PAKISTAN

TRADE SUMMARY

The U.S. goods trade deficit with Pakistan was $2.0 billion in 2005, an increase of $945 million from $1.1 billion in 2004. U.S. goods exports in 2005 were $1.2 billion, down 31.2 percent from the previous year. Corresponding U.S. imports from Pakistan were $3.3 billion, up 13.2 percent. Pakistan is currently the 57th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Pakistan in 2004 was $991 million, up from $790 million in 2003.

IMPORT POLICIES

Since 1998, Pakistan has progressively and substantially reduced tariffs and liberalized imports. 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. Generally, Pakistan's applied tariffs are below WTO-bound commitments, and the weighted average applied tariff is currently 15.2 percent, down from 56 percent in 1994. The tariff on most consumer goods was reduced to 25 percent, for most intermediate goods to 10 percent, and for most raw materials to 5 percent.

In November 2000, Pakistan reached an agreement with the WTO Balance of Payments Committee to phase out quantitative restrictions on textile imports and to remove all textile products from its "negative list." All textile products can now be imported into Pakistan, although the tariff on certain synthetic fibers (scheduled to expire in 2008) remains relatively high.

Pakistan's trade policy in 2005 continued to ban the import of 30 items, mostly on religious, environmental, security, and health grounds. Effective July 1, 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 government exempted all domestically produced pharmaceutical related inputs from its General Sales Tax (GST), a value-added tax (VAT), through a Statutory Regulatory Order issued in April 2002. Imported pharmaceutical inputs subject to a 10 percent customs duty are also exempt from payment of GST. This includes most, but not all, imported pharmaceutical inputs. In FY2005, the Pakistani government 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 the incentive to smuggle.

The Government of Pakistan reserves the right to grant sector-specific duty exemptions, concessions, and protections under Statutory Regulatory Orders (SROs). In recent years, the use of SROs has decreased. SROs and other trade policy and regulatory documents are published on the Central Board of Revenue's website, www.cbr.gov.pk.

In January 2000, the Pakistani government began implementing a transactional valuation system, pursuant to which 99 percent of import valuation is based on invoice value, in accordance with the WTO's Customs Valuation Agreement. Currently, about 90 percent of imports are assessed duties pursuant to the transactional valuation system. A number of traders in food and nonfood consumer products, however, report experiencing irregularities and deviations in the application of that system.

A U.S. freight forwarding company reported in 2005 that Pakistan imposed a new SRO requiring that the commercial invoice and the packing list must be included within a container. This practice is difficult in situations when shipments originate from a location that is different from where the invoice and packing list are created; when, for security, 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. As of June 30, 2005, the end of Pakistani Fiscal Year 2005, PSQCA had established over 21,000 standards (including 15,500 ISO standards) for agriculture, food, chemicals, civil and mechanical engineering, electronics, weights and measures, and textile products. However, no new standards were approved in 2005.

Testing facilities for agricultural goods are inadequate and standards are inconsistently applied, which U.S. industry contends has resulted in occasional discrimination against U.S. farm products. Generally, however, U.S exporters have not reported problems due to the restrictive application of sanitary, phytosanitary, or environmental standards. Pakistan accepts most U.S. standards.

The Government of Pakistan approved biosafety guidelines and rules in April 2005, but the action plan to implement these guidelines is still pending with the government. At present Pakistan has permitted the import of biotech soybeans. The delay in the implementation of biosafety guidelines, however, has impeded the introduction of other U.S. biotechnology products that could significantly boost Pakistan’s agricultural productivity, rural incomes, and overall GDP.

GOVERNMENT PROCUREMENT

Pakistan is not a member of the WTO Government Procurement Agreement. Government contracts are often awarded through publicly issued tender notices or are issued to registered suppliers. The government established the Public Procurement Regulatory Authority in May 2002, in order to strengthen procurement practices. International tender notices now are publicly advertised and sole source contracting using company-specific qualifications has been eliminated. There are no “buy national” policies.

Political influence on procurement decisions, charges of official corruption, and long delays in bureaucratic decision-making have been common in the past. Investors have reported instances when the government used the lowest bid as a basis for further negotiations, rather than accepting the lowest bid under its tender rules. The Pakistani government does not invite tenders from private-sector companies for the transportation of crude oil and requires all transport of crude oil to be conducted by the state-owned Pakistan National Shipping Corporation.

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 FY2005 were confined mostly to wheat and totaled roughly $21.8 million, according to government sources. The government also provides freight subsidies to some products and these subsidies totaled close to $23.5 million in FY2005. 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, 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 carryforward; and access to Export Processing Zone Authority "One Window" services, including facilitated issuance of import permits and export authorizations.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

The Government of Pakistan has taken noticeable steps to improve copyright enforcement in 2005, especially for optical discs. 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 as serious barriers to trade and investment. The U.S. Government placed Pakistan on the Special 301 "Watch List" from 1989 to 2003 due to widespread piracy, and continuing IPR violations prompted the U.S. Government to place Pakistan on the Special 301 Priority Watch List in 2004 and 2005. In early 2005, Pakistan was among the world's leading producers of pirated optical discs and other copyrighted material, but took significant steps to shut down pirate optical disc production and exports of pirate optical discs later in the year. The Government of Pakistan has identified intellectual property protection as a key area for its "second generation" economic reforms. Pakistan has enacted five major new laws relating to patents, copyrights, trademarks, industrial designs and layout designs for integrated circuits in the past few years, but their impact has been limited by weaknesses in the legislation and/or enforcement. In 2005, measures were implemented that, if sustained, could lead to improvement in several longstanding IP problem areas.

In August 2005, in response to longstanding domestic and international criticism of Pakistan's lack of a functioning central IPR regulatory and enforcement authority, as well as the need to implement its WTO TRIPS obligations, the Pakistani President created the Intellectual Property Rights Organization of Pakistan (IPO). IPO, an autonomous body under the administrative control of the Government of Pakistan's Cabinet Division, consolidates into one government body authority over trademarks, patents, and copyrights – areas that were previously handled by offices in the three separate ministries. IPO will initiate and monitor the enforcement and protection of intellectual property rights through law enforcement agencies, in addition to dealing with other IPR related issues. While IPO's establishment represents an important milestone, its success in the coming year will be gauged by whether it leads to measurable results in terms of increased public awareness of intellectual property rights, stepped up enforcement, and prompt action to address specific legislative and policy weaknesses.

In April 2005, in an effort to improve the protection of intellectual property within Pakistan, the Government of Pakistan transferred inter-agency responsibility for the enforcement of intellectual property laws to the Federal Investigation Agency (FIA). FIA staff has received specialized training in intellectual property enforcement and technologies, which has enabled the agency to expand enforcement operations to target manufacturers of pirated goods. Key challenges ahead will be to expanding manpower and training at the FIA, including the possible establishment of a dedicated IP enforcement unit.

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). On July 22, 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. A draft law concerning plant breeders' rights has not progressed because of a dispute over federal and provincial jurisdiction for the past two years.

Patents

Pakistan enacted a patent law in 2000 that protects both process patents and product patents in accordance with its WTO obligations. Under this law, both the patent-owner and licensees can file suit against those who infringe. Unfortunately, the 2002 Patent Ordinance weakened the 2000 Patent Law by eliminating use patents, restricting patent filings to single chemical entities, limiting protection for derivatives, and introducing barriers to patenting biotechnology-based inventions. This generated great concern among U.S. pharmaceutical firms seeking to sell patented drugs in Pakistan. Pakistan fails to protect against unfair commercial use of test or other data, a requirement under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). In addition, the Pakistani government has authorized the sale of pharmaceuticals without requiring checks confirming that another firm does not hold an active patent on the compound. Although courts have issued injunction orders against firms licensed by the Ministry of Health that sell drugs in violation of patent holder rights, such orders are not consistently enforced. Patent theft is exacerbated by the fact that it often takes one or two years to register drugs in Pakistan. During this registration process, the government also sets prices - often at levels that do not reflect the cost of developing the product.

Trademarks

Pakistan developed its Trademarks Ordinance in 2000, which provides for the registration and better protection of trademarks and for the prevention of the use of fraudulent marks. The ordinance has been enforced since April 2004 with the enactment of implementing rules. The government has eliminated the requirement that pharmaceutical firms label the generic name on all products with at least equal prominence as that of the brand name. Trademark infringement remains widespread.

Copyrights

According to the International Intellectual Property Association, copyright piracy rates in 2005 in Pakistan remained at 100 percent for records and music and 83 percent for business software (no figures were available for motion pictures, entertainment software, or published books). CD and DVD losses were dropped from $70 million in 2004 to $25 million in 2005, a noticeable decrease. Pakistan was a major exporter of pirated optical discs before its recent enforcement efforts.

Pakistan carried out a meaningful increase in enforcement activity against pirated optical discs in 2005. In May, Pakistan's Federal Investigation Agency (FIA) raided and closed six major illegal disc plants outside of Karachi. Additional raids on other production facilities continued throughout the year. These cases are pending before Pakistani courts. These raids corresponded to anecdotal reports of fewer pirated copyright goods available in the markets of Pakistan. Book piracy and business software end-user piracy still remain serious problems.

SERVICES BARRIERS

Pakistan generally permits foreign investment in services, subject to certain provisions including a minimum initial capital investment of $150,000 (investment requirements are higher in financial services – see below). Recent changes in the government's investment policy permit foreign investors to hold up to a 100 percent equity stake and allow 100 percent repatriation of profits. These 2004 changes reduced the $300,000 minimum initial capital investment requirement in the services sector, eliminated the requirement that foreign investors accumulate 40 percent local equity within five years of initial investment, and eliminated the cap on repatriation of profits at a maximum of 60 percent of total equity or profits.

Investment policy also allows foreign investors in services and other non-manufacturing sectors (including international food franchises) to remit royalties and technical fees, subject to certain conditions. In information technology services, including software development, foreign investors are not subject to the requirements for minimum initial investment.

Telecommunications

In July 2003, the Pakistani government announced a telecommunications sector deregulation policy in order to comply with its WTO commitments and encourage growth in the sector. Implementation of this policy has ended the exclusive right of the Pakistan Telecommunication Company Limited (PTCL) to provide basic telephone services, and the government has issued 13 licenses to long distance telephone companies (10 of which have commenced operations), 72 licenses to local loop regional telephone companies (three of which are operating) and 92 licenses to wireless local loop companies (four of which are operating).

In early 2005, as part of its privatization program, the Government of Pakistan invited international bids on a 26 percent stake, along with management control, in PTCL. Etisalat, a UAE-based company, was named the winning bidder in July 2005. Despite the privatization of PTCL, the ability of telecom companies to operate in Pakistan will depend on access to PTCL infrastructure. Pakistan currently allows the cross border provision of packet-switched data and Internet services. Roughly 70 private firms, including foreign invested companies, provide Internet services, and the government has issued licenses to 55 more companies. At present, the government does not issue exclusive licenses for voice-over-internet providers (VoIP), but long distance telephone license holders can also provide VoIP services.

Competition among service providers is already allowed in cellular telephony. The Government of Pakistan permits 100 percent foreign equity in most telecommunications services, including electronic information services, pre-paid telephone services, paging services, and voice mail 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

Pakistan improved its financial services commitments in the WTO Financial Services Agreement in December 1997. These commitments grant the right to establish new banks as well as grandfathering acquired rights of established foreign banks and foreign securities firms. 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 for foreign banks. 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. 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 had previously been nationalized).

As of January 2006, 80 percent of the commercial banking sector is now 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. Foreign investors are allowed to hold up to a 51 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 raise an equal amount of equity in the local market. 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 issued a new insurance law in 2000 that raised capital adequacy standards and enhanced policyholder protections.

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. If domestic insurance companies cannot meet their reinsurance needs only then these companies can seek outside reinsurance facilities. Market domination in the insurance sector may pose a significant barrier to entry. The state-owned State Life Insurance Company holds over 76 percent of the life insurance market, although that number has been declining over the past several years. Five major domestically-owned companies account for 78 percent of the general insurance (property, casualty, and health) market.

Other Services

Foreign professionals can provide legal and engineering consultancy services with 100 percent equity participation. This reflects a change made in 2004 that eliminated the prior requirement that Pakistanis hold 40 percent local equity for five years and reduced the minimal capital requirement for investment in these services from $300,000 to $150,000. A legal consultant need not be licensed to practice law in Pakistan. Foreign lawyers, however, may not appear in court or otherwise formally litigate cases unless licensed, even if they work with local lawyers. The Islamabad-based Pakistan Bar Council licenses attorneys in Pakistan, and no *de jure* prohibition exists against the admission of foreign lawyers into the bar. Similarly, foreign doctors must, like their local counterparts, register with the Pakistan Medical and Dental Council, and foreign engineers must register with the Pakistan Engineering Council, in order to practice their respective professions in Pakistan.

INVESTMENT BARRIERS

Foreign investors are free to establish and own business enterprises in all sectors of the economy, with the exception of five restricted areas: arms and munitions, high explosives, currency/mint operations, radioactive substances, and new non-industrial alcohol plants. While foreign ownership in agricultural investments cannot exceed 60 percent, there are no ownership limits in other sectors of the economy. There is no minimum investment requirement for manufacturing, a $150,000 minimum foreign investment requirement in non-financial 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 promises full repatriation of capital, capital gains, dividends, and profits with the approval of the State Bank of Pakistan. No requirements exist for technology transfer. The law provides for expropriations only upon adequate compensation, and it prohibits changes in benefits and incentives for the purpose of disadvantaging foreign investors.

The Government of Pakistan has eliminated most, but not all, of the local content requirements that it reported to the WTO in 1995 under the Agreement on Trade-Related Investment Measures (TRIMS). In 1999, Pakistan's "deletion" program (mandating the use of domestic inputs) encompassed 106 items. As of December 2005, 16 items (all in the auto and motorcycle industries) remain. For these 16 items, Pakistan has petitioned for a three-year extension on its original deadline of December 31, 2003, to eliminate all deletions. At the end of 2005, the United States and other WTO Members were still considering this request. There are reports, however, that the Government of Pakistan is working on a plan to phase out the deletion program in its automobile sector, as many believe it is now serving as an impediment to new investment in that sector.

Although Pakistan has enacted a Monopolies and Restrictive Trade Practices Ordinance, and established a Monopoly Control Authority, regulatory oversight suffers from resource constraints. Moreover, state-owned firms are exempt from the provisions of this law. Thus, in the Pakistani market, where state-owned firms dominate several sectors, competition policy remains incomplete. The state-owned Water and Power Development Authority (WAPDA) retains control of power transmission and distribution throughout much of the country outside Karachi and continues to be highly subsidized. The privatization in 2005 of some major state-owned organizations, including Karachi Electric Supply Corporation (KESC) and Pakistan Telecommunication Company (PTCL), has reduced the state's role in power and telecommunications. The state, however, continues to hold equity stakes in important players in the oil and gas, civil aviation, power and steel sectors. In 2006, the Government of Pakistan plans to privatize Pakistan Steel (Pakistan's major steel producer), Sui Southern Gas Company (Pakistan's largest gas company), Pakistan State Oil (PSO) (Pakistan's largest gasoline retailer), and Oil and Gas Development Company (Pakistan's largest energy exploration company). In an effort to create market competition in former monopoly sectors, the Government of Pakistan has already issued licenses to long distance and local telephone operators, as well as to cellular and wireless local loop operators, ending PTCL's monopolies, and has licensed three private airlines to compete with state-owned Pakistan International Airlines. In retail food sales, the government has used pricing in its several hundred Utility Stores chain to create price competition in essential foodstuffs such as flour, rice and pulses. Market leaders in the cement and sugar industries are alleged to have formed cartels.

The United States and Pakistan have initiated negotiations on a Bilateral Investment Treaty (BIT), which would provide significant protections for U.S. investors in Pakistan. Three rounds of BIT negotiations were held in 2005, and meaningful progress was made on the basic text of an agreement in early 2006.

ELECTRONIC COMMERCE

There are no trade restrictions, duties, or taxes on electronic commerce in Pakistan. Electronic commerce is, however, not well developed in Pakistan. 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 is also planning to establish a certification authority in the public sector to meet governmental needs. 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 (NAB) Ordinance. Previously, the NAB, the Federal Investigation Agency (FIA), 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 is difficult in Pakistan. A long-standing investment dispute between a major U.S. multinational company and a local partner raised concerns about the sanctity of international arbitration awards under 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. The local partner has exercised its right to file an appeal in the Lahore High Court; the appeal is still pending. In 2004, Pakistan's Cabinet approved Pakistan's joining the 1958 New York Convention on Recognition and Enforcement of Arbitral Awards. Pakistan's parliament, however, has not yet enacted legislation putting it into force.

Pakistan's ranking in the Transparency International's Corruption Perceptions Index dropped from 29th out of 145 countries in 2004, to 144th out of 158 countries listed in 2005. Pakistan scored 2.1 points on the Corruption Perception Index in 2005.