GULF COOPERATION COUNCIL

TRADE SUMMARY

This section of the report analyzes the trade policies of the six member states (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates (UAE)) of the Gulf Cooperation Council (GCC). In 2000, the U.S. trade deficit with the GCC was $8.9 billion, a significant change from the $1.1 billion U.S. trade surplus in 1999. U.S. merchandise exports to the GCC were $10.2 billion in 2000, a decrease of $2.1 billion (17 percent) from the level of U.S. exports to the GCC in 1999. U.S. imports from the GCC were $19.1 billion in 2000, a $7.9 billion increase (71 percent) from the level of imports in 1999.

The stock of U.S. foreign direct investment in the GCC in 1999 was $6.4 billion, a decrease of 0.5 percent from 1998. Such investment is concentrated in the petroleum extraction, petrochemical, and manufacturing sectors.

OVERVIEW

The GCC is an economic and political policy-coordinating forum for its members. Since it cannot impose trade policies upon its member states, each is free to pass and enforce its own trade laws. However, there has been growing cooperation among GCC members on certain issues, such as intra-GCC investments, standards-setting, and intellectual property protection, and the GCC members have agreed to implement a Customs Union by March 2005. The United States favors strengthening regional integration efforts among GCC members, as well as enhancing U.S.-GCC economic and commercial ties. To this end, the U.S. Government engages in high-level economic policy talks with GCC members through the U.S.-GCC Economic Dialogue. The most recent meeting of the U.S.-GCC Economic Dialogue took place in October 2000 in Washington, D.C.

Of the GCC countries, Bahrain, Kuwait, Qatar, the UAE, and Oman are members of the World Trade Organization (WTO). The first four of these countries entered the GATT and WTO under simplified procedures, based on the United Kingdom's previous application to the GATT 1947 on their behalf. Oman completed negotiations on its WTO accession package and acceded to the WTO in November 2000. A GATT observer since 1986, Saudi Arabia applied for WTO membership in April 1993. Negotiations for the terms of Saudi Arabia's accession are under way.

IMPORT POLICIES

Tariffs

The GCC leadership had considered for several years the establishment of a unified tariff structure. At the November 1999 Summit, GCC Heads of State agreed to implement a Customs Union in March 2005 with tariff rates at 5.5 percent for exempted and basic commodities and 7.5 percent for other commodities. However, several ancillary issues, most notably how the GCC states will apportion the tariff revenues, remain to be resolved. Currently, some GCC countries maintain tariffs of 15-20 percent or higher on imported products.

Oman maintains a maximum five percent tariff on most imported consumer products, including automobiles. However, tariffs on tobacco, pork, and alcohol products can reach 100 percent in countries where importation of such products is permitted. As of January 1, 2000, Oman restored customs duties to 1998 levels, rescinding a 1999 decision to raise customs duties on many categories of imported luxury goods to 15 percent. Bahrain has pledged to cut tariffs on consumer goods and imported cars by 2003, two years ahead of the GCC agreement for a Customs Union. Duties on imported cars are scheduled to drop from 20 to 15 percent in 2001, to 10 percent in 2002 and to 7.5 percent in 2003. Duties on some consumer items will also drop from 10 percent to 5.5 percent by the end of 2003. Saudi Arabia maintains a 12 percent tariff on most products, but this can reach as high as 20 percent for certain protected industries. Saudi Arabia also imposes a

100 percent tariff on wheat imports. The UAE, which is the regional commercial hub and has traditionally depended on foreign trade, has continued to push for lower tariff rates throughout the GCC.

Import Licensing

Varying licensing requirements are enforced to protect domestic industries or limit trade to nationals of GCC countries. Import licenses for items to be sold in Bahrain are issued only to locally-established companies that are at least 51 percent Bahraini-owned. Foreign companies established prior to 1975 may be exempt from this rule under special circumstances. Kuwait prohibits the importation of alcohol, firearms, and pork products. In Oman, companies that import goods must be registered with the Ministry of Commerce and Industry. Importation of certain classes of goods, such as alcohol, firearms, narcotics, and explosives require a special license, and media imports are subject to censorship. In the UAE, only firms with the appropriate trade license can engage in importation, and only UAE nationals can get such a license.

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, and pork products are prohibited, and 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, products containing alcohol, and natural asphalt require special approval. Following an outbreak of Rift Valley Fever in Fall 2000, Saudi Arabia banned imports of beef from neighboring African countries. In January 2001, due to concerns about bovine spongiform encephalopathy (BSE), Saudi Arabia also banned imports of beef and mutton from all European Union Member States.

Documentation Requirements

All GCC countries impose complicated, costly, and time-consuming import documentation requirements. For example, certain documents must be authenticated by the National U.S.-Arab Chamber of Commerce (or, in the case of U.S. goods destined for Saudi Arabia, by the U.S.-Saudi Business Council) and by the diplomatic mission of the importing country. In Oman, with the exception of food products, this authentication procedure is not required if the importing company has an existing agency agreement with the U.S. exporter. In 1996, Oman began the process of simplifying customs clearance documentation to expedite the flow of goods and promote its ports and airports. For example, Arab League boycott-certification is no longer required. However, only Omani nationals are permitted to submit documents to clear shipments through customs.

Bahraini Customs requires commercial invoices in duplicate in Arabic or English, a certificate of origin in Arabic or English (produced by a Chamber of Commerce and endorsed by an Arab Embassy), a copy of the insurance policy if applicable, and bills of lading (4 copies) including gross weight and dimensions. For food items, the Bahraini Customs Directorate handbook states that presentation of a manufacturer's certificate stating that the goods do not contain cyclamates is an important requisite. All imported beef and poultry products require a health certificate from the country of origin and a halal slaughter certificate issued by an approved Islamic center in the country of origin. Since July 1998, the UAE has required that documentation for all imported products must be authenticated by the UAE Embassy in the country of origin. There is an established fee schedule for this authentication. Without the validation in the country of origin, customs authorities will apply the fee schedule when the goods arrive in the UAE.

Customs Valuation

Each of the WTO Members of the GCC is at a different point in its implementation of the WTO Agreement on Customs Valuation. Kuwait began implementation of the Agreement in 2001 after receiving a one year extension, and the WTO Committee on Customs Valuation is currently considering a similar request from Bahrain. Qatar and the UAE are scheduled to implement the Agreement at the start of 2001. Oman implemented the Agreement when it acceded to the WTO in Fall 2000.

STANDARDS, TESTING, LABELING AND CERTIFICATION

The United States is increasingly concerned about certain restrictive GCC standards and new proposed standards. Standards and labeling practices have restricted trade in many of the GCC countries. In particular, shelf-life standards are set at arbitrary levels that restrict imports of a variety of food products of interest to U.S. suppliers. The situation has deteriorated in recent years, as shelf life durations for a variety of food products have been shortened, in some cases by half, as GCC countries begin to strictly enforce Gulf Standard 150/1993, Part I. The removal of GCC shelf-life standards could significantly increase U.S. food exports to the region.

In Saudi Arabia, 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.

In the context of its accession to the WTO, Oman agreed to revise its shelf-life requirements program to meet the substantive requirements of the SPS Agreement. Specifically, Oman intends to eliminate mandatory shelf-life standards for "shelf-stable foods" upon accession. Oman also agreed to establish regulations and procedures in line with international norms for "highly perishable refrigerated" food products and to gradually replace remaining shelf-life requirements on these products with a scientific regulatory framework by December 31, 2000. However, as of February 1, 2001, no public announcement of this has been made.

In October 1995 Saudi Arabia initiated the International Conformity Certification Program (ICCP), a pre-shipment certification program to monitor and control the quality of certain products imported into the country. The ICCP currently applies to 76 regulated consumer product lines and is managed by Intertek Testing Services (ITS), which inspects and tests, on behalf of the Saudi Arabian Standards Organization (SASO), shipments bound for Saudi Arabia. The United States and many other exporting countries have questioned the manner in which the ICCP has been implemented. Problems include the lack of transparency, *ad valorem* fees, and favorable national treatment of local products manufactured in the Gulf Region. Recently though, shipments valued at less than five thousand dollars have been exempted from compliance with ICCP regulations, and in September 1998, Saudi Arabia's Ministry of Commerce removed all food and agricultural products from the ICCP.

In July 2000, the Saudi Ministry of Commerce imposed a ban on imports of genetically-modified food and agricultural products. This ban was soon changed to a mandatory labeling requirement for genetically-modified food products to take effect on February 1, 2001, and a requirement that importers sign a pledge stating that they were aware of the possible health risks of such products. In response to numerous questions from Saudi industry and foreign producers on how the labeling requirement would be implemented, the Ministry of Commerce narrowed the requirement to a "positive labeling" (containing genetically-modified ingredients) requirement only, rather than requiring labels for both the presence and absence of such ingredients, and delayed implementation until December 1, 2001. However, the Ministry also imposed a ban on imports of genetically-modified foods and food ingredients manufactured from animal products. These proposals are of special concern as the rationale for them is not clear, and they may unjustifiably restrict trade.

Bahrain tends to follow the lead of Saudi Arabia on standards issues. For example, pharmaceutical products must be imported directly from a manufacturer that has a research department and must be licensed in at least two other GCC countries, one of which must be Saudi Arabia. In 2000, the UAE announced its intention to establish a national standards authority under the auspices of the Ministry of Finance and Industry.

As SASO's work frequently leads to the creation of regional GCC standards, the U.S. National Institute of Standards and Technology (NIST) concluded a Memorandum of Understanding (MOU) with SASO in 1990 to encourage cooperation in the development of standards. The NIST-SASO program, which includes a U.S. technical advisor in Riyadh funded by the U.S. Government, has increased opportunities for American exporters to comment on draft Saudi standards. SASO has already adopted ISO 9000 as an approved standard for Saudi Arabia, and acts as an accreditation body through the Quality Assurance Department. In 1996, NIST and the GCC countries concluded an MOU on standards, metrology, and technical assistance programs at the U.S.-GCC Economic Dialogue meeting in Bahrain.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

The GCC countries are in various stages of acceding to international intellectual property conventions. All GCC states are members of the World Intellectual Property Organization (WIPO) and, except Saudi Arabia, are members of the WTO. GCC members have made some progress in recent years in adopting laws and regulations protecting intellectual property rights (IPR). However, most of these laws are not yet consistent with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), and all of the GCC countries – except Bahrain and the UAE – are on the Special 301 Watch List because of their failure to protect IPR adequately.

The GCC Secretariat has declared the protection of intellectual property to be a priority and is working to strengthen GCC laws in the six member states, particularly for patent protection. In this respect, the GCC has issued a unified patent law whose ultimate purpose is to create a patent system for all member states. The GCC patent office, headquartered in Riyadh, began accepting patent applications in October 1998, but has not yet issued any patents. According to GCC patent regulations, once a patent is registered with the GCC patent office, all GCC member states automatically afford its owner protection. The GCC recently adopted amendments to the unified patent law, drafted in consultation with WIPO, which took effect in August 2000. However, the full force and effect of the amendments are not yet known.

The GCC has also indicated an interest in creating common trademark and copyright laws and regimes. However, no progress has been made so far. IPR protection problems continue throughout the region, particularly with enforcement. Pirated video cassettes, computer software, and sound recordings are available to varying degrees. Counterfeit products such as clothing, auto parts, and household products are also widely available.

Bahrain

Bahrain was removed from the Special 301 Watch List in 1999 in recognition of its greatly enhanced IPR protection. The government has made dramatic progress in reducing copyright piracy and there continues to be no reports of significant violations of U.S. patents and trademarks in Bahrain. The government's copyright enforcement campaign – based on inspections, closures, and improved public awareness – began in late 1997 against the video industry, followed by the audio and software industries, with impressive results. The commercial pirated video and audio markets are nearly gone. The government plans to amend the copyright law by the first quarter of 2001 to bring it into full compliance with its obligations under the TRIPS Agreement.

Kuwait

Kuwait became a member of WIPO in April 1998, but has not yet signed the Berne Convention for the Protection of Literary and Artistic Works (copyright) or the Paris Convention for the Protection of Industrial Property (patent and trademark). Kuwait approved a copyright law in December 1999, and has pledged to submit several amendments to the law to make it fully compliant with its obligations under the TRIPS Agreement and anticipates doing so in the spring of 2001. Implementation of the law has been mixed. While the Government of Kuwait has increased its raids on copyright pirates, no cases have yet been heard by Kuwait's courts. U.S. industry sources recently reported that street vendor sales of pirated videos are again on the increase.

In December 2000, Kuwait passed patent and trademark legislation intended to meet Kuwait's obligations under the TRIPS Agreement. The new legislation will take effect in early 2001 following its approval by the Amir. Enforcement of the trademark law is reasonably effective, but foreign trademark holders complain that the registration and renewal process is burdensome and costly. The new patent legislation extends protection to pharmaceutical products, which also continue to be protected by Kuwait's strict drug registration criteria for protection against pirated-copies.

Oman

Oman issued a copyright protection law in 1996, and in 1999 enacted decrees banning the local sale of pirated video cassettes, sound recordings, and computer software. Enforcement of the copyright protection decree by the Ministry of Commerce and Industry and the Royal Oman Police has been effective, as once plentiful pirated video and audiotapes and computer software have disappeared from local vendors' shelves. However, this has not been matched by enforcement against business use of unauthorized software.

As part of its WTO accession, Oman adopted the GCC patent law, with derogations as needed, to comply with its obligations under the TRIPs Agreement. The Ministry of Health claims that it verifies patent compliance when reviewing new import applications for pharmaceuticals. However, U.S. industry has raised concerns about this verification process.

Qatar

Qatar took a number of steps in 2000 to protect intellectual property rights. The Ministry of Finance, Economy, and Commerce amended Copyright Law No. 25 of 1995 to bring it in line with the TRIPS Agreement and other international conventions. The Copyright Bureau of the Ministry of Finance intensified its enforcement of intellectual property laws by prosecuting resellers of unlicensed video and software.

Qatar has adopted the GCC patent law, with derogations as needed, to comply with its obligations under the TRIPS Agreement, and established a joint committee between the Ministry of Finance, Economy, and Commerce and the Ministry of Health to coordinate their efforts and ensure that only patented products or authorized copies of pharmaceutical products are registered for sale. Qatar provides protection for trademarks registered with the Office of Commercial Registration in the Ministry of Finance, Economy and Commerce.

Saudi Arabia

The United States has raised a number of concerns about Saudi Arabia's copyright law, including the fact that U.S. sound recordings are not clearly protected. Saudi Arabia asserts that through its accession to the Universal Copyright Convention, it is obliged to protect U.S. and other non-GCC member works. However, the United States has asked Saudi Arabia to provide greater certainty on this issue, preferably through amending its legislation.

While Saudi Arabia's patent law provides a generally adequate legal basis for protection, its patent term and compulsory licensing provisions appear not to be consistent with the WTO TRIPS Agreement. The functions of the Saudi patent office also need to be substantially improved as the office has a backlog of more than 7,000 applications. The office has recently streamlined its procedures in an effort to expedite consideration of applications. Once it is fully functional, the recently established GCC patent office may also serve to ameliorate the backlog situation.

Saudi Arabia has made progress on copyright enforcement in the video and sound recordings market, particularly in clearing shelves in retail stores of pirated video and music cassettes. However, much of the pirated video and audio material has reportedly gone "underground" in Saudi Arabia, requiring new enforcement initiatives. Although Saudi Arabia has made some progress in discouraging the sale and use of pirated software, U.S. software manufacturers are seeking greater Saudi government enforcement action against software copiers and end-users of unauthorized software. As part of its effort to gain membership in the WTO, Saudi Arabia has embarked on a wholesale revision of its intellectual property laws to bring them into conformity with the TRIPS Agreement, and the United States has provided substantial input on these issues during the accession process.

The United Arab Emirates

The UAE was removed from the Special 301 Watch List in April 2000 in recognition of its commitment not to provide marketing approval to any unauthorized copies of patented pharmaceutical products under a Memorandum of Understanding (MOU) signed with the Pharmaceutical Research and Manufacturers of America (PhRMA). The UAE also agreed to amend the current patent law to bring it into compliance with its obligations under the TRIPS Agreement by November 30, 2000. Nevertheless, the UAE subsequently granted marketing approval for some unauthorized copies of patented pharmaceuticals and has failed to enact the legislation. As a result, the U.S. Government conducted a Special 301 out-of-cycle review in December 2000 examining the adequacy and effectiveness of intellectual property protection in the UAE. In light of assurances from the government of the UAE that it would reverse any marketing approvals granted in violation of its agreement with PhRMA, the UAE was not listed in this review. However, the U.S. Government continues to monitor the UAE's fulfillment of its recent commitment. Progress continues on the copyright and trademark front; the UAE government conducted a number of raids in 2000 against end-users to determine if companies are using illegal software, and U.S. copyright-based industries reported that software piracy in the UAE in 1999 was the lowest in the region.

SERVICES BARRIERS

Insurance

Most GCC countries discriminate against foreign insurance companies, generally by restricting foreign participation in the onshore market (as in Kuwait) or by requiring operation through a local sponsor (as in Saudi Arabia). As part of its WTO accession, Oman introduced legislation allowing majority foreign-ownership of up to 70 percent in most insurance sectors. Oman is also phasing in commitments over a period of years to allow 100 percent foreign-ownership for most insurance sectors.

Upon accession to the WTO in 1996, Bahrain issued an emiri decree amending the country's insurance law to allow foreign companies to open life insurance businesses. Non-life insurance companies are permitted to open only if they are 51 percent Bahraini owned. Bahrain is phasing in commitments to achieve full liberalization by 2005. Bahrain currently allows unlimited access for all offshore services provided by foreign companies located in Bahrain to non-Bahrainis. Qatar currently bans the establishment of new insurance companies, and there is no indication the ban will be lifted soon. Foreign insurance companies can establish a presence in the UAE by operating a branch or representative office. This option allows 100 percent foreign-ownership, but, in general, limits business activities to offshore operations.

Saudi Arabia has the second largest insurance market in the Gulf region. Insurance premiums in 1997 amounted to more than $760 million. Currently, more than 70 insurance companies operate in the Kingdom and provide a wide range of insurance services. However, there is no insurance law governing the sector. The government has considered a regulatory framework for insurance, but the timetable for the adoption and implementation of such regulation is uncertain. The central bank has assumed de facto jurisdiction over companies selling whole life insurance and similar investment products, requiring them to come under the control of financial institutions who are already subject to central bank regulation and imposing other burdensome requirements on the operations of such companies. New regulations are expected to make private medical insurance obligatory for expatriate workers.

Banking

Banking activity in the GCC countries is subject to a variety of restrictions. Bahrain continues as a regional financial services hub and continues to issue new licenses to banks, focusing on promoting the Islamic, offshore, and investment banking sectors. In 2000, the Bahrain Monetary Agency (BMA) issued 18 licenses (8 offshore banking units, 3 investment banks, 2 commercial banks, 2 representative offices, and one money changer). In Kuwait, foreigners may be allowed to own up to 49 percent of a Kuwaiti bank subject to approval by the Central Bank. In Saudi Arabia, foreigners are permitted to own up to 40 percent of banks. However, the Saudi Government has decided to allow GCC banks to open branches in the Kingdom. In 1999, new government regulations allowed foreign-ownership of mutual funds managed by Saudi commercial banks.

While the UAE, Oman, and Qatar have laws permitting foreign banks to operate, these countries have barred new non-GCC banks from establishing operations on the grounds that their countries are "over-banked." Despite 1997 GCC initiatives to facilitate GCC-based banks operating branches in other GCC states, no new foreign banks have begun operating in the UAE in the last few years. However, foreign banks may open representative offices. Oman does not permit representative offices. The UAE and Oman do not permit offshore banking. Qatar places some restrictions on foreign banks operating in the country. For example, only foreign banks established in Qatar before 1970 may receive central bank approval to open branch offices. However, this restriction can be overcome by the issuance of an emiri decree. Since 1998, three foreign banks have opened several branches.

Shipping

Bahrain continues to favor the United Arab Shipping Company – in which Bahrain is a shareholder – on cargo contracts for government projects. Kuwait has prevented foreign shipping lines access to government project cargo by granting the United Arab Shipping Company the right of first refusal on all such cargoes. However, Kuwait no longer applies this requirement to shipments from U.S. ports. Saudi Arabia gives preferences to national carriers for up to 40 percent of government cargoes. Under these rules, the Saudi national shipping company and United Arab Shipping Company receive preferences.

INVESTMENT BARRIERS

The UAE limits foreign equity to 49 percent, although it has exempted the Jebel Ali and other free zones from this barrier. Products entering the UAE from the free zones are treated as foreign products. Kuwait currently maintains restrictions on direct foreign investment and discriminatory taxation policies. In May 2000, Kuwait's National Assembly approved legislation that allows foreign nationals to own stocks listed on Kuwait's stock exchange. This law took effect on August 27, after Kuwait's Cabinet approved implementing regulations that allow foreigners to own up to 100 percent of all listed companies except banks. Foreign-ownership in banks is limited to 49 percent with the additional restriction that any foreign-ownership above 5 percent be approved by Kuwait's Central Bank. The National Assembly also has before it a direct foreign investment bill that also authorizes majority foreign-ownership in new investment projects (up to 100 percent foreign-ownership in selected sectors to be determined by Kuwait's cabinet). The bill also authorizes up to 10-year tax-holidays for new investors. Passage of the bill is anticipated before the Assembly adjourns for its Summer 2001 recess.

Bahrain permits 100 percent foreign-equity ownership of direct investments by GCC nationals, and is considering extending this to all foreign investors. The United States and Bahrain signed a Bilateral Investment Treaty (BIT) in September 1999. Approved by emiri decree in November 1999 and ratified by the U.S. Congress in February 2001, the BIT awaits only the official "exchange of instruments" to take effect. The BIT will provide additional benefits and protection to U.S. investors in Bahrain, such as the better of national or most-favored-nation treatment, the right to make financial transfers freely and without delay, international law standards for expropriation and compensation cases, and access to international arbitration.

Oman provides national tax treatment for joint venture firms with no more than 70 percent foreign direct investment. Corporate tax rates have dropped from 50 percent to no more than 25 percent for majority foreign-owned investments with a minimum one percent of Omani equity participation. Oman is reviewing and modifying its laws and procedures to help attract increased foreign investment. Majority foreign-owned investments are eligible for tax-holidays of up to 10 years, a benefit also enjoyed by Omani firms. The tax-holiday waives corporate income tax as well as customs duties on goods imported for business purposes. Oman currently permits 100 percent foreign-ownership on a case-by-case basis as well, with approval of the Council of Ministers. However, new legislation has been introduced that will delegate this approval to the Minister of Commerce and Industry, expediting the application process.

Qatar issued a new Investment Law, Law No. 13 of 2000, which allows foreign investors to own up to 100 percent of projects in the tourism, education, industry, health, and natural resources sectors, subject to prior approval from the government. The law also gives foreign investors the right to lease land for up to 50 years, which is renewable (also subject to government approval). The new law annuls provisions of Law No. 25 (1990) that restricted foreign-ownership of limited liability business concerns to a maximum of 49 percent. Foreign equity is limited to 49 percent in other sectors. However, this restriction can be overcome by the issuance of an emiri decree.

On April 10, 2000, Saudi Arabia's Council of Ministers approved a new foreign investment code that should make it easier for foreign companies, both joint-ventures and 100 percent foreign-owned, to establish in Saudi Arabia. The new law establishes a framework for future legislative and regulatory activities in order to enhance the foreign investment climate. Key provisions allow foreign investors to transfer money freely from their enterprises outside the country, allow joint-venture companies to sponsor their foreign investors as well as their foreign employees, and permit foreign investors to own real property for company activities. The newly established Saudi Arabian General Investment Authority (SAGIA) will manage investments under the new code under the guidance of the Supreme Economic Council. SAGIA is expected to work as a "one-stop-shop" for foreign investors and to issue decisions on investments within thirty days of application. SAGIA is also charged with developing a list of commercial activities excluded from foreign investment – the Supreme Economic Council released the initial "negative list" in February 2001. Although the new foreign investment code makes the Saudi investment regime more transparent and efficient, SAGIA still applies investment screening, and the negative list includes a number of sectors of interest to U.S. investors.

Only GCC nationals are permitted to invest in local real estate throughout the GCC, except Saudi Arabia. Foreign investment in publicly traded Saudi Arabian companies is possible through mutual funds listed in Saudi Arabia or in the United Kingdom. In 1999, new regulations allowed foreign-ownership of mutual funds managed by Saudi commercial banks. In Bahrain, expatriate residents with more than one year's residence may purchase stocks in some publicly traded companies under certain circumstances. A law approving ownership of land by foreign firms (GCC and non-GCC) was issued by emiri decree on January 16, 2001. GCC individual ownership has been legal since 1999. Non-GCC individual land ownership is expected this year. Important new steps have been taken to further open the Bahraini stock exchange to non-Bahrainis, including allowing 100 percent GCC national-ownership of listed companies and up to 49 percent ownership by non-GCC foreigners. The new law allows the Minister of Commerce to increase this percentage according to demand and the state of the local economy. At present there are six companies listed which are wholly foreign (non-GCC) owned. Any new additions to these six must be approved on a case-by-case basis. Individuals had been previously restricted to owning only 1.5% of a company stock. Now Bahrainis and GCC nationals may own up to 100 percent as individuals and non-GCC foreigners may own up to 49 percent.

In Oman, foreigners are permitted to purchase shares on the Muscat Securities Market (MSM). As of year-end 2000, approximately 14.4 percent of the MSM's total market capitalization was foreign-owned. Qatar allowed foreign nationals to participate directly in the first public offering of shares of the privatized telecommunication company Q-Tel. Foreign nationals may invest in other publicly-offered companies indirectly through local investment firms. While foreigners are prohibited from purchasing land in the UAE, they can purchase 99-year leases on selected properties in Dubai and in the planned Saadiyat development in Abu Dhabi. Although the approval process is cumbersome and the amount of stock they may buy is limited, in 2000, foreigners were given permission to purchase equities on the local stock exchanges.

ELECTRONIC COMMERCE

Electronic commerce is in its nascent stages of development in GCC countries. In the UAE, the Government of the Emirate of Dubai has established an Internet city/free zone. Following the UAE's example, Bahrain is planning a "smart park" as part of its development of the Hidd industrial area. E-commerce and Information Technology facilities will be provided to companies as part of Bahrain's attempt to promote itself as an Information Technology center. The government of Bahrain is currently considering developing a Western-based e-commerce law. The Government of Kuwait is also developing an e-commerce law and recently announced its intent to finance development of an information technology center within the Kuwait Free Trade Zone. All of the GCC countries try to restrict or discourage local access to websites that offer pornographic or other materials deemed offensive to Islamic values.

GOVERNMENT PROCUREMENT

Most GCC countries maintain preferential "buy national" policies and/or offset provisions requiring that a portion of major (and usually military) government tenders be subcontracted to local firms. Several GCC states actively support the creation of offset companies in diverse fields as part of defense procurement.

Foreign firms in Bahrain are required to have a local agent or a local partner before bidding on a government contract. Construction companies bidding on government construction projects must be registered with the Ministry of Works and Agriculture. The government makes major purchasing decisions through the tendering process with invitations being issued to selected, prequalified firms. Firms do not need to prequalify for smaller contracts. Bahrain tends to give preference in government tenders to Bahraini and GCC producers up to a price differential of 10 percent. Bahrain is not a signatory to the WTO Agreement on Government Procurement.

Kuwait's government procurement policies specify the use of local products when available and prescribe a 10 percent price advantage for local firms in government tenders. However, this local firm price advantage is not commonly applied in government tenders. Kuwait's offset program requires that foreign firms awarded government contracts with a single or cumulative value in any one fiscal year (April 1 to March 30) of one million Kuwaiti dinars ($3.3 million) or more, invest 30 percent of the contract value in an approved project in Kuwait or an agreed third country. In 1997, Kuwait began applying the offset requirement to nonmilitary contracts as well. Until then, the scope of the offset requirement had been limited to military sales. Kuwait is not a signatory to the WTO Agreement on Government Procurement.

Oman provides a 10 percent price preference to tenders that use high local-content in goods or services. Additionally, the government considers quality of product or service and support, as well as cost, in evaluating bids. For most major tenders, Oman typically notifies firms either already registered in Oman or preselected by project consultants. In an effort to increase transparency in the tendering process, Oman recently began advertising tenders in the local press as well as international periodicals. Bidders' costs soar when some award decisions are delayed, in some instances for years, or when bidding is reopened with modified specifications and typically short deadlines. Oman is known to have an offset program only with the United Kingdom, although the investment can originate from any country. Offsets are not standard adjuncts to government contracts and have not been associated with any U.S. defense transactions, whether commercial or foreign military sales. In the context of its accession to the WTO, Oman agreed to initiate negotiations to join the WTO Agreement on Government Procurement.

Qatar gives preferential treatment to contractors that include high local-content in bids for government tenders. As a rule, bids must be submitted through local Qatari agents, but there are exceptions. For example, government procurement of defense equipment does not require use of local agents. However, local agents are often used and have been very useful in securing contracts. Qatar gives a 10 percent price preference to local firms and a five percent price preference to GCC firms in all government procurement. Qatar is not a signatory to the WTO Agreement on 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 service, to majority-owned Saudi firms. An exemption is granted in instances where no Saudi company can provide goods and services to fulfill the obligation. In addition, Article 1(d) of the tender regulations requires that Saudi individuals and establishments have preference over all other entities in government dealings. The same regulations also accord preference to "mixed" entities as long as Saudi nationals hold at least 51 percent of the mixed entities' capital. Article 1(e) gives preference to products of Saudi origin that satisfy the requirements of the procurement, even when the product specifications are inferior to those 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 contracts contested by foreign contractors.

The UAE does not require that a portion of any government tender be subcontracted to local firms, but there is a 10 percent price preference for local firms on procurement and tenders. The UAE requires a company to be registered in order to be invited to receive government tender documents. To be registered, a company must have 51 percent UAE-ownership. However, these rules do not apply on major project awards or defense contracts where there is no local company able to provide the goods or services required. Set up in 1990, the UAE's offset program required defense contractors with contracts worth more than $10 million to establish joint venture projects that yield profits equivalent to 60 percent of their contract value within a specified period (usually seven years). There are also reports – as well as anecdotal evidence – that indicate that defense contractors can sometimes satisfy their offsets obligations through an up-front, lump-sum payment directly to the UAE Offsets Group. The projects must be commercially viable joint ventures with local business partners, and are designed to further the UAE objective of diversifying its economy away from oil. To date, more than 30 projects have been launched, including, inter alia, a hospital, an imaging and geological information facility, a leasing company, a cooling system manufacturing company, an aquiculture enterprise, Berlitz Abu Dhabi, and a firefighting equipment production facility. The UAE is not a signatory to the WTO Agreement on Government Procurement.

EXPORT SUBSIDIES

While there is no GCC-wide export subsidy program, certain member states have programs to support local industries that may, in effect, equate to export subsidies. Bahrain has phased out most industrial subsidies for export industries, but permits the duty-free importation of raw material inputs for incorporation into products for export and the duty-free importation of equipment and machinery for newly established export industries. All industries in Bahrain, including export and foreign-owned firms, benefit from low-cost utilities. The Industrial Bank of Kuwait offers below market rate loans to local industry. Land is also provided at low cost, and imports of machinery and other goods are exempted from customs duties. Industries also benefit from low-cost utilities.

The Oman Development Bank (ODB) provides export payment guarantees, at below local market rates, protecting Oman's relatively few non-petroleum exporters from payment problems on transactions, subject to ODB approval of buyer and country risk. The Omani Ministry of Commerce and Industry also offers soft loans to projects in the industrial, tourism, health, education, and service-related sectors. Formerly interest-free, these loans now charge about four percent interest. However, in 1999, due to budgetary constraints, the Omani government temporarily suspended the soft loan program and encouraged private sector investors to turn to commercial banks for financing. As part of its WTO accession, Oman recently established an Export Credit Guarantee Agency (ECGA) that issues guarantees to commercial banks for providing financing for exports against the risk of nonpayment, without interest subsidies.

Saudi Arabia contends that it has no export subsidy programs for industrial production. However, the costs for establishing productive facilities in the industrial cities in Saudi Arabia are artificially low: land is available at little or no cost, and low interest loans are available from the Saudi Industrial Development Fund (SIDF). Because input prices are relatively low in Saudi Arabia, investment in the production of petroleum and related downstream products is comparatively attractive. The Saudi Government contends that low input prices reflect Saudi Arabia's low costs for domestic oil production. Saudi Arabia began a substantial reduction in wheat production subsidies in 1993. The Grain Silos and Flour Mills Organization (GSFMO) controls wheat production by assigning production quotas to each of the country's grain farmers. Farmers can only receive government support prices within preassigned quotas. GSFMO production quotas in 2000 remained at 1.8 metric tons. This conforms with current policy to produce for domestic needs. Production support prices remain $400 per metric ton, a level still well above world prices.

OTHER BARRIERS

Agent and Distributor Rules

Termination of agency agreements can be difficult in all the GCC countries and may involve considerable financial losses to the foreign supplier. Bahrain's revised Agency Law, implemented in 1998, eliminated the sole agent requirement, capped agent commissions at five percent, and provided for the phasing out of commissions entirely by 2003. In Kuwait, local agents are currently required in all sales transactions. Since 1993, Oman has permitted an importer to bring in goods without paying a commission to a registered agent, provided that the goods are imported through an Omani port or airport. However, in practice, it is difficult for a foreign firm to sell directly to the government without an Omani agent scouting for and bidding on tender opportunities. In addition, termination of an agency agreement can be difficult, as a supplier may not unilaterally terminate an agency agreement without a justifiable breach of the agency agreement by the agent. Since September 1996, Oman has registered non-exclusive agency agreements.

Saudi law requires that in-country distributors be licensed by the Ministry of Commerce. Only Saudi citizens can obtain licenses. However, a recent GCC decision may broaden this to include GCC citizens. Direct sales are possible except in the case of sales to government agencies, where a "service agent" is required. The UAE permits two types of commercial entities to import and distribute products. One is a 100 percent UAE-owned business and the other is a limited liability company in which foreign-ownership of up to 49 percent of equity is permitted. All UAE commercial agents must be registered with the Ministry of Economy and Commerce. U.S. exporters seeking UAE-wide coverage must appoint a separate agent for each of the seven emirates or appoint a master agent with offices or sub-offices in each emirate. Once chosen, agents/distributors have exclusive rights and are extremely difficult to replace without their agreement.

Corporate Tax Policies

Saudi Arabia and Kuwait tax foreign companies, but not domestic entities. Additionally, several GCC countries tax royalties as if they were 100 percent profit and maintain a variety of other tax policies considered unfair to foreign companies. Bahrain has no personal or corporate taxation, except on oil company profits. Kuwait currently imposes a maximum income tax rate of 55 percent on foreign firms doing business in Kuwait. Kuwaiti corporations are not subject to income tax, but are subject to a mandatory five percent "zakat" contribution. Kuwait has announced plans to lower the maximum tax rate to 25 percent, but implementing legislation has not yet been submitted to the National Assembly. The

UAE imposes a 20 percent income tax on foreign banks. No tax is levied on domestic banks. Emirate governments in the UAE seek to attract foreign operations to UAE free zones by offering a number of incentives, including tax breaks and exemptions.

In October 2000, Oman extended the national tax treatment to joint venture firms with no more than 70 percent direct foreign investment, i.e. a maximum rate of 12 percent tax on net profits. The Omani branch of a foreign firm is regarded as an Omani firm provided that direct foreign ownership does not exceed 70 percent. For joint ventures in other categories, taxes were reduced from 50 percent to a maximum of 25 percent, provided the company has at least one percent Omani ownership. These rates do not apply to foreign petroleum companies, which pay royalties according to their concession agreements. Oman now levies a 10 percent tax on services performed offshore for Omani firms. Qatar levies corporate income taxes at rates from 5 to 35 percent of net profits. All Qatari-owned firms continue to benefit from a blanket exemption from corporate taxes under authority granted to the Minister of Finance, who may grant a tax-holiday of up to 5 years for new investment by foreign firms. An emiri decree can extend the tax-holiday for foreign firms for up to 10 years.

In Saudi Arabia, foreign investors may receive incentives, including a 10-year tax-holiday, for approved agricultural and manufacturing projects with a minimum 25 percent Saudi participation. However, foreign equity investors in a joint venture are taxed at a maximum of 45 percent of profits. Saudi Arabians are not taxed on income. Although the new foreign investment law does not directly address taxation issues, the Saudi Minister of Finance and National Economy has stated that the Saudi government will rebate 15 percent of corporate taxes imposed on foreign companies that have an annual profit of more than $26,667. This would thus reduce the maximum corporate tax rate to 30 percent. However, this scheme will only take effect once the current tax regime is revised. In addition, the new law does not provide for tax-holidays, which were featured in the provisions of the old law. Instead, the new tax code will include loss carry-forward provisions without any time limits.

Procedural and Financial Irregularities

Procedural and financial irregularities can be significant barriers to trade in GCC countries. Such irregularities have resulted in lost opportunities for U.S. suppliers of goods and services and have forced some U.S. businesses out of some markets. Disregard of irregularities may subject U.S. citizens or companies to prosecution under the Foreign Corrupt Practices Act (FCPA). In August 1996, Kuwait passed Law Number 25, requiring disclosure of all commissions and other payments made in relation to securing a government contract valued at 100,000 Kuwaiti dinars or more (approximately $335,000). It is hoped that Law 25 will increase transparency in the government's procurement practices, but the jury is still out regarding its effectiveness.

In September 1994, the GCC announced that it would end its adherence to the secondary and tertiary aspects of the Arab League boycott of Israel, eliminating a significant trade barrier to U.S. firms. In March 1996, the GCC reiterated its commitment to end the secondary and tertiary boycott, and recognized the "total dismantling of the Arab boycott of Israel as a necessary step in advancing the peace process and promoting regional cooperation in the Middle East and North Africa." Although all GCC states are complying with these stated plans, some commercial documentation continues to contain boycott language, requiring U.S. companies to notify the U.S. Department of Commerce's Office of Antiboycott Compliance when they receive such documentation. Since the adoption of these policies, the incidence of boycott language in commercial documentation is decreasing.

Kuwait no longer applies a secondary boycott of firms doing business with Israel and has taken steps to eliminate all direct references to the boycott of Israel in its commercial documents. Kuwait still applies a primary boycott of goods and services produced in Israel. Oman no longer enforces compliance with the boycott. In January 1996, Oman and Israel signed an agreement to open trade missions in the other country. However, in October 2000, Oman closed its trade mission in Israel and required the closure of the Israeli trade mission in Muscat. Omani customs processes Israeli-origin shipments entering with Israeli customs documentation. Likewise, Israeli immigration stamps in third country passports are not an issue. Telecommunications links and mail flow normally. However, Omani firms have shied from carrying any identifiably Israeli consumer products.

In April 1996, Qatar and Israel agreed to exchange trade representation offices. Israel opened its office in May 1996. The government of Qatar closed the Israeli trade office in November 2000, during the ninth summit of the Organization of Islamic Conference. Recent data indicate that the number of prohibited boycott requests in the UAE continues to decline. It is believed that these cases stem from bureaucratic and administrative inefficiencies rather than from a desire to circumvent UAE government/GCC policy to cease secondary/tertiary boycott application. The U.S. continues to work closely with the UAE Government to eliminate prohibited boycott requests.