UNITED ARAB EMIRATES

TRADE SUMMARY

The U.S. goods trade surplus with the United Arab Emirates (UAE) was $10.5 billion in 2006, an increase of $3.5 billion from $7.0 billion in 2005. U.S. goods exports in 2006 were $11.9 billion, up 40.5 percent from the previous year. Corresponding U.S. imports from the UAE were $1.4 billion, down 5.7 percent. United Arab Emirates is currently the 19th largest export market for U.S. goods.

The stock of U.S. foreign direct investment in United Arab Emirates in 2005 was $2.7 billion, up from $2.3 billion in 2004.

FREE TRADE AGREEMENT

After consultations with Congress, the United States began Free Trade Agreement (FTA) negotiations with the UAE in March 2005. Negotiations were ongoing in 2006. An important objective of these negotiations is the removal of trade barriers for U.S. goods and services providers. In early 2007, the United States and the UAE announced that they would not be able to complete FTA negotiations under the existing timeframe for trade promotion authority, but that both sides remain committed to completing FTA negotiations at some later date.

IMPORT POLICIES

The UAE is a federation of seven emirates (Abu Dhabi, Dubai, Sharjah, Ajman, Umm Al-Qaiwain, Fujairah and Ras Al-Khaimah). The UAE is part of the Gulf Cooperation Council (GCC), an economic and political policy-coordinating forum for the six member states (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the UAE). The individual emirates founded the UAE in December 1971. Over the last 33 years, the UAE has developed into the second-largest economy in the Arab world, with an estimated 2005 gross domestic product (GDP) of about $132 billion (at current prices). The UAE has pursued free market, trade liberalizing policies to diversify its economy away from a dependence on oil. Despite possessing around 9 percent of the world's proven oil reserves and the fourth-largest proven gas reserves in the world, rapid growth in the non-oil economy reduced oil's share of GDP from 60 percent in 1980 to 35 percent currently.

Tariffs

At a December 2001 Summit, GCC Heads of State adopted an across-the-board common external tariff of 5 percent for most products. The new tariff regime was implemented in January 2003 as part of the GCC Customs Union agreement. The GCC states also agreed to develop a list of products to which a higher tariff would apply. 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.

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 is not applicable to goods imported into free zones). In addition, not all goods require an import license.

Documentation Requirements

Since July 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.

Customs Valuation

The UAE notified the WTO Customs Valuation Committee in October 2004 of its customs valuation scheme.

STANDARDS, TESTING, LABELING AND CERTIFICATION

As part of the GCC Customs Union, member countries are working toward unifying their standards and conformity assessment systems, and have progressed considerably towards the goal of a more comprehensive unified food standard, a process which could take a few more years to complete. Each country currently applies either its own standard or a GCC standard, causing confusion among some U.S. businesses.

In October 2002, the UAE created the Emirates Authority for Standardization and Metrology (ESMA), established under the auspices of the Ministry of Finance and Industry to manage issues of standardization arising from the GCC Customs Union. As of early 2006, ESMA had 1,810 standards. Ninety-five percent are based on GCC standards and 5 percent are based on UAE standards. In the absence of national standards, suppliers may follow international standards. In addition, ESMA launched its own conformity assessment program, the Emirates Conformity Assessment Scheme (ECAS) on selected products that currently applies to toys, detergents, paints, lubricants, oils and automobile batteries. ECAS assesses whether domestically manufactured products meet national or GCC standards, or international standards if neither national nor GCC standards exist. The UAE asserts that the ECAS is a voluntary program and is only applicable to domestically-produced goods, but the scope and parameters of ECAS lack clarity and transparency.

Not all UAE national and GCC food standards are consistent with international standards published through the Codex Alimentarius Commission (CODEX), Office of Epizootics (OIE) and International Plant Protection Convention (IPPC) organizations. In addition, the UAE requires that all consumer-ready food products carry both production and expiration dates and stipulates that at least one-half of a product's shelf-life must be valid when a product reaches the port of entry. For red meat and poultry, the product must arrive at the point of entry within four months of production. The UAE lifted its import bans on U.S. poultry in April 2005 and on U.S. beef in June 2005. The fact that the GCC requires both a production date and an expiration date on non-perishable food items continues to be an additional problem for U.S. producers of these products since they must re-label their products exported to the GCC at an additional cost. If the production date labeling requirement were eliminated it would save $1.50 per case on these products according to U.S. Embassy officials. The GCC has recently drafted a proposal that would standardize shelf life requirements for food products by requiring a "best by" or "use by" date. If finalized, the rule would simplify labeling requirements for food exporters and extend the permissible shelf life of imported food products in GCC countries. Given the volume of products coming into the

UAE, the Embassy estimates U.S. consumer-ready food product exports to the UAE would increase between 5 percent and 10 percent or about $15 million to $30 million.

Control of the country's food standards resides in the General Secretariat of Municipalities (GSM) and the Emirates Authority for Standardization and Metrology. These two entities develop food standards through a technical advisory committee, although, on occasion, individual municipalities or Emirate-level authorities still apply food and non-food standards independent of broader national authorities. Previous examples include the labeling of foods with biotechnology enhanced ingredients, the prohibition of foods labeled as Kosher-prepared and standards for pet foods. While these differing local standards can cause confusion among exporters and importers, few new standards have been developed recently. The GSM is unable to control such actions by individual municipalities which, when taken, sometimes cause confusion among U.S. suppliers.

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 procurements. To be eligible for registration, a company must have at least 51 percent UAE-ownership. This rule does not apply to major projects or defense contracts where there is no local company able to provide the goods or services required. Established in 1990, the UAE's offset program requires defense contractors that are awarded contracts valued at more than $10 million to establish commercially viable joint ventures with local business partners that yield profits equivalent to 60 percent of the contract value within a specified period (usually seven years). 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. This requirement is designed to further the UAE objective of diversifying its economy. To date, more than 40 such joint-venture projects have been launched, including, *inter alia*, a hospital, an imaging and geological information facility, a leasing company, a cooling system manufacturing company, an aquiculture enterprise, Berlitz Abu Dhabi and a firefighting equipment production facility. Two of the largest offset ventures are an international gas pipeline project (Dolphin) and the Oasis International Leasing Company, a British Aerospace offsets venture. The UAE is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

The UAE has made the protection of intellectual property a priority in recent years. The UAE repealed previous copyright, trademark, and patent laws and issued improved legislation in 2002, providing high levels of protection for U.S. intellectual property. In addition, an agreement between the UAE and U.S. pharmaceutical companies provides for *de facto* patent protection for a number of U.S. patent-protected medicines.

The 2002 copyright law grants protections to authors of creative works and expands the categories of protected works to include computer programs, software, databases and other digital works. Efforts to combat computer software piracy in the UAE have been successful. According to 2006 industry estimates, the rate of software piracy in the UAE is the lowest in the Middle East, estimated to be 34 percent. The UAE is recognized as the regional leader in fighting computer software piracy, although industry stakeholders believe the UAE could be doing more to combat piracy.

The UAE also revised its Trademark Law in 2002. The law confirms that the UAE will follow the International Classification System and that one trademark can be registered in a number of classes. The law provides that the owner of the registration shall enjoy exclusive rights to the use of the trademark as registered and can prevent others from using an identical or similar mark on similar, identical or related products and services if it causes confusion among consumers. It remains unclear, however, how the UAE provides for the protection of geographical indications required by the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

The UAE published the official and final version of its long-awaited Patent Law in November 2002. The Patent Law provides for national treatment for intellectual property owners from other WTO Members, product and process patent protection, and enforcement of intellectual property rights utilizing civil and criminal procedures and remedies. In October 2003, the Ministry of Health issued a circular providing protection of test and other data against unfair commercial use in the UAE for pharmaceutical products for up to five years or until a patent is granted or rejected in the UAE, whichever period is shorter. This is an improvement over the previous situation, but protection of test data should not be dependent on patent protection.

In 2004, the now defunct Ministry of Information issued regulations allowing for specialized collecting societies as a practical way for sound recording companies to collect royalties on the broadcast and performance of copyrighted material. The UAE is also considering legislation for data protection, privacy and other IP-related issues and has consolidated its Intellectual Property Rights offices into the Ministry of Economy.

SERVICES BARRIERS

Insurance

About half of the current 47 insurance companies in the UAE are foreign owned. In 1989, the UAE government banned additional foreign insurance companies from opening due to a perception that the market was saturated. In 2004, the Ministry of Economy and Planning announced that it would open its insurance sector to new foreign insurance companies and in June 2005, the UAE submitted a proposal to the World Trade Organization allowing new foreign insurance companies to open a branch – not a subsidiary – in the UAE. Any new foreign insurance companies will be required to meet high international rating criteria and to offer new products to the market. As of March 2007, no new foreign insurance companies had entered the market.

In 2006, the UAE President issued Federal Law No. 16 of 2006 amending some provisions of Federal Law No. 9 of 1984 on insurance companies and agents. The new amendments stipulate that established insurance companies in the UAE, or those which shall be incorporated, must take the form of a public joint stock company. At least 75 percent of the capital in such companies must be owned by UAE nationals and the other 25 percent may be owned by a foreigner.

Banking

The UAE has 21 national and 25 foreign banks. Following a banking crisis caused by accumulated bad debts after the oil boom in the mid 1980s, the Central Bank stopped granting licenses to new foreign banks. In September 2003, however, the UAE Central Bank announced that it would allow the operation of more banks from other countries on a reciprocal basis. The Central Bank is also considering allowing foreign banks operating in the UAE to set up new branches provided that they employ UAE nationals. Figures by the Central Bank show national banks enjoy a stronger financial position than foreign banks, with national banks' assets at nearly $164.16 billion compared with foreign banks' assets of around $39.8 billion in March 2006. Banks operating in the Dubai International Free Zone, which opened in 2004, operate under a different civil and commercial law regime, and are not subject to the above restriction on new banks, but are subject to UAE criminal law. The UAE opened the Dubai International Financial Exchange in 2005.

Agent and Distributor Rules

The UAE's Commercial Agencies Law changed substantially in 2006. As originally written, it required that all commercial agents be either UAE nationals or companies wholly-owned by UAE nationals. The foreign principal was allowed to appoint one agent for the entire UAE or for a particular emirate or group of emirates. Once chosen, agents/distributors had exclusive rights and the law provided that an agent could be terminated only by mutual agreement of the foreign principal and the local agent. In 2006, the UAE made important changes to the Agencies Law. The amendments include: (1) limiting an agency contract to a fixed time period; (2) requiring mutual consent to renew an agency agreement; (3) allowing either party to file for damages; (4) eliminating the Ministry of Economy's Trade Agencies Committee, which handles agency disputes; and (5) allowing the import of "liberalized goods" without the agent's approval. One of the most important changes of the amended law for foreign investors is that now either party can terminate an agency agreement at the end of the contract. Since 1996, the UAE has not recognized new agency agreements in the food sector. In an effort to curb price manipulation and allow unrestricted imports of basic food products, the UAE eliminated trading agency requirements for basic food products in August 2006. The food products covered by the decision include milk, frozen vegetables, baby formula, chicken, cooking oil, noodles, rice, flour, fish products, tea, coffee, cheese, pastries and diapers. For some food products deemed non-essential, agency agreements in existence prior to this period are still recognized. The restrictive laws currently governing agency relationships are under discussion in the proposed United States-UAE Free Trade Agreement.

Telecommunications

As of January 1, 2005, the UAE revoked the monopoly rights of the Emirates Telecommunications Corporation (Etisalat) and allowed for the creation of a second telecommunications company. On May 6, 2005, the Telecommunications Regulatory Authority (TRA) announced that it had approved the establishment of a second, largely government-owned, telecommunications company, Emirates Integrated Technology Company, which will operate under the trade name Du. The UAE government currently owns 40 percent of Du. The rest of the company is held equally by Mubadala Development Company (20 percent), TECOM Investment (20 percent) and by the UAE public (20 percent). Neither foreign nor local telecommunications companies are allowed to own shares in Du; nor are companies whose foreign ownership exceeds 50 percent. As of February 2007, Du has yet to begin offering services in the open market. Local press reports have quoted the TRA Director General as stating that the duopoly will continue until 2015 when the market will be further liberalized.

INVESTMENT BARRIERS

Except for companies located in one of the free zones, at least 51 percent of a business established in the UAE must be owned by a UAE national. A business engaged in importing and distributing a product must be either a 100 percent UAE-owned agency/distributorship or a 51 percent UAE-owned/49 percent foreign-owned limited liability company. Subsidies for manufacturing firms are only available to those companies with at least 51 percent of the capital owned by a UAE national.

The laws and regulations governing foreign investment in the UAE are evolving slowly. There is currently no national treatment for investors in the UAE. Non-GCC nationals cannot own land, but the Emirates of Dubai and Ras al Khaimah are currently offering so-called freehold real estate ownership to non-GCC nationals within certain areas. However, the legal status of this scheme is still uncertain. In

August 2005, UAE President Sheikh Khalifa bin Zayed Al-Nahyan, acting in his role as the ruler of the Emirate of Abu Dhabi, signed Abu Dhabi law number 19 of 2005 concerning real property, which was published in the Abu Dhabi Gazette in September 2005. The law provides that UAE nationals may own land and interests in land throughout the Emirate of Abu Dhabi. GCC citizens will be able to own land within designated investment areas. Non-GCC nationals will have the right to own buildings, but not the land, in investment areas. Investors must enter into a leasehold arrangement to rent buildings. Foreign investors may purchase 22 of the 53 issues on the UAE stock market.

Under UAE law, foreign investors are allowed to own up to 49 percent of a company. However, company by-laws in many cases prohibit foreign ownership. Specific sectors where there is a need for foreign expertise or where local investments are insufficient will be liberalized to allow 100 percent foreign ownership. Some of the sectors which may be liberalized are education, health, professional services and computer-related services.

Dispute resolution continues to be a problem due to foreign investors' concerns that pursuing international arbitration may jeopardize the investor's business activities in the UAE and a reluctance to take disputes to the domestic court system.

ELECTRONIC COMMERCE

In 2002, the Emirate of Dubai passed The Law of Electronic Transactions and Commerce, which protects certain electronic records and signatures, and some electronic communications. This law also provides penalties for any person who knowingly creates, publishes, or otherwise makes available a false e-signature or certificate, or provides false statements online for fraudulent or any other unlawful purpose. The Emirate of Dubai has established the Dubai Technology, Electronic Commerce and Media Free Zone (TECOM), which houses both Internet City and Media City, two subdivisions which cater, respectively, to the information technology and media sectors.