GULF COOPERATION COUNCIL

This section of the report analyzes trade policies of the six member states (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates (U.A.E.)) of the Gulf Cooperation Council (GCC).

In 1998, the U.S. trade surplus with the GCC was $6.5 billion, an increase of $ 5.7 billion from the U.S. trade surplus in 1997. U.S. merchandise exports to the GCC were $15.3 billion, an increase of $1.8 billion (13.0 percent) from the level of U.S. exports to the GCC in 1996. U.S. imports from the GCC were $8.9 billion in 1998, a $3.9 billion decrease (30.8 percent) from the level of imports in 1997.

Recent figures indicate U.S. foreign direct investment (FDI) in Saudi Arabia had reached $8 billion in 1997. U.S. FDI in the U.A.E. was $682 million in 1997, up 14.8 percent from that in 1996. In the GCC as a whole, U.S. FDI is largely concentrated in the petroleum extraction, petrochemical, and manufacturing sectors.

Overview

The GCC is an economic and political policy-coordinating forum for its members. Since it cannot impose trade policies upon its member states, each is free to pass and enforce its own trade laws. However, there has been growing cooperation among GCC members on certain issues, such as intra-GCC investments, standards-setting, and intellectual property protection. More recently, the GCC has announced plans to establish a customs union in March 2001.

The United States favors strengthening regional integration efforts among GCC members, as well as enhancing U.S.-GCC economic and commercial ties. To this end, the U.S. Government engages in high-level economic policy talks with GCC members through the U.S.-GCC economic dialogue. The most recent meeting of the U.S.-GCC economic dialogue took place in September 1998 in Washington.

IMPORT POLICIES

Tariffs

The GCC leadership has for several years been considering the establishment of a unified tariff structure. At its December 1998 meeting, the GCC Council announced that such a customs union would come into force in March 2001. However, a number of issues remain unresolved. Currently, some GCC countries maintain tariffs of 15-20 percent on products similar to those produced locally. Saudi Arabia maintains a 12 percent tariff on most products but this can be raised as high as 20 percent for certain protected industries. The U.A.E., which is the regional commercial hub and has traditionally depended on foreign trade, continues to push for lower tariff rates throughout the GCC. As the GCC moves to harmonize its tariff schedule, there is concern that a "highest common denominator" approach could lead to higher tariffs for a variety of imported products. At the recently concluded December 1998 GCC Summit, however, leaders adopted a timetable which would establish a GCC customs union by 2001, and urged that agreement on a unified customs tariff be concluded by the end of 1999.

Of the GCC countries, Bahrain, Kuwait, Qatar, and the U.A.E. are members of the WTO. All four of these countries entered the GATT and WTO under simplified procedures, based on the United Kingdom's previous application to the GATT 1947 on their behalf. Saudi Arabia applied for WTO membership in early 1996. Negotiations for the terms of Saudi Arabia's accession are now under way. Similarly, Oman became an observer to the WTO in April 1995 and submitted its formal application for WTO accession in 1996. Negotiations for Omani accession are also currently under way.

Import Licensing

Except in Bahrain, varying degrees of licensing procedures are enforced to protect domestic industries or limit trade to nationals of GCC countries. In Saudi Arabia, the importation of certain articles is either prohibited or requires special approval from competent authorities. More specifically, restrictions are placed on the importation of alcohol, firearms, illegal drugs and pork products. The following products require special approval in Saudi Arabia: agriculture seeds, live animals, fresh and frozen meat, books, periodicals, movies, tapes, religious books and tapes, chemicals and harmful materials, pharmaceutical products, wireless equipment, horses, products containing alcohol, and natural asphalt. Kuwait currently restricts the importation of alcohol, firearms, and pork products. In the U.A.E., only firms with the appropriate trade license can engage in importation. In Oman, companies which import goods must be registered with the Ministry of Commerce and Industry. Information of certain classes of goods, such as alcohol, firearms, narcotics, and explosives require a special license, and media imports are subject to censorship.

Documentation Requirements

All GCC countries impose complicated, costly, and time-consuming import documentation requirements. For example, certain documents must be authenticated by the National U.S.-Arab Chamber of Commerce (or, in the case of U.S. goods destined for Saudi Arabia, by the U.S.-Saudi Business Council) and by the diplomatic mission of the importing country. In Oman, with the exception of food products, this authentication procedure is not required, if the importing company has an existing agency agreement with the U.S. exporter. In 1996, Oman began the process of simplifying customs clearance documentation to expedite the flow of goods and promote its ports and airports. For example, Arab League boycott certification is no longer required. Only Omani nationals, however, are permitted to submit documents to clear shipments through customs. Since July 1998, the UAE has required that documentation for all imported products must be authenticated by a UAE Embassy in the country of origin. There is an established fee schedule for this authentication. In the absence of the validation in the country of origin, the fee schedule will be applied by customs authorities when the goods arrive in the UAE.

STANDARDS, TESTING, LABELING AND CERTIFICATION

The United States is increasingly concerned about certain restrictive GCC standards. In particular, shelf life standards are more strict than scientifically warranted and severely restrict imports of a variety of food products of interest to U.S. suppliers. Such standards also favor European companies, which face shorter shipping times than their U.S. counterparts.

The situation has deteriorated in recent years, as shelf life durations for a variety of food products have been shortened, in some cases by half, as GCC countries begin strictly to enforce Gulf Standard 150/1993, Part I. Lacking scientific justification, GCC shelf life standards appear to violate the WTO/SPS agreement. Their removal could significantly increase U.S. food exports to the region.

In Saudi Arabia, the Saudi Arabian Standards Organization (SASO) imposes shelf life requirements on food products. Over the past few years, SASO has shortened shelf life durations for baby foods, eggs, stuffed cookies, chilled meats, and some snack foods -- all products of interest to U.S. exporters. Some sources claim that SASO has shortened shelf life standards to protect Saudi Arabia's expanding food processing industry; Saudi Arabia has become self-sufficient in egg production, and is growing in importance as a biscuit and cookie producer.

In 1990, the United States entered into a highly successful arrangement with SASO to encourage cooperation in the development of standards. SASO's work frequently leads to the creation of regional GCC standards. The United States-SASO partnership, which includes a U.S. technical advisor in Riyadh funded by the U.S. Government, has led to greater transparency in the Saudi system and has increased opportunities for American exporters to comment on draft Saudi standards. SASO has already adopted ISO 9000 as approved standards for Saudi Arabia and acts as an accreditation body through the Quality Assurance Department. The 1993 NIST-SASO MOU was renewed in July 1997 for another three years. More recently in 1996, the United States National Institute of Standards and Technology (NIST) and the GCC countries concluded a memorandum of understanding (MOU) on standards, metrology, and technical assistance programs at the economic dialogue meeting in Bahrain.

In October 1995, Saudi Arabia initiated a pre-shipment certification program to monitor and control the quality of certain products imported into the country. The International Conformity Certification Program (ICCP) currently applies to 76 regulated consumer product lines. The ICCP is managed by Intertek Testing Services (ITS), which inspects and tests, on behalf of SASO, shipments bound for Saudi Arabia. The United States and many other exporting countries have questioned the manner in which the ICCP has been implemented. Problems include the lack of transparency, ad valorem fees, and favorable national treatment of local products manufactured in the Gulf Region. Recently, though, shipments valued at less than five thousand dollars have been exempted from compliance with ICCP regulations and in September 1998, Saudi Arabia’s Ministry of Commerce removed all food and agricultural products from the ICCP.

Standards and labeling issues are also a problem in many of the GCC countries. For example, telecommunications and computer equipment standards tend to lag behind market developments, which often results in government tenders that specify purchase of obsolete and more costly items. That said, the GCC plans to implement a system for registering companies that comply with international standard ISO 9000. The central accreditation organization will be the Gulf Standards and Metrology Organization (GSMO) for the GCC countries. An agency in each of the six countries will inspect factories, make recommendations, and issue registrations. The GSMO is negotiating with the EU to put the program in place, and the EU is sending experts to help the GCC in technical and training aspects of the program and to set up mutual recognition systems for certification and quality control mechanisms. In January 1998, a GCC standardization official reported that the GSMO had approved approximately 1000 unified standards for the GCC countries to date.

GOVERNMENT PROCUREMENT

Most GCC countries maintain preferential "buy national" policies and/or offset provisions requiring that a portion of major (and usually military) government tenders be subcontracted to local firms. Several GCC states actively support the creation of offset companies in diverse fields as part of defense procurement.

More specifically, Kuwaiti Government procurement policies specify the use of local products when available and prescribe a 10 percent price advantage for local firms in government tenders. Kuwait's offset program requires that foreign firms awarded government contracts with a single or cumulative value in any one fiscal year (July 1 to June 30) of kd one million ($3.3 million) or more, invest 30 percent of the contract value in an approved project in Kuwait, or an agreed third country. In 1997, Kuwait began applying the offset requirement to non-military contracts as well. Up until then, the scope of the offset requirement had been limited to military sales. This expanded coverage is a negative development that would represent a significant new barrier to expanded U.S. exports to Kuwait.

Saudi Arabian Government contracts on project implementation and procurement are regulated by several royal decrees which strongly favor GCC nationals. Most defense contracts, however, are negotiated outside these regulations. Under a 1983 decree, for example, contractors must sub-contract 30 percent of the value of the contract, including support service, to majority-owned Saudi firms. An exemption is granted in instances where no Saudi company can provide goods and services to fulfill the obligation. In addition, Article 1(d) of the tender regulations requires that Saudi individuals and establishments have preference over all other entities in government dealings. The same regulations also accord preference to "mixed" entities as long as Saudi nationals hold at least 51 percent of the mixed entities’ capital. Article 1(e) gives preference to products of Saudi origin which satisfy the requirements of the procurement, even when the product specifications are inferior to those of a foreign counterpart. Saudi Arabia also gives priority in government purchasing programs to GCC products. These items receive up to a 10 percent price preference over non-GCC products in all government contracts contested by foreign contractors.

Oman provides a 10 percent price preference to tenders which use high local content in goods or services. Additionally, the government considers quality of product or service and support as well as cost in evaluating bids. For most major tenders, Oman typically notifies firms either already registered in Oman or preselected by project consultants. Bidders' costs soar when some award decisions are delayed, in some instances for years, or when bidding is reopened with modified specifications and typically short deadlines. Oman is known to have an offset program only with the United Kingdom, although the investment can originate from any country. Offsets are not standard adjuncts to government contracts and have not been associated with any U.S. defense transactions, whether commercial or foreign military sales.

The U.A.E. has no requirement that a portion of any government tender be subcontracted to local firms, but there is a 10 percent price preference for local firms on procurement and tenders. The U.A.E. requires a company to be registered in order to be invited to receive government tender documents. To be registered, a company must have 51 percent U.A.E. ownership. However, these rules do not apply on major project awards or defense contracts where there is no local company able to provide the goods or services required. Set up in 1990, the UAE’s offset program required defense contractors with contracts worth more than $10 million to establish joint venture projects that yield profits equivalent to 60 percent of their contract value within a specified period of time (usually seven years). The projects must be commercially viable joint ventures with local business partners, and are designed to further the UAE objective of diversifying its economy away from oil. To date, more than 30 projects have been launched, including, inter alia, a hospital, an imaging and geological information facility, a leasing company, a cooling system manufacturing company, an aquiculture enterprise, and Berlitz Abu Dhabi - a language instruction center.

Qatar gives preferential treatment to contractors that include high local content in bids for government tenders. As a rule, bids must be submitted through local Qatari agents, but there are exceptions. For example, government procurement of defense equipment does not require use of local agents. However, local agents are often used, and have proven to be very useful in securing contracts. Qatar gives a 10 percent price preference to local firms and a 5 percent price preference to GCC firms in all government procurement.

In Bahrain, foreign firms are required to have a local agent or a local partner prior to bidding on a government contract. Construction companies biding on government construction projects must be registered with the Ministry of Works and Agriculture. The government makes major purchasing decisions through the tendering process with invitations being issued to selected, prequalified firms. Firms do not need to prequalify for smaller contracts.

EXPORT SUBSIDIES

While there appears to be no GCC-wide export subsidy program, certain member states have programs to support local industries that, in effect, equate to export subsidies.

Saudi Arabia contends that it has no export subsidy programs for industrial production. However, costs for establishing productive facilities in the industrial cities in Saudi Arabia are artificially low: land is available at little or no cost, utilities are priced below cost of production, and low interest loans are available from the Saudi industrial development fund. Because input prices are relatively low in Saudi Arabia, investment in the production of petroleum and related downstream products is comparatively attractive. The Saudi Government contends that low input prices reflect Saudi Arabia's low costs for domestic oil production.

Saudi Arabia began a substantial reduction in wheat production subsidies in 1993. The Grain Silos and Flour Mills Organization (GSFMO) controls wheat production by assigning production quotas to each of the country's grain farmers. Farmers can only receive government support prices within preassigned quotas. GSFMO production quotas in 1999 remain at 1.8 metric tons. This conforms with current policy to produce for domestic needs. Production support prices remain $400 per metric ton, a level still well above world prices.

The Oman Development Bank (ODB) provides export payment guarantees, at below local market rates, protecting Oman's relatively few non-petroleum exporters from payment problems on transactions, subject to ODB approval of buyer and country risk. The Omani Ministry of Commerce and Industry also offers soft loans to projects in the industrial, tourism , health, education, and service-related sectors. Formerly interest-free, these loans now charge about four percent interest. In addition, commercial banks now offer similar loans at 150-250 percent equity at eight percent interest, with five percent paid by the government.

Kuwait offers industrial subsidies similar to those of other GCC states. The Industrial Bank of Kuwait offers below market rate loans to local industry. Land is also provided at low cost, and imports of machinery and other goods are exempted from customs duties. Industries also benefit from low cost utilities.

Bahrain has phased out most industrial subsidies for export industries. The government permits the duty-free importation of raw material inputs for incorporation into products for export and the duty-free importation of equipment and machinery for newly established export industries. All industries in Bahrain, including export and foreign-owned firms, benefit from low-cost utilities.

LACK OF INTELLECTUAL PROPERTY PROTECTION

Some progress has been made in recent years by GCC states in adopting laws and regulations protecting intellectual property. However, most of these laws are not yet TRIPs consistent and all of the GCC countries were identified in last year’s Special 301 review. The GCC Secretariat has declared the protection of intellectual property rights (IPR) to be a priority and is working to strengthen GCC laws in the six member states, especially in the area of patent protection. In this respect, the GCC has published a unified patent law. The GCC patent office, headquartered in Riyadh, began to accept patent applications in October 1998. Once a patent is registered with the GCC patent office, its owner is automatically afforded protection throughout all GCC member states. In addition, all GCC states have trademark laws although some are not effectively enforced. The GCC is reportedly interested in working on a unified trademark regulation, but no technical discussions or drafting has been attempted.

The GCC Secretariat has issued a patent law whose ultimate purpose is to create one patent system for the member states. The law has several significant TRIPs consistency problems, including a lack of protection for pharmaceuticals (products or processes for production) and biological inventions. In addition, the law contains a broad compulsory licensing regime. The GCC also has indicated its interest in eventually creating common trademark and copyright laws and regimes, although no progress has been made so far.

The GCC countries are in various stages of acceding to international intellectual property conventions, such as the Berne Convention for the Protection of Literary and Artistic Works, the Paris Convention for the Protection of Industrial Property, and the Geneva Phonogram Convention. Saudi Arabia became a member of the Universal Copyright Convention on July 13, 1994. Bahrain became a signatory of the Berne and Paris Conventions on October 29, 1996. The U.A.E. has joined the Paris Convention for the Protection of Industrial Property. Oman acceded to the Parsi and Berne conventions in 1998, as part of its ongoing efforts to come into conformity with its TRIPs obligations. Qatar is not party to any of these conventions. All GCC states are members of the World Intellectual Property Organization (WIPO).

Despite the progress to date, IPR protection problems continue throughout the region due primarily to difficulties with enforcement. Pirated video cassettes, computer software, and sound recordings are available to varying degrees in all GCC countries. Counterfeit products such as clothing, auto parts, and household products are also widely available.

Saudi Arabia

As part of its effort to gain membership in the World Trade Organization, Saudi Arabia has embarked on a wholesale revision of its intellectual property laws to bring them into conformity with the Trade Related Intellectual Property Rights Agreement under the WTO (TRIPs). Saudi Arabia is working with the World Intellectual Property Organization to achieve TRIPs compliance. The U.S. has provided substantial input on these issues in bilateral meetings concerning Saudi Arabia’s WTO accession.

Saudi Arabia enacted copyright and patent laws in 1989. The United States has raised a number of concerns about the copyright law, the most important of which is that U.S. sound recordings are not clearly protected. Saudi Arabia claims that through its accession to the Universal Copyright Convention, it is obliged to protect U.S. and other non-GCC member works. However, the U.S. has asked Saudi Arabia to provide greater certainty on this issue, preferably through amending its legislation.

While Saudi Arabia's patent law provides a generally adequate legal basis for protection, its patent term and compulsory licensing provisions are not consistent with international norms, as set forth in TRIPs. The functions of the Saudi patent office also need to be substantially improved as the office has issued only 10 patents, and has a backlog of more than 6,000 applications. The recently established GCC patent office may substantially ameliorate this situation.

Saudi Arabia has made significant progress on copyright enforcement in the video and sound recordings market, particularly in clearing shelves in retail stores of pirated video and music cassettes. However, much of the pirated video and audio material has reportedly gone "underground" in Saudi Arabia, requiring new enforcement initiatives. Although Saudi Arabia has made some progress in discouraging the sale and use of pirated software, most notably through the 1998 agreement of major Saudi integrators that they would cease bundling pirated software in their products, U.S. software manufacturers are still seeking greater Saudi Government enforcement action against software copiers and end-users of unauthorized software, including government ministries.

The United Arab Emirates

The U.A.E. enacted copyright, trademark, and patent laws in 1992. The government is now working to amend the patent law to bring it into compliance with TRIPs, but progress has been slow. The U.A.E. patent law, currently being amended, protects pharmaceutical processes but not products. Due to confusion surrounding interpretation of protection for foreign works in the law, several recent court cases have resulted in acquittals for U.A.E. companies charged with violating U.A.E. federal copyright and trademark laws.

The U.A.E. Government has cracked down on piracy of audiovisual works and sound recordings. As a result, shops in the U.A.E. do not carry pirated audio/video works and sound recordings. Modern movie theaters have opened since September 1994 and show western movies obtained from licensed distributors. Pirated video products enter the country from neighboring Oman, but are not generally available in shops registered and licensed by government authorities.

The central government is also committed to countering computer software piracy, which is widespread. In 1996, the U.A.E. recorded the largest drop in software piracy worldwide. As a result, in mid-1997, the Minister of Information and Culture was honored by international software manufacturers for his commitment to combating software piracy. Recent press reports have provided extensive coverage of UAE raids on suspect entities, and have detailed UAE seizures of pirated goods. Large quantities of pirated goods have been destroyed and press coverage has been prominent.

Bahrain

Bahrain enacted a somewhat ambiguous copyright law in 1993, but has recently been aggressively and broadly enforcing it against copyright piracy in ways consistent with its WTO IPR obligations. It has been using the law to protect a wide range of intellectual property. Bahrain recently began a strong enforcement campaign to tackle video, audio, and software copyright piracy and has started closing stores and confiscating illegal copies; prosecution of pirates was set to begin in early 1998. Bahrain has a patent law, but it is not yet TRIPs consistent.

Kuwait

Kuwait became a member of the World Intellectual Property Organization in April 1998. Kuwait continues to enforce ministerial decrees against copyright violations of U.S. and U.K. audio, video, and computer program materials pending passage of a TRIPS-consistent copyright law. A draft law has been with Kuwait's cabinet since April 1998. It was to be submitted to Kuwait's national assembly in February 1999, but continues to be delayed. Pending its passage and implementation, copyright protection is spotty. Piracy of audio and video materials is rampant. Some progress has been achieved in the computer software sector

as a result of a Minister of Planning decree issued in April 1998 that banned the use of pirated software on government computers.

Kuwait has patent and trademark laws on the books, but only the trademark law is in effect. The patent law was passed in 1962 and is not TRIPs consistent. Enforcement of the trademark law is reasonably effective, but foreign trademark holders complain the registration and renewal process is burdensome and costly. Kuwait's Minister of Commerce established an inter-ministerial committee in June 1998 that was charged with reviewing all of Kuwait's IPR legislation and making recommendations on how to bring Kuwait into conformity with its TRIPs obligations. The committee submitted a draft report to the minister in September 1998 and is reportedly finalizing work on a draft patent law. Absent patent protection, pharmaceutical products have depended on Kuwait's strict drug registration criteria for protection against pirated-copies. The Ministry of Health issued in December 1998 a decree barring the registration in Kuwait of unauthorized copies of drugs still under patent in their country of origin. The decree takes effect June 1, 1999.

Qatar

Qatar's copyright law officially took effect on October 20, 1996, but after a recent government reorganization there is some uncertainty as to the status of the Copyright Bureau, which has been responsible for implementation of the law. Qatar provides no patent protection for any inventions, including pharmaceutical products. Qatar provides protection for trademarks registered with the Commercial Registration Department of the Ministry of Finance, Economy and Trade.

Oman

Oman issued a copyright decree in June 1996. However, protection of foreign works not registered in Oman remains in question and the decree has not been fully implemented to include computer software. The decree also provides no more than 25 years of protection, or the balance of protection under an existing international copyright, whichever period is shorter. This is not consistent with international standards. As of January 1, 1999, the government began enforcement of a ban on the sale of pirated audio and video cassettes, with inspection carried out by the local police. Since January 1, pirated audio and video cassettes have disappeared from local vendors' shelves, although sales of pirated software are still very much in evidence. The government has suggested that it will implement a similar royal decree banning sales of pirated software by June 30, 1999; however, as of early January, this decision had not been announced. Applicants for Internet access must, as part of their usage contract, pledge to respect international copyrights. Oman has no patent law, but points to its acceptance of GCC patent protection, which has not yet demonstrated its efficacy. Also, the Ministry of Health says it patent compliance when reviewing new import applications for pharmaceutical. U.S. industry, however, has raised concerns about this verification process.

SERVICES BARRIERS

Insurance

Most GCC countries discriminate against foreign insurance companies, generally by restricting foreign participation in the on-shore market (as in Kuwait), or by requiring operation through a local sponsor (as in Saudi Arabia and Oman). (Note, however, that a sponsorship requirement is not uniquely applied to insurance firms.) Moreover in Oman, in the insurance sector, as in all services except banking, foreign ownership may not exceed 49 percent. Foreign insurance companies can establish a presence in the U.A.E.

by operating a branch or representative office. This option allows 100 percent foreign ownership, but, in general, limits business activities to offshore operations. At present, Qatar bans the establishment of new insurance companies, and there is no indication the ban will be lifted soon. In December 1996, Bahrain issued a decree amending the country's insurance law to allow foreign companies to open life insurance businesses.

The companies are being allowed to enter the life insurance sector because of a lack of local experience in the field. Prior to the new law, companies could establish only representative offices in Bahrain. Saudi Arabia has allowed insurance companies to operate in the Kingdom, but there is no insurance law governing the sector. The government is formulating a regulatory framework for insurance, but the timetable for the adoption and implementation of such regulation is uncertain. The central bank has assumed de facto jurisdiction over companies selling whole life insurance and similar investment products, requiring them to come under the control of financial institutions who are already subject to central bank regulation.

Banking

Banking activity in GCC states is subject to a variety of restrictions. Saudi regulations require that Saudi nationals own 60 percent of any bank. But, the Saudi Government has decided to allow GCC banks to open branches in the kingdom. In Kuwait, foreigners are permitted to own up to 40 percent of Kuwaiti banks. Bahrain continues as a regional financial services hub. It continues to issue new licenses to banks (11 in 1997), focusing on promoting the Islamic, offshore, and investment banking sectors. The traditional commercial banking sector remains saturated.

While Oman, Qatar, and the U.A.E. have laws permitting foreign banks to operate, these countries have barred new non-GCC banks from establishing operations on the grounds that their countries are "over-banked." Despite 1997 GCC initiatives to facilitate GCC-based banks operating branches in other GCC states, no new foreign banks have begun operating in the UAE in the last few years. In the U.A.E., foreign banks may open representative offices. Oman does not permit representative offices. The U.A.E. and Oman do not permit offshore banking. Qatar does not allow foreign banks operating in the country to open branch offices; this right is restricted to Qatari-owned banks.

Shipping

Kuwait has prevented foreign shipping lines access to government project cargo by granting the United Arab Shipping Company the right of first refusal on all such cargoes. Kuwait, however, no longer applies this requirement to shipments from U.S. ports. Bahrain continues to favor the United Arab Shipping Company on cargo contracts for government projects. Saudi Arabia gives preferences to national carriers for up to 40 percent of government cargoes. Under these rules, the Saudi national shipping company and United Arab Shipping Company receive preferences.

INVESTMENT BARRIERS

Foreign equity is limited to 49 percent in Kuwait, Qatar, and the U.A.E., although the U.A.E. has exempted the Jebel Ali and other free zones from this barrier. Products entering the U.A.E. from the free zone are treated as foreign products. The 49 percent limit on foreign equity in Qatar can be overcome by the issuance of an emiri decree.

Oman provides national tax treatment for joint venture public shareholding firms with no more than 49 percent direct foreign investment. Corporate tax rates on net profits have dropped from 50 percent to no more than 30 percent for most other forms of foreign investment. The Sultanate is reviewing and modifying its laws and procedures as it seeks to increase Oman's attractiveness as a site for foreign investment, particularly in joint ventures. Special authorization is required for projects with majority direct foreign ownership. Five year, one-time renewable tax holidays can initially offset higher tax rates imposed on firms not granted national tax treatment.

Kuwait currently maintains restrictions on foreign investment, including limits on foreign ownership (a maximum of 49 percent in general, and 40 percent in the banking sector) and discriminatory taxation policies (see below). The government forwarded in June 1998 a proposed foreign investment law that would allow majority foreign ownership of Kuwaiti companies and in some circumstances up to 100% foreign ownership. It also offers up to a 10-year tax holiday for new investors. The law has passed committee in the national assembly and may be approved by the full assembly before its adjourns in July 1999. A free trade zone, in which many of the above restrictions would not apply, is in the initial stages of being set up and should become operational in 1999.

While Saudi Arabia maintains no legal restrictions on the share of foreign ownership, under current policy wholly foreign-owned investment contracts are rare. Moreover, Saudi Government incentives such as tax holidays and Saudi industrial development fund lending normally are not available unless there is at least 25 percent Saudi ownership. The foreign capital investment regulation requires that foreign investment be made consistent with the nation's development priorities and that investments include some technology transfer. Foreigners may not invest in joint ventures engaged solely in advertising, trading, distribution, or marketing. Real estate ownership is restricted to wholly-owned Saudi entities or citizens of the GCC. Foreign equity is taxed at a maximum rate of 45 percent of profits; Saudis are not subject to a tax on profits, although they do pay a wealth tax ("zakat"). Saudi Arabia is currently undertaking a revision of its foreign investment code.

Bahrain is discussing allowing 100 percent foreign equity ownership of direct investments but currently permits this only on a case-by-case basis. Oman permits 100 percent foreign ownership on a case-by-case basis, as well with approval of the Council of Ministers.

Only GCC nationals are permitted to invest in local real estate throughout the GCC. Foreign investment in publicly traded Saudi Arabian companies is possible through a mutual fund listed in the United Kingdom. In Bahrain, expatriate residents with more than one year's residence may purchase stocks in some publicly traded companies under certain circumstances. While foreigners are prohibited from purchasing shares of individual companies on the UAE stock exchange, they are permitted to purchase a limited number of shares of certain mutual funds.

ELECTRONIC COMMERCE

Electronic commerce is in its nascent stages of development in GCC countries. All GCC WTO members -- Kuwait, Bahrain, Qatar, and the UAE – supported the U.S. proposal for a WTO standstill on imposition of new customs duties or other charges on electronic commerce. All of the GCC countries try to restrict or discourage local access to websites that offer pornographic or other materials offensive to Islamic values.

OTHER BARRIERS

Agent and Distributor Rules

In GCC countries, U.S. firms may find that compliance with U.S. law presents special challenges when selecting a local agent. Termination of agency agreements can be difficult in all the GCC countries and may involve considerable financial losses to the foreign supplier.

Saudi law requires that in-country distributors be licensed by the Ministry of Commerce. Only Saudi citizens can obtain licenses, although a recent GCC decision may broaden this to include GCC citizens. Direct sales are possible except in the case of sales to government agencies, where a "service agent" is required.

The U.A.E. permits two types of commercial entities to import and distribute products. One is a 100 percent U.A.E.-owned business and the other is a limited liability company in which foreign ownership up to 49 percent of equity is permitted. All U.A.E. commercial agents must be registered with the Ministry of Economy and Commerce. U.S. exporters seeking U.A.E.-wide coverage must appoint a separate agent for each of the seven emirates, or appoint a master agent with offices or sub-offices in each emirate. Once chosen, agents/distributors have exclusive rights, and are extremely difficult to replace without their agreement.

Since September 1996, Oman registers non-exclusive agency agreements. Since 1993, Oman has permitted an importer to bring in goods without paying a commission to a registered agent, provided that the goods are imported through an Omani port or airport. In practice, however, it is difficult for a foreign firm to sell directly to the government without an Omani agent scouting for and bidding on tender opportunities. In addition, termination of an agency agreement can be difficult, as a supplier may not unilaterally terminate an agency agreement without a justifiable branch of the agency agreement by the agent.

Local agents are currently required in all sales transactions in Kuwait. However, the government is discussing elimination of agency requirements in its military procurement contracts.

Bahrain’s revised Agency Law, implemented in 1998, eliminated the sole agent requirement, capped agent commissions at five percent, and provided for the phasing out of commissions entirely over the next five years.

Corporate Tax Policies

Saudi Arabia and Kuwait tax foreign companies but not domestic entities. Additionally, several GCC countries tax royalties as if they were 100 percent profit and maintain a variety of other tax policies considered to be unfair to foreign companies. The U.A.E., for example, imposes a 20 percent income tax on foreign banks. No tax is levied on domestic banks. Since January 1997, Oman provides national tax treatment to joint venture public shareholding firms with no more than 49 percent direct foreign investment: i.e., a maximum rate of 12 percent tax on net profits. The Omani branch of a foreign firm is regarded as an Omani firm for purposes of computing the 51 percent Omani ownership of the joint venture. Taxes were reduced from a maximum rate of 50 percent to 30 percent for other categories of joint ventures. These rates do not apply to foreign petroleum companies, which pay royalties per their concession agreement. Oman now levies a 10 percent tax on services performed offshore for Omani firms. In Saudi Arabia, foreign investors may receive incentives, including a ten-year tax holiday, for approved

agricultural and manufacturing projects with a minimum 25 percent Saudi participation. However, foreign equity investors in joint venture are taxed at a maximum of 45 percent of profits. Saudi Arabians are not taxed on income. Qatar levies corporate income taxes at rates from 5 to 35 percent of net profits earned by foreign firms in Qatar. While no income tax is charged to Qatari owned firms to Qatari shareholders of joint ventures, foreign firms only avoid income taxes through the issuance of an emiri decree. Kuwait currently imposes a maximum income tax rate of 55 percent on foreign firms doing business in Kuwait. Kuwaiti corporations are not subject to income tax, but are subject to a mandatory 5 percent "zakat" contribution. Kuwait has announced plans to lower the maximum tax rate to 30 percent, but implementing legislation has not yet been submitted to the national assembly. Bahrain has no personal or corporate taxation, except on oil company profits.

Procedural and Financial Irregularities

Procedural and financial irregularities can be significant barriers to trade in GCC countries. Such irregularities have resulted in lost opportunities for U.S. suppliers of goods and services and have forced some U.S. businesses out of some markets. Disregard of irregularities may subject U.S. citizens or companies to prosecution under the Foreign Corrupt Practices Act (FCPA).

In August 1996, Kuwait passed Law Number 25, requiring disclosure of all commissions and other payments made in relation to securing a government contract valued at 100,000 Kuwaiti dinars or more (approximately $335,000). It is hoped that Law 25 will increase transparency in the government's procurement practices, but the jury is still out regarding its effectiveness.

On September 30, 1994, the GCC announced that it would end its adherence to the secondary and tertiary aspects of the Arab League boycott of Israel, eliminating a significant trade barrier to U.S. firms. In January 1996, Oman and Israel signed an agreement to open trade missions in the other country. In April 1996, Qatar and Israel agreed to exchange trade representation offices. Israel opened its office in May 1996. In March 1996, the GCC reiterated its commitment to end the secondary and tertiary boycott, and recognized the "total dismantling of the Arab boycott of Israel as a necessary step in advancing the peace process and promoting regional cooperation in the Middle East and North Africa." Although all GCC states are complying with these stated plans, some commercial documentation continues to contain boycott language; consequently, U.S. companies must notify the U.S. office of antiboycott compliance. Since the adoption of these policies, the incidence of boycott language in commercial documentation is decreasing (see the Arab League chapter for further information).

Kuwait no longer applies a secondary boycott of firms doing business with Israel and has taken steps to eliminate all direct references to the boycott of Israel in its commercial documents. Kuwait still applies its primary boycott of goods and services produced in Israel.

Most recent data indicate that the number of prohibited boycott requests in the U.A.E. continues to drop. It is believed that these cases stem from bureaucratic inefficiencies, rather than from a desire to circumvent U.A.E. Government stated policy terminating adherence to a secondary/tertiary boycott. The embassy continues to work closely with the U.A.E. Government to eliminate these requirements.

Oman no longer enforces compliance with the boycott. Although the Omani trade representative was recalled in late 1996 and not replaced in 1997, Oman and Israel maintain trade offices in each other's country, with an Israeli representative resident in Muscat. Omani customs processes Israeli-origin shipments entering with Israeli customs documentation. Likewise, Israeli immigration stamps in third

country passports are not an issue. Telecommunications links and mail flow normally. That said, Omani firms have shied from carrying any identifiably Israeli consumer products. Normal commercial ties await more favorable developments in the Middle East peace process throughout the GCC.