

# IRAQ

## **TRADE SUMMARY**

U.S. goods exports in 2013 were \$2.0 billion, down 1.3 percent from the previous year. Corresponding U.S. imports from Iraq were \$13.3 billion, down 30.9 percent. The U.S. goods trade deficit with Iraq was \$11.3 billion in 2013, down \$5.9 billion from 2012. Iraq is currently the 60th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Iraq was \$1.2 billion in 2012 (latest data available), up from \$468 million in 2011.

## **Membership in the World Trade Organization**

Iraq is not a member of the World Trade Organization (WTO), at present. The WTO established a Working Party in 2004 to examine the terms and conditions for Iraq's accession to the WTO. Iraq submitted its Memorandum on the Foreign Trade Regime in September 2005. The Working Party met for a second time in April 2008 to continue the examination of Iraq's foreign trade regime, but has not met since. The United States continues to play a role in providing technical assistance for Iraq's preparations for WTO accession negotiations.

## **IMPORT POLICIES**

### **Tariffs**

On January 2, 2014, the government of Iraq started to implement the first phase of a 2010 tariff law that replaces the across-the-board 5 percent tariff rate enacted a decade ago by the Coalition Provisional Authority, with a much broader scale of some lower, and mostly higher, tariff rates. The 2010 law establishes rates on agricultural goods ranging from zero (for seeds) to 50 percent (for pork products, sugar, and tobacco) and 80 percent (for water and beverages). Tariffs on industrial goods range from duty free (some stones, minerals, organic and inorganic chemicals, dyes, rubber, wood pulp, some paper, locomotives, and aircraft), 5 percent to 15 percent (pharmaceuticals), 10 percent to 20 percent (apparel), 30 percent (bicycles, motorcycles, various electrical goods, electronic, information technology goods, and finished plastics) to 40 percent (carpets).

According to Council of Ministers (COM) Resolution 541 of December 10, 2013, several categories of goods were subject to immediate implementation: alcohol, tobacco, perfume, and certain cosmetic and toiletry products. On January 7, 2014, the COM granted an exemption from the first stage of tariff implementation to several broad categories of products: imports for public sector consumption, construction materials and equipment, food, agricultural supplies and equipment, and imports tied to government investment contracts. As of February 2014, it remains unclear how the government of Iraq will ultimately implement the 2010 tariff law in its entirety.

### **Certificates of Origin**

Companies exporting to Iraq face lengthy and burdensome delays and must expend funds and manpower to obtain Certificates of Origin (COOs) for their products. To obtain a COO, U.S. companies must obtain clearances from a local chamber of commerce, the governor of the relevant state, and the U.S. Department of State, as well as the approval of the Commercial Attaché's Office at the Iraqi Embassy in Washington D.C. The Iraqi COO requirement is especially onerous for complex equipment that includes parts from

many countries. Reported use of COOs as an inappropriate means to attempt to assess conformity with human health or safety standards, instead of or in addition to the official standards and conformity assessment procedures, raises further concerns. Reports that COOs will now be required for companies seeking to provide services in Iraq also raise concerns.

The government of Iraq requires that U.S. companies complete this lengthy documentation verification and consularization process after precertification inspection but before shipment. To alleviate resulting delays, in June 2013 the Council of Ministers Secretariat issued guidance that allowed healthcare goods and foodstuffs to be immediately released from Iraqi Customs and imposed a limit of 90 days on responsible government ministries to submit certificate of origin documentation. The directive requires private sector importers to pay a security deposit equivalent to the amount of the fine for not having a COO. The new guidance resulted in some U.S. shipments being released from Iraqi customs, but it has not been implemented consistently.

U.S. officials continue to stress to the government of Iraq that many countries in the region have stopped requiring COOs or limited their use for only those products for which preferential tariffs under preferential trade arrangements are sought. The United States has encouraged the government of Iraq to limit these requirements.

### **Product Standards and Food Safety**

Iraq's mandatory technical regulations are often based on standards that are technologically obsolete. Although Iraq is in the process of updating its standards and increasing its participation in international bodies that develop new standards, its adoption of modern international standards is still limited. Iraq's Center of Standardization and Quality Control (COSQC) often does not recognize testing by national authorities such as the U.S. Department of Agriculture's Food Safety Inspection Service (FSIS), although work is underway for COSQC to recognize FSIS testing in lieu of additional testing requirements specific to Iraq.

### **GOVERNMENT PROCUREMENT**

There are significant challenges to the Iraqi central government's ability to tender. It faces institutional capacity problems on issues including, due diligence, project award, approvals, implementation, financing and payment. The United States is providing technical assistance to address some of these weaknesses. For tenders solely done at the provincial level, the tender process may differ and is reportedly easier to navigate in many instances.

*For information on Iraqi government procurement policies related to the Arab League Boycott, please see the Arab League Boycott section.*

### **INTELLECTUAL PROPERTY RIGHTS PROTECTION**

Iraq currently does not have adequate statutory protection for intellectual property rights (IPR). The government of Iraq is in the process of developing a new IPR law to address certain obligations in the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs). The draft law covers patents, trademarks, and copyrights. Strong implementing regulations will be needed to consolidate IPR protection and enforcement functions, which are currently spread across several ministries, into a "one-stop" IPR office. The Central Organization on Standards and Quality Control (COSQC), an agency within the Ministry of Planning, handles the patent registry and the industrial design registry; the Ministry of Culture handles copyrights, and the Ministry of Industry and Minerals houses the office that registers

trademarks. The new draft law has been stalled in the constitutional review process since mid-2007. The government of Iraq's ability to enforce and protect IPR remains very limited.

The United States is continuing efforts to bolster the government of Iraq's understanding of IPR and build the government of Iraq's capacity to protect these rights. In June 2012, the Federal Court of Cassation, the highest civil court in Iraq, upheld a finding by the Baghdad-based Commercial Court that ruled in favor of the U.S. firm Westinghouse in a trademark dispute, setting a positive precedent for IPR enforcement in Iraq.

## **INVESTMENT BARRIERS**

The lack of clear and definitive implementing regulations for the National Investment Law and its amendment remains a source of delay and confusion in the approval of investment projects. Once fully implemented, the law would establish a legal framework for investment. Potential investors, however, would still face laws, regulations, and administrative procedures that continue to make Iraq's overall regulatory environment opaque. More than 950 firms – both foreign and domestic – have filed for investment licenses in Iraq to date, but fewer have moved to execute the license. Obtaining licenses in the Iraqi Kurdistan Region (IKR), for example, requires application at the respective branch office in each governorate. In addition, Iraqi government line ministries may require additional approval which can delay or prevent potential investments in a particular province from moving forward. At the same time, Provincial Investment Commissions (PICs) have been active in assisting regional investors. However, National Investment Commission (NIC) and PIC Commissioners and their staff often lack training and expertise, and are still establishing their operations to serve as effective “one-stop shops” for investors to ease their entrance into the Iraqi market.

The absence of other laws in areas of interest to foreign investors also creates ambiguity. Iraq's Legislative Action Plan for the Implementation of WTO Agreements, the legislative “road map” for Iraq's eventual WTO accession, requires competition and consumer protection laws that are critical. The Council of Representatives passed a Competition Law and a Consumer Protection Law in 2010; however, the Competition and Consumer Protection Commissions authorized by these laws have yet to be formed. Without these Commissions, investors do not have recourse against unfair business practices such as price-fixing by competitors, bid rigging, or abuse of dominant position in the market. In the Iraqi Kurdistan Region, the Kurdistan regional government implemented the Consumer Protection Law by passing Law 9 of 2010.

## **OTHER BARRIERS**

### **Transparency**

The way in which the Iraqi government promulgates regulations is opaque and arbitrary. Regulations imposing taxes on citizens or private businesses are required to be published in the official government gazette. However, there is no corresponding requirement for the publication of internal ministerial regulations. This allows government agencies to create internal requirements, procedures, or other “guidelines” with little or no oversight, which can result in additional burdens for investors and other businesspersons.