GULF COOPERATION COUNCIL

TRADE SUMMARY

The Gulf Cooperation Council (GCC) is an economic and political policy-coordinating forum for the six member states (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates (UAE)). Since the GCC cannot impose trade policies upon the member states, each is free to pass and enforce its own trade laws. However, there has been growing cooperation among GCC member states on certain issues, such as intra-GCC investments, standards-setting, and intellectual property protection.

In 2001, the U.S. trade deficit with the GCC was $7.3 billion, a decrease of $1.6 billion from the $8.9 billion U.S. trade deficit in 2000. U.S. goods exports to the GCC were $10.6 billion in 2001, an increase of $436 million (4.3 percent) from the level of U.S. exports to the GCC in 2000. U.S. imports from the GCC were $17.9 billion in 2001, a $1.2 billion decrease (6.1 percent) from the level of imports in 2000. The stock of U.S. foreign direct investment in the GCC in 2000 was $7.3 billion, an increase of 13.5 percent from 2000.

IMPORT POLICIES

Tariffs

At the December 2001 Summit, GCC Heads of State agreed to implement a Customs Union in January 2003, set 2010 as a deadline for adoption of a common currency, and adopted an across-the-board tariff of 5 percent for most products. The GCC states will also develop a list of products to which a higher tariff will apply. 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 to 20 percent or higher on imported products. However, tariffs on tobacco, pork, and alcohol products can reach 100 percent in countries where importation of such products is even permitted.

Bahrain was scheduled to reduce customs tariffs on imported goods from 7.5 percent to 5 percent and on cars from 15 percent to 5 percent by January 1, 2002 and will continue to exempt food from customs duties. Where imports compete with goods locally-manufactured by infant industries, Kuwait may increase it tariffs up to 25 percent. Oman maintains a maximum five percent tariff on most imported consumer products, including automobiles. Qatar maintains a 4 percent tariff on a very wide range of products. Basic food products such as wheat, flour, rice, feed grains, and powdered milk are exempted from tariffs. The tariff on alcoholic beverages and tobacco products is 100 percent and on steel is 20 percent. In May 2001, the Saudi Supreme Economic Council reduced Saudi Arabia's tariff rate for most products to 5 percent from the standard rate of 12 percent to 20 percent. The Saudi government also identified a list of 176 products to which a 12 percent tariff applies in order to protect local industries. Textile product imports are among the products to which the 12 percent rate applies. Saudi Arabia also imposes a 100 percent tariff on wheat imports.

Import Licensing

Varying licensing requirements are enforced to protect domestic industries or channel trade to nationals of GCC countries. Locally established companies that are at least 51 percent Bahraini-owned can receive import licenses for items to be sold in Bahrain. Foreign companies established before 1975 may be exempt from this rule under special circumstances. Drugs and medicines may be imported only by a drug store or pharmacy licensed by the Ministry of Health. Bahrain prohibits the importation of irradiated food products, weapons (except under special license), pornography, wild animals, radio-controlled model airplanes, foodstuffs containing cyclamates, and children's toys containing methyl chloride (and other articles declared injurious by the Ministry of Health). Bahrain is also taking steps to ban the import of 127 chemicals. Kuwait prohibits the importation of alcohol and pork products, and requires a special import license for firearms.

In Oman, companies that import goods must register 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. Qatar requires importers to have a license for most products, and only issues import licenses to Qatari nationals. 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. A Qatar embassy or consulate in the country of origin must legalize all shipping documents. The importation and distribution of alcohol is the exclusive right of the Qatar Distribution Company (QDC). Pork and pork derivatives may not be imported. 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.

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, for U.S. goods destined for Saudi Arabia, by the U.S.-Saudi Business Council) and by the diplomatic mission of the importing country.

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 where applicable, and four copies of bills of lading (including gross weight and dimensions). For food items, presentation of a manufacturer’s certificate stating that the goods do not contain cyclamates is required. 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.

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.

In Qatar, the letter of credit is the most common instrument for controlling exports and imports. When a letter of credit is opened, the supplier is required to provide a certificate of origin. An Arab embassy or consulate or an Arab Chamber of Commerce should notarize the certificate of origin in the exporting country. To clear goods from customs zones at ports or land boundaries in Qatar, importers must submit a variety of documents, including a bill of lading, certificate of origin, pro forma invoice, and import license. Only authorized local agents are allowed to import specific goods produced by the foreign firms they represent in the local market. However, this requirement may be waived if the local agent fails to provide the necessary spare parts and backup services for the product. 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. Oman implemented the Agreement when it acceded to the WTO in Fall 2000. Qatar and the UAE were scheduled to implement the Agreement at the beginning of 2001. Kuwait began implementation of the Agreement in 2001 after receiving a one-year extension. Bahrain is scheduled to implement the Agreement in January 2003.

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.

Bahrain strictly enforces shelf-life standards on 58 of 75 food products listed in Gulf Standard 150/1993. Shelf-life standards for the remaining 17 items are less stringently applied. Bahrain requires that pharmaceutical products be imported directly from a manufacturer with a research department and that the products be licensed in at least two other GCC countries, one of which must be Saudi Arabia. Food labels must include product and brand names, production and expiration dates, country of origin, name and address of manufacturer, weight in metric units, and a list of ingredients and additives in descending order of importance. All fats and oils used as ingredients must be listed in Arabic or Arabic and English. Although stickers are not legally accepted, the law is not rigorously enforced. Small quantities of products with English-only labels may be approved for import on a case-by-case basis for test marketing purposes.

In 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 committed to eliminate mandatory shelf-life standards for “shelf-stable foods” upon its 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 science-based regulatory framework by December 31, 2000. However, as of January 1, 2002, no public announcement of this new regime has occurred. According to current regulations, any product entering Oman must have at least 50 percent of its shelf-life remaining.

Qatar enforces shelf life standards for about 75 food products. Products must arrive at the destination with at least half the shelf-life remaining. Shelf-life validity of all foodstuffs should not be less than six months at the time of entry of the products into Qatar. All foodstuffs are examined at government central laboratories before they reach consumers. In 2000, the UAE announced its intention to establish a national standards authority under the auspices of the Ministry of Finance and Industry.

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 2001, the Saudi Ministry of Commerce took a number of actions that inaccurately implied a health or safety risk associated with U.S. products and have seriously disrupted U.S. exports, including import bans on rice, poultry, beef, lamb, livestock offal, therapeutic medicines used in animal feed, and the entire range of Firestone tires (including tires not subject to a safety recall). The Ministry of Commerce also requires that poultry meat and further processed poultry products must be derived from birds that have not been fed animal protein, animal fats, or animal by-products.

In July 2000, the Saudi Ministry of Commerce imposed a ban on imports of bioengineered food and agricultural products. This ban was soon changed to a mandatory labeling requirement for bioengineered food and agricultural 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” (i.e., containing bioengineered ingredients) requirement only, rather than requiring labels for both the presence and absence of such ingredients, and delayed implementation until December 1, 2001. The Ministry also imposed a ban on imports of bioengineered foods and food ingredients manufactured from animal products. U.S.-Saudi trade in bioengineered products was worth $230 million in 2001 and had been increasing. Given that Saudi Arabia has not defined the details of its mandatory labeling requirement, and that countries in the Gulf region tend to follow the lead of Saudi Arabia on standards issues, there is concern that the labeling requirement will have a significant impact on U.S. trade in bioengineered products not only in Saudi Arabia, but throughout the region. The labeling requirement took effect on December 1, 2001. However, as of January 2002, it remains unclear how the government plans to enforce the new requirement or its impact on U.S. trade.

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 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 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, the Saudi Ministry of Commerce removed all food and agricultural products from the ICCP.

INTELLECTUAL PROPERTY RIGHTS (IPR) 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, some of these laws are apparently not yet consistent with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). Saudi Arabia, Kuwait, and the UAE are currently 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 (Note: the GCC patent law is not fully consistent with TRIPS-level obligations). The GCC patent office in Riyadh has received more than 1600 applications since it began accepting patent applications in October 1998. It issued its first patent certificates in late Spring 2001. The GCC patent office plans to complete a review of all applications within two years of receipt. According to GCC patent regulations, once a patent is registered with the GCC patent office all GCC states automatically afford its owner protection.

The GCC has also indicated an interest in creating common trademark and copyright laws and regimes. However, no progress has been made so far in these areas. 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. However, it appears Bahrain must still amend its copyright law to comply with its obligations under the TRIPS Agreement. The government has made dramatic progress in reducing copyright piracy, and there are 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 have been virtually eliminated. However, software piracy remains problematic, shifting from retail to end-user violators.

Kuwait

Although Kuwait passed a copyright law in December 1999, it appears that amendments are still necessary to make the law fully consistent with its obligations under the TRIPS Agreement. Implementation of the law has been mixed. While the Government of Kuwait has conducted raids on copyright pirates, no case has yet resulted in a conviction and imprisonment. Piracy levels remain high, and the use of unauthorized computer software continues in private enterprises.

In December 2000, Kuwait passed patent and trademark legislation intended to meet Kuwait's obligations under the TRIPS Agreement. The new legislation took effect in early 2001 following its approval by the Amir. Although enforcement of the trademark law is reasonably effective, foreign trademark holders complain that the registration and renewal process is burdensome and costly.

Oman

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. 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. While some under-the-counter sales of unauthorized software continued in 2001, authorities began credible and effective enforcement against business use of unauthorized software. In recognition of its greatly enhanced IPR protection, Oman was removed from the Special 301 Watch List in 2001.

Qatar

Qatar was removed from the Special 301 Watch List in April 2001 in recognition of its enforcement actions against copyright infringement, as well as its commitment to amend copyright and trademark laws to comply with its obligations under the TRIPS Agreement. Although Qatar has yet to pass such legislation, in February 2002, the Advisory Council approved amendments to Qatar's copyright law. The Copyright Bureau continues to prosecute resellers of unlicensed video and software. In July 2001, the Emir approved Qatar's accession to the Paris Convention for the Protection of Industrial Property and the Berne Convention for the Protection of Literary and Artistic Works.

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 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.

Saudi Arabia

As part of its efforts to join the WTO, Saudi Arabia has embarked on a wholesale revision of its intellectual property laws to bring them into conformity with the TRIPS Agreement. Saudi Arabia has drafted revised legislation, including a new copyright law and an amended trademark law, that are now making their way through the legislative process. However, it is not clear when these laws will be approved. The United States has provided substantial input on these issues during the WTO accession process.

Saudi Arabia has made progress on copyright enforcement over the past year, largely due to greater cooperation between the Ministry of Information and the Ministry of Interior in shutting down private production facilities. However, U.S. software manufacturers seek greater Saudi government enforcement action against software copiers and end-users of unauthorized software. The Ministry of Commerce established a fraud control office in late Spring 2001 and has begun to seize a variety of false goods and shut down shops involved in their sale. U.S. industry has expressed frustration with a lack of transparency in the enforcement system as concerned companies are rarely informed about the results of enforcement actions.

In practice, Saudi Arabia has respected U.S. patents, and there have not yet been any major incidences of patent infringement. However, there was considerable concern in 2001 that the Ministry of Health was about to register a local company's illegal copy of a U.S. patent-protected pharmaceutical product. Eventually, the Ministry of Health refused to register the Saudi company's products based on the date of the U.S. company's application to the Saudi patent office.

The United Arab Emirates

The UAE was placed on the Special 301 Watch List in April 2001 after the UAE government failed to reverse marketing approvals for a number of unauthorized copies of U.S. patent-protected pharmaceutical products. Repeated efforts to resolve this matter have been unsuccessful. Although an informal ban on new marketing approvals for a number of unauthorized copies of U.S. patent-protected pharmaceutical products remains in place, concrete regulatory and administrative arrangements to institutionalize a procedure to effectively implement this measure are lacking. The UAE has also failed to enact legislation amending the current patent law intended to make the law fully consistent with its obligations under the TRIPS Agreement.

SERVICES BARRIERS

Insurance

Most GCC countries discriminate against foreign insurance companies, generally by restricting foreign participation in the domestic market (as in Kuwait) or by requiring operation through a local sponsor (as in Saudi Arabia). Bahrain has taken steps to open the life insurance sector to foreign competition and is phasing in commitments to achieve full liberalization by 2005. Currently, general insurance companies require 51 percent Bahraini-ownership. 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. Only foreign firms registered in Qatar at the time of its WTO accession are allowed to provide insurance services. 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. International financial institutions operate in Bahrain, both internationally and domestically, without impediments. In 2001, Bahrain's central bank issued 15 new licenses (4 full commercial banks, 5 investment banks, 1 offshore banking unit, 3 representative offices, and 2 investment and other financial services). 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. The Gulf International Bank (GIB) was the first to do so. 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 waived 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 cargo for government projects 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-related cargoes. Under these rules, the Saudi national shipping company and United Arab Shipping Company receive the preferences.

INVESTMENT BARRIERS

Bahrain permits 100 percent foreign-ownership of new industrial entities and the establishment of representative offices or branches of foreign companies without local sponsors. Wholly foreign-owned companies may be set up for regional distribution services and may operate within the domestic market as long as they do not exclusively pursue domestic commercial sales. Protection of foreign investments is strong. The U.S.-Bahrain Bilateral Investment Treaty (BIT) took effect in May 2001. 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.

As of January 2001, foreign firms and GCC nationals may own land in Bahrain. Non-GCC nationals may now own high-rise commercial and residential properties, as well as property in tourism, banking, financial and health projects and training centers, in specific geographic areas. The Bahrain stock exchange allows GCC firms and persons to own up to 100 percent of listed companies. Non-GCC firms/persons may only own up to 49 percent of listed companies. The Minister of Commerce may increase this percentage at his discretion. At present, there is only one wholly-owned foreign company (non-GCC) listed on the Bahrain stock exchange. Bahrain is planning to open the stock market completely for all investors by the end of 2004.

Kuwait currently maintains restrictions on direct foreign investment and applies 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 must be approved by Kuwait’s Central Bank. In March 2001, the National Assembly passed a direct foreign investment bill that 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 law also authorizes up to 10-year tax-holidays for new investors. As Parliament has not addressed implementing rules and regulations, the law has not yet taken effect.

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 the 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) that 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 waived by the issuance of an emiri decree.

The UAE limits foreign equity to 49 percent, although it has exempted the Jebel Ali and other free zones from this restriction. Products entering the UAE from the free zones are treated as foreign products.

In April 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. 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 Saudi Arabian General Investment Authority (SAGIA) was set-up to manage investments under the new code under the guidance of the Supreme Economic Council. Although slated to function as a "one-stop-shop" for foreign investors, many companies find that they must still apply for other licenses from different government agencies, particularly to purchase property or to set up utilities. Following SAGIA's recommendations the Supreme Economic Council released a "negative list" in February 2001 of 22 sectors in which foreign investment is prohibited. This list is to be reviewed annually. SAGIA reportedly approved more than 500 licenses representing $9 billion in foreign investment by the end of October 2001. However, figures on actual projects initiated or foreign direct investment inflows are not available.

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. Bahrain has taken steps to further open its 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 percent 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 2001, approximately 15 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 telecommunications 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. In 2000, foreigners were given permission to purchase equities on the local stock exchanges, although the approval process is cumbersome and the amount of stock they may buy is limited.

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. Oman is in the process of establishing an Information Technology (IT) park as part of its Rusayl Industrial Estate. In January 2001, Bahrain created an e-commerce committee chaired by the Crown Prince, and an "electronic transactions law" is reportedly in final draft form. However, to date, Bahraini courts do not recognize digital signatures, and on-line credit card transactions are not permitted. The Government of Kuwait has still not passed an electronic commerce law, and planned development of an information technology center within the Kuwait Free Trade Zone has stagnated. 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 partner in order to bid on a government contract and tendering procedures for large projects are not always transparent. 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, prequalifed firms. Firms do not need to prequalify for smaller contracts. Bahrain may give preference in government tenders to Bahraini and GCC producers up to a price differential of 10 percent. However, contracts have not always been decided on a basis of price and technical merit. New regulations to govern public tenders are under review. 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 contain high content of local goods or services, including direct employment of Omanis. The government considers the 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. To increase transparency in the tendering process, Oman advertises tenders in the local press, international periodicals, and on the tender board's website. Also, bidders are now requested to be present upon opening of bids, and the process may be viewed by interested parties on the tender board's website. In the past, bidders' costs have sometimes increased dramatically when award decisions were delayed, sometimes for years, or when bidding was reopened with modified specifications and, typically, short deadlines. Oman is known to have an offset program only with the United Kingdom. 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 2001, Oman became an observer to the WTO Committee on Government Procurement. As part of its accession to the WTO, Oman has also committed to begin 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 in practice certain exemptions exist. 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 – indicating 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 be equivalent to export subsidies. Bahrain has phased out most subsidies for export industries, but permits duty-free importation of raw materials for export products and of equipment and machinery for newly established export industries. All industries in Bahrain, including foreign-owned firms, benefit from government subsidized 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 below local market rates, protecting Oman's few non-petroleum exporters from payment problems on transactions. These guarantees are 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 bear about a four percent interest rate. 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-rate 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 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 identifying 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 nonexclusive agency agreements.

Saudi law requires that domestic 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 sales to government agencies, where a "service agent" is required. In Qatar, a foreign firm wishing to establish a branch or enter into a joint venture with no less than 51 percent local equity must engage a local agent. The establishment of a majority or wholly-owned foreign firm in Qatar is possible in certain sectors, mostly energy-related, with an Emiri or Ministerial decree. 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. In Kuwait, foreign firms are subject to a maximum income tax rate of 55 percent. Kuwait has announced plans to lower the maximum rate to 25 percent, but implementing legislation has not yet been submitted to the National Assembly. Kuwaiti corporations are not subject to income tax, but are subject to a mandatory five percent "zakat" contribution. Kuwaiti corporations are also required to make annual contributions to the Kuwait Foundation for the Advancement of Sciences (KFAS). Companies that have net assets of KD 500,000 (approximately $1.6 million) or more must also contribute 2.5 percent of their net profits toward a

National Labor Force Fund. 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 percent 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, only foreign-owned corporations and the foreign-owned portion of joint ventures are subject to the corporate income tax, which ranges up to 30 percent of net profits. Domestic corporate partners are subject to a 2.5 percent tax on assets, or “zakat.” A resolution issued by the Council of Ministers in April 2000, also eliminated the 10-year tax-holiday previously enjoyed by companies and instead provided loss carry-forward provisions without any time limits.

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).

Bahrain is officially committed to enforcing the primary aspect of the Arab League Boycott of Israel, but enforcement is lax. Occasionally outdated tender documents refer to the secondary and tertiary aspects of the Arab League Boycott, but such instances are usually quickly remedied by U.S. firms. Kuwait’s “Disclosure of Commissions” Law (Number 25/1996) required 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 this law will increase transparency in the government’s procurement practices.

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. The Israeli trade office opened in May 1996 and remains open. Qatar does not practice the Arab Boycott, but has yet to bring regulations in line with practice by abrogating outdated laws relating to the boycott. 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 United States continues to work closely with the UAE Government to eliminate prohibited boycott requests.