UNITED ARAB EMIRATES

TRADE SUMMARY

The United Arab Emirates (UAE) is a federation of seven emirates (Abu Dhabi, Dubai, Sharjah, Ajman, Umm Al-Qaiwain, Fujairah, and Ras Al-Khaimah).

The U.S. goods trade surplus with United Arab Emirates was $13.5 billion in 2011, an increase of $2.9 billion from 2010. U.S. goods exports in 2011 were $15.9 billion, up 36.2 percent from the previous year. Corresponding U.S. imports from United Arab Emirates were $2.4 billion, up 113.0 percent. United Arab Emirates is currently the 19th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in United Arab Emirates was $4.3 billion in 2010 (latest data available), up from $4.2 billion in 2009. U.S. FDI in the United Arab Emirates is led by the wholesale trade and manufacturing sectors.

IMPORT POLICIES

Tariffs

As a member of the Gulf Cooperation Council (GCC), the UAE applies the GCC common external tariff of five percent for most products, with a limited number of exceptions. Currently, the UAE's exceptions to the 5 percent tariff are a 50 percent tariff on alcohol, a 100 percent tariff on tobacco, and duty exemptions for 53 food and agricultural items. According to the WTO, the UAE's simple average applied tariff is 6.6 percent for agricultural goods and 4.7 percent for non-agricultural goods.

Import Licensing

Only firms with an appropriate trade license can engage in importation, and only UAE registered companies, which must have at least 51 percent ownership by a UAE national, can obtain such a license. This licensing provision does not apply to goods imported into free zones. Some goods for personal consumption do not require import licenses.

Documentation Requirements

Since 1998, the UAE has required that documentation for all imported products be authenticated by the UAE Embassy in the exporting country. There is an established fee schedule for this authentication. For U.S. exports, if validation is not obtained in the United States, customs authorities will apply the fee schedule when the goods arrive in the UAE.

GOVERNMENT PROCUREMENT

The UAE grants a 10 percent price preference for local firms in government procurement. The UAE requires companies to register with the government before they can participate in government procurement, but to be eligible for registration, a company must have at least 51 percent UAE ownership. This requirement does not apply to major projects or defense contracts where there is no local company able to provide the goods or services required.

The UAE's offset program requires defense contractors which are awarded contracts valued at more than $10 million to establish commercially viable joint ventures with local business partners that would be projected to yield profits equivalent to 60 percent of the contract value within a specified period (usually 7 years). To date, more than 40 such joint venture projects have been launched. There are also reports, as well as anecdotal evidence, indicating that defense contractors can sometimes satisfy their offset obligations through an up-front, lump-sum payment directly to the UAE Offsets Group.

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

INTELLECTUAL PROPERTY RIGHTS PROTECTION

The UAE has made the protection of intellectual property a priority in recent years. In June 2011, the UAE established an independent office for intellectual property rights (IPR) at the Ministry of Economy and for the first time appointed an assistant undersecretary position for IPR. According to 2011 industry estimates, the rate of software piracy in the UAE is the lowest in the Middle East, and, after South Africa, the second lowest in the Middle East and Africa. While the UAE is recognized as the regional leader in fighting computer software piracy, other industry stakeholders believe the UAE could be doing more. For example, the recording industry has complained about the UAE's failure to establish a royalty collecting mechanism for the use of recorded music, which means that rights holders are not being remunerated for certain uses of such works. In addition, compliance representatives of U.S. rights holders have voiced growing concerns regarding the lack of transparency and information exchange when UAE customs officials conduct raids and seizures.

The six Member States of the GCC are working to harmonize their IP regimes. In connection with that effort, the GCC recently approved a common trademark law. Each Member State is expected to adopt that law. The United States has established a dialogue with GCC technical experts to discuss this law and other Customs Union efforts regarding IPR.

SERVICES BARRIERS

Insurance

Foreign insurance companies may operate only as branches in the UAE. An insurance company established in the UAE must be a public joint stock company. At least 75 percent of the capital in such companies must be owned by UAE nationals, while the remaining 25 percent may be owned by a foreigner. Since 2008, new insurance licenses have been issued only to UAE and GCC firms.

In the Emirate of Abu Dhabi, the offering of insurance coverage for construction projects and companies under the Abu Dhabi National Oil Company (ADNOC) is restricted to Abu Dhabi-based insurance companies.

Banking

The UAE Central Bank does not grant new licenses to foreign banks. In 2008, the Central Bank allowed several foreign banks already operating in the UAE to set up new branches. According to Central Bank statistics, there were no new foreign banks in 2009, 2010 and 2011, but one branch was opened in 2010. The number of electronic banking service units for foreign banks operating in the UAE was 47 in 2011, down from 50 units in 2010. In 2011, local banks opened 13 new branches. Foreign banks are taxed at 20 percent of their profits.

Agent and Distributor Rules

It remains difficult, if not impossible, to sell products in UAE markets without a local agent. Only UAE nationals or companies wholly owned by UAE nationals can register with the Ministry of Economy as commercial agents.

The provisions relating to commercial agencies are collectively set out in Federal Law No. 18 of 1981 on the Organization of Commercial Agencies as amended by Federal Law No. 14 of 1988 (the Agency Law) and applies to all registered commercial agents. Federal Law No. 18 of 1993 (Commercial Procedure) and Federal Law No. 5 of 1985 (Civil Code) govern unregistered commercial agencies.

On March 22, 2010, the UAE issued Federal Law No. 2 of 2010 amending certain provisions of the Commercial Agency Law. The amendments prevent the termination, or non-renewal, of a commercial agency unless the principal has a material reason to justify the termination or non-renewal. Further, a principal may not re-register the commercial agency in the name of another agent even if the previous agency was for a fixed term unless: (i) it is amicably terminated by the principal and the agent; (ii) termination or non-renewal is for justifiable reasons that are satisfactory to the Commercial Agencies Committee; or (iii) a final judicial judgment is issued ordering the cancellation of the agency.

The 2010 Amendments also reinstate the specialized Commercial Agencies Committee, which had been revoked in 2006. The Commercial Agencies Committee has original jurisdiction over disputes involving registered commercial agents. Any commercial dispute should be referred first to the Commercial Agencies Committee. In April 2011, the UAE Cabinet issued Resolution No. 3 of 2011, Concerning the Commercial Agency Committee, which further outlines the responsibilities of the Committee. These include receiving applications for settling agency disputes and managing the process of cancelling registered agencies. The Committee is permitted to abstain from settling a dispute referred to it and can advise the parties to refer the matter to litigation. A party may challenge the determination of the Committee by bringing a matter to the UAE courts within 30 days of the date of receiving notice of the Committee's resolution. The Committee is permitted to seek the assistance of any expert or "appropriate person" for performing its duties. It also has the right to demand the submission of further information and documentation involved in the dispute.

Telecommunications

UAE currently has two telecommunications companies which are largely government-owned: Emirates Telecommunications Corporation (Etisalat), the former telecommunications monopoly, and Emirates Integrated Technology Company (which operates under the trade name Du). The UAE has committed to remove the duopoly by December 31, 2015, after which time it will consider issuing further licenses. One U.S. trade association representing Voice over Internet Protocol (VoIP) providers has complained that the UAE is limiting their ability to provide these services by licensing only two companies; other companies using this technology are subject to having their services blocked.

In January 2011, the UAE Telecommunications Regulatory Authority (TRA) announced that it will no longer enforce the ban on Skype in a sign that the UAE could be shifting its stance on Internet telephone services. Software applications using VoIP technology are illegal in the UAE unless they are sanctioned by a licensed operator. TRA has delegated the decision to allow the use of Skype to the country's two operators, Etisalat and Du.

In January 2011, the TRA issued a new regulation concerning mobile telecommunications apparatus. The regulation grants the TRA the authority to issue regulations with respect to importing, manufacturing, using, and managing telecommunications apparatus, and the TRA has the exclusive competence in issuing all authorizations and approval in relation to telecommunications apparatus comprised in, or intended for, use in connection with a telecommunications network. Moreover, the regulation prohibits anyone from selling or offering for sale any telecommunications apparatus which has not been approved by the TRA.

Transportation

Federal Act No. 9 on Land Transport and Public Roads was decreed on July 13, 2011 and is scheduled to take effect in 2012. The law authorizes the National Transport Authority (NTA) to oversee licensing of all commercial transport vehicles, including those used by couriers. Discussions are ongoing to clarify the scope and implementation of the law. The NTA has asserted that the aim of the law is not to place an undue burden on the courier industry, but to regulate and standardize the land transportation regime across the UAE to improve security and safety.

INVESTMENT BARRIERS

Except for companies located in one of the UAE's free trade zones, at least 51 percent of a company established in the UAE must be owned by a UAE national. A company engaged in importing and distributing a product must be either a 100 percent UAE-owned agency/distributorship or a 51 percent UAE-owned limited liability company. While the UAE government is reportedly considering liberalizing specific sectors where there is a need for foreign expertise or where local investments are insufficient to sustain 100 percent local ownership, the government has yet to enact measures to achieve this end.

Resolution of investment disputes continues to be a problem in the UAE. Foreign investors have expressed concern that pursuing international arbitration in such disputes may jeopardize their business activities in the UAE. Foreign investors also report a reluctance to take disputes to the domestic court system, due to a perceived lack of impartiality.

A number of American firms have expressed increased frustration with lengthy delays and burdensome procedures in receiving payment for projects undertaken in the UAE, particularly for work done on behalf of certain public-sector entities. Another area that is drawing concern from U.S. firms involves requests by some UAE procuring entities to include language in contracts that would place American firms in violation of laws related to commercial boycotts of Israel. Companies have reported losing business because procuring entities would not strike such language from proposed contracts.