PAKISTAN

TRADE SUMMARY

The U.S. goods trade deficit with Pakistan was $1.8 billion in 2011, up $219 million from 2010. U.S. goods exports in 2011 were $2.0 billion, up 5.4 percent from the previous year. Corresponding U.S. imports from Pakistan were $3.8 billion, up 9.2 percent. Pakistan is currently the 62nd largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Pakistan was $517 million in 2009 (latest data available).

IMPORT POLICIES

Pakistan's overall average applied tariff in 2011 was 14.68 percent. There are 15 different *ad valorem* tariff levels, ranging from zero percent to 150 percent. Specific rates of duty are applied on 45 products.

In fiscal year 2008-2009, the government of Pakistan increased *ad valorem* tariff rates on 397 non-essential and luxury items from the 15 percent to 25 percent range to the 30 percent to 35 percent range. These items include cosmetics, domestic appliances, luxury food items, and cigarettes. The tariff on automobiles with 1800cc to 2500cc engine capacity was increased from 90 percent to 100 percent and from 100 percent to 150 percent on cars with engine capacity from 2500cc to 3000cc. A 50 percent tariff was imposed on imported vehicles with engine capacity less than 850ccs. In Pakistan's Budget 2011-2012, 338 regulatory duties on 388 out of the 397 items were abolished, limiting duties to luxury vehicles, cigarettes, arms and ammunitions, betel nuts, sanitary ware, and tiles.

In an effort to protect its domestic automotive parts manufacturers, Pakistan imposes higher tariff rates (50 percent) on imports of automobile part types that compete with domestically manufactured products than on imports of automotive parts that have no domestic competition (35 percent). The government of Pakistan grants sector-specific duty exemptions, concessions, and other protections through promulgation of Statutory Regulatory Orders (SROs). For example, in 2008, certain substances identified as drugs by Pakistan's 1976 Drug Act were granted tax exemptions, while certain other pharmaceutical products not covered under the SRO remained subject to a 15 percent duty. Pakistan also provides concessionary tariffs for the import of raw materials used as active ingredients in pharmaceutical production. A list of SROs and other trade policy and regulatory documents can be found on the Federal Board of Revenue's website: http://www.cbr.gov.pk.

In January 2000, the Pakistani government implemented a transactional valuation system, in accordance with the WTO's Customs Valuation Agreement. Currently, this system covers roughly 90 percent to 95 percent of imports. A number of traders in the food and consumer products sectors have noted that the system is not uniformly applied. Similarly, a few major U.S. companies in the machinery and materials sector have reported specific concerns that customs officials have erroneously assessed goods based on a set of minimum values rather than the declared transactional value. A U.S. based company encountered such a problem in 2011 when Pakistan custom authorities rejected the transaction value reportedly due to pressure from local manufacturers. The U.S. Government raised this case with Pakistani authorities, and the issue is now referred to Pakistani courts.

On October 5, 2009, Pakistan began to enforce a 2005 regulation requiring that commercial invoices and packing lists be included inside each shipping container. This procedure is difficult to follow, particularly in cases in which the invoice and packing lists do not originate in the same location as the shipments themselves, cases in which the invoices and packing lists are created after the shipment departs, or cases in which several companies are involved. Importers are charged a penalty ranging between $58 and $115 for non-compliance.

GOVERNMENT PROCUREMENT

Pakistan is not a signatory to the WTO Agreement on Government Procurement. The Public Procurement Regulatory Authority (the Authority), established in 2002, is an autonomous body responsible for prescribing and monitoring public sector procurement regulations and procedures. According to a 2004 public procurement framework, international tender notices must be publicly advertised, and sole source contracting tailored to company-specific qualifications is prohibited. There are no official "buy national" policies.

Political influence on procurement awards, charges of official corruption, lack of transparency, and long delays in bureaucratic decision making have become common in government procurement in the past three years. Suppliers have reported instances in which the government used the lowest bid as a basis for further negotiations, rather than accepting the lowest bid as required by regulation. In one example of the government's failure to follow its procurement regulation, Pakistan Railways (PR) purchased over 75 Chinese locomotives that did not meet the PR's technical requirements. The Pakistan Railways Employees Union challenged the procurement in court. Pakistan made an initial payment of 15 percent of the locomotives' value to the Chinese vendor, but has withheld other payments since the case is in the Pakistani courts.

EXPORT POLICIES

Pakistan promotes the export of Pakistani products, such as textiles, surgical products, leather and sports goods, with measures such as tariff concessions on imported inputs, and income and sales tax concessions. Pakistan did not provide any export subsidies in the form of cash grants in the 2011-2012 Budget due to resource constraints.

In 1989, Pakistan established its first Export Processing Zone (EPZ) in Karachi. The EPZ provides special fiscal and institutional incentives specifically targeted to encourage the development of export oriented industries. An export oriented industry is defined as one that exports 80 percent to 100 percent of its production. The government subsequently created EPZs in eight additional locations, including Risalpur in Khyber Pakhtunkhwa Province, Gujranwala and Sialkot in Punjab, and Saindak, Gwadar, Reko Dek, and Duddar in Balochistan. Of these, only Karachi, Risalpur, Sialkot, Saindak, and Dudder are operational.

Principal government incentives for EPZ investors include: exemption from all taxes and duties on equipment, machinery, and materials (including components, spare parts, and packing material); indefinite loss carry-forward; and access to Export Processing Zone Authority One Window services. Foreign investors are eligible to establish businesses in the EPZ and are guaranteed full repatriation of capital and profits. Import and foreign exchange control regulations are not applicable in these zones.

The Export Processing Zone Authority (EPZA) has the exclusive right to collect estimated taxes on exports. Final taxes are one percent of the total profits. EPZA collects a "development surcharge" of 0.5 percent of the total profits. Companies' exports are otherwise exempt from all other federal, provincial, and municipal taxes. There are no minimum or maximum limits for investment. However, despite these incentives, most of the EPZs have failed to attract significant investment.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Pakistan remains on the Priority Watch List in the 2011 Special 301 report. The report cites weak protection and enforcement of intellectual property rights, particularly with respect to copyrights and pharmaceutical data.

While the government took steps in 2011 to improve copyright enforcement, especially with respect to addressing optical disc piracy, it appears that only a very small proportion of arrests resulted in prosecutions, and the few verdicts that were issued resulted in minor prison sentences. The failure to successfully prosecute a greater proportion of cases undermines the deterrent value of the underlying criminal penalties. Notwithstanding the limited number of prosecutions, it is noteworthy that Pakistan's Federal Investigation Agency continues to conduct large scale raids, and sixteen new cases were filed in 2011. Pakistan is now reportedly being used as a conduit for infringing products from Russia, Malaysia, Singapore, China, Bangladesh, and Sri Lanka, for onward distribution to third countries. Book piracy also continues to present barriers to legitimate trade and investment.

Pakistan has not made progress in providing effective protection against unfair commercial use of undisclosed test and other data generated to obtain marketing approval for pharmaceutical products.

Since 2006, the government of Pakistan and international and local pharmaceutical companies have been involved in negotiations related to draft regulations on data protection. Although draft data protection regulations were finally formulated in 2009, the regulations remain under government review and have not been promulgated. Pakistan also lacks an effective system to prevent the issuance of marketing approvals for unauthorized copies of patented pharmaceutical products.

With respect to patents, the processing of pending patent applications has been hampered due to a 2009, ordinance that removed an 18 month deadline for the processing of patent applications.

SERVICES BARRIERS

Pakistan generally permits foreign investment in services, subject to certain provisions, including a minimum initial capital investment requirement of $150,000 for most sectors, unless specified otherwise. Foreign investors in services and other non-manufacturing sectors are limited in remittance of royalty payments to a maximum of $100,000. Subsequent royalty payments are capped at five percent of net sales for five years.

Telecommunications

In 2003, the government of Pakistan deregulated the telecommunications sector in order to comply with its WTO commitments and encourage growth in the sector. The Pakistan Telecommunication Company Limited (PTCL) lost its monopoly on basic telephone services, and the government issued 14 licenses to long distance telephone companies (13 of which are currently in use), 84 licenses to 37 local loop companies (of which 13 are in use), and 93 licenses to 16 wireless local loop companies (of which nine are in use).

The ability of telecommunications companies to operate in Pakistan also will continue to depend on access to PTCL infrastructure. In 2005-2006, the government combined 15 value-added services including Internet service provision, vehicle tracking systems, and data network operations, into one license, the Class Value Added Services (CVAS) license. Applicants which applied prior to the announcement of this policy were given the option to either continue their old licenses or convert to CVAS licenses. To date, the government has issued 199 new CVAS licenses and converted 78 old licenses to CVAS. At present, the government does not issue licenses specifically for Voice over Internet Protocol (VoIP), but long distance/local loop telephone license holders may also provide VoIP services.

Banking and Insurance

Foreign banks that do not have a global tier-1 paid up capital (*e.g.*, equity and retained earnings of $5 billion or more) or are not from countries that are part of regional groups and associations of which Pakistan is a member (*e.g.*, the Economic Cooperation Organization and the South Asian Association for Regional Cooperation), and that wish to conduct banking business in Pakistan, must incorporate a local company, in which the foreign bank may hold a maximum of 49 percent of the shares.

The parastatal National Insurance Company has the exclusive authority to underwrite and insure public sector firms, assets and properties. The government has discretion to grant exemptions to this requirement pursuant to Section 166 of the Insurance Ordinance 2000. Private sector firms may seek foreign reinsurance facilities to meet up to 65 percent of their re-insurance needs.

INVESTMENT BARRIERS

Foreign investors are generally free to establish and own business enterprises in Pakistan with the exception of five restricted sectors: arms and munitions, high explosives, currency/mint operations, radioactive substances, and new, non-industrial alcohol plants. There is a $150,000 minimum foreign investment requirement in non-financial services (except information technology services), and a minimum investment requirement of $300,000 in agriculture, infrastructure projects, and social services.

OTHER BARRIERS

Businesses operating in Pakistan consistently call for strengthening Pakistan's domestic security. However, they are equally as vocal in expressing concern over corruption, which remains prevalent, and a weak judicial system, as these are substantial disincentives to investment.

Pakistani laws targeting corruption include the 1947 Prevention of Corruption Act, the 1973 Efficiency and Discipline Rules, and the 1999 National Accountability Bureau (NAB) Ordinance. Previously, the NAB, the Federal Investigation Agency, and provincial anticorruption departments shared official responsibility for combating corruption. In October 2002, Pakistan's Cabinet approved the National Anti-Corruption Strategy (NACS), that identified areas of pervasive corruption, and recommended the implementation of reforms to combat corruption. The NACS recognized the NAB as the sole federal anticorruption agency. In mid-2009, the Supreme Court directed that legislation replace the executive ordinance establishing the NAB, but as of December 2011, the National Assembly has yet to pass the related legislation. In October 2011, the Prime Minister appointed a new NAB Chairman, a post that had been vacant since June 2010.

Contract enforcement can be difficult for U.S. and other foreign investors in Pakistan.

In July 2005, Pakistan's Cabinet ratified the 1958 New York Convention on Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) by ordinance. That ordinance expired in August 2010. A law ratifying the New York Convention was enacted by the Parliament on July 15, 2011.