TURKEY

TRADE SUMMARY

U.S. goods exports in 2013 were $12.1 billion, down 3.6 percent from the previous year. Corresponding U.S. imports from Turkey were $6.7 billion, up 6.0 percent. The U.S. goods trade surplus with Turkey was $5.4 billion in 2013, a decrease of $831 million from 2012. Turkey is currently the 26th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Turkey was $6.0 billion in 2012 (latest data available), up from $4.9 billion in 2011. U.S. FDI in Turkey is led by the manufacturing and wholesale trade sectors.

IMPORT POLICIES

Tariffs and Quantitative Restrictions

Turkey applies the European Union's (EU) common external customs tariff to third-country nonagricultural imports (including those from the United States), although it exempts from duties nonagricultural products imported from the EU and a number of other countries (in accordance with customs union and free trade agreements, respectively, that it has concluded with those trading partners).

Turkey continues to maintain high tariff rates on many imported food and agricultural products. Tariffs on fresh fruits range from 15.4 percent to 145.8 percent. Tariffs on processed fruit, fruit juice, and vegetables range between 19.5 percent and 130 percent. The Turkish government also levies high tariffs, excise taxes, and other domestic charges on imported alcoholic beverages that increase wholesale prices by more than 200 percent.

U.S. exporters of rice, dried beans, pulses, sunflower seeds, and wheat have reported concerns with valuation of their products by Turkish customs authorities.

Import Licenses and Other Restrictions

Import licenses are required for products that need after-sales service (*e.g.*, photocopiers, advanced data processing equipment, and diesel generators) and for some agricultural products. U.S. firms complain that a lack of transparency in Turkey‘s import licensing system results in costly delays, demurrage charges, and other uncertainties that inhibit trade. U.S. companies also frequently find Turkish documentation requirements affecting food imports to be onerous, inconsistent, and non-transparent, resulting in shipments being held up at port.

Turkey's efforts to harmonize its national law on food safety with EU legislation have at times resulted in regulatory requirements and enforcement actions that are not transparent. Turkey has frequently implemented changes to its requirements without notification or consultation with trading partners, resulting in additional costs to exporters. Moreover, U.S. companies can experience difficulties certifying compliance with Turkish standards that are modeled after, but not entirely consistent with, EU standards.

The Turkish government has taken a number of steps to liberalize the spirits and tobacco markets – including completing the privatization of the state-owned alcoholic beverage company and the state-owned tobacco company, as well as permitting some imports by private firms of wine and alcoholic beverages. However, sales of imported products in these sectors have been inhibited by inordinately high tariffs and special tax treatment in some cases. New Turkish alcohol regulations implemented in 2013 include a requirement for the label, "Alcohol is Not Your Friend." The international business community has expressed concern that the label lacks scientific rationale.

GOVERNMENT PROCUREMENT

Turkey is not a signatory to the WTO Agreement on Government Procurement; however, it is an observer to the WTO Committee on Government Procurement.

The Turkish public sector gives some preference in procurement tenders to Turkish products. For procurement of goods and services, Turkish government contracting authorities may insert provisions into tender documents that restrict foreign companies' participation in public procurement. Also, domestic bidders are allowed a price advantage up to 15 percent higher than foreign bidders, as long as the procuring Ministry confirms the goods and services receiving such preference are domestic in origin.

Although Turkish law requires competitive bidding procedures, U.S. companies have complained that Turkey's procurement processes can be lengthy and overly complicated. One of the problems they have identified is the requirement to use model contracts, which some Turkish government procuring agencies interpret as not being subject to modification. When model contracts contain non-germane financial requirements or technical specifications, U.S. companies can find it difficult to formulate proposals fully responsive to procuring agencies' requirements.

Turkish military procurement policy generally mandates including offset requirements in procurement specifications. Since the offset guidelines were modified in 2005 to encourage localization commitments regarding foreign direct investment and technology transfers, U.S. companies have won few new commercial defense sales. Some U.S. companies, in fact, have declined to submit bids. In 2014, the Turkish Parliament is expected to consider an omnibus bill that would allow the Ministry of Science, Industry and Technology and the Ministry of Health to implement localization requirements (offsets) in civilian government procurement tenders.

Other requirements to which companies object include those related to *force majeure*, liability, and requirements for technical data packages and the grant of certain licenses at the time of submission (pre-licensing).

EXPORT SUBSIDIES

Turkey employs a number of incentives to promote exports, although programs have been scaled back in recent years to comply with EU directives and WTO commitments. Export subsidies ranging from 5 percent to 20 percent of a product's export value are granted to exports in 16 agricultural or processed agricultural product categories. These subsidies take the form of tax credits and debt-forgiveness programs, and are paid for by taxes on exports of primary products such as hazelnuts and leather. The Turkish Grain Board generally sells domestic wheat at world prices (which are well below domestic prices) to Turkish flour and pasta manufacturers in quantities based upon their exports of flour and pasta.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Turkey remained on the Watch List in the 2013 Special 301 Report. Turkish efforts to protect and enforce intellectual property rights (IPR) have been characterized by the same pattern in recent years: incremental but encouraging progress on public awareness and training, and a variety of law enforcement efforts (led by the Ministry of Culture and Tourism, the Ministry of Customs and Trade, and the Turkish National Police). However, serious problems remain with both the export and transshipment of counterfeit goods, as well as online piracy. The Turkish Patent Institute has drafted amendments to the patent law; these amendments are expected to be voted on by the Turkish Parliament in 2014. The Ministry of Culture and Tourism has also drafted amendments to the copyright law; once the draft is finalized, it will be submitted to the Prime Ministry for review before being sent to the Parliament.

SERVICES BARRIERS

There are restrictions on establishment in some sectors, including financial services, legal services, and mining. In the area of professional services, Turkish citizenship is required to practice as an accountant or certified public accountant or to represent clients in Turkish courts.

INVESTMENT BARRIERS

Energy Sector

Turkish law calls for a liberalized energy market in which private firms are able to develop projects with a license obtained from the Energy Market Regulatory Authority, an independent regulatory body. The state electricity utility has been unbundled into power generation, transmission, distribution, and trading companies. All 21 regional distribution companies have been fully privatized.

The Turkish government has continued to privatize generation facilities over the last decade. Turkey's electricity demand growth recently has outpaced overall economic growth by an average of 2 percent per year, and much of this demand growth has been met by new private sector investment. Currently, Turkey's total installed capacity is 64,000 MW. Private sector companies have 65 percent of the total installed capacity, including build-own-transfer (BOT) and build-own-operate (BOO) power plants. Of a total power-generation capacity of 24,000 MW still owned by the state, 15,000 MW is slated to be privatized by 2016. U.S. companies have raised concerns with Turkey's use of local content requirements as a condition for foreign companies' receipt of certain investment incentives in the renewable energy sector.

Liberalization in the natural gas sector has faced delays. The state pipeline company, BOTAS, remains dominant in gas importation. Despite legislation requiring a phased transfer of 80 percent of its gas purchase contracts to the private sector by the end of 2009, BOTAS still controls over 75 percent of such contracts.

The Turkish government has introduced an amendment to the natural gas market law which will be considered by Parliament in 2014. According to the draft amendment, BOTAS would be broken up into three different companies charged with transportation, trading, and storage, respectively, and the timetable for transferring BOTAS contracts to the private sector would be extended. Natural gas distribution in Turkish cities is dominated by the private sector.

The Turkish government approved a new Petroleum Law in May 2013. This new law provides greater investment incentives and protections for private, including foreign, investors than was available previously.

Real Estate

Foreign ownership of real estate in Turkey has long been a contentious issue. In May 2012, the Turkish Parliament passed Law 6302 amending the existing title deed law. This amendment increased the amount of land that foreign individuals can own from 2.5 acres to 12 acres. No foreign individual may own more than 10 percent of the land in any district. There are no limits on the amount of land that can be owned by foreign companies with a legal presence in Turkey, so long as the land is being used in accordance with their business activities.

ELECTRONIC COMMERCE

The Information and Communication Technologies Authority (BTK), which is affiliated with the Ministry of Transportation, Maritime Affairs, and Communications, is responsible for enforcing bans on Internet content determined by Turkish courts to be offensive. This has on many occasions led to BTK blocking access for all consumers to various Internet-based service providers, including U.S.-based suppliers. On February 6, 2014, the Turkish Parliament passed legislation that included an amendment to expand the government's authority to restrict Internet access. The amendment has attracted opposition from a wide range of journalistic freedom advocates and business interests.

OTHER BARRIERS

Corruption

Turkey has ratified the OECD anti-bribery convention and passed implementing legislation that makes bribery of foreign and domestic officials illegal and no longer tax-deductible. Despite this, many foreign firms doing business in Turkey perceive corruption of some government officials and politicians to be a problem.

The judicial system is also perceived by many observers to be susceptible to external influence and to be somewhat biased against foreigners.

Taxes

In January 2014, Turkey raised its special consumption tax to between 45 percent and 145 percent on all motor vehicles based on engine size. Previously the rate range was 37 percent to 130 percent. This tax has a disproportionate effect on automobiles imported from the United States. The government also increased already high taxes on mobile phones, cigarettes, and alcohol.

Corporate Governance

According to the OECD, Turkey's overall corporate governance outlook is positive because regulators have already adopted, or are introducing, high quality corporate governance standards (including audit standards). Transparency has improved significantly. However, the OECD notes that Turkey needs to ensure that related-party transactions and self-dealing are better controlled, as well as more fully disclosed. Furthermore, Turkey should better protect minority shareholders and promote the role that corporate boards can play in overseeing management and controlling shareholders.

Pharmaceuticals

Pharmaceutical industry sales have been severely affected by Turkish government price controls spurred by budgetary overruns, as well as an awkward, burdensome reimbursement system. The Turkish Ministry of Health (MOH) and the Turkish Ministry of Labor and Social Security (MLSS) both play important roles in pharmaceutical pricing. The MOH sets the maximum price that can be charged for medicines, and the MLSS negotiates pharmaceutical bulk prices for products that are distributed through Turkey's national health care system. In 2009, the MOH negotiated a protocol with the industry that allowed for a gradual increase in pharmaceutical spending each year through 2012. Since that time, MOH and MLSS have asked for and been granted additional discounts by the companies, and currently, Turkey's discount regime is among the highest in the world.

Other countries are now using Turkey for reference pricing and thus beginning to demand price discounts similar to those negotiated by the Turkish MLSS. This has led some U.S. companies to consider ceasing to launch new products in Turkey.

U.S. companies also suffer from an exchange rate issue. In 2009, they negotiated with the MOH to sell their products using a 1.95 TL = 1 Euro exchange rate. Since 2009, the Turkish Lira has depreciated significantly against the Euro, with the current exchange rate at 2.95 TL = 1 Euro. The government of Turkey agreed in 2009 to adjust the exchange rate if it went up or down by over 15 percent compared to the 2009 baseline. The exchange rate shift exceeded 15 percent of the baseline in 2011, but the Turkish government has thus far provided no relief.

Effective March 2010, the MOH began to require that pharmaceutical imports receive a Good Manufacturing Practices (GMP) inspection certificate issued by the MOH before applying for market authorization in Turkey. Although the MOH is building its GMP inspection capacity, the process continues to move slowly, and some U.S. manufacturers report that this effectively is closing the Turkish market to the registration of some new innovative drugs. The Turkish government has considered allowing parallel processing of GMP inspections and market authorization applications, in order to expedite market entry for pharmaceutical products, but it has been slow to announce adoption of such parallel processing.