SAUDI ARABIA

TRADE SUMMARY

The U.S. goods trade deficit with Saudi Arabia was $23.9 billion in 2006, an increase of $3.5 billion from $20.4 billion in 2005. U.S. goods exports in 2006 were $7.8 billion, up 14.6 percent from the previous year. Corresponding U.S. imports from Saudi Arabia were $31.7 billion, up 16.5 percent. Saudi Arabia is currently the 25th largest export market for U.S. goods.

U.S. exports of private commercial services (i.e., excluding military and government) to Saudi Arabia were $1.9 billion in 2005 (latest data available), and U.S. imports were $390 million. Sales of services in Saudi Arabia by majority U.S.-owned affiliates were $524 million in 2004 (latest data available), while sales of services in the United States by majority Saudi Arabia-owned firms were not available in 2004 ($572 million in 2003).

The stock of U.S. foreign direct investment in Saudi Arabia in 2005 was $3.5 billion (latest data available), up from $3.2 billion 2004.

IMPORT POLICIES

Tariffs

As a member of the Gulf Cooperation Council (GCC), Saudi Arabia applies the GCC common external tariff of 5 percent for most products, with a number of country-specific exceptions. Saudi Arabia's exceptions to the common external tariff include 452 products that may be imported duty-free, including aircraft and most livestock. The Saudi government also applies a 12 percent tariff on 434 products, in some cases to protect local industries. Certain textile imports are among the products to which the 12 percent rate applies. A number of Saudi industries enjoy 20 percent tariff protection, including certain textile and apparel products, those producing sesame extract, furniture, cooking salt, edible offal, rabbit meat, mineral water and plastic pipes. In addition, long-life milk and nine other agricultural products are subject to a 25 percent tariff on a seasonal basis. Saudi Arabia imposes a 40 percent tariff on dates. Saudi Arabia also imposes a 100 percent tariff on cigarette and other tobacco imports.

Import Licensing

In Saudi Arabia, the importation of certain articles is either prohibited or requires special approval from competent authorities. Specifically, the importation of alcohol, firearms, pork products and used clothing is prohibited. Imports of agriculture seeds, live animals, fresh and frozen meat, books, periodicals, movies, tapes, religious books and materials, chemicals and harmful materials, pharmaceutical products, wireless equipment, horses, radio-controlled model airplanes, products containing alcohol, natural asphalt and archaeological artifacts require special approval.

Documentation Requirements

To export products to Saudi Arabia from the United States, the U.S. Department of State's Authentication Division and the Saudi Embassy or Consulate must authenticate the documentation. The U.S.-Saudi Arabian Business Council is not required to certify legal documents, but will do so if requested. Some products, most notably agricultural biotechnology products, need a certificate from the country of origin attesting to the product's fitness for human consumption and that it is sold widely in the country of origin. All consumer products must have a certificate of conformity issued under the guidelines of the Certificate of Conformity Program (COCP, see below) before entering the country.

STANDARDS, TESTING, LABELING AND CERTIFICATION

As of August 28, 2004, and in accordance with Ministers Decision No. 213, Saudi Arabia abolished the Saudi Arabian Standards Organization (SASO) International Conformity Certification Program (ICCP), a pre-shipment certification program initiated in 1995 to monitor and control the importation of certain products into the country. In place of ICCP, in 2006 the Ministry of Commerce implemented a Conformity Certificate Program (COCP). Guidelines for this program can be found on the website of the Ministry of Commerce and Industry, www.commerce.gov.sa/english. The new program requires all exporting companies to provide a document ("conformity certificate") with every shipment to Saudi Arabia. It applies to all products, including domestic products, except those subject to the Kingdom's sanitary and phytosanitary regulations. Certification is not required when documentation has been provided for purposes of assuring conformity with Islamic religious requirements. There are no fees for the certificate. The document may be submitted by a conformity assessment body, an accredited body, an independent third party or a manufacturer to declare compliance with the relevant Saudi Arabian technical regulation or standard. The entity submitting the document is responsible for the information contained in the certificate. The Saudi Arabian Standards Organization's (SASO) role, which previously included governance of certificates of conformity, is now limited to issuance of Saudi standards for consumer products. U.S. exporters reported continued problems with customs officers at ports of entry failing to apply the new COCP procedures and insisting instead on the previously required ICCP certificates.

In December 2005, Saudi Arabia implemented a voluntary shelf life standard (manufacturer-determined use-by dates) for most foodstuffs, with the exception of selected perishable foods (fresh or chilled meat and poultry; fresh milk and fresh milk based products; margarine; fresh fruit juice; table eggs; and baby foods) which must meet Saudi Arabian Standards Organization's (SASO) established mandatory expiration periods. The revised standard (SASO 457/2005) no longer bans imports of food products with less than half of their shelf life remaining. Saudi Arabia requires an animal protein-free certificate for imports of poultry, beef and lamb and their by-products. For beef and poultry meat imported from the United States, Saudi Arabia recognizes a two-certificate approach: (1) an official U.S. Food Safety Inspection Service (FSIS) export certificate issued for beef and poultry meat and (2) a producer or manufacturer self-certification to cover any additional requirements not related to food safety or animal health issues, such as an animal protein free feed declaration. In addition, the Saudi government bans the import of therapeutic medicines used in animal feed. These measures were taken with little to no advance notice. The United States continues to address these issues during bilateral negotiations with Saudi Arabia, and expects that Saudi Arabia's implementation of its WTO commitments will eliminate or improve many of these restrictions.

The Saudi Arabian Ministries of Agriculture (MOA) and Commerce and Industry (MOCI) implemented biotechnology-labeling decrees on animal feed and processed foodstuffs in January 2004 and December 2001, respectively. The decrees require a positive biotechnology label if a product contains more than 1 percent of genetically modified vegetable (plant) ingredients. For U.S. grains, the MOA has accepted a one-time biotechnology grains certification statement from the U.S. Grain Inspection, Packers and Stockyards Administration (GIPSA) submitted to the Ministry in 2003. The statement certifies that exported transgenic grains are the same as those consumed in the United States. The approved statement eliminates the need for a shipment-by-shipment positive biotechnology certification for corn and soybean meal exported to the Kingdom. In 2004, the MOA banned imports of all types of biotechnology seeds.

MOCI randomly samples imported foodstuffs at ports of entry for testing of undeclared biotechnology presence. According to reports from MOCI, test results thus far have been good and companies whose products test negative will not be tested again for another six months. Rarely have food products declared biotechnology free tested positive. However, there have been some cases of undeclared biotechnology presence detected in foodstuffs imported from the Asian countries and a few cases from the United States. Those companies involved in exporting biotechnology foodstuffs without proper labeling are banned from exporting food products to Saudi Arabia. Thus far, the Saudi biotechnology-labeling requirement has not drastically affected imports of U.S. agricultural products. The Kingdom is currently reviewing both Ministerial biotechnology-labeling decrees to establish a comprehensive biotechnology standard to govern imports of all agricultural products.

GOVERNMENT PROCUREMENT

When Saudi Arabia acceded to the WTO in December 2005, it committed to initiating negotiations for accession to the WTO Agreement on Government Procurement (GPA) and to complete its GPA negotiations within one year of becoming a WTO Member. However, Saudi Arabia has not begun negotiations for GPA membership, nor has it become an observer in the WTO Committee on Government Procurement.

Saudi Arabia is currently reviewing its government procurement procedures to bring them in line with WTO GPA requirements; however, it has not yet published revised procedures.

Several royal decrees that strongly favor GCC nationals apply to Saudi Arabia's government procurement. However, most Saudi defense contracts are negotiated outside these regulations on a case-by-case basis. Under a 1983 decree, contractors must subcontract 30 percent of the value of any government contract, including support services, to firms majority-owned by Saudi nationals. An exemption is granted where no Saudi-owned company can provide the goods and services necessary to fulfill the procurement requirement.

The tender regulations require that Saudi individuals and establishments be given preference over other suppliers in government procurement. However, the regulations extend the preference to other suppliers in which Saudi nationals hold at least 51 percent of the supplier's capital. The tender regulations also give a preference to products of Saudi origin that satisfy the requirements of the procurement. In addition, Saudi Arabia gives priority in government purchasing programs to GCC products. These items receive up to a 10 percent price preference over non-GCC products in all government procurements in which foreign suppliers participate.

Foreign suppliers that participate in government procurement are required to establish a training program for Saudi nationals. Some government contracts also require a minimum level of subcontracting with Saudi companies. In addition, the Saudi government may favor joint venture companies with a Saudi partner over foreign firms, and will also support companies that use Saudi goods and services. For large military projects, there is frequently an offset requirement; this is determined on a project-by-project basis.

Foreign companies providing services to the Saudi Arabian government can do so without a Saudi service agent and can market their services to various other public entities directly through an office that has been granted temporary registration. Foreign suppliers working only for the government, if not already registered to do business in Saudi Arabia, are required to obtain a temporary registration from the Ministry of Commerce and Industry within 30 days of contract signing. New foreign investment regulations also allow foreign companies to establish a branch office.

In 2003, the Saudi Council of Ministers passed a resolution calling for increased transparency in government procurement. The contract information to be made public includes: title, parties, date, financial value, brief description, duration, place of execution and point of contact information.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Saudi Arabia remained on the Special 301 Watch List in 2006. The U.S. Government initiated a Special 301 Out-of-Cycle review focusing on better IPR enforcement efforts, judicial transparency and patent protection, but the review was not complete at the time of publication of this report. As of the end of 2006, Saudi Arabia has enacted laws that cover a range of IPR issues, including patents, trademarks, copyright, trade names, commercial data, border protection of IPR and protection of undisclosed information relating to pharmaceuticals. The laws also increased penalties for IPR violators, including instituting fines and prison sentences.

Saudi Arabia has made progress on copyright enforcement over the past few years, with a steadily increasing number of raids/seizures and fines imposed. However, the international copyright industry seeks greater Saudi government enforcement action against software copiers and unauthorized end-users of software. Another area of concern involves counterfeiting of U.S. trademarked products. The Saudi government is aware of these problems and is considering options to combat them. Copyright owners have expressed frustration with the lack of transparency in the enforcement system, procedural hurdles to judicial enforcement and failure to impose punishment at the higher end of deterrent penalties.

To speed the processing of patent applications, Saudi Arabia passed new patent legislation and has taken measures to hire and train more examiners, translators and clerks to speed the processing of patent applications. However, the implementation of the Patent Law, especially in relation to the concept of novelty, is a matter of concern for the U.S. pharmaceutical industry, which has expressed concern that the new Patent Law does not provide protection to their pending patent applications that were filed under provisions of the old law. The U.S. Government and industry are working with the Saudi government to try to find solutions for these concerns.

SERVICES BARRIERS

Insurance

In the last few years, the Saudi Arabian government has implemented a series of laws giving structure to what had been an essentially unregulated sector and mandating certain types of insurance coverage within the Kingdom. In November 2002, third party motor vehicle insurance became mandatory in the Kingdom. In October 2003, the Saudi Arabian government enacted the Control Law for Co-Operative Insurance Companies. The law requires all insurance companies operating in the Kingdom to be locally registered, publicly owned firms, and to operate on a cooperative or mutual basis. Implementation of a Health Council scheme to make cooperative health insurance mandatory began in 2006, and requires employers to pay for insurance coverage of foreign workers and dependent family members. A new law requiring foreign workers in Saudi Arabia to show proof of medical insurance in order to receive or renew national identification cards will be used to enforce this legislation.

The Saudi Arabian Monetary Agency (SAMA) began accepting applications for insurance operations in November 2003. Insurance firms operating in the Kingdom may offer any insurance product in both the commercial and personal markets as long as the firm is organized consistent with the cooperative insurance structure.

On April 13, 2005, Royal Decree No. 3120/MB allowed foreign insurance companies to operate in Saudi Arabia through direct branches, which are not subject to the requirements of public ownership and cooperative form, for a transitional period of three years, pending the issuance of insurance branching regulations. Saudi Arabia committed during its WTO accession to permit insurance branching. To date Saudi Arabia has not issued regulations implementing their insurance branching commitment.

Banking

Although the Saudi Banking Control Law does not limit foreign participation, for the past twenty years the Saudi Arabian Monetary Agency has capped foreign ownership in commercial banks at 40 percent of any individual bank operation. In the last few years, the Saudi government has taken steps to increase foreign participation in its banking sector by granting operating licenses to foreign banks. Bahrain-based Gulf International Bank (GIB), Dubai-based Emirates Bank International, BNP Paribas, Germany-based Deutsche Bank and the National Bank of Kuwait, are among those that currently operate in the Kingdom. The Saudi Capital Markets Law came into effect in February 2004. The law provides for the creation of investment banks and brokerages in the Kingdom. Levels of foreign participation in these ventures have been capped at 60 percent. As capital markets regulations are finalized, Saudi Arabian investment banking will likely see significant growth.

Shipping

Saudi Arabia gives preferences to national carriers for up to 40 percent of government-related cargoes. Under these rules, the National Shipping Company of Saudi Arabia and United Arab Shipping Company receive preferences.

As a result of its WTO accession negotiations, Saudi Arabia undertook full commitments for courier services, without market access or national treatment limitations for any mode of supply, and with an additional commitment to ensure that private suppliers of express delivery services would be accorded treatment “no less favorable than that accorded to the Post Office for its activities in express delivery.” However, in 2006, application of Ministerial Resolution No. 6 (dated 14.2.1422(H)) called into question Saudi Arabia's implementation of its WTO commitments for express delivery services by imposing strict nationality requirements that effectively exclude all foreign participation from the sector, and by setting prohibitions on the carrying of parcels above certain weights.

Agent and Distributor Rules

Saudi law requires that domestic distributors register with the Ministry of Commerce and Industry. Saudi Arabia's WTO commitments, which came into effect on December 11, 2005, open distribution to non-nationals on a gradual basis, up to 75 percent of total equity within three years. In July 2001, the Saudi Council of Ministers canceled the requirement for foreign companies with government contracts to have a Saudi service agent. In 2006, some foreign companies reported difficulties in obtaining licenses to provide distribution services as required by Saudi Arabia’s WTO commitments.

INVESTMENT BARRIERS

In April 2000, Saudi Arabia’s Council of Ministers approved a new foreign direct investment code with the goal of facilitating the establishment of foreign companies, both joint ventures and 100 percent foreign-owned enterprises, in Saudi Arabia. Key provisions allow foreign investors to transfer money freely into and out of the country, allow joint-venture companies to sponsor their foreign investors as well as their foreign employees (all foreigners in Saudi Arabia need a legal sponsor in order to reside in the country), and permit foreign investors to own real property for company activities. The government established the Saudi Arabian General Investment Authority (SAGIA) to function as a one-stop shop, where foreign investors can obtain all of the permits or authorizations necessary to make an investment. In addition to its three existing service centers (in Riyadh, Jeddah and Dammam), SAGIA opened a Women's Investment Center in March 2003 to promote the participation of Saudi women in business.

SAGIA must grant or refuse an investment license within 30 days of receiving an application and supporting documentation from the investor. Licenses are required for all foreign investments. Wholly domestic projects funded with Saudi or other GCC member money do not need licenses through SAGIA's investment services center, as it was specifically designed for foreign investors. However, many of the licenses SAGIA issues concern projects jointly owned with Saudi investors. Bureaucratic impediments arising in other ministries have sometimes delayed the application process. SAGIA continues to take steps to address these impediments and to streamline the process, including concluding 23 separate agreements relating to the processing of license applications with other ministries and government agencies. Some companies still experience bureaucratic delays after receiving licenses from SAGIA, for example, in obtaining a commercial registry or purchasing property.

Following SAGIA's recommendations in 2001, the Supreme Economic Council published a negative list of sectors in which foreign investment is prohibited (www.sagia.gov.sa). Foreign investment is currently prohibited in 18 manufacturing and service sectors and subsectors including oil exploration, drilling and production, and manufacturing and services related to military activity.

In October 2003, the Saudi government passed the Capital Markets Law, which took effect in February 2004. The law allows for the creation of financial intermediaries (stock brokerages and investment banks) and created an independent stock market and an independent stock market regulatory body. The law sets SR50 million ($13.3 million) capitalization requirements for brokerages and provides penalties for insider trading and wrongful dissemination of information. The law also allows for the development of long-term investment instruments, and limits the maximum equity share held by foreign partners in joint ventures with Saudi entities to 49 percent. Saudi Arabia agreed to raise the maximum allowable percentage of the foreign partner to 60 percent after WTO accession. The new law does not repeal the prohibition on direct foreign participation in the Saudi stock market. Foreigners can continue to purchase shares in bank operated investment funds, however. Foreign participation in these funds is limited to 10 percent of the total value of the fund.

ELECTRONIC COMMERCE

Pursuant to the Council of Ministers' decree concerning the regulation of use of the Internet in Saudi Arabia, all websites that contain content in violation of Islamic tradition or national regulations are blocked. Pornographic websites are identified and blocked through a filtering system, which does occasionally prevent access to sites that appear to fall outside stated prohibited topics. Non-pornographic sites are placed on the blocked list based upon direct requests from the security bodies within the government. The Saudi Arabian government is in the process of drafting an electronic commerce law; however, it is unclear when it will be completed.