of reforms still needed to further promote investment.

The IMF has projected GDP growth at or above 6% annually for the next several years. In the nineties, Djibouti's economy was weakened by an influx of refugees, a persistent drought, a four-year civil war, and a substantial decrease of foreign aid. Recent years have seen a significant improvement driven by intensive expansion of the ports, changes in the tax and labor codes, and an influx of foreign direct investment (totaling 9.1% of Djibouti's GDP in 2014). Real GDP growth has remained between 4% and 6% per year for the last five years, and inflation has remained below 8%.

Djibouti remains below regional and world averages in World Bank's "Doing Business" reports, and fell from 169 in 2015 to 171 (of 189 countries) in the 2016 ranking. Some noteworthy improvements include making it easier to start a business by simplifying registration formalities and eliminating the minimum capital requirement for limited liability companies. In addition, Djibouti adopted a new commercial code, which broadens the range of movable assets that can be used as collateral to obtain credit.

Several large infrastructure projects are currently underway, with others in various stages of negotiation. Many of the ongoing and future projects are Chinese-funded with tied loans. An Independent Power Production law promulgated in 2015 has led to a surge of interest from U.S. and foreign firms, with multiple ongoing negotiations for energy generation projects, including green and hydrocarbon technologies.

The business environment in Djibouti would benefit from significant reforms to its legal and regulatory framework. Needed reforms include simplifying the tax code, especially for small businesses, and streamlining the procedures for investment. In addition, the adoption of a new investment code based on international best practices is necessary as indicated by UNCTAD in its investment policy review of Djibouti (http://unctad.org/en/PublicationsLibrary/diaepcb2013d1summary_en.pdf).

Economic development is hindered by high electricity costs, high unemployment, an unskilled workforce, regional instability, and a need to diversify the economy.

Djibouti belongs to a number of regional organizations, including the Inter-Governmental Authority on Development (IGAD) and the Common Market for Eastern and Southern Africa (COMESA), which groups 19 countries into a common market of more than 300 million people. Djibouti is eligible to benefit from the African Growth and Opportunity Act (AGOA), and is also a member of the World Trade Organization (WTO). In addition, Djibouti is among the 34 least developed African countries with the option of entering the European Union Generalized System of Preferences.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2014	99 of 167	transparency.org/cpi2015#results-table
World Bank's Doing Business Report "Ease of Doing Business"	2016	171 of 189	doingbusiness.org/rankings
Global Innovation Index	2015	N/A	globalinnovationindex.org/content/page/data-analysis
U.S. FDI in partner country (\$M USD, stock positions)	2015	unavailable	BEA/Host government
World Bank GNI per capita	2014	USD amount	data.worldbank.org/indicator/NY.GNP.PCAP.CD

Millennium Challenge Corporation Country Scorecard

The Millennium Challenge Corporation, a U.S. Government entity charged with delivering development grants to countries that have demonstrated a commitment to reform, produced scorecards for countries with a per capita gross national income (GNI) of \$4,125 or less. A list of countries/economies with MCC scorecards and links to those scorecards is available here: <http://www.mcc.gov/pages/selection/scorecards>. Details on each of the MCC's indicators and a guide to reading the scorecards are available here: <http://www.mcc.gov/pages/docs/doc/report-guide-to-the-indicators-and-the-selection-process-fy-2015>.

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

Djibouti's laws encourage foreign investment, with state-run media providing favorable coverage of projects funded by foreign entities. The government sees FDI as a driving force behind Djibouti's economic growth. Faced with high unemployment rates of over fifty percent, FDI is expected to generate jobs.

There is no screening of investment or other discriminatory mechanisms. Navigating the bureaucracy, however, can be complicated. Certain sectors - most notably public utilities - are state-owned and are not open to investors. In July 2015, the Djiboutian government approved a bill liberalizing the production of electricity. The state-owned company Djibouti Electricity (EDD) has had a monopoly on electricity production for decades. The bill will begin the process of opening the sector to competition, though this will likely be slow, and EDD retains all rights to the transmission and distribution of electricity. Nonetheless, the liberalization of production is a positive step in promoting private investment in the energy sector.

Djibouti's National Investment Promotion Agency (NIPA), created in 2001 under the Ministry of Finance, promotes private-sector investment, facilitates investment operations, and works to modernize the country's regulatory framework. NIPA assists foreign and domestic investors by disseminating information and streamlining administrative procedures. To simplify the process, Djibouti seeks to use the main post office as a one-stop-shop where new business owners can register their company with all the appropriate government agencies. The construction of the facility is in progress and will house several services, including immigration and social insurance. The NIPA will be the main coordinator of the one-stop-shop which is expected to become fully operational in a few months. NIPA has identified several priority sectors for investment, including infrastructure and renewable energy.

A new Convention was signed in February 2016 making formerly temporary contracts between workers and labor brokers into fixed term contracts. These fixed term contracts will allow the workers to enjoy social security benefits, additional job security and the ability to borrow money from banks like other regular workers. Most foreign investors use local brokers for their staffing.

Other Investment Policy Reviews

World Trade Organization (WTO) completed a Trade Policy Review in October 2014.

https://www.wto.org/english/tratop_e/tpr_e/tp405_e.htm

The United Nations Committee on Trade and Development also conducted an Investment Policy Review in 2013.

http://unctad.org/en/PublicationsLibrary/diaepcb2013d1summary_en.pdf.

In June 2014, the World Bank started a project to "support the government of Djibouti's efforts to attract foreign investment and improve the local business climate in strengthening mechanisms to address commercial disputes easing access to finance, and expanding the capacity of the NIPA for project management and implementation."

<http://www.worldbank.org/projects/P146250?lang=en>As a World Trade Organization (WTO)

member, Djibouti had its second review on trade policies and practices in 2014. The report found that manufacturing and agricultural sectors have remained weak, due to heavy taxation and the high costs of factors of production (labor and energy). Djibouti grants Most Favored Nation (MFN) status to its trading partners.

https://www.wto.org/english/tratop_e/tpr_e/s305_e.pdf

Laws/Regulations on Foreign Direct Investment

The country's legal system has no discriminatory policy against foreign investment, and frequently negotiates extended tax breaks and other incentives to attract larger investments.

Djibouti has no foreign exchange restrictions. Businesses are free to repatriate profits. There are no limitations on converting or transferring funds, or on the inflow and outflow of cash. The Djibouti franc, which has been pegged to the U.S. dollar since 1949, is stable. The fixed exchange rate is 177.71 Djibouti francs to the dollar. Funds can be transferred by using banks or international money transfer companies such as Western Union, which are both monitored by the Central Bank.

The court system is not independent from executive power and most investors in the market counsel including an agreement to arbitration in a recognized international court.

Business Registration

www.djiboutinvest.com is the website of the National Investment Promotion Agency (NIPA). It has useful information and acts as a guide for investors.

The Djibouti Office of Industrial and Commercial Protection (ODPIC) is the agency in charge of registering businesses. Its website is www.odpic.info and contains information about the registration process. Online registration is not possible; the normal registration process takes 14 days according to the World Bank. At a minimum, a company must register with the tax, social security offices, and the Chamber of Commerce. There is no regime allowing simplified business creation without a notary.

Enterprises which have an annual turnover of less than DF million 5 (USD 28,249) are defined as micro-sized enterprises (Decree 2013-121/PR/MHUE). The country economy does not have an official definition for small and medium sized enterprises.

Limits on Foreign Control and Right to Private Ownership and Establishment

Foreign investors are not required by law to have a local partner except in the insurance industry, and there only if the company is registered as a local company and not a branch of an existing foreign company. Foreign and domestic private entities have equal rights in establishing and owning business enterprises and engaging in all forms of remunerative activity.

Screening of FDI

There is not an established screening process for FDI. FDI is encouraged and given favorable tax status. Specific terms are negotiated on a case-by-case basis. Many companies therefore have a unique status created by agreement with varying preferences and advantages.

Competition Law

In 2008, Djibouti adopted a new law on competition and consumer protection, which does not cover State-Owned Enterprises. Under this law, the GODJ regulates prices in areas where competition remains limited, for example; postal services, telecommunications, utilities and urban transport services are all regulated by the State. Djibouti does not have an agency

that specifically promotes competition and does not have a comprehensive strategy to restrict market monopolies.

2. Conversion and Transfer Policies

Foreign Exchange

Djibouti has no foreign exchange restrictions. Businesses are free to repatriate profits. There are no limitations on converting or transferring funds, or on the inflow and outflow of cash. The Djibouti franc, which has been pegged to the U.S. dollar since 1949, is stable. The fixed exchange rate is 177.71 Djibouti francs to the dollar. Funds can be transferred by using banks or international money transfer companies such as Western Union which are both monitored by the Central Bank

Remittance Policies

There are no recent changes or plans to change investment remittance policies. There are no time limitations on remittances. The government does not issue bonds on the open market, and cash-like instruments are not in common use in Djibouti, so direct currency transfers are the only practical method of remitting profits.

3. Expropriation and Compensation

Foreign companies enjoy the same benefits as domestic companies under Djibouti's Investment Code. Djibouti's Investment Code stipulates that "no partial or total, temporary or permanent expropriation will take place without equitable compensation for the damages suffered." The Embassy is not aware of any recent act of expropriation of U.S. companies. However, there have been cases of foreign companies facing de facto expropriation via fines, while other companies have had their concession to run a public service unilaterally revoked.

4. Dispute Settlement

Djibouti's legal system is based on French law, and consists of three courts: a Court of First Instance presided over by a single judge; a Court of Appeals, with three judges; and the Supreme Court. International lawyers practicing in Djibouti have reported effective application of maritime and other commercial laws, but there have been reports in the past from foreign companies operating in Djibouti that court deliberations were biased or delayed. Djibouti's rule of law is weak as it relates to business disputes involving non-Djiboutians. Despite Djibouti's participation as a member of the International Center for the Settlement of Investment Disputes, foreigners may still be pressured to resolve disputes in favor of Djiboutians.

In February 2014, the IGAD countries agreed to set up an international Business Arbitration Center in Djibouti. This institution would provide a mechanism for resolving business disputes, and may help to create a more transparent business environment in the region by reinforcing the principles of contract law and increasing the number of lawyers practicing commercial and contract law in Djibouti. A successful arbitration center could boost confidence among foreign investors. It is not expected to open until 2018 or later.

Bankruptcy

Djibouti does have bankruptcy laws, and bankruptcy is not criminalized. Insolvency laws are a high point in Djibouti's investment climate, as it was ranked 68 out of 189 by the World Bank in 2016 in this area, compared to the 171 overall ranking.

Investment Disputes

Djibouti's government has had only a few investment disputes in the past several years, none with U.S. businesses. In some cases, the disputes have been settled in international arbitration courts and the government has abided by those decisions. In other cases, there has been de facto expropriation through large fines. As in any country, a strong, enforceable contract is important.

International Arbitration

The IGAD, which consists of member states Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan and Uganda, seeks to establish an international arbitration center in Djibouti. The center will focus on handling business disputes within the region. It will provide alternative mechanisms for resolving business disputes. This may improve the investment environment and aid in gaining investor confidence in the region. Djibouti does not have a trade agreement with the United States at this time. It is eligible for AGOA.

ICSID Convention and New York Convention

Djibouti is not a member state to the International Centre for Settlement of Investment Disputes (ICSID convention). Djibouti is a signatory to the convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958 New York Convention)

Duration of Dispute Resolution – Local Courts

According to the World Bank's Doing Business rankings, dispute resolution involving local courts in Djibouti takes an average of 1,225 days and costs on average 34% of the claimed amount. Disputes resolved in local courts may be biased in favor of the local party. The court system is also limited by a lack of personnel and resources, which may contribute to the relatively slow and costly dispute resolution process.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

Djibouti has been a member of the World Trade Organization since 1995. Post has no information concerning TRIMs.

Investment Incentives

Tax benefits and incentives fall under two categories detailed in the investment code. Investments greater than USD 280,000 that create a number of permanent jobs may be exempted from license and registration fees, property taxes, taxes on industrial and commercial profits, and taxes on the profits of corporate entities. Imported raw materials used in manufacturing are exempted from the internal consumption tax. These exemptions apply for up to a maximum of ten years after production commences. Incentives are often

unique to an individual company or investment and are agreed upon with a single ministry. Projects can be delayed if all relevant ministries are not consulted during negotiations.

To promote exports, Djibouti has multiple free zones in which companies enjoy full exemption from direct and indirect taxes for a period of up to ten years.

Research and Development

Information not available.

Performance Requirements

Performance requirements are not a pre-condition for establishing, maintaining, or expanding foreign direct investments. Incentives do, however, increase with the size of the investment and the number of jobs created. Tax benefits and incentives fall under two categories detailed in the investment code. Investments greater than USD 280,000 that create a number of permanent jobs may be exempted from license and registration fees, property taxes, taxes on industrial and commercial profits, and taxes on the profits of corporate entities. Imported raw materials used in manufacturing are exempted from the internal consumption tax. These exemptions apply for up to a maximum of ten years after production commences. Investment matters fall under the jurisdiction of the national investment board, which approves all investments.

Foreign investors are not required by law to have a local partner except in the insurance industry, as noted above. Djibouti offers significant incentives to private-sector individual and corporate investors when establishing a company within its Free Zone. Establishing a local company outside the Free Zone is significantly more time-consuming. The Djiboutian investment code guarantees investors the right to freely import all goods, equipment, products, or material necessary for their investments; display products and services; determine and run marketing policy and production; choose customers and suppliers; and set prices. Foreign investors have some freedom to determine their own hiring and firing policy as long as it remains within the structure of the labor code, which strongly favors the employee.

Investment incentives are granted on a case-by-case basis, and vary significantly from one investment to the next.

Data Storage

Djibouti does not have any known localized data storage requirements.

6. Protection of Property Rights

Real Property

Djibouti's legal system officially protects the acquisition and disposition of all property rights. Mortgages do exist, and are often guaranteed by the employer, who signs a form indicating the employee's status and salary. The employer is then obliged to inform the bank if the employee leaves the company. Local workers rely on this to secure mortgages and expect that their employer will perform this role. There are no specific restrictions on foreign

ownership of land. Djibouti is 168 of 189 on the World Bank's Registering Property ranking. (<http://www.doingbusiness.org/data/exploreeconomies/djibouti#registering-property>)

Intellectual Property Rights

The Ministry of Communication is responsible for safeguarding intellectual property, but intellectual property rights are rarely enforced. Trade involving counterfeit products occurs mostly in the informal market. There does not appear to be a higher risk of labor rights violations in sale of counterfeit goods, including child labor, forced labor, and dangerous working conditions compared to other industries.

Djibouti ratified the World Intellectual Property Organization (WIPO) Convention, the Paris Convention on the Protection of Industrial Rights, and the Bern Convention on the Protection of Literature and Art Works.

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/>.

Resources for Rights Holders

- Embassy POC: Economic Officer Tyler Joyner
- DjiboutiCommerce@state.gov

For a list of local lawyers, see:

http://photos.state.gov/libraries/djibouti/304020/PDF/attorneys_list_2013.pdf

7. Transparency of the Regulatory System

Djiboutian laws and regulations are available online. The regulatory regime is written in a way that promotes open competition, at least in the sectors that are open to private investment. Implementation of the law is sometimes not transparent, and public functions such as licensing and issuing permits are not always done in a systematic fashion. Application of the rules is not always consistent. Draft bills are initiated in a process of public consultation where the stakeholders participate.

Accounting, legal, and regulatory procedures are not transparent and are not consistent with international norms. The Djiboutian accounting system is loosely based on the French accounting system as it existed at independence (1977) and has been updated since that time. Legal and regulatory procedures are complex and unevenly enforced.

8. Efficient Capital Markets and Portfolio Investment

Two large banks, Bank of Africa (BOA) and Bank for Commerce and Industry – Mer Rouge (BCI-MR), dominate Djibouti's banking sector. While these two banks account for the majority share of deposits in-country, there were eight other banks, all established in the last ten years. Two of the new banks closed in the last year—WARKA Bank from Iraq and Shura Bank from Egypt. In March 2014, the Central Bank issued a license to a new bank, Djibouti Commercial Bank, whose shareholders are based in Dubai. Credit is allocated on market terms, and

foreign companies do not face discrimination in obtaining it. Generally, however, only well-established businesses obtain bank credit, as the cost of credit is high.

Credit is available to the private sector, whether foreign or domestic. Where credit is not available, it is primarily due to the associated risk and not structural factors. In 2014, the percentage of the population with access to banking services was 14 percent, and deposits in banks totaled DJF 207.5 billion (USD 1.17 billion).

Portfolio investment in Djibouti is done through private equity. Some multinational companies with investments in Djibouti are publicly traded. Investments in Djibouti are inherently illiquid for that reason, and the purchase or sale of any sizeable investment in Djibouti affects the market accordingly.

Money and Banking System, Hostile Takeovers

In 2006, Djibouti had two banking institutions; by 2015 it had a total of ten. In 2011 a new banking law went into effect, fixing the minimum capital requirement for financial institutions at DJF 1 billion (USD 5,651,250) and extended the scope of the law to include financial auxiliaries, such as money transfer agencies and Islamic financial institutions.

9. Competition from State-Owned Enterprises (SOEs)

SOEs control telecommunications, water, and electrical distribution in Djibouti. Major print, television, and radio outlets are also state-run. Other state-run services, such as municipal garbage collection and real estate, do not hold legal monopolies but are afforded material advantages by the government (e.g., government-backed loan guarantees for the real estate sector).

SOEs are required by law to publish an annual report. The Court of Auditors is charged with auditing state-owned enterprises.

Djibouti is not party to the Government Procurement Agreement (GPA) within the framework of the World Trade Organization (WTO.)

OECD Guidelines on Corporate Governance of SOEs

In order to exercise ownership in SOEs, the government uses several laws and decrees, most of which were promulgated in the 1990s. The established practices are not consistent with OECD guidelines. No centralized ownership entity exists.

SOE senior management reports directly to the relevant line ministry. There is also an independent board of directors whose members are chosen from other ministries. Ownership structures and board composition of the SOEs is politically motivated.

Sovereign Wealth Funds

N/A

10. Responsible Business Conduct

There is nascent but growing awareness among both companies and consumers in Djibouti of Responsible Business Conduct (RBC). The government has not been very involved in

promoting RBC in a systematic way, although it does acknowledge good corporate social responsibility and covers it favorably in state media. However, the government does not factor RBC policies or practices into its procurement decisions. Likewise, the government does not effectively and fairly enforce domestic laws relating to labor rights, environmental protections, consumer protections, and human rights. The government does not adhere to OECD guidelines in RBC matters.

11. Political Violence

Djibouti has seen only very limited episodes of political violence over the last two decades. Both the ruling coalition party and the recognized opposition parties favor foreign direct investment into Djibouti and recent polling indicates that local attitudes towards foreigners are positive. In the last ten years, there have been no known incidents of political violence leading to damage to foreign investments.

12. Corruption

U.S. firms have not specifically noted corruption as an obstacle to direct investment in Djibouti, but there were allegations of foreign companies having to meet requirements such as renting houses of high dignitaries or hiring certain employees as a condition of receiving government procurement contracts. Djibouti is a signatory country of the UN Convention against Corruption and has laws and regulations prohibiting corrupt practices. Nonetheless, prosecution and punishment for corruption is rare.

There are two government entities responsible for investigating corruption and enforcing the regulations. The State General Inspection (SGI) is tasked with ensuring human and material resources in the public sector are properly utilized. The Court of Auditors is mandated to verify and audit all public establishments for transparency and accountability, and to implement necessary legal sanctions. Both institutions are mandated to produce annual corruption reports. Despite the legal mandates, both institutions lack the authority to push for meaningful reform.

There are no NGOs involved in investigating corruption in Djibouti. Djibouti does not have laws to counter conflict-of-interest in awarding contracts.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

Djibouti ratified the UN Anticorruption Convention in April, 2005.

Resources to Report Corruption

Djibouti is not party to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

13. Bilateral Investment Agreements

Djibouti does not have a bilateral investment treaty (BIT) with the United States. The U.S and the Common Market for Eastern and Southern Africa (COMESA), which Djibouti is a member of, signed a Trade and Investment Framework Agreement (TIFA) in 2001.

Djibouti has signed bilateral investment treaties with several other countries. There is no publicly available list of these treaties, and the terms are not standardized from one treaty to the next.

Other treaties to which Djibouti is a party include:

ESA (Eastern and South Eastern Africa)-EU Interim Economic Partnership Agreement, COMESA, Agreement for the Promotion, Protection and Guarantee of Investment among Member States of the Organization of Islamic Conference, The Cotonou Agreement, AU Treaty, League of Arab States Investment, Arab League Investment Agreement, Arab Economic Unity Agreement

Bilateral Taxation Treaties

Djibouti does not currently have a bilateral taxation treaty with the United States

14. Foreign Trade Zones/Free Ports/Trade Facilitation

The Djibouti Free Zone (DFZ) is located on 40 hectares and offers office space, warehouses, light industrial units, and hangars. Businesses located in the Free Zone do not pay corporate taxes, have a simplified registration process, and receive other benefits such as assistance obtaining work permits and visas. Currently, 160 companies from 39 countries operate out of the Free Zone. In December 2013, the DAM Commercial Free Zone opened in the Damerjog region, south of Djibouti City. There are plans to build additional free zones in the coming years, centered around the Doraleh area where the port terminals are.

15. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

	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) (\$M USD)	2014	\$1.526B	2014	\$1.588B	IMF
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 (\$M USD, stock positions)	N/A	N/A	N/A	N/A	http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm

Host country's FDI in the United States (\$M USD, stock positions)	N/A	N/A	N/A	N/A	http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm
Total inbound stock of FDI as % host GDP	2013	19.1%	2014	9.1%	IMF

Table 3: Sources and Destination of FDI

Data not available.

Table 4: Sources of Portfolio Investment

Data not available.

Section 5 - Government

Chiefs of State and Cabinet Members:

For the current list of Chief of State and Cabinet Members, please access the following - [Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments](#)

Legal system:

mixed legal system based primarily on the French civil code (as it existed in 1997), Islamic religious law (in matters of family law and successions), and customary law

International organization participation:

ACP, AfDB, AFESD, AMF, AU, CAEU (candidates), COMESA, FAO, G-77, IBRD, ICAO, ICRM, IDA, IDB, IFAD, IFC, IFRCs, IGAD, ILO, IMF, IMO, Interpol, IOC, IOM, IPU, ITU, ITUC (NGOs), LAS, MIGA, MINURSO, NAM, OIC, OIF, OPCW, UN, UNCTAD, UNESCO, UNHCR, UNIDO, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO

Section 6 - Tax

Exchange control

Djibouti has exchange controls governing capital transactions applying to financial credits.

Treaty and non-treaty withholding tax rates

Information unavailable

Methodology and Sources

Section 1 - General Background Report and Map

(Source: [CIA World Factbook](#))

Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
FATF List of Countries identified with strategic AML deficiencies	Not Listed	AML Deficient but Committed	High Risk
Compliance with FATF 40 + 9 recommendations	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
US Dept of State Money Laundering assessment (INCSR)	Monitored	Concern	Primary Concern
INCSR - Weakness in Government Legislation	<2	2-4	5-20
US Sec of State supporter of / Safe Haven for International Terrorism	No	Safe Haven for Terrorism	State Supporter of Terrorism
EU White list equivalent jurisdictions	Yes		No
International Sanctions UN Sanctions / US Sanctions / EU Sanctions	None	Arab League / Other	UN , EU or US
Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network	>69%	35 – 69%	<35%
World government Indicators (Average)	>69%	35 – 69%	<35%
Failed States Index (Average)	>69%	35 – 69%	<35%
Offshore Finance Centre	No		Yes

Section 3 - Economy

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: [CIA World Factbook](#))

Section 4 - Foreign Investment

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: [US State Department](#))

Section 5 - Government

Names of Government Ministers and general information on political matters.

(Source: [CIA World Factbook](#) / <https://www.cia.gov/library/publications/world-leaders-1/index.html>)

Section 6 - Tax

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: [OECD Global Forum on Transparency and Exchange of Information for Tax Purposes](#) [PKF International](#))

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