TURKEY

TRADE SUMMARY

The U.S. goods trade surplus with Turkey was $9.4 billion in 2011, an increase of $3.1 billion from 2010. U.S. goods exports in 2011 were $14.6 billion, up 38.7 percent from the previous year. Corresponding U.S. imports from Turkey were $5.2 billion, up 24.1 percent. Turkey is currently the 21st largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Turkey was $5.7 billion in 2010 (latest data available), up from $5.0 billion in 2009. U.S. FDI in Turkey is led by the banking and manufacturing sectors.

IMPORT POLICIES

Tariffs and Quantitative Restrictions

Turkey applies the EU's common external customs tariff to third country nonagricultural imports (including from the United States) and does not impose duties on nonagricultural items from EU and European Free Trade Association (EFTA) countries.

Turkey continues to maintain high tariff rates on many 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 130.0 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.

On September 15, 2011, the Turkish government published its decision (Official Gazette, Communiqué 2011/10 no. 28055) to increase tariffs on a wide range of woven fabrics, apparel, and apparel accessories. The government noted that it had conducted an investigation under safeguard procedures before implementing these increases. The tariff increases exclude EU member states and countries with which Turkey maintains free trade agreements, and are smaller for least developed countries.

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), distilled spirits, and agricultural products. U.S. firms complain that lack of transparency in Turkey's import licensing system results in costly delays, demurrage charges, and other uncertainties that inhibit trade. U.S. producers have reported difficulties in obtaining import licenses during the domestic harvest season for products that compete with domestically produced food (such as pulses, nuts, dried fruits, cotton, grain, and oilseeds); however, this situation has reportedly improved in the past two years. U.S. companies also frequently find Turkish documentation requirements affecting all food imports to be onerous, inconsistent, nontransparent, and not in accordance with standard international practices, resulting on numerous occasions in shipments being held up at port.

The Turkish government has taken a number of steps to liberalize the distilled spirits and tobacco markets, including completing the privatization of the state-owned alcoholic beverage company and the state-owned tobacco company, as well as granting some private firms permission to import wine and alcoholic beverages. However, sales of imported products in these sectors have been inhibited by inordinately high tariffs (85 percent to 100 percent) and special tax treatment in some cases.

GOVERNMENT PROCUREMENT

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

Under Turkey's public tender law, foreign companies can participate in state tenders valued above an established threshold. The law provides a price preference of up to 15 percent for domestic bidders, which is not available if they form a joint venture with foreign bidders. Turkey has expanded the definition of domestic bidder to include foreign-owned corporate entities established under Turkish law. Although Turkish law requires competitive bidding procedures, U.S. companies have complained that Turkey's procurement process can be lengthy and overly complicated. One of the problems identified is the requirement to use model contracts, which some Turkish government procuring agencies interpret as not being subject to modification. This makes it difficult for companies to formulate proposals if the model contracts contain non-germane financial requirements or technical specifications.

Turkish military procurement policy generally mandates offset requirements in procurement specifications. Since the offset guidelines were modified in 2005 to encourage foreign direct investment and technology transfers, U.S. companies have won few new commercial defense sales. Some U.S. companies have declined to submit bids. The most objectionable requirements include those related to *force majeure*, liability, and requirements for technical data packages and 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. Published export subsidies ranging from 5 percent to 20 percent of export values are granted to 16 agricultural or processed agricultural product categories in 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 2011 Special 301 Report. Turkish intellectual property rights (IPR) efforts have been characterized by incremental improvements in public awareness and training initiatives; declining enforcement efforts in 2011; a failure to finalize legislation that could help enhance IPR protection, such as final patent and trademark laws (although a new Customs law was passed); and occasional failures in judicial enforcement and in the protection of confidential pharmaceutical test data. Serious counterfeiting and piracy persist, and there has been a growing trend of increased piracy over the Internet.

U.S. pharmaceutical companies have complained increasingly that Turkish requirements for Good Manufacturing Practices (GMP) certificates issued by the Ministry of Health are very difficult to meet and the pace of inspections is slow, creating a *de facto* import barrier because the backlog of products which cannot obtain Turkish marketing authorization because of GMP inspection delays is growing.

SERVICES BARRIERS

Telecommunications Services

In 2008, Turkey adopted Electronic Communications Law No. 5809 as part of its efforts to implement the European Union's 2003 regulatory framework, which clarified the functions of Turkey's regulator, the Information and Communication Technologies Authority (ICTA). ICTA is also responsible for enforcing bans on Internet content determined by courts to be offensive. Court decisions have on many occasions led to ICTA's blocking access for all consumers to various Internet-based service providers, such as the weblog hosting site wordpress.com and social networking sites like MySpace, and ICTA's on-again/off-again ban of video-sharing website YouTube.

Other Services Barriers

Turkish citizenship is required to practice as an accountant or certified public accountant, or to represent clients in Turkish courts. A decree awaiting final approval by the Council of Ministers would permit foreign doctors to work in Turkey.

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. Of the 21 regional distribution companies, as of October 2011, nine have been fully transferred to the private sector, nine have been tendered and are in the process of being transferred (two of these nine tenders are in the courts and expected to be cancelled), and three are in the tendering process. The government plans to finalize privatization of all distribution regions and start privatization of the generation facilities in 2012.

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. Except for a small scale contract transfer tender in 2005, BOTAS has failed to reach its targets and still has an 86 percent share in the gas market. In October 2011, BOTAS announced it would not renew an expiring six billion cubic meter per year natural gas contract. The Turkish Ministry of Energy and Natural Resources announced that the private sector could negotiate with the contract's Russian supplier, Gazprom, to replace the volume previously sold to BOTAS.

As the result of a 1997 court decision, the Turkish government blocked full repatriation of profits by foreign oil companies under Article 116 of the 1954 Petroleum Law, which had protected foreign investors from the impact of lira depreciation. Affected companies have challenged the 1997 decision in Turkish courts, but the judgments in almost all such lawsuits have gone against claimant companies. A new petroleum law that would provide greater investment incentives and protections has been submitted to the Turkish parliament. Although this law is expected to come up for legislative consideration in early 2012, prospects for passage appear to be slim.

Work Permits

Many foreign (and reportedly many Turkish) employers perceive the difficulty in obtaining Turkish work permits for professional or highly skilled foreign workers as a pervasive problem. Companies complain that the application process is time-consuming and requires extensive documentation, the adjudication process is lengthy (often exceeding the time for which the permit is requested), and the chances of approval are low.

Real Estate

Foreign ownership of real estate in Turkey has long been a contentious issue. In early 2008, the Constitutional Court issued two decisions that suspended portions of the Foreign Direct Investment Law and the Title Deed Law, which had allowed foreign individuals and companies to purchase land. In response, the Turkish government passed new legislation to permit these purchases again, but imposed an upper limit on the amount of land that can be owned by foreign individuals: no foreign individual may own more than 2.5 acres, and all foreign individuals together can own no more than 10 percent of the land in any given development zone. Information on the amount of land currently held by foreigners in any development zone is not readily available. The lack of information on foreign land acquisition may create obstacles for individual investors seeking to purchase land in Turkey. There are, however, 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 connection with their business activities.

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 precludes tax deductions for bribes. 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

Turkey assesses a special consumption tax of 37 percent to 130 percent on all motor vehicles based on engine size, which has a disproportionate effect on automobiles imported from the United States.

CORPORATE GOVERNANCE

According to the OECD, Turkey's overall corporate governance outlook is positive because the authorities have already adopted, or are introducing, high quality corporate governance standards (including audit standards). Transparency has improved significantly. However, the OECD reports that Turkey needs to improve in the areas of control and disclosure of related-party transactions and self-dealing, protection of minority shareholders, and the role of the board in overseeing management and controlling shareholders.

PHARMACEUTICALS

The U.S. pharmaceutical industry has expressed strong concerns regarding reimbursement policies established by the Turkish government, identifying a lack of transparency, timeliness and predictability in the process as concerns. In 2009, the Turkish Ministry of Health (MOH) negotiated a protocol with industry that allowed for a gradual increase in pharmaceutical spending each year through 2012. However, in mid-2010, the MOH and the Turkish Ministry of Labor and Social Security sought significant price discounts from the pharmaceutical industry, citing a budget shortfall. The significant discounts required may dissuade some U.S. companies from launching new products in Turkey.