NIGERIA

TRADE SUMMARY

The U.S. goods trade deficit with Nigeria was $28.9 billion in 2011, up $2.5 billion from 2010. U.S. goods exports in 2011 were $4.8 billion, up 18.4 percent from the previous year. Corresponding U.S. imports from Nigeria were $33.7 billion, up 10.6 percent. Nigeria is currently the 44th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Nigeria was $5.2 billion in 2010 (latest data available), up from $5.0 billion in 2009. U.S. FDI in Nigeria is concentrated in the mining sector.

IMPORT POLICIES

Nigeria plans to review its trade policy. A Committee was established in September 2011 to develop suggestions and recommendations for a new trade policy regime. However, there is resistance within the Nigerian government and the private sector to enacting and implementing any further trade policy reforms.

Tariffs

Nigeria's most recent tariff review occurred in September 2008, when the Nigerian government issued the 2008-2012 Common External Tariff (CET) Book that harmonizes its tariffs with the Economic Community of West African States (ECOWAS) CET. Nigeria had partially implemented the ECOWAS CET since 2005. The 2008-2012 CET has five tariff bands. The 5 tariff bands include zero duty on capital goods, machinery, and essential drugs not produced locally; 5 percent duty on imported raw materials; 10 percent duty on intermediate goods; 20 percent duty on finished goods; and 35 percent duty on goods in certain sectors that the government seeks to protect. At that time, import duties were reduced on a number of items, including rice, cigars, and manufactured tobacco. Adoption of the 2008-2012 CET is part of the Nigerian government's economic reforms aimed at improving Nigeria's trade and investment environment and harmonizing economic policies in the sub-region. According to the WTO, Nigeria's average most favored nation applied tariff rate is 11.2 percent. The average applied tariff for agricultural goods is 15.5 percent and for non-agricultural products is 10.5 percent.

Companies report that high tariffs, nontransparent valuation procedures, frequent policy changes, and unclear interpretations by the Nigerian Customs Service (NCS) make importing difficult and expensive, and often create bottlenecks for commercial activities. Nigeria's dependence on imported raw materials and finished goods aggravates this problem, affecting both foreign and domestic manufacturers. Reportedly, many importers resort to undervaluing and smuggling to avoid paying full tariffs.

Nontariff Measures

Nigeria uses nontariff measures to achieve self-sufficiency in certain commodities under its backward integration program. The government used this strategy in cement production and plans to use it in other identified commodities, such as rice and sugar. President Jonathan mentioned at a September 5, 2011 event that "policies being prepared by the Economic Management Team will have tenure of five years so that investors can plan for the long term. For instance, only those who are in large-scale rice or sugar production will be allowed to import rice or sugar on a quota to be determined by appropriate authorities similar to the current policy in the cement sector."

The government continues to ban certain imports, citing the need to protect local industries. However, in December 2010, the government removed the ban on the importation of textiles, furniture, toothpicks, and other sundry items. Items remaining on the import prohibition list include: bird's eggs; cocoa butter, powder, and cakes; pork; beef; live birds; frozen poultry; refined vegetable oil and fats; cassava; bottled water; spaghetti; noodles; fruit juice in retail packs; nonalcoholic beverages (excluding energy drinks); and bagged cement.

Customs Administration

Nigerian port practices continue to present major obstacles to trade. Importers report erratic application of customs regulations, lengthy clearance procedures, high berthing and unloading costs, and corruption. These factors can contribute to product deterioration, which may result in significant losses for importers of perishable goods. Disputes between Nigerian government agencies over the interpretation of regulations often cause delays, and frequent changes in customs guidelines slow the movement of goods through Nigerian ports. Nigeria practices a destination inspection policy for imports. Under this policy, all imports are inspected on arrival into Nigeria. Such actions delay the cargo clearing process and increase costs.

The Nigerian government recognizes that port delays significantly increase the cost of doing business in Nigeria. A 48 hour cargo clearance policy at ports was announced in 2010 but has yet to be implemented. In August 2010, the Minister of Finance established a committee on customs and port reforms to provide recommendations on improving port operations in Nigeria. Plans also exist to automate all customs payments and modernize NCS operations. In October 2011, Dr. Ngozi Okonjo-Iweala, the newly appointed Minister of Finance, ordered that eight agencies, including the National Agency for Food and Drug Administration and Control and the Standards Organization of Nigeria, should vacate the ports within two months to facilitate easier and faster clearance of goods. The Minister stated that her aim was to reduce the cost of doing business in the Nigerian ports by reducing the current number of agencies in the ports from fourteen to six.

In addition to issues associated with Nigerian port practices, roads entering and leaving ports are decaying, and overuse results in around-the-clock traffic congestion. Ports lack rail systems to transport freight into and out of ports. As a result, congestion leads to ships queuing up to berth at cargo terminals and containers waiting to be transported out of the ports. The bottlenecks resulting from the lack of infrastructure in and around the ports affect the level of efficiency at which goods can be processed for import.

EXPORT SUBSIDIES AND OTHER EXPORT PROMOTION PROGRAMS

The Nigerian government administers various export promotion programs, such as tax concessions, export development funds, capital asset depreciation allowances, and foreign currency retention programs, in addition to operating free trade zones and export processing zones. According to the 2008-2012 CET Book, authorities have halted most concessions, waivers, or exemptions. However, the Nigerian Export Promotion Council will continue to implement the Export Expansion Grant scheme to improve non-oil export performance.

GOVERNMENT PROCUREMENT

The Nigerian government has made modest progress on its pledge to conduct an open and competitive bidding process for government procurement. The Public Procurement Act of 2007 established the Bureau of Public Procurement (BPP). The public procurement reforms seek to ensure that the procurement process for public projects adheres to international standards for competitive bidding. The

BPP acts as a clearinghouse for government contracts and monitors the implementation of projects to ensure compliance with contract terms and budgetary restrictions. Procurement above 50 million naira (approximately $333,000) remains subject to review by the BPP. The 36 state governments have also agreed to enact the Public Procurement Act in their respective states.

Foreign companies incorporated in Nigeria receive national treatment in government procurement. Government tenders are published in local newspapers, and a "tenders" journal is sold at local newspaper outlets. U.S. companies have won government contracts in several sectors. Unfortunately, some of these companies have had difficulties in getting paid, often as a result of delays in the national budgetary process.

The National Petroleum Investment and Management Services (NAPIMS) agency must approve all procurement in the oil and gas sector with a value above $500,000. Slow approval processes can significantly increase the time and resources required for a given project.

Nigeria is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Nigeria is a party to the World Intellectual Property Organization (WIPO) Convention, the Berne Convention for the Protection of Literary and Artistic Works, the Paris Convention for the Protection of Industrial Property, the Patent Cooperation Treaty, and the Patent Law Treaty. Nigeria has also signed the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty. Legislation intended to implement WTO obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights has been pending in the National Assembly for several years.

The Nigerian government's lack of institutional capacity to address intellectual property rights (IPR) issues is a major barrier to enforcement. Relevant Nigerian government institutions suffer from low morale, poor training, and limited resources. Copyright piracy remains a problem despite Nigeria's active participation in the conventions cited above and the growing interest among Nigerians in seeing their intellectual property protected. Counterfeit automotive parts, pharmaceuticals, business and entertainment software, music and video recordings, and other consumer goods are sold openly. Piracy of books and optical disc products is also a problem. Industry reports contend that intellectual property infringers from other countries appear increasingly active in using Nigeria as a base for the production of pirated and counterfeit goods.

Judicial procedures are slow and reportedly compromised by corruption. However, the government has taken steps to improve enforcement. Efforts to combat the sale of counterfeit pharmaceuticals, for example, have yielded some results. The United States has provided training to government IP officials through various training programs offered by the United States Patent and Trademark Office's Global Intellectual Property Academy and the U.S Department of Commerce Commercial Law Development Program under the Trade and Investment Framework Agreement between the United States and Nigeria.

Nigeria's broadcast regulations do not permit rebroadcast or excerpting of foreign programs unless the station has an affiliate relationship with a foreign broadcaster. This regulation is generally complied with, but some cable providers transmit foreign programs illegally. The National Broadcasting Commission monitors the industry and is responsible for punishing infractions.

Widespread pirating of foreign and domestic videotapes discourages the entry of licensed distributors. In 2004, the Nigerian Copyright Commission (NCC) launched an anti-piracy initiative named "Strategy against Piracy." The Nigerian Police Force, working closely with the NCC, has raided enterprises producing and selling various pirated works such as software, books, and videos. Various cases are currently being prosecuted against IPR violators in courts throughout the country.

Discussions continue between the Standards Organization of Nigeria and the Chinese government to combat the influx of sub-standard and counterfeit Chinese products into Nigeria.

SERVICES BARRIERS

Foreign oil and gas services suppliers face a number of barriers in Nigeria, particularly with respect to the movement of personnel and local content requirements. Nigeria imposes quotas on foreign personnel based on the issued capital of firms. Such quotas remain especially strict in the oil and gas sector and may apply to both production and services companies. Oil and gas companies must hire Nigerian workers, unless they can demonstrate that particular positions require expertise not found in the local workforce. Positions in finance and human resources are almost exclusively reserved for Nigerians. Certain geosciences and management positions may be filled by foreign workers with the approval of the NAPIMS agency. Each oil company must negotiate its foreign worker allotment with NAPIMS. Significant delays in this process and in the approval of visas for foreign personnel present serious challenges to the oil and gas industry in acquiring the necessary personnel for their operations.

The Nigerian Oil and Gas Industry Content Development Bill of April 23, 2010 imposes new requirements for the mandatory use of local Nigerian goods and services in the production of oil and gas. The law outlines local content requirements for equipment and materials used in upstream and downstream oil and gas services. The law also requires that at least 80 percent of the employees at oilfield services companies must be Nigerian. According to industry representatives, the local content law adversely affects a diverse range of actors, including industry operators, contractors, subcontractors, and service providers. The law also affects professional services, including legal and financial services.

INVESTMENT BARRIERS

Foreign investors in Nigeria must contend with complex tax administration procedures, confusing land ownership laws, arbitrary application of regulations, corruption, and crime. International monitoring groups routinely rank Nigeria among the most corrupt countries in the world. Nigeria's corruption levels remain high and the Economic and Financial Crimes Commission has faltered recently in its efforts to combat corruption. Companies report that contracts are often breached and that Nigeria's court system for settling commercial disputes is weak and can be biased.

A proposed Petroleum Industry Bill (PIB) would change the way Nigeria's oil and gas sector is regulated. Continued delays in the passage of the PIB have created uncertainty in the investment community. No major investments in the oil and gas sector have been approved since the beginning of 2009. Delays in passage of the PIB have also contributed to delays in the implementation of the Gas Master Plan for gas pipeline infrastructure. The lack of gas pipeline infrastructure makes it difficult to increase power production and expand the industry.

OTHER BARRIERS

Frequent power outages and the related need to rely on expensive diesel and gasoline-fueled private generators serve as a major barrier to economic growth. The privatization and reform efforts of the power sector have been stalled since 2005. The Nigerian government has committed to move the power sector reform to completion and establish a healthy investment climate by mid-2011. The results to-date include removing obstacles to private sector investment; implementing a government strategy for the divestiture of the nationally owned generation and distribution companies; establishing a market-based tariff; and changing the fuel-to-power pricing to market-based pricing.

As noted above, lack of electricity and poor infrastructure, including water, roads, ports, and railways, pose a major challenge to doing business in Nigeria. These factors increase production costs and hinder both exports and competition in regional and international markets. In many cases, the increased production costs also make it difficult to compete with imports.

The Nigerian government has attempted to eliminate financial crimes, such as money laundering and advance fee fraud (also known as “419 fraud,” after the relevant section of the Nigerian Criminal Code). In June 2006, the Financial Action Task Force removed Nigeria’s name from the list of non-cooperating countries and territories in the fight against money laundering and other financial crimes. In May 2007, Nigeria gained entry into the Egmont Group of Financial Intelligence Units.