SAUDI ARABIA

TRADE SUMMARY

Saudi Arabia became a member of the World Trade Organization (WTO) on December 11, 2005. During the process of accession to the WTO, Saudi Arabia extensively revised its trade regime to come into compliance with WTO requirements. Saudi Arabia is working to implement all of the commitments undertaken as part of its accession.

The U.S. goods trade deficit with Saudi Arabia was $20.4 billion in 2005, an increase of $4.7 billion from $15.7 billion in 2004. U.S. goods exports in 2005 were $6.8 billion, up 29.9 percent from the previous year. Corresponding U.S. imports from Saudi Arabia were $27.2 billion, up 29.9 percent. Saudi Arabia is currently the 26th largest export market for U.S. goods.

U.S. exports of private commercial services (i.e., excluding military and government) to Saudi Arabia were $1.7 billion in 2004 (latest data available), and U.S. imports were $432 million. Sales of services in Saudi Arabia by majority U.S.-owned affiliates were $625 million in 2003 (latest data available), while sales of services in the United States by majority Saudi Arabia-owned firms were $546 million.

The stock of U.S. foreign direct investment (FDI) in Saudi Arabia in 2004 was $3.8 billion, up from 3.5 billion 2003.

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 excluding apparel, are among the products to which the 12 percent rate applies. A number of Saudi 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 on a seasonal basis. 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, 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 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 consumer products must have a certificate of conformity issued under the guidelines of the Certificate of Conformity Program (COCP) before entering the country. The Saudi Arabian Standards Organization's (SASO) role, which previously included governance of certificates of conformity, is now limited to issuance of applicable Saudi standards for consumer products.

STANDARDS, TESTING, LABELING AND CERTIFICATION

Saudi Arabia in 2005 abolished the International Conformity Certification Program (ICCP), a pre-shipment certification program initiated in 1995 to monitor and control the quality of certain products imported into the country. In place of ICCP, the certification program is now under the control of the Certificate of Conformity Program (COCP). The new program will require all exporting companies to provide a certificate of conformity with every shipment to Saudi Arabia. The regulations pertaining to the new COCP have not yet been published. As a transitional measure, Saudi Arabia has implemented a temporary rule that a certificate of conformity shall accompany every imported consumer product bound for Saudi Arabia. The COCP shall be signed by an approved laboratory in the country of origin specifying that the imported goods either abide by or meet applicable Saudi standards, if available, or adhere to international standards.

Saudi Arabia will utilize third-party laboratories to clear incoming shipments from customs after these laboratories are established and drafted regulations approved.

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. The United States addressed these issues during bilateral negotiations with Saudi Arabia and accession to the WTO will eliminate or improve many of these restrictions.

Saudi Arabian Ministries of Agriculture and Commerce and Industry implemented biotech-labeling decrees on animal feed and processed foodstuffs in January 2004 and December 2001, respectively. The decrees require a positive biotechnology label if a product contains more than one percent of genetically modified vegetable (plant) ingredients. Thus far, the Saudi biotechnology-labeling requirement has not drastically affected imports of U.S. agricultural products. Biotechnology grains such as corn and soybean meal are being imported from the U.S. and other suppliers. According to Saudi importers, U.S. high value food products declared biotechnology free have tested negative and companies whose products test negative will not be tested again for another six months. The Kingdom is currently reviewing both ministerial biotechnology-labeling decrees to establish a comprehensive biotechnology standard that would govern imports of all agricultural products.

GOVERNMENT PROCUREMENT

Saudi Arabia agreed to become an observer to the WTO Government Procurement Agreement and to initiate negotiations on membership as part of its accession to the WTO. Several royal decrees that strongly favor GCC nationals apply to Saudi Arabia's government procurement contracts. However, most 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 in instances where no Saudi-owned company can provide the goods and services necessary 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. However, the regulations extend the preference to other suppliers if 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. 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 that participate in government projects are required to establish a training program for Saudi nationals. Some government contracts will also require a minimum level of subcontracting with Saudi companies.

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 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 through a temporary registration office. 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 new Foreign Investment Regulations. These branch offices are usually approved only for foreign defense contractors and high-technology companies. 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 contract information to be made public includes: title, parties, date, financial value, brief description, duration, place of execution, and point of contact information. The Council of Saudi Chambers of Commerce and Industry and the Ministry of Finance have begun publishing the details of government contracts on its website.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Saudi Arabia remained on the Special 301 Watch List in 2005. The U.S. government initiated an out-of-cycle review focusing on improved IPR enforcement efforts, enactment, and implementation of IPR legislation that is compliant with the WTO TRIPS agreement and improved patent protection, but the review was not complete at the time of publication of this report. As of the end of 2005, 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 confidential commercial information. The laws also increased penalties for violators, including fines and prison sentences.

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 unauthorized end-users of software. 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. U.S. industry has 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. U.S. companies have also complained of widespread piracy of pay television signals.

Although Saudi Arabia has passed new patent legislation and in recent years has taken measures to hire and train more examiners, translators, and clerks, the processing of patent applications has historically suffered from extreme delays. The previous inadequate patent application process has resulted in a large backlog of patent applications. Patent applications are still outstanding dating back to 1989, however, Saudi Arabia expects under the new legislation to clear this backlog by the end of 2006 and maintain a backlog free system thereafter.

Recently, American companies with patent applications pending have expressed concern that the new patent law will not allow patent protection to their pending patent applications that were filed under provisions of the old law, which permitted filing of applications after a patent was issued in another country. Pending cases since 1989 reportedly have been denied because the applications were not filed within one year of the invention. A case now before the Saudi patent court will likely provide guidance and interpretation of the new patent law and its effect on those backlogged patent 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 cooperative 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) and re-insurers at SR200 million ($53.4 million).

SAMA began accepting applications for insurance operations in November 2003 v 33. 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 cooperative insurance structure.

On April 13, 2005, Royal Decree No. 3120/MB allowed foreign insurance companies to operate in Saudi Arabia through direct branches, which are not subject to the requirements of public ownership and cooperative form.

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, BNP Paribas, and National Bank of Kuwait 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. Levels of foreign participation in these ventures have been fixed at 60 percent. 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 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. Currently, only Saudi citizens can obtain registration as distributors. 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. By the same token, foreign nationals are allowed to own real estate on a limited basis. Saudi Arabia's WTO commitments, which came into effect on December 11, 2005, open distribution to non-nationals on a gradual basis, up to 75 percent of total equity within three years. 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 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 Saudi Arabian General Investment Authority (SAGIA) was established to manage investments under the new code, with guidance from the Supreme Economic Council. In addition to its existing Service Centers, in March 2003, SAGIA opened a Women’s Investment Center.

In principle, SAGIA must decide to grant or refuse a license within 30 days of receiving an application and supporting documentation from the investor. Wholly domestic projects funded with Saudi money do not need licenses through SAGIA's investment services center, which was specifically designed for foreign investors. However, many of the licenses are issued for projects jointly owned with Saudi investors. Some foreign investors have complained that the licensing process was not as streamlined as SAGIA intended. Impediments, often caused by other Ministries' bureaucratic mechanisms, often delayed the application process. SAGIA continues to take steps to address these impediments and streamline the process, including making 17 separate agreements in 2005 with other Ministries and government agencies to facilitate foreign investment. While SAGIA is intended to operate as a one-stop shop, where foreign investors can obtain all of the necessary permits or authorizations, 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 published in 2001 a negative list of sectors in which foreign investment is prohibited (www.sagia.gov.sa). Foreign investment is currently prohibited in 18 manufacturing and service sectors and subsectors.

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 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 and limits to 49 percent the maximum equity share that may be held by foreign investment banking and brokerage firms that establish joint ventures with Saudi entities. Saudi Arabia agreed to raise the the percentage of the foreign partner to 60 percent after WTO accession. Two new joint ventures with foreign partners were licensed by the Capital Market Authority in November 2005. The new law does not repeal the prohibition on direct foreign participation in the Saudi stock market. Foreigners can continue to purchase shares in bank operated investment funds, however. 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 Web sites that contain content in violation of Islamic tradition or national regulations are blocked. Pornographic Web sites are identified and blocked through a filtering system, which does occasionally prevent access to sites that appear to fall outside stated prohibited topics. Non-pornographic sites are placed on the blocked list based upon direct requests from the security bodies within the government.