Investing in Iran

I - Iran at a glance (Facts & Figures):

Iran, officially; the Islamic Republic of Iran, country in south-western Asia is located on the eastern
shore of the Persian Gulf with an area of 1,65 million square kilometers. Iran lies at the eastern
most edge of the geographic and cultural region known as the Middle East and it is the second
largest country in this area. The country is bordered on the north by Armenia, Azerbaijan, the
Caspian Sea, and Turkmenistan; on the east by Afghanistan and Pakistan; on the south by the
Gulf of Oman, the Strait of Hormuz, and the Persian Gulf; and on the west by Iraq and Turkey.
More than half of Iran’s international border of 4,430 km is coastline, including 740 km along the
Caspian Sea in the north and 1700 km along the Persian Gulf and adjacent Gulf of Oman in the
south. Both the Caspian Sea and the Persian Gulf have important ports and contain extensive
underwater deposits of oil and natural gas. Iran’s largest harbor, Bandar-e-Abbas, is located on
the Strait of Hormuz, the narrow passage separating the Persian Gulf and the Gulf of Oman. It is divided into 31 provinces and has more than 330 towns and cities. Iran’s capital and largest city is Tehran, located in the northern part of the country.

**A - Government Key Indicators:**

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<th>Government Key Indicators</th>
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<td>Total Population:</td>
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<td>Supreme Leader:</td>
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<td>Iranian Fiscal Year</td>
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<td>Current Year:</td>
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The system of government is an Islamic Republic based on the 1979 Constitution:

- The Supreme Leader – life term, elected by the Assembly of Experts (last election in 1989).
- The President – elected by popular vote for a four-year term is eligible for a second term and third non-consecutive term (last election: June 14, 2013).
- The Parliament (Majlis) has 290 members elected by popular vote for a four-year term (last election: February and April, 2016).

- The Assembly of Experts – 86 clerics elected by direct public vote for an eight-year term (last election: February 26, 2016).

The main political coalitions:

- Ultra conservatives: Generally Pro-Khamenei. This faction is led by Ayatollah Mesbah Yazdi, an ultra-conservative displaying a staunch anti-Western rhetoric.

- Moderate conservatives: Important members include Ali Larijani, Mohammad Bagher Ghalibaf and Mohsen Rezaii, support moderate economic and political reforms but still favour current policy formation.

- Reformists: Made up of a number of factions with varying views, largely anti-government; favour political freedoms and more open policy formation.

Key Relations/Treaties:

- WTO;
- Organisation of the Islamic Conference;
- Increasing economic and political relations with Iraq;
- Limited relations with GCC and member countries;
- Strong alliances with Syria;
- Increasing relations with China.

B - Macroeconomic Key Indicators:

Even though Iran's nominal GDP stands at 425B$, the GDP calculated according to the "purchasing power parity – PPP" is close to 1,400B$ or \textbf{14 Trillion $}. On his visit to Tehran in 2014, Charles Robertson, Chief Economist of Renaissance Capital, a leading investment firm specialized in Emerging Market noted: "This is a country, whose well-educated population (78mn) is about the same size as Turkey's with official per-capita GDP of around 5,600$, but which feels to us like 8,000-10,000$." Indeed, GDP per capita calculated according to PPP is 17,000$\textsuperscript{2} which means that Iranians living standards are similar to those of Brazilians, higher than South Africans and close to the Lebanese.

The central bank estimated that GDP was 52% services, 12% agriculture, 5% construction, 18% was oil and the remaining 13% was presumably manufacturing and mining. The oil sector's peak was 27% in 2013. According to CIA World Factbook, the GDP composition is 9% Agriculture, 38% Industry and 53% Services. As a comparative, Turkey's service sector represents 67% of its GDP, while industry represents 28% and agriculture 8%. Looking closely at the figures, we can clearly see that Turkey's GDP structure is similar to Iran's but without the oil. Robertson adds: "Tehran

\textsuperscript{1} Source: CIA World Factbook
\textsuperscript{2} Source: World Bank
feels like Ankara (...). Iran has a broad manufacturing base but unlike Turkey, it has 9% of the world’s oil reserves (...).”

Iran’s agricultural sector produces wheat, rice, other grains, sugar beets, sugarcane, fruits, nuts, cotton, dairy products, wool and caviar mainly. Its industrial sectors is based on petroleum, petrochemicals, fertilizers, caustic soda, textiles, cement and other construction materials, food processing (particularly sugar refining and vegetable oil production), ferrous and non-ferrous metal fabrication, armaments.

Iran’s exports ($6B in 2014 according to CIA) are mainly oil (80%) but also chemical and petrochemical products, fruits and nuts, carpets. Iran’s imports ($65 B$) are industrial supplies, capital goods, foodstuffs and other consumer goods, technical services.

Finally, Iran’s Export partners in 2014 were China 29%, India 11.9%, Turkey 10.4%, Japan 6.5%. South Korea 4.8% and Import partners, UAE 30.6%, China 25.5%, Algeria 8.3%, India 4.6%, South Korea 4.4%. Turkey 4.1%. UAE’s figure needs to be re-interpreted considering the role of Jebel Ali Free Zone in transiting most of the sanctioned American and European goods destined to Iran.

II – The outlook from Iran

The Iranian economy offers interesting potentials for investments. After the lifting of the sanctions, the rebound of the Iranian economy can be predicted by the following facts and figures:

1- Oil rich country: 3rd biggest oil and gas reserves in the world & diversified economy with over 40 industries.

2- Size of the country: 18th largest country in the world (165 million square km) & a population of 80 million inhabitants (19th most populated country in the world).

3- Labor rich: young, literate and urbanized population: 44% are below 25 years old, 70% urbanized, 85% literacy rate.

4- GDP per capita: $17,400, ranking 10th in the Middle East before Egypt, Iraq and Syria.

5- Highest population of Internet users in the Middle East: 46.8 million users (57% of the population).

More importantly, Iran is the largest consumer market in the Middle East and the largest untapped market in the world. “We believe Iran would represent the last such opportunity globally. No other country is as large or as untapped” concludes Charles Robertson from Renaissance Capital in his report.

According to the UN’s Household Final Consumption Expenditure (HFCE) report of 2012, Iran ranks 26th in the world and 1st in the MENA region with $196 Billion in expenditure whereas Egypt (33rd, $143 B) and Saudi Arabia (35, $143 B) come in second and third positions.

Iran’s massive hydrocarbon sector, high-tech manufacturing, developed financial services, and small-scale private agriculture has pushed it into second place in GDP terms for the Middle East and North Africa (MENA) region. The economy is currently guided by the fifth Five-Year Development Plan (FYDP), a part of Iran’s overall Vision 2025, which envisages subsidy reform and an overhaul of the banking, currency, taxation, and customs systems, as well as measures to
improve goods and services distribution, productivity, public health care, and international relations. Privatization is seen as a long-term solution to attaining self-sufficiency, in an economy that is currently 80% in the hands of the state.

Politically, "President Rouhani represents a new hope for Iran", in many people’s view. He is strongly associated with the reformist camp that dominated Iran until 2005. Today, reformists are back in charge, and tight fiscal and monetary policies have brought down inflation to 12%, on central bank numbers. The currency has recovered. Rial has been stable with a slow depreciation in line with the inflation rate.

III- Foreign investment regulatory environment

A – OIETAI

“Invest in Iran”. This is the name of a guide book published in 2011 detailing the laws and practices for foreign investors. The publisher is the Organization for Investment, Economic and Technical Assistance of Iran (OIETAI) and the message of its President, on the first page is warm and welcoming. “The foreign investment, through different forms especially the FDI assists in accelerating the process of economic development in the host country which have introduced wide-reaching changes in the national policies on foreign investments and implemented efforts for their promotion and attraction.”

The OIETAI was founded in June 1975 to promote Iranian investments abroad as well as Foreign Investments in Iran. Today, the Foreign Investment department at the Organization is responsible for:

- Receiving all Foreign Investment Applications as well as issue foreign investment licenses,
- Conduct affairs related to foreign investments and the safeguarding of foreign investors' rights in approved investment projects,
- Serve investors by way of assisting, coordinating and facilitating all issues pertaining to their investments throughout the licensing process and after.

B - FIPPA

The regulatory framework governing the operations of the Organization is the famous FIPPA (Foreign Investment Promotion and Protection Act). Legal protection and special incentives for foreign investors are guaranteed by this law established in 2002. Under FIPPA, foreign investment is defined as the utilization of “foreign capital” in an existing or newly established economic firm upon obtaining an Investment License. All types of foreign sourced capital (in cash or in kind) imported into the country by the foreign investor may be regarded as foreign capital and qualify for an investment license (also commonly referred to as a ‘FIPPA License’).

It should be noted that investors wishing to invest in Iran are not obliged to make their investment under this law. However, those bringing capital into Iran under FIPPA will enjoy full protection of their investment by the government. Investors, who do not register under this law can still invest in Iran but have no guarantees against nationalization or repatriation of profits in the original foreign currency.
Below are the most noteworthy practical benefits:

- There is no restriction on the percentage of foreign shareholding
- The possibility of registering an Iranian company with 100% foreign capital,
- Transfer of principal capital, dividend and the profits gained through the utilization of capital in the form of foreign currency or goods.
- Enjoyment of same and equal treatment as accorded to domestic investors.
- Allowing investing in all areas which are permitted to the private sector including all the production, industrial, agricultural, transportation, communication, and services fields as well as in fields related to water, power and gas supply and energy fields.
- Issuing a three-year residence license for foreign investors, directors, experts as well as their immediate family members.
- The possibility of land ownership in the name of the company in joint ventures (art. 24 of the bylaws).
- Guarantees against expropriation and nationalization.
- Unlimited transfer of capital and dividend.
- The possibility of the referral of investment-related disputes to international authorities (art. 19 FIPPA; i.e. international arbitration).

C – The Investment Licensing Procedure

The OIETAI is meant to provide organization and acceleration of all the matters related to foreign investments taking place in Iran.

In practice, each foreign investor will have to start by submitting an Investment Application with the relevant documents to the Organization which will prepare a report on the application and submit it, together with its recommendations, to the Investment Board. The Organization is required to ask the opinion of the Ministry under which the project for which the investment is intended falls. The line Ministry should respond within 10 days or else it is deemed that it has no objection to the proposed foreign investment.

After completion of the Organization’s report and recommendation, the relevant application is put on the agenda of the Foreign Investment Board who normally holds its meeting every fortnight. After approval by the Board the draft of Foreign Investment License is prepared and submitted to the applicant. After the approval of the proposed draft by the applicant, the Foreign Investment License is issued.

Here is a simple illustration of the four stages and the timeline required for issuing an Investment License:
Within the OIETAI, the Center for Foreign Investment Services will offer the following key services:

- Dissemination of information and provision of necessary guidance to foreign investors concerning investment in Iran.

- Necessary coordination for the issuance of the declaration of establishment, the environment protection license, the permits for subscriptions relating to water, electricity, fuel and telephone, etc. from the relevant authorities, prior to the issuance of the investment license.

- Necessary coordination for the securing of entry visa, residence and employment permits for foreign nationals involved in foreign investment projects.

- Necessary coordination for the registration of the company, registration of order for importation of machinery and equipment, licenses related to importation and repatriation of capital, customs and tax affairs, etc.

- Coordination among various official agencies in connection with requests and applications related to the project.

- General supervision concerning the fulfillment of decisions surrounding foreign investment projects.
D – A Concrete Approach

Officially, FIPPA can be applied to all foreign investors allowing them to invest in “all areas which are permitted to the private sector”. However, in reality, FIPPA is only applied to certain foreign investments according to their size or to their contribution to the economy.

In order for a foreign investor to be given FIPPA protection, the level of the investment should be high (it is commonly fixed at a minimum of 300K$ made in cash or in kind) and the object of the company should benefit the economy (create jobs, tackle inflation, transfer knowhow, promote exports...etc.). It is also intended to promote agriculture, manufacturing or technology.

IV – Corporate Presence

There are a number of corporate vehicles available to foreign persons investing or doing business in Iran. From a legal point of a view, the foreign investor is free to choose from any types of entities permitted under the Iranian Commercial Code or may register its branch or representative office.

Types of Companies

The Iranian Commercial Code provides for the following types of legal entities:

- The Private and Public Joint Stock Company (SAL)
- The Limited Liability Company (SARL)
- The General Partnership
- The Limited Partnership
- The Joint Stock Partnership
- The Proportional Liability Partnership
- Registration of Branch or Representative Office

V – Taxation for Foreign Investors

1- Similar Taxation for Iranian and Foreign Investors

Foreign investors in Iran enjoy the same supports and privileges that are offered to the Iranian investors. In this connection, the Direct Taxation Law passed in 1987 and the following amendments have considered no discrimination in taxation of domestic and foreign investors. This means both Iranian and foreign investors pay the same amount of taxes. Tax exemptions and discounts are also equally granted to domestic and foreign investors. The Direct Taxation Law, passed in 1987, is regarded as the core of the taxation system in the Islamic Republic of Iran. The law was extensively reviewed and reformed in 2001 to be in tandem with the ongoing economic conditions in the country.

2 – Tax Regime

Generally, companies incorporated in Iran are subject to taxation on their worldwide income. Territorial income is the basis of taxation for Iranian nationals residing abroad as well as foreign nationals with regard to work performed in Iran or income derived from Iran such as royalties, license fees, salaries, etc. The organization responsible for the levy and collection of tax is the
Ministry of Economic and Finance. Under the Iran’s Direct Taxation Code every Iranian legal or real person with respect to all its income earned in Iran or abroad; and every non-Iranian person (whether real or legal) with regard to his/its income earned in Iran or from Iranian sources shall be subject to taxation.

**Corporate Tax**

Corporate tax of locally registered entities is **25% on taxable income**. There is no further tax on profit after corporate tax is paid and as such dividends may be distributed with no further tax burden (including on the recipient) regardless of the nationality of the shareholders. The taxpayer is the corporate entity and tax is paid annually on the basis of a tax return which must be submitted by the taxpayer within four months after its fiscal year end. The tax office issues its tax assessment within 16 months after the taxpayer’s fiscal year end. The fiscal tax year can be any consecutive 365 days or 366 days in leap years.

**Salary Tax**

With regards to taxation of salaries, employees are charged salary tax on their total salary and allowance received from their employers less exemptions. Such tax is collected at source from employers who must deduct the relevant amount from the mentioned salaries. The level of tax is based on a sliding scale which increases as the salary increases. It is currently fixed at a maximum of 20%. Such level of tax may change regularly.

**Branch and Representatives Tax**

Branches and representative offices are treated the same as corporate entities. Traditionally, representative and branch offices have however been registered such that they make no profits and were solely acting as research, marketing, collection of economic and technical information, after sale service and resource centers for the foreign company. These offices were often cost centers and received their expenses from their head office abroad. However, to the extent that the branch or representative office is involved in profit making activities, its income will be subject to tax.

**VAT**

The Value-Added Tax Act (VATA) was ratified by the Parliament in 2007. VAT in Iran is levied on the sale of all goods and services and their imports, except 17 items as the exempted ones (food and medicine, agricultural products, animal and fish products, books, immovable properties, public transportation services and handmade carpets) and it does not include the export of goods and services through official Customs gates. Currently, VAT rate stands at 8%.

**Tax Treaties**

Iran has concluded a number of tax treaties in order to avoid double tax payments of income, capital, transport, etc. with other countries including Lebanon, France, Germany, Netherland, Turkey and others.
Tax Exemption

The Direct Taxation Law and other pertinent legislations have considered certain exemptions for the legal entities as the following:

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<tr>
<th>Activity</th>
<th>Level of Exemption</th>
<th>Duration of Exemption</th>
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<tbody>
<tr>
<td>Agriculture</td>
<td>100%</td>
<td>Perpetual</td>
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<tr>
<td>Industry and Mining</td>
<td>80%</td>
<td>4 Years</td>
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<tr>
<td>Industry and Mining in Less-Developed Areas</td>
<td>100%</td>
<td>20 Years</td>
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<tr>
<td>Tourism</td>
<td>50%</td>
<td>Perpetual</td>
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<tr>
<td>Export of services &amp; non-oil goods</td>
<td>100%</td>
<td>During 5th Development Plan (2010-15)</td>
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<tr>
<td>Handicraft</td>
<td>100%</td>
<td>Perpetual</td>
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<tr>
<td>Educational &amp; sport services</td>
<td>100%</td>
<td>Perpetual</td>
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<tr>
<td>Cultural activities</td>
<td>100%</td>
<td>Perpetual</td>
</tr>
<tr>
<td>Salary in Less-Developed Areas</td>
<td>50%</td>
<td>Perpetual</td>
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<tr>
<td>All Economic Activities in Free Zones</td>
<td>100%</td>
<td>20 Years</td>
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VI – Labour

The Iranian labour laws and regulations are cumbersome and impose a complex labour regime designed to protect employees and workers by regulating working conditions. Once an employment relationship is established, it will be a very difficult task to remove the employee. As such, an employer is better advised to develop a comprehensive understanding of applicable labour laws in Iran.

All labour relations in Iran, including the hiring of local and foreign staff, are covered by the comprehensive Labour Law promulgated in February of 1991 as subsequently amended (Labour Law). The Labour Law provides a very broad and inclusive definition of those covered. Most of its provisions are mandatory in nature and are enforced on the employment relationship. Both written and oral employment contracts are recognized under the Labour Law. The contract is viewed as a mutual commitment between employee and employer for either a temporary or an indefinite period where the employee undertakes tasks and the employer undertakes payment in return.

1- Employment Contract

In general, certain issues must be addressed within the contract. These include the type of work, vocation, duty, compensation and remuneration, working hours, holidays, place of performance of duties, duration of the employment and the like.

There are also provisions relating to probationary periods which authorize either party to immediately terminate the employment relationship without cause. Probationary periods vary from 1 month to 3 months depending on the skill of the employees in question. Furthermore, without prejudiced to the provision of the employment contract, the employee is entitled to a minimum mandatory salary and allowances including housing and child allowance.

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3 Factory owners and legal entities are obligated to, even within the exemption period submit declaration and profit and loss balance sheets, provided from their official statutory books.
2 – Termination of Employment

The Labour Law allows for the termination of the employment in cases of contract expiration, the death of the employee, retirement, breach of contract, resignation or employees fault or negligence in performing his or her duties. The employer is bound to pay benefits and severance pay under all of the above scenarios on the basis of the employee's years of service and the manner in which termination occurred. Upon the dismissal of an employee, the employee may be entitled to claim reinstatement before the Labour Tribunal. If the tribunal is not convinced that the employee's dismissal is justified, the employer must re-instate the employee. Once an employee's dismissal is approved by the tribunal, the employer is obligated to provide the legal severance package.

3 – Employment of Foreign Nationals

The Labour Law forbids the employment of foreign nationals without a proper work permit. Diplomats, United Nations employees and foreign press reporters are exempt from this requirement. A work permit to a foreign national will be issued only at the request of the employer - and it may be renewed or extended for a maximum period of one year. Moreover, no exit visa will be granted to the foreign national unless the national has paid all due taxes and other dues arising from the employment.

Changes in the ownership status of the workshop through sale or transfer in any form, change of production lines, nationalization, death of owner and the like shall not affect the contractual relations of workers whose contracts have been finalized and the new employer shall be considered the successor of the former employer.

VII – Free Trade Zones and Special Economic Zones

To promote foreign and domestic investment in Iran together with the possibility of connecting the country’s economy with the international market and competing with the Persian Gulf nations, Iran established Free Trade Zones (FTZ) and Special Economic Zones (SEZ). Currently, Iran is home to six FTZs and 16 SEZs, with many projects in the horizon. Kish Island is Iran's flagship FTZ in the Persian Gulf. A second FTZ was established on Qeshm Island, also in the Persian Gulf. The remaining FTZs are Chahbahar (Sea of Oman), Aras and Anzali (both located north of Iran with access to CIS countries, Azerbaijan and the Caspian Sea) and Arvand (Southwest, close to Kuwait and Iraq). A seventh FTZ established through a partnership with Armenia is also about to open.

The FTZ and SEZ legal regimes are very progressive and are excluded from the domain of customs authorities and enjoy the full freedom for the inflow and outflow of goods and commodities. The regulations, including the Law on the Administration of the Free Trade Industrial Zones, facilitate registration and provide investment guarantees.

1– Foreign Investment

All Iranian and Foreign persons (legal and natural) as well as international organizations may invest and bring capital to the FTZ and SEZ. Similar to the mainland, foreign investors can own up to 100% of an investment without any special formalities. Moreover, foreign investors may repatriate their net profits after applying for permission from the FTZ authority. The FTZ authority must grant permission within one week of receiving the request if the foreign investor's
paperwork is complete. SEZ legal regime pertaining to the said issues is subject to the mainland regulations. Unlike SEZ, which is similar to the mainland regulations, all investment made in the FTZ shall be subject to a 15 year tax holiday for income derived from activities within the FTZs. Moreover, foreign investors will have their investment guaranteed by the FTZ or the SEZ authority. The FTZ or SEZ authority is permitted to guarantee foreign investment through the Central Bank of Iran and other banks and credit institutions.

Foreign investors may also resolve their disputes with Iranian partners and parties pursuant to their written agreement. This means that foreign investors may insert foreign law, arbitration and adjudication clauses in their contracts. Such clauses will be recognized by the FTZ legal regime. SEZ legal regime pertaining to the said issues is subject to the mainland regulations.

2 – Registration and IP Rights

In general, all types of companies (as defined in the commercial code) and non-commercial entities can apply for registration so long as the subject of their activity is deemed legal by the FTZ or SEZ authority. Foreign and Iranian companies can also apply to the Trademark Registry for registration and protection of trademarks, trade names, inventions, designs and industrial drawings.

3 – Employment of Foreign Nationals

Each FTZ authority regulates all labour relations within its jurisdiction. To the extent possible, labour requirements should be fulfilled by using Iranian workers. However, foreign workers are also permitted to work in the FTZ as long as they do not comprise more than 10% of the total number of persons employed in each FTZ. Foreign nationals working in the FTZ are required to train Iranians in their field of expertise during their tenure in the FTZ. SEZ employment and legal regime pertaining to the said issues are subject to the mainland regulations. Foreigners, also, have full freedom of traffic to and from the free zones without a need to obtain a visa and with due observance of related regulations.

4 – Banks and Foreign Exchange

The legal structure of the FTZ allows for foreign banks and foreign exchange dealers to be set in the FTZ (subject to approval by the Central Bank of Iran). These banks can offer a full range of services including opening of letters of credits for imports and exports, granting short and long term foreign exchange credits and granting a variety of credit facilities. These banks can be 100% owned by foreign entities. There is no such benefit in the SEZs.

VIII – Import Regulations

Since the early years of the Islamic Republic, Iran thrived to become an industrial power. A clear indication of this is the size of its automotive industry manufacturing more than 1,500,000 vehicles per year and exporting to neighboring countries. Also, local manufacturers of consumer goods are amongst the biggest in the region as they supply more than 80% of the local demand (80 million people) and have production capacity to export. For this reason, the Iranian government has always enforced tough policies on import of finished goods in order to protect and promote the local industry. However, since 2005, import restrictions have been eased to allow foreign brands to enter the market but duty remained high (25% to 55% on average for finished consumer goods and cosmetics). More than a mere cost, importing finished goods in Iran
requires a long bureaucratic process that could take up to a year between the decision to import a brand or a product and the actual presence of the goods on the market. The new administration has a plan to review the customs processes and reduce duties on import in order to ease the trade and simplify the whole importation procedure. However, the Government clearly favors export rather than import oriented activities.