SAUDI ARABIA

TRADE SUMMARY

The U.S. goods trade deficit with Saudi Arabia was $25.2 billion in 2007, an increase of $1.2 billion from $24.0 billion in 2006. U.S. goods exports in 2007 were $10.4 billion, up 36.1 percent from the previous year. U.S. imports from Saudi Arabia were $35.6 billion, up 12.4 percent over the corresponding period. Saudi Arabia is currently the 22nd largest export market for U.S. goods.

U.S. exports of private commercial services (*i.e.*, excluding military and government) to Saudi Arabia were $2.1 billion in 2006 (latest data available), and U.S. imports were $446 million. Sales of services in Saudi Arabia by majority U.S.-owned affiliates were $532 million in 2005 (latest data available), while sales of services in the United States by majority Saudi Arabia-owned firms were $454 million.

The stock of U.S. foreign direct investment (FDI) in Saudi Arabia in 2006 was $4.3 billion (latest data available), up from $3.8 billion 2005. U.S. FDI in Saudi Arabia is concentrated largely in the nonbank holding companies sector.

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 limited number of GCC-approved country-specific exceptions. Saudi Arabia’s exceptions 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. Confectionary products with cocoa and other bulk cocoa products are subject to a 15 percent tariff. A number of Saudi products enjoy 20 percent tariff protection, including certain textile and apparel products, poultry meat, table eggs, ice cream, 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 all dates. Saudi Arabia also imposes a 100 percent tariff on cigarette and other tobacco imports.

Import Prohibitions and 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, books, periodicals, audio or visual media, religious materials that do not adhere to the state-sanctioned version of Islam or that relate to a religion other than Islam, 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

Pursuant to Saudi Arabia's World Trade Organization (WTO) Accession Protocol, Saudi Arabia agreed to eliminate the requirement to authenticate documentation no later than December 31, 2007. 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 nonfood consumer products must have a certificate of conformity issued under the guidelines of Saudi Arabia's Conformity Certificate Program (COCP) before entering the country.

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.

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.

In December 2001 and January 2004, respectively, the Saudi Arabian Ministries of Commerce and Industry (MOCI) and Agriculture (MOA) implemented biotechnology labeling decrees on animal feed and processed foodstuffs. 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 submitted by the U.S. Grain Inspection, Packers, and Stockyards Administration (GIPSA) 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 Saudi Arabia. In 2004, the MOA banned imports of all types of biotechnology seeds.

The MOCI randomly samples imported foodstuffs at ports of entry to test for undeclared biotechnology presence. According to reports from MOCI, rarely have food products declared biotechnology free tested positive. However, there have been some cases of undeclared biotechnology presence detected in foodstuffs imported from Asia and a few cases from the United States. Those companies involved in exporting biotechnology foodstuffs without proper labeling are banned from exporting any 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 the Ministerial biotechnology labeling decrees to establish a comprehensive biotechnology standard to govern imports of all agricultural products.

Conformity Assessment

In accordance with Ministers Decision No. 213, as of August 28, 2004, Saudi Arabia abolished the Saudi Arabian Standards Organization's (SASO) International Conformity Certification Program (ICCP), a pre-shipment certification program initiated in 1995 to monitor and control the importation of certain products. In place of the ICCP, in 2006 the Ministry of Commerce implemented the COCP. The COCP requires a document certifying that the product conforms to the relevant Saudi Arabian technical regulation or standard ("conformity certificate") to accompany every shipment of products sold in Saudi Arabia. The requirement applies to all products, including domestic products, except those subject to the Kingdom's sanitary and phytosanitary regulations. COCP does not require a conformity certificate if documentation has been provided that assures the product conforms to Islamic religious requirements. There are no fees for the conformity certificate. The conformity certificate may be submitted by a conformity assessment body, an independent third party, or a manufacturer to declare compliance with the relevant Saudi Arabian technical regulations or standards. The entity submitting the document is responsible for the information contained in the certificate. SASO's 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.

The GCC Standards Committee is currently developing a conformity assessment scheme to be adopted ultimately by each of the six 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

When Saudi Arabia acceded to the WTO in December 2005, it committed to initiate 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. Saudi Arabia became an observer to the GPA in December 2007, but it has not begun negotiations for GPA membership. Saudi Arabia published its revised government procurement procedures to bring them in line with GPA requirements in August 2006.

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 give a preference to products of Saudi origin that satisfy the requirements of the procurement. In addition, Saudi Arabia gives priority in government purchasing 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. 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 can provide services to the Saudi Arabian government directly without a Saudi service agent and can market their services to other public entities 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. Foreign investment regulations also allow foreign companies to establish a branch office.

In 2003, the Saudi Council of Ministers required increased transparency in government procurement. The contract information to be made public includes: 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 2007. As of the end of 2007, 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 infringement, including instituting fines and prison sentences.

Although Saudi Arabia has made some progress on IPR enforcement over the past few years, further improvements are still needed with respect to copyright enforcement. 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. 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.

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. 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 for their products subject to 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 to these concerns.

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 the last few years, the Saudi Arabian government has implemented a series of laws regulating what had been an essentially unregulated sector and requiring certain types of insurance coverage within the Kingdom. For example, in November 2002, third party liability 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 (*i.e.*, requiring that the profits be distributed between policy holders and the insurance company). As of 2006, cooperative health insurance became mandatory. Employers are required 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 operates in accordance with the cooperative insurance structure.

On April 13, 2005, Royal Decree No. 3120/MB was promulgated to implement Saudi Arabia's GATS commitment allowing foreign insurance companies to operate in Saudi Arabia through direct branches. For a transitional period of 3 years, foreign insurance companies operating through an agent were allowed to continue operations in Saudi Arabia uninterrupted pending the issuance of insurance branching regulations. To date Saudi Arabia has not yet issued such regulations, but continues to work with the United States through a Bilateral Mechanism on Financial Services on their development.

Banking

Although the Saudi Banking Control Law does not limit foreign participation, for the past 20 years the SAMA 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. SAMA granted 10 foreign bank licenses to operate in the Kingdom in December 2005, including to BNP Paribas, Deutsche Bank, J.P. Morgan, National Bank of Kuwait, National Bank of Bahrain, Emirates Bank, Gulf International Bank, State Bank of India (SBI), and National Bank of Pakistan. The Saudi Capital Markets Law took 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 provide significant growth opportunities.

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.

Agent and Distributor Rules

Saudi law requires that domestic distributors register with the Ministry of Commerce and Industry. Saudi Arabia's WTO commitments (which took effect on December 11, 2005) open distribution to non-nationals on a gradual basis, up to 75 percent of total equity within 3 years. 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 four existing service centers (in Riyadh, Jeddah, Dammam, and Medina), 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 list of 16 manufacturing and service sectors and subsectors in which foreign investment is currently prohibited, 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 2003 law does not repeal the prohibition on direct foreign participation in the Saudi stock market. However, foreigners can continue to purchase shares in bank operated investment funds. 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. Nonpornographic sites are placed on the blocked list based upon direct requests from the security bodies within the government. Although the Saudi government is in the process of drafting an electronic commerce law, it is unclear when the law will be completed.