UNITED ARAB EMIRATES

TRADE SUMMARY

The U.S. goods trade surplus with United Arab Emirates was $10.3 billion in 2007, the same as in 2006. U.S. goods exports in 2007 were $11.6 billion, down 0.3 percent from the previous year. Corresponding U.S. imports from United Arab Emirates were $1.3 billion, down 3.3 percent. United Arab Emirates is currently the 21st largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in United Arab Emirates was $4.5 billion in 2006 (latest data available), up from $3.3 billion in 2005. U.S. FDI in United Arab Emirates is concentrated largely in the mining, finance, and wholesale trade sectors.

Free Trade Agreement Negotiations

After consultation with Congress, the United States began Free Trade Agreement (FTA) negotiations with the United Arab Emirates (UAE) in March 2005. In early 2007, the United States and the UAE announced that, despite considerable progress in a number of areas under negotiation, they would not be able to complete FTA negotiations under the existing time frame for Trade Promotion Authority. The United States and the UAE have since initiated a "TIFA Plus" consultative process under the existing bilateral Trade and Investment Framework Agreement (TIFA); this process will be used to advance trade liberalization in as many areas as possible – building where appropriate on progress made during the FTA negotiations.

IMPORT POLICIES

The UAE is a federation of seven emirates (Abu Dhabi, Dubai, Sharjah, Ajman, Umm Al-Qaiwain, Fujairah, and Ras Al-Khaimah). 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 2006 Gross Domestic Product (GDP) of about $163.14 billion (at current prices); nominal GDP is projected at $184.9 billion in 2007. The UAE Real GDP is expected to grow by 7.7 percent in 2007, according to the IMF's Article IV report.
Despite possessing around 9 percent of the world's proven oil reserves and the fifth largest proven gas reserves in the world, rapid growth in the nonoil economy reduced oil's share of GDP from 60 percent in 1980 to 35.8 percent in nominal terms in 2007. The UAE has pursued free market, trade liberalizing policies to diversify its economy away from a dependence on oil.

Tariffs

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). 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 member 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.

Agriculture

In February 2007, the UAE Ministerial Council issued a decree levying fees on foreign slaughter plants and *Halal* certifiers. The decree required that plants must be accredited and pay an initial fee of $2,723 followed by an annual renewal fee of the same amount (later reduced to $1,362 in June of 2007). *Halal* certifiers that approve the slaughter plants must also pay a fee of $1,362 with an annual renewal fee of $817. Domestic slaughterhouses apparently are not being charged the fees. There is a lack of transparency on how the accreditation program is administered and how it is enforced by customs and municipality officials. Thus far, no exporters from any of the UAE's trading partners (including the United States) have paid the fees. However, the GCC may be considering adopting the fees on a GCC-wide basis and the issue may re-emerge in the future to adversely impact activities of exporters and importers.

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 World Trade Organization's (WTO) Customs Valuation Committee in October 2004 of its customs valuation scheme.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

Standards

As part of the GCC Customs Union, the six member states are working toward unifying their standards and conformity assessment systems. However, each member state currently continues to apply either its own standard or a GCC standard, causing confusion among some U.S. businesses. GCC member states do not consistently notify measures to WTO Members or the WTO Committees on Sanitary and Phytosanitary Measures (SPS) and Technical Barriers to Trade (TBT) or allow WTO Members an opportunity to provide comments.

The GCC Standards Committee has recently approved two new standards that will replace existing standards for the labeling and expiration periods of food products. While the new standards appear to attempt to incorporate international guidelines and address some longstanding issues, particularly in relation to expiration periods, some requirements that have previously complicated the import process remain. All member states are expected to adopt these two standards as national standards in order to implement them.

The GCC shelf life standard establishes mandatory expiration periods for 22 perishable products or product categories such as chilled meats, chilled offal, fresh dairy products, baby foods, fruit juices, and table eggs. This standard also establishes voluntary expiration periods for a range of frozen and processed products. Manufacturers have the option of using the actual expiry period in lieu of the voluntary expiration periods established in the standard. The standard also exempts a number of products from expiration periods including salt, white sugar, dried legumes, dried vegetables, spices and certain condiments, tea, rice, vinegar, and fresh fruits and vegetables, including potatoes that have not been peeled or cut.

The new standards eliminate the long standing requirement that at least one-half of a product's shelf life be valid when a product reaches the port of entry. However, they would still require both a production date and an expiration date on nonperishable food items, forcing U.S. producers to re-label products exported to the GCC, thereby leading to increased costs. The new standards appear inconsistent with international standards (*e.g.*, the standards do not appear to reflect Codex guidelines) and do not appear to have a clear scientific basis. The United States has outlined its specific concerns with these standards and has established a dialogue between U.S. and GCC technical experts to discuss a possible resolution of the concerns raised.

In May and October 2007, respectively, Bahrain and Oman notified WTO Members of recently proposed procedures meant to harmonize food safety import requirements for all GCC member states. The United States and other WTO Members provided comments outlining significant concerns with the procedures, which, as currently drafted, create unnecessary obstacles to trade and would substantially disrupt food exports to GCC member states from its trading partners. The GCC member states are reportedly developing a response to these comments, and the United States has established a dialogue between U.S. and GCC technical experts to discuss the procedures and potential amendments to address the concerns raised.

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. Control of the UAE's food standards resides in the General Secretariat of Municipalities (GSM) and ESMA. These two entities develop food standards through a technical advisory committee, although, on occasion, individual municipalities or Emirate-level authorities still apply food standards independently of broader national authorities. Most recently, an Emirate briefly required labeling foods with biotechnology enhanced ingredients; the GSM quickly reversed the action. GSM control over the actions of individual municipalities appears to be improving.

As of early 2006, ESMA had adopted 1,810 standards. Ninety-five percent are based on GCC standards and 5 percent are based on UAE-developed standards. On October 20, 2007, ESMA announced that it had approved 500 new standards for products sold in the UAE, covering foodstuff, chemical and petroleum products, textiles, electrical and mechanical products, and construction. In the absence of national standards, suppliers may follow international standards.

Conformity Assessment

In 2004, ESMA launched its own conformity assessment program, the Emirates Conformity Assessment Scheme (ECAS), which applies to toys, detergents, paints, lubricants, oils, automobile batteries, food, chemical and petroleum products, textiles, electrical and mechanical products, and construction. 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.

In September 2007, ESMA announced that it had been accepted as the UAE representative to the Worldwide System for Conformity Testing and Certification of Electro-technical Equipment and Components (IECEE)'s Member Body.

The GCC Standards Committee is currently developing a conformity assessment scheme to be adopted ultimately by each of the Member States. The United States is working to establish a dialogue between U.S. and GCC technical experts to discuss this proposed scheme with the goal of helping to ensure that it is developed, adopted, and applied in accordance with WTO rules.

GOVERNMENT PROCUREMENT

The UAE is not a signatory to the WTO Agreement on 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, 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, which was established in 1990, 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 7 years). 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, a foreign language training center in 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. 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.

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 (IP). 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 2007 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.

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.

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 IPR 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 5 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 the protection of test data should not be contingent on patent protection.

The UAE is considering legislation for data protection, privacy, and other IP-related issues and has consolidated its IPR offices into the Ministry of Economy.

As part of the GCC Customs Union, the six Member States are working toward unifying their IP regimes. In this respect, the GCC has recently approved a common trademark law. All six Member States are expected to adopt this law as national legislation in order to implement it. The United States has outlined specific concerns with the trademark law and has established a dialogue between U.S. and GCC technical experts to ensure that the law complies with the Member States' international obligations.

SERVICES BARRIERS

Insurance

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 but not a subsidiary in the UAE.

In 2006, the President of the UAE 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 UAE Central Bank stopped granting licenses to new foreign banks. In September 2003, however, the Central Bank announced that it would allow the operation of more banks from other countries on a reciprocal basis. The Central Bank does not currently allow foreign banks operating in the UAE to set up new branches.

Agent and Distributor Rules

As originally written, the UAE's Commercial Agencies Law (Agencies Law) required that all commercial agents be either UAE nationals or companies wholly-owned by UAE nationals. Furthermore, the Law restricted the number of agents a foreign principal could appoint and the flexibilities available to foreign principals with respect to entering into or ending contractual relationships with agents. In 2006, the UAE made important changes to the Agencies Law. The amendments included: (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 handled agency disputes; and (5) allowing the import of “liberalized goods” without the agent's approval. Since 1996, the UAE had 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 in August 2006 eliminated trading agency requirements for basic food products, including milk, frozen vegetables, baby formula, chicken, cooking oil, noodles, rice, flour, fish products, tea, coffee, cheese, pastries, and diapers. For some food products deemed nonessential, agency agreements in existence prior to August 2006 are still recognized. The restrictive laws currently governing agency relationships are under discussion in United States-UAE Trade and Investment Framework Agreement (“TIFA – Plus”) consultations.

Telecommunications

UAE currently has two telecommunications companies which are largely government owned: Emirates Telecommunications Corporation (Etisalat), the former telecommunication monopoly, and Emirates Integrated Technology Company (which operates under the trade name Du). Local press reports indicate that the duopoly will continue until 2015 when the market will be further liberalized.

U.S. companies complain that the UAE’s Telecommunications Regulatory Authority (TRA) has banned the use of Voice over Internet Protocol (VoIP) services, stating that VoIP services violate Etisalat’s monopoly on fixed telephony services. While the TRA is reportedly developing a framework to legalize VoIP, it is unclear if and when this will occur.

INVESTMENT BARRIERS

Except for companies located in one of the UAE’s 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.

In many cases, company by-laws prohibit foreign ownership. The UAE government is considering liberalizing specific sectors where there is a need for foreign expertise or where local investments are insufficient to allow 100 percent foreign ownership. Some of the sectors which may be liberalized are education, health, professional services, and computer-related services.

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. 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, permitting UAE nationals and GCC citizens to own land within designated investment areas. Non-GCC nationals have the right to own buildings, but not the land, in investment areas. Foreign investors may purchase 79 of the 128 issues on the UAE stock markets, (Abu Dhabi Securities Market (ADSM), and Dubai Financial Market (DFM)).

Resolution of investment disputes continues to be a problem, in part due to foreign investors’ concerns that pursuing international arbitration may jeopardize their business activities in the UAE and in part to reluctance on the part of investors 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 electronic signature or certificate, or provides false statements online for fraudulent or any other unlawful purpose. In 2006 the UAE issued a comprehensive national law on Information Technology Crimes, which criminalizes a broad range of fraudulent activities affecting commerce. 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.