UZBEKISTAN

TRADE SUMMARY

The United States registered a trade surplus of $117 million with Uzbekistan in 2000, a decline of $196 million from 1999. Uzbekistan was the United States' 99th largest export market in 2000. In 2000, U.S. exports to Uzbekistan were $151 million, a 55 percent decrease from 1999. U.S. imports from Uzbekistan were $35 million in 2000, an increase of $9 million (34.7 percent) from 1999.

IMPORT POLICIES

The Government of Uzbekistan restricts imports by means of a system of import contract registration that serves to ration the scarce foreign exchange made available at the overvalued official exchange rate.

Although Uzbekistan's tariff rates have not been extreme by international standards, its excise taxes form an effective barrier to the legal importation of certain goods. An August 23 Cabinet of Ministers Resolution introduced new excise taxes of 10-45 percent on eleven categories of imported goods, including consumer electronics, detergents and lubricants, the latter two of which are produced by local joint ventures. Imported liquor, for example, is subject to an excise tax of 90 percent, whereas the rate for domestically produced spirits ranges from 40 percent to 65 percent. Moreover, the government uses a method of calculating excise taxes specific to imported alcohol and tobacco which results in an actual excise assessment many times higher than the nominal rate.

Surveys of foreign companies consistently conclude that currency restrictions are the worst of many serious obstacles to doing business in Uzbekistan. Uzbekistan currently has four exchange rates. A large share of imports are purchased with foreign exchange obtained on the illegal curb market, where most recently one dollar cost 930 soum. This is in contrast to the 690 soum/dollar commercial rate available to consumer goods importers, the 724.5 soum/dollar exchange booth rate for individual travelers, and the highly overvalued official exchange rate of 326.63 soum/dollar. The consumer goods and exchange booth rates are fixed and do not usually move; the Central Bank of Uzbekistan adjusts the official exchange rate weekly, generally resulting in a devaluation. Access to the latter three rates is sharply restricted, however, and the World Bank estimates that at least one-half of soum-dollar transactions are conducted at the curb market rate.

In addition to foreign exchange quotas, the Government of Uzbekistan also uses an import contract registration system to enforce Uzbekistan's import substitution development strategy and lower overall imports. The system aims to ensure that scarce foreign currency is used primarily to import capital rather than consumer goods. Foreign companies or foreign joint ventures importing capital goods with their own funds held outside Uzbekistan are also subject *de facto* to the import registration system. Although a 1998 presidential decree exempts such cases from the registration requirement, foreign businesses report that their Uzbek bankers strongly recommend that they register anyway.

Once over this hurdle, imports face yet another obstacle – the State Customs Committee. Customs clearance is a tedious and capricious bureaucratic process. Even capital equipment imports for U.S.-Uzbek joint ventures are subject to substantial processing delays and often remain in customs for two to three months, incurring hefty storage costs. Delays affect all imports, as there is no procedure for releasing goods under bond. Arbitrary seizures of goods, or seizures based on ex-post-facto application of new laws or regulations, are not uncommon. In addition, Uzbekistan continues to maintain its preshipment inspection (PSI) regime which adds another layer of bureaucracy to the system and deters improvement and modernization of Uzbekistan Customs.

STANDARDS, TESTING, LABELING AND CERTIFICATION

Uzbekistan continues to use an arbitrary set of technical standards based on outdated Soviet methods. Despite regulations to the contrary, customs officials routinely reject foreign certifications of conformity to these standards. Perishable goods are subject to burdensome phytosanitary tests, making it difficult, for example, for restaurants and hotels to make use of imported foodstuffs. Customs officials often take excess test samples of goods subject to technical standards for their own use.

GOVERNMENT PROCUREMENT

There is no systematic approach to government procurement in Uzbekistan. Instead, procurement decisions are made in a decentralized and *ad hoc* manner. Often the procurement practices of the central government are similar to those of many countries, with tenders, bid documents, bids and a formal contract award. However, many tenders are announced with suspiciously short deadlines and are awarded to insider companies. A draft Government Procurement Law, produced in mid-1998 by an inter-ministerial working group with support from a USG-provided advisor, has yet to be submitted to parliament. The long-term goal of this project is to produce legislation conforming to WTO procurement standards. Uzbekistan is in the process of modifying its trade regime to become a member of the WTO. It is not a signatory of the WTO Agreement on Government Procurement.

EXPORT SUBSIDIES

Contrary to WTO standards, the Government of Uzbekistan grants some tax benefits, such as tax holidays, for Uzbek or foreign joint venture exporters. A July 5, 2000 Presidential Decree exempts most enterprises from profit taxes on their exports, and exempts them from property tax if they export over 50% of their production. But these tax benefits only partially offset the *de-facto* tax that exporters pay through the hard currency surrender requirement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

The 1994 bilateral trade agreement between the United States and Uzbekistan incorporates provisions on the protection of intellectual property rights (IPR). In 1996 Uzbekistan undertook a comprehensive revision of its copyright law, but significant deficiencies remain in Uzbekistan's regime for the protection of intellectual property. For example, Uzbekistan does not provide protection for pre-existing works. No protection at all is provided for U.S. sound recordings, since Uzbekistan is neither a member of the Berne Convention nor a member of the Geneva Phonograms Convention. In addition, Uzbekistan does not provide for civil or criminal *ex parte* search procedures needed for effective anti-piracy enforcement. In its December 2000 session, the Uzbek parliament made some minor changes to the Uzbek copyright law, and also added trademark protections. These changes were in large part a reaction to U.S. criticism of Uzbekistan's intellectual property regime.

With respect to enforcement, Uzbekistan needs to adopt even greater reforms. The fact that the state-owned Uzbek airlines shows pirated U.S. films in flights to the United States and elsewhere is emblematic of the government's disregard for intellectual property rights. On the streets, pirated audio and videotapes and compact disks are sold freely.

SERVICES BARRIERS

The largest barrier to foreign services firms entering the Uzbek market is difficulty in converting the currency. For example, insurance companies must collect their premiums in Uzbek currency and may not pay reinsurance premiums in hard currency on the world market. Likewise, claims may only be paid in the unconvertible Uzbek currency. These provisions can only be overcome by a special presidential decree granting the company the right to do business in dollars. This means that firms can currently only operate in Uzbekistan on the basis of a governmental decree. Uzbek as well as foreign private insurance ventures face these currency and registration difficulties.

Uzbek law grants state-owned companies a monopoly over certain forms of mandatory state insurance (i.e. mandatory insurance paid for out of the state budget). The Government of Uzbekistan also determines which companies are permitted to issue each of the 13 types of mandatory non-state insurance, but in some instances foreign firms are allowed to compete.

Foreign banks may not operate in Uzbekistan except as partners in joint ventures with Uzbek firms. Banking and insurance firms with foreign participation are required to establish a charter capitalization fund of $5 million, whereas the Government of Uzbekistan determines the required size of the charter funds of Uzbek firms on a case-by-case basis.

INVESTMENT BARRIERS

In October 2000, the United States Senate approved the Bilateral Investment Treaty (BIT) with Uzbekistan. Uzbekistan had approved the treaty soon after it was signed in 1994. The BIT will enter into force after the exchange of instruments of ratification, but this final step may be delayed given concerns regarding Uzbekistan's ability to implement the treaty. For example, restrictions have been placed on access to currency which would be in direct violation of BIT provisions assuring free transfer of foreign exchange. The soum remains inconvertible, and foreign investors cite currency controls as a major obstacle to investment in Uzbekistan.

Two laws, "On Foreign Investment" and "On Guarantees and Measures Designed to Protect Rights Granted to Foreign Investors" came into effect in April 1998. To be considered "an enterprise with foreign investment" under the new laws, a firm must be at least 30 percent foreign-owned and have initial foreign equity of $150,000. At present, there exists no legal means for smaller foreign-owned companies to register.

ANTI-COMPETITIVE PRACTICES

Persons doing business in Uzbekistan note that if they are engaged in a sales or services sector in which either the Government of Uzbekistan or an Uzbek-controlled firm is a competitor, they face more than the usual amount of bureaucratic hurdles and currency conversion problems. The most serious competitors are not allowed entry.

OTHER BARRIERS

American investors unanimously complain that they do not control their corporate bank accounts in Uzbekistan. Every routine banking operation requires official permission. A March 24, 2000 decree improved this situation somewhat, freeing many farms, restaurants, cafes and other small and medium enterprises and many enterprises with foreign investment ($150,000 or more in foreign capital) to access their own funds in commercial bank accounts, so long as those funds were received and deposited within the previous ninety days. Most other businesses may hold cash for only a small number of permitted purposes, such as paying salaries and travel expenses. All other money must be held in the bank. Cash receipts must be deposited on the day they are received.

Businesses complain that they lack access under Uzbek law to international arbitration. Moreover, the judiciary in Uzbekistan is not independent. In the event of disputes, courts frequently favor firms that are controlled or owned by the state.