SAUDI ARABIA

TRADE SUMMARY

The U.S. trade deficit with Saudi Arabia was $15.7 billion in 2004, an increase of $2.2 billion from $13.5 billion in 2003. U.S. goods exports in 2004 were $5.2 billion, up 14.1 percent from the previous year. Corresponding U.S. imports from Saudi Arabia were $20.9 billion, up 15.8 percent. Saudi Arabia is currently the 25th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Saudi Arabia in 2003 was $4.2 billion, up from 3.8 billion 2002.

Saudi Arabia is in the process of negotiating terms of accession to the World Trade Organization (WTO), providing a forum to address U.S. concerns.

IMPORT POLICIES

Tariffs

As a member of the Gulf Cooperation Council (GCC), Saudi Arabia applies the GCC common external tariff of five percent for most products, with a number of country-specific exceptions. Saudi Arabia's exceptions to the common external tariff include 394 products that may be imported duty-free, including aircraft and most livestock. The Saudi government also applies a 12 percent tariff on 492 products, in some cases to protect local industries. Certain textile imports, including carpets but not apparel, are among the products to which the 12 percent rate applies. A number of Saudi infant industries enjoy 20 percent tariff protection, including those producing sesame extract, furniture, cooking salt, edible offal, rabbit meat, mineral water, and plastic pipes. In addition, long-life milk and nine other agricultural products are subject to a 25 percent tariff. Saudi Arabia imposes a 40 percent tariff on dates. Saudi Arabia also imposes a 100 percent tariff on cigarette and other tobacco imports. (Saudi Arabia's complete tariff schedule is available online at www.saudi-customs.net.)

Import Licensing

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

Documentation Requirements

To export products to Saudi Arabia from the United States, the U.S. Department of State's Authentication Division and the Saudi Embassy or Consulate must authenticate the documentation. The United States-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. Products that are regulated by the Saudi Arabian Standards Organization (SASO) must have a certificate of conformity issued through Saudi Arabia's International Conformity Certification Program (ICCP) before entering the country. The categories of regulated products include, but are not limited to, playground, amusement and fairground equipment, toys, electrical elements and electronics, automotive, and chemicals.

STANDARDS, TESTING, LABELING AND CERTIFICATION

Saudi Arabia initiated the ICCP in 1995 to monitor and control the quality of certain products imported into the country. The ICCP applied to 76 regulated consumer product lines and is managed by a private firm that inspects and tests shipments bound for Saudi Arabia on behalf of Saudi Arabia Standards Organization (SASO). The United States and many other WTO members have raised concerns about the ICCP in the context of Saudi Arabia's efforts to join the WTO. Among other concerns, the United States and many other exporting countries believe the ICCP needs modifications to be consistent with the WTO Agreement on Technical Barriers to Trade. For example, the ICCP accords favorable treatment to products manufactured in the Gulf Region, is more trade-restrictive than necessary, charges *ad valorem* fees unrelated to cost, and lacks transparency.

The proposal for a GCC Conformity Certification Scheme for Countries Exporting to GCC Member Countries is still under consideration by member countries. Saudi Arabia announced in October 2003 that it would abandon the ICCP in favor of a new, yet to be determined, system. The United States has had a constructive dialogue on this issue to establish alternative regulatory practices that address identified difficulties in the context of Saudi Arabia's WTO accession.

The Saudi Arabian Standards Organization (SASO) imposes shelf-life requirements on food products. In practice, the Saudi government requires imported food products to arrive in port with at least one-half of their shelf-life remaining, calculated from the date of production. Over the past few years, SASO has shortened the shelf-life duration for baby foods, eggs, stuffed cookies, chilled meats, and some snack foods, all products of interest to U.S. exporters. Saudi Arabia requires an animal protein-free certificate for imports of poultry, beef, and lamb and their by-products. In addition, the Saudi Government bans the import of therapeutic medicines used in animal feed. These measures were taken with little to no advance notice, contrary to Saudi statements to follow the provisions of the relevant WTO agreements. The United States is working with the Saudi Government to resolve U.S. concerns.

The Ministry of Commerce and Industry imposed a mandatory labeling requirement for agricultural biotechnology products in late 2000, and a requirement that importers sign a pledge stating that they were aware of the possible health risks of such products. After a period of uncertainty, the Ministry of Commerce announced a positive-labeling-only requirement (i.e., containing ingredients derived from biotechnology), rather than requiring labels for both the presence and absence of such ingredients, and delayed implementation until December 1, 2001. The Ministry also imposed a ban on imports of agricultural biotechnology products manufactured from animal products. In November 2002, the Ministry of Commerce agreed to language that it would accept on an export certificate to accompany all shipments containing agricultural biotechnology products entering Saudi Arabia. The export certificate must be issued by a government entity from the country of origin, preferably at the federal level, although the sub-federal level is acceptable. In February 2003, the Ministry of Agriculture issued new regulations for labeling of biotechnology food. U.S. companies found to be in violation of Saudi Arabia's biotechnology labeling requirements are banned from exporting the product in question into the Kingdom, but may continue to export other products that have been suitably labeled.

GOVERNMENT PROCUREMENT

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

In addition, Article 1(d) of the tender regulations requires that Saudi individuals and establishments be given preference over all other suppliers in government procurement. The same regulations also accord preference to other suppliers as long as Saudi nationals hold at least 51 percent of such suppliers' capital.

Article 1(e) of the tender regulations gives preference to products of Saudi origin that satisfy the requirements of the procurement, even when the product is inferior to that of a foreign counterpart. Saudi Arabia also gives priority in government purchasing programs to GCC products. These items receive up to a 10 percent price preference over non-GCC products in all government procurements in which foreign suppliers participate.

Foreign suppliers involved in government projects are required to establish a training program for Saudi nationals. Some government contracts also require a minimum amount of subcontracting with Saudi companies. In addition, the Saudi Government may favor Saudi-foreign joint venture companies as opposed to foreign firms and will also support companies that use Saudi manufactured goods and services. However, foreign companies providing services to the Saudi Arabian government can do so without a Saudi service agent and can market their services to various other public entities directly. For large military projects, there is frequently an offset requirement.

Foreign contractors working only for the government, if not already registered to do business in Saudi Arabia, are required to obtain temporary registration from the Ministry of Commerce and Industry within 30 days of contract signing. Foreign companies also are allowed to establish a branch office through the new Foreign Investment Regulations. These branch offices are usually approved only for foreign defense contractors and high-technology companies, while for others, a liaison office may be established to supervise work in Saudi Arabia and to facilitate coordination between the Saudi government and company headquarters.

In June 2003, the Saudi Council of Ministers passed a resolution calling for increased transparency in government-budgeted projects and government contracts. The Saudi Council of Chambers of Commerce and Industry has begun publishing the details of government contracts on its website. The contract information to be published includes title, parties, date, financial value, brief description, duration, place of execution, and point of contact information.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Currently on the Special 301 Watch List, Saudi Arabia is currently working to revise its intellectual property laws to bring them into conformity with the WTO TRIPS Agreement as part of its efforts to join the WTO. An updated Trademark Law took effect at the end of 2002, and an updated Copyright Law took effect in March 2004. Both laws allow for increased deterrent penalties for violators, including fines and prison sentences. A new unified law on patents, industrial designs, plant varieties, and integrated circuits is working its way through the legislative process.

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

The United States continues to have serious concerns over the lack of protection and enforcement of patents. Although Saudi Arabia has recently taken measures to hire and train more examiners, the approval of patents often takes several years due to extreme delays in the processing of patent applications. The currently inadequate patent application process has resulted in a large backlog of patent applications and prevents U.S. patent holders from obtaining adequate protection. The United States has urged Saudi Arabia to enact the new Patent Law legislation as soon as possible, and to ensure some form of *de facto* patent protection in the near term to address the backlog of pending applications.

SERVICES BARRIERS

Insurance

In the last two years, the Saudi Arabian Government has implemented a series of laws giving structure to what had been an essentially unregulated sector and mandating certain types of insurance coverage within the Kingdom. In June 2002, the Cooperative Health Insurance Council issued the by-laws of a mandatory cooperative health insurance scheme. The scheme will be implemented gradually and will require employers to pay for insurance coverage of foreign workers and dependent family members. In November 2002, third party motor vehicle insurance became mandatory in the Kingdom. In October 2003, the Saudi Arabian Government enacted the Control Law for Co-Operative Insurance Companies. The law requires all insurance companies operating in the Kingdom to be locally registered, publicly owned firms. In keeping with adherence to Islamic principles, insurance companies will need to operate on a co-operative or mutual basis. Firms will need to register with the Saudi Arabian Monetary Agency (SAMA). The law sets capitalization requirements for insurers at SR100 million ($26.7 million).

SAMA began accepting applications for insurance operations in November 2003. Insurance firms operating in the Kingdom may offer any insurance product in both the commercial and personal markets as long as the firm is organized consistent with the co-operative insurance structure.

Banking

Although the Saudi Banking Control Law does not limit foreign participation, for the past twenty years the Saudi Arabian Monetary Agency has capped foreign ownership in commercial banks to 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. The Bahrain based Gulf International Bank (GIB), Dubai-based Emirates Bank International, and Kuwait Bank currently operate in the Kingdom. In November 2003, the Saudi Government granted an operational license to Deutsche Bank. The Saudi Capital Markets Law came into effect in February 2004. The law provides for the creation of investment banks and brokerages in the Kingdom. Allowed levels of foreign participation in these ventures have not been finalized. As capital markets regulations are finalized, Saudi Arabian investment banking will likely see significant growth.

Shipping

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

Agent and Distributor Rules

Saudi law requires that domestic distributors receive licenses from the Ministry of Commerce and Industry. Only Saudi citizens can obtain licenses. A recent GCC decision may broaden this to make all GCC citizens eligible. Nationals from the GCC countries are also allowed to engage in trading and retail activities, including real estate. In July 2001, the Saudi Council of Ministers canceled the requirement for foreign companies with government contracts to have a Saudi service agent.

INVESTMENT BARRIERS

In April 2000, Saudi Arabia's Council of Ministers approved a new foreign direct investment code with the goal of facilitating establishment of foreign companies, both joint-ventures and 100 percent foreign owned, in Saudi Arabia. Key provisions allow foreign investors to transfer money freely in 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 to reside in the country), and permit foreign investors to own real property for company activities. The Saudi Arabian General Investment Authority (SAGIA) was established to manage investments under the new code under the guidance of the Supreme Economic Council. In March 2003, SAGIA opened a Women's Investment Center in addition to its existing Service Centers. In theory, SAGIA must decide to grant or refuse a license within 30 days of receiving an application and supporting documentation from the investor. While SAGIA is intended as a one-stop-shop for foreign investors, some companies still experience delays in subsequent steps, for example, in obtaining a commercial registry or purchasing property. Following SAGIA's recommendations, the Supreme Economic Council released a negative list in February 2001 of sectors in which foreign investment is prohibited. The Council updated the negative list in 2003, further reducing the number of sectors and subsectors prohibited to foreign investors. Foreign investment is currently prohibited in 19 sectors and subsectors. (SAGIA publishes the negative list at www.sagia.gov.sa.) SAGIA reportedly approved about 2000 projects representing more than $14 billion by the end of October 2003, with foreign investors accounting for 85 percent of the total. Figures on actual projects initiated or foreign direct investment inflows are not available. Though statistics for foreign direct investment inflows are imprecise, aggregate SAGIA information indicates that 36 percent of project capital comes from U.S. sources, by far the largest single contributor. In October 2003, SAGIA announced that additional foreign direct investments of nearly $1 trillion will likely be required over the next 20 years (over $100 billion in the energy sector alone).

In October 2003, the Saudi Government passed the Capital Markets Law. The law took effect in February 2004. It allows for the creation of financial intermediaries (stock brokerages and investment banks). The law creates 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. Allowed levels of foreign participation in investment banks and brokerages have not been finalized. The new law does not repeal the prohibition on direct foreign participation in the Saudi stock market. Foreigners, however, 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

Saudi Arabia is studying various options to incorporate electronic commerce into government and private industry. A proposed National Information Technology Plan encompasses infrastructure, industry, electronic government, and electronic learning. The Ministry of Commerce and Industry completed a national project in 2001 for safeguarding dealers' rights, establishing a dispute-settlement mechanism, and endorsing digital signatures. In December 2003, the Saudi Government approved an electronic system for the official authentication of documents (similar to notarization) through the Internet. Called the e-attestation service, it will be available to members of the Chambers of Commerce and Industry. As of late 2004, the e-attestation service was undergoing limited testing by Chambers of Commerce and Industry members.

OTHER BARRIERS

Corporate Tax Policies

Saudi Arabia taxes foreign companies, but domestic entities are only required to pay zakat (a charitable donation). Only foreign-owned corporations and the foreign-owned portion of joint ventures are subject to the corporate income tax, which ranges from 20 percent to 30 percent of net profits. Domestic corporate partners are subject to a 2.5 percent tax on assets. A resolution issued by the Council of Ministers in April 2000 also eliminated the 10-year tax holiday previously enjoyed by companies and instead provided loss carry-forward provisions without any time limits. In January 2003, the Shoura (Consultative) Council rejected a proposed income tax on expatriate workers.