PAKISTAN

TRADE SUMMARY

The U.S. goods trade deficit with Pakistan was $1.5 billion in 2007, a decrease of $141 million from $1.7 billion in 2006. U.S. goods exports in 2007 were $2 billion, up 2.3 percent from the previous year. Corresponding U.S. imports from Pakistan were $3.6 billion, down 2.6 percent. Pakistan is currently the 59th largest export market for U.S. goods.

The stock of U.S. foreign direct investment in Pakistan was $1.2 billion in 2006 (latest data available), up from $1.1 billion in 2005.

IMPORT POLICIES

Since 1998, Pakistan has progressively and substantially reduced tariffs and liberalized its import policies. This effort culminated in June 2002 with the establishment of four maximum import tariff bands of 5 percent, 10 percent, 20 percent, and 25 percent. In its 2007-08 budget, the government expanded the number of import tariff bands from four to six, adding a 0 percent and a 15 percent band. Generally, Pakistan's applied tariffs are below WTO bound commitments, with its simple average applied tariff at 14.3 percent.

In 2005, Pakistan further reduced duties on imported automobiles to between 50 percent and 75 percent from the previous range of 75 percent to 150 percent. The 2007-08 budget removed the capital value tax (CVT) on imported cars. (Domestically manufactured vehicles were previously exempt from CVT.) However, the government raised customs duties by 5 percent to 15 percent to maintain an equivalent level of protection and tax revenue. As a result, custom duties on vehicles including tractors now range between 10 percent and 90 percent, depending on engine capacity. Pakistan has imposed a 55 percent duty on imported automotive parts that are also manufactured domestically and a 35 percent duty on those automotive parts that it does not manufacture domestically. Pakistan also further reduced duties on instant print film and instant print cameras to 5 percent from the prior 30 percent to 200 percent range in order to eliminate incentives for smuggling. U.S.-made textile products may be imported into Pakistan, although the tariff on certain synthetic fibers (scheduled to expire in 2008) remains relatively high.

The government of Pakistan reserves the right to grant sector-specific duty exemptions, concessions, and protections under Statutory Regulatory Orders (SROs). The government in 2006 exempted all domestically-produced and imported pharmaceutical-related inputs from its General Sales Tax. An SRO issued in August 2002 exempted the pharmaceutical products from General Sales Tax. In recent years, the use of SROs has decreased. SROs and other trade policy and regulatory documents are published on the Central Board of Revenues website: http://www.cbr.gov.pk.

In January 2000, the Pakistani government began implementing a transactional valuation system, under which 99 percent of import valuation is based on invoice value, in accordance with the WTO's Customs Valuation Agreement. Currently, about 90 percent to 95 percent of imports are assessed duties pursuant to the transactional valuation system, including Pakistan's major imports such as industrial and power equipment, petroleum and petroleum products, and chemicals. A number of traders in food and nonfood consumer products, however, report the system is not uniformly applied. A few major U.S. multinational companies in the machinery and materials sector claim Pakistan Customs applies customs valuation methods using minimum or arbitrary values, which appears to be inconsistent with the WTO's Customs Valuation Agreement.

Pakistan is still not enforcing, because of practical difficulties, a 2005 regulation requiring that the commercial invoice and the packing list be included inside a container. The inclusion of invoice and packing lists is difficult in situations when shipments originate in a different location from where the invoice and packing list are created, or when invoices are created after the shipment departs, or when several companies are involved.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

The Pakistan Standards and Quality Control Authority (PSQCA) is the national standards body. The functions of PSQCA include the establishment and enforcement of national standards, registration of inspection agencies, and assessment of industrial raw materials and finished products for compliance with international standards. As of June 30, 2007 (the end of Pakistan's 2007 fiscal year), PSQCA had adopted over 22,000 standards (including 16,500 ISO standards) for agriculture, food, chemicals, civil and mechanical engineering, electronics, weights and measures, and textile products. Current estimates indicate that there are 12 certification bodies operating in Pakistan, and close to 3000 enterprises have been issued ISO 9000 certificates. All the certification bodies operating in Pakistan are foreign-based. U.S. industry contends that inconsistent application of PSQCA requirements occasionally results in discrimination against U.S. agricultural products.

Generally, U.S exporters have not reported significant problems due to the application of standards and technical regulations. Pakistan allows the import of U.S. products that meet U.S. standards in cases where there are no Pakistani standards or where the Pakistani standards (some of which are based on U.S. standards) do not conflict with the U.S standards. As a result, Pakistan allows the import of most U.S. products that meet U.S. standards.

The government of Pakistan approved biosafety guidelines and rules in April 2005 and also approved an action plan to implement these guidelines. As part of the action plan, the government has established a National Biosafety Committee within the Environment Ministry. The Committee has the mandate to approve applications to sell biotechnology based products in Pakistan and register biotechnology products. To date, the Committee has received 12 applications for genetically modified organisms, which are under review for registration. Currently there are no restrictions on importing genetically modified products from the United States as long as they meet U.S. standards.

GOVERNMENT PROCUREMENT

Pakistan is not a signatory to the WTO Agreement on Government Procurement. The government uses an open procurement process, but the bidders have to register with government organizations in order to be awarded contracts. The registration is required to ensure that legitimate businesses are bidding for contracts. The Public Procurement Regulatory Authority, which was established in 2002, is an autonomous body responsible for prescribing regulations and procedures for public procurement by public sector entities and for monitoring procurement by such organizations. In 2004, the Authority enacted a Regulatory Framework for public procurement which is aimed at establishing transparent public procurement practices. Pursuant to the 2004 Regulatory Framework, international tender notices are publicly advertised and sole source contracting using company-specific qualifications has been eliminated. There are no official "buy national" policies.

Political influence on procurement decisions, charges of official corruption and long delays in bureaucratic decision making are common. Suppliers have reported instances where the government used the lowest bid as a basis for further negotiations, rather than accepting the lowest bid under its tender rules. Pakistan State Oil Company (Pakistan's largest gasoline retailer), which is the sole supplier of gasoline to aviation and energy sectors, invites tenders from private companies for transportation of crude oil. Other public sector companies like the Water and Power Development Company also invite tenders from private companies to meet their gasoline requirements.

EXPORT SUBSIDIES

Pakistan actively promotes the export of Pakistani goods with measures such as tariff concessions on imported inputs and income and sales tax concessions. Subsidies in Pakistan's 2007 fiscal year were confined mostly to wheat and totaled roughly $2 million, according to government sources; this export subsidy appears to be in violation of WTO regulations, which do not contain provisions for grain export subsidies. The Pakistan government also provides freight subsidies to some products and these subsidies totaled close to $5 million in the 2007 fiscal year. The government provided $157 million as a Research and Development subsidy to the textile sector in FY 2007. Pakistan established its first Export Processing Zone (EPZ) in Karachi in 1989, with special fiscal and institutional incentives available to encourage the establishment of exclusively export-oriented industries. The government subsequently established additional EPZs in Risalpur, Gujranwala, and Sialkot in Punjab Province, and Saindak and Duddar in Balochistan Province. Principal government incentives for EPZ investors include an exemption from all federal, provincial, and municipal taxes for production dedicated to exports; exemption from all taxes and duties on equipment, machinery, and materials (including components, spare parts and packing material); indefinite loss carry-forward; and access to Export Processing Zone Authority One Window services, including facilitated issuance of import permits and export authorizations.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Pakistan is a party to the Berne Convention for the Protection of Literary and Artistic Works and is a member of the World Intellectual Property Organization (WIPO). In July 2004, Pakistan acceded to the Paris Convention for the Protection of Industrial Property. Pakistan has not yet ratified the WIPO Copyright Treaty nor the WIPO Performance and Phonograms Treaty. After a two year delay, a draft plant breeders' rights law is likely to be passed in 2008 by the new National Assembly and Senate now that all provinces have approved it.

The government of Pakistan continued to take steps during 2006 and 2007 to improve copyright enforcement, especially with respect to optical disc piracy. Nevertheless, Pakistan does not provide adequate protection of all intellectual property. Book piracy, weak trademark enforcement, lack of data protection for proprietary pharmaceutical and agricultural chemical test data, and problems with Pakistan's pharmaceutical patent protection remain serious barriers to trade and investment. Pakistan does not have a formal system to prevent marketing approval of unauthorized copies of drugs nor does Pakistan provide safeguards to protect test and other data submitted by pharmaceutical companies seeking marketing approval for their products. In addition, a patent ordinance that removed an 18 month processing requirement appears to have slowed the processing of pending patent applications.

The government of Pakistan has identified intellectual property protection as a key area for its second generation economic reforms. Since 2000, Pakistan has enacted five major new laws relating to patents, copyrights, trademarks, industrial designs and layout designs for integrated circuits, but their impact has been limited by weaknesses in the legislation and/or enforcement.

According to the International Federation of Phonographic Industry, after a crackdown by the government of Pakistan in 2005, there has been a significant decline in the quantity of infringing products being manufactured and smuggled out of Pakistan. Of the seven known optical disc manufacturers, five remain shut. The remaining two produce fully licensed products for the local and international market. However, Pakistan is now reportedly being used as a conduit for infringing products coming from Russia, Malaysia, Singapore, China, Bangladesh, and Sri Lanka for onward distribution.

Pakistan's Intellectual Property Rights Organization (IPO), an autonomous body under Pakistan's Cabinet Division, consolidates authority over trademarks, patents, and copyrights – areas that were previously handled by three separate ministries. The IPO is beginning to monitor the enforcement and protection of intellectual property rights through cooperation with law enforcement agencies, in addition to dealing with other IPR related issues. The Federal Investigation Agency (FIA) has primary responsibility for IPR enforcement.

SERVICES BARRIERS

Pakistan generally permits foreign investment in services, subject to certain provisions, including a minimum initial capital investment of $150,000 for most sectors, except banking for which there are special rules described below. Foreign investors may hold up to a 100 percent equity stake and are allowed 100 percent repatriation of profits in most sectors. The requirement that foreign investors accumulate 40 percent local equity within 5 years of initial investment has been eliminated and the cap on repatriation of profits at a maximum of 60 percent of total equity or profits has been abolished. Foreign investors in services and other nonmanufacturing sectors (including international food franchises) are allowed to remit royalties and technical fees, subject to certain conditions. In information technology services, including software development, foreign investors are not subject to requirements for minimum initial investment.

Telecommunications

In 2003, the Pakistani government deregulated the telecommunications sector in an effort to comply with its WTO commitments and encourage growth in the sector. Pakistan Telecommunication Company Limited (PTCL) lost its monopoly on basic telephone services and the government issued 14 licenses to long distance telephone companies (13 are in use), 72 licenses to local loop regional telephone companies (ten are in operation) and 92 licenses to wireless local loop companies (four are in operation). The ability of telecommunications companies to operate in Pakistan will continue to depend on access to PTCL infrastructure, however. In 2005-2006 the government combined 15 value added services including Internet service provision, vehicle tracking system, and data network operations into one license, the Class Value Added (CVA) license. The government gave those who applied prior to announcement of this policy the option either to continue their old licenses or convert to CVA licenses. To date the government has issued 124 new CVA licenses and converted 93 old licenses to CVAs. At present, the government does not issue licenses specifically for Voice-over-Internet Protocol (VoIP), but long distance telephone license holders may also provide VoIP services.

Limitation on Foreign Films

The government of Pakistan prohibits the importation of films that are deemed inconsistent with local religious and cultural standards. Films from neighboring India are routinely denied entry via cable transmission or video/digital media, but are widely available in pirated form.

Banking and Insurance

Under the WTO Financial Services Agreement, Pakistan grants foreign firms the right to establish new banks as well as grandfathering acquired rights of established foreign banks and foreign securities firms. Foreign banks are permitted to open banking companies via the establishment of branches as well as wholly owned, locally incorporated subsidiaries subject to the condition that they have a global tier-1 (*e.g.,* equity and retained earnings) paid up capital of $5 billion or more or they belong to countries which are part of regional groups and associations of which Pakistan is a member (*e.g.*, the Economic Cooperation Organization (ECO) or the South Asian Association for Regional Cooperation (SAARC)). Foreign banks not meeting these conditions are capped at a 49 percent equity stake with a mandatory 51 percent local ownership.

The State Bank of Pakistan (SBP), Pakistan's central bank, has changed its branch licensing policy and has eliminated restrictions on the number of branches foreign banks may have. Currently, foreign banks, like local banks, have to submit an annual branch expansion plan to the SBP for approval. The SBP approves new branch openings based on the bank's net worth, adequacy of its capital structure, future earning prospects, credit disciplines, and the needs of the local population. However, all banks including foreign banks are now required to open 20 percent of their new branches in small cities, towns and villages. The SBP established the paid up capital requirements for commercial banks increasing them by Rs.1 billion every year. Currently banks are required to have Rs.3 billion as paid up capital, which will increase to Rs.5 billion by the end of 2007 and to Rs.6 billion by 2009.

Foreign brokers, like their Pakistani counterparts, must register with the Securities and Exchange Commission of Pakistan. Over the past several years, Pakistan has privatized the majority of its commercial banks (most of which previously had been nationalized). As of January 2007, approximately 80 percent of the commercial banking sector was privately-owned, and the government of Pakistan only retains an ownership stake in the National Bank of Pakistan, the nation's largest commercial bank.

The government has opened the insurance market as one of its financial sector reforms. A recent change has allowed foreign investors to hold up to a 100 percent equity share of companies operating in the life and general insurance sectors. Foreign investors are also required to bring in a minimum of $2 million in foreign capital and are not required to raise an equal amount of equity in the local market if they bring in $4 million in foreign capital. There are no restrictions on the repatriation of profits and capital investment made in this sector can be repatriated with the permission of the SBP. Pakistan does not regulate insurance premiums. The government permits only the parastatal National Insurance Company to underwrite and insure public sector firms. Private sector firms must meet their reinsurance needs within the country. Firms may seek foreign reinsurance facilities only if domestic insurance companies cannot meet these needs. Market domination in the life insurance sector may pose a significant barrier to entry, as the state-owned State Life Insurance Company holds over 76 percent of this market, although that number has been declining over the past several years. Five domestically-owned companies account for 78 percent of the general insurance (property, casualty, and health) market.

Other Services

Foreign professionals may provide legal and engineering consultancy services with 100 percent equity participation. This reflects a 2004 change that eliminated the requirement that Pakistanis hold 40 percent local equity for 5 years and reduced the minimal capital requirement from $300,000 to $150,000.

INVESTMENT BARRIERS

Foreign investors are generally free to establish and own business enterprises in Pakistan, with the exception of five restricted areas: arms and munitions, high explosives, currency/mint operations, radioactive substances, and new nonindustrial alcohol plants. There are no ownership limits in other sectors of the economy, except for Pakistan's foreign equity limits in banking (described above). There is no minimum investment requirement for manufacturing. There is a $150,000 minimum foreign investment requirement in nonfinancial services (except information technology services), and a minimum investment requirement of $300,000 in agriculture, infrastructure projects, and social services (such as education and health).

The government's investment policy allows for full repatriation of capital, capital gains, dividends, and profits with the approval of the SBP. No requirements exist for technology transfer. The law provides for expropriation only upon adequate compensation and it prohibits changes in benefits and incentives. Incentives, including tax breaks and first year depreciation allowance, will not be changed in a way to disadvantage foreign investors versus domestic investors.

Pakistan has eliminated all local content requirements including those in the automobile sector. Until 2006, the automobile sector was the only sector that was subject to the so-called deletion program mandating the use of domestic inputs. The deletion program for the automotive sector was replaced with the Tariff Based System (TBS) in 2006. The TBS provides for the imposition of higher tariffs on imported automotive parts that are also manufactured domestically; likewise, it provides for lower tariffs on imported automotive parts that are not also manufactured in Pakistan.

In late 2004, the United States and Pakistan launched negotiations on a Bilateral Investment Treaty (BIT). A small but significant number of issues remain outstanding, and these negotiations are currently suspended.

ANTICOMPETITIVE PRACTICES

Although Pakistan has enacted a Monopolies and Restrictive Trade Practices Ordinance, and established the Monopoly Control Authority (MCA), regulatory oversight suffers from resource constraints. Moreover, state-owned firms are exempt from the provisions of this law. Thus, where state-owned firms dominate sectors, competition regulation remains underdeveloped. To address these problems, the MCA has finalized a competition law with technical assistance from the World Bank, which entails capacity building and creation of a new competition authority. The new competition law was approved by the Pakistani Cabinet in June 2007, but it is not in effect until the law either is passed by parliament or is enacted as an ordinance by the President. The Prime Minister has advised the President to promulgate the law as an ordinance; however, to date, the government has not taken either action. According to the MCA the new law will not grant any exemptions and will be applicable to public sector organizations as well.

The sale of major state assets during the last few years has reduced the government's role in the power and telecommunications sectors. The state, however, continues to hold important equity stakes in the oil and gas, civil aviation, electric power, and steel sectors. In the fiscal year ending June 2007, the Privatization Commission carried out 7 transactions including floating global depository receipts of the Oil and Gas Development Company Ltd (OGDCL), floating global depository receipts of United Bank Ltd, making a special public offering of OGDCL, and the selling of Pak American Fertilizers, Javedan Cement Limited, Lyallpur Chemical & Fertilizers and Lasbella Textile Mills.

The amount earned through privatizations during this period totaled Rs.104.34 billion ($1.71 billion), 46.7 percent lower than in the previous year. The government's privatization program has stalled to some extent following a series of Supreme Court decisions, and the government has recently offered global depository receipts of major public sector companies, rather than a transfer of ownership. Pakistan earned Rs.83.6 billion ($1.37 billion) of Rs. 104 billion ($1.71 billion) from the capital market transactions.

In an effort to create market competition in former monopoly sectors, the government of Pakistan has issued licenses to long distance and local telephone operators, as well as to cellular and wireless local loop operators, ending PTCL's monopolies. It has also licensed two private airlines to compete with state-owned Pakistan International Airlines. In retail food sales, the government has used below market prices in its chain of several hundred Utility Stores to create price competition in essential foodstuffs such as flour, rice, and lentils.

ELECTRONIC COMMERCE

There are no trade restrictions, duties, or taxes on electronic commerce in Pakistan. Electronic commerce is, however, not well developed. In 2002, the Pakistani government enacted an Electronic Transactions Ordinance that adopted international standards and provided for the establishment of a certification authority. In 2005, one certification authority began functioning (as outlined in the ordinance) in the private sector. The government of Pakistan also established a certification authority in the public sector, the Electronic Certification and Accreditation Council, to meet governmental needs. Recently the Cabinet approved the Electronic Crimes Bill. However, it needs to be enacted either as an ordinance or passed by the parliament in order to be implemented. The government blocks certain websites that contain content which it deems as conflicting with Pakistani religious and cultural norms.

OTHER BARRIERS

Businesses operating in Pakistan have repeatedly called for strengthening law and order. Corruption and a weak judicial system remain recurrent and substantial disincentives to investment. Pakistani laws targeting corruption include the 1947 Prevention of Corruption Act, the 1973 Efficiency and Discipline Rules, and most recently the 1999 National Accountability Bureau (NAB) Ordinance. Previously, the NAB, the Federal Investigation Agency, and Provincial Anti-Corruption Departments shared official responsibility for combating corruption. In October 2002, Pakistan's cabinet approved a National Anti-Corruption Strategy (NACS) that identified areas of pervasive corruption and recommended time-bound measures and reforms to combat corruption. The NACS also named the NAB as the sole anticorruption agency at the federal level.

Contract enforcement can be difficult for U.S. and other foreign investors in Pakistan. For example, a long standing investment dispute between a major U.S. multinational company and a local partner has raised concerns about the sanctity of international arbitration awards regarding contracts between private parties. In June 2005, the Lahore Civil Court ruled in favor of the U.S. multinational company, upholding the original arbitration settlement. However, the local partner has exercised its right to file an appeal in the Lahore High Court, and the case has been pending with no date set for action on the case.

In 2004, Pakistan's Cabinet approved the country's joining the 1958 New York Convention on Recognition and Enforcement of Foreign Arbitral Awards (New York Convention). Pakistan's Cabinet ratified the New York Convention on July 14, 2005 and conveyed the instrument of ratification to the United Nations Secretary General, who is the depository of such instruments. To implement the New York Convention, Pakistan issued an ordinance, valid for only 120 days, that has been re-promulgated various times. The government intends to continue renewing the ordinance until Parliament approves implementing legislation. Legislation to implement the New York Convention is currently with the National Assembly, the lower house of the parliament.