UZBEKISTAN

TRADE SUMMARY

The United States registered a trade surplus of $94 million with Uzbekistan in 2001, a decline of $22 million from 2000. Uzbekistan was the United States' 101st largest export market in 2001. In 2001, U.S. goods exports to Uzbekistan were $148 million, a 6.4 percent decrease from 2000. U.S. imports from Uzbekistan were $54 million in 2001, an increase of $12 million (30.1 percent) from 2000. The stock of U.S. foreign direct investment in Uzbekistan for 2000 was $36 million.

IMPORT POLICIES

The Government of Uzbekistan restricts imports using import contract registrations, which serve to ration scarce foreign exchange. In 1996, the Government of Uzbekistan was working toward creating a convertible currency. However, an overvalued official exchange rate and export revenue shortfalls caused by poor harvests that year convinced the Government of Uzbekistan to tighten the earlier system of foreign exchange quotas. Since then, the Government of Uzbekistan has periodically made the system more restrictive, stemming the outflow of reserves by severely restricting imports. Surveys of foreign companies consistently conclude that the restriction of currency is the worst of many serious obstacles to doing business in Uzbekistan.

In April 2001 the International Monetary Fund (IMF) withdrew its resident representative due to a lack of progress in reform. On January 18, 2002, however, the IMF approved a staff monitored program (SMP) with Uzbekistan covering the period from January to June, 2002. This agreement, implemented on February 6, 2002, requires the Government gradually to reduce the gap between the official and black market exchange rates to less than twenty percent and also gradually to dismantle trade restrictions and foreign exchange access barriers on current account transactions.

Uzbekistan currently has four exchange rates. A large share of imports are purchased with foreign exchange obtained on the illegal curb (or black) market, where the most recent exchange rate was about 1550 soum/dollar. This rate contrasts with the approximately 690 soum/dollar official/commercial rate available to legal consumer goods importers, and the exchange booth rate for individual travelers, which fluctuates between 1000-1300 soum/dollar. The fourth rate is the curb market non-cash rate, which is harder to monitor. Although the Central Bank claims that banks are authorized to set their own exchange booth rates, based on supply and demand, all exchange rates other than the black market rate are actually administered by the Central Bank. Access to all exchange rates other than the black market rate is severely restricted and constitutes a major barrier to trade. The World Bank and IMF estimate that over one-half of all soum-dollar transactions are conducted at the black market rate.

In 2001, the Government of Uzbekistan completed the move of transactions to the commercial exchange rate, merging it with the “official” exchange rate. On July 1, 2001, consumer goods importers lost their access to the official exchange rate and were moved to a new 690 soum/dollar rate for their transactions. Even at the new rates, however, the government continues to restrict consumer goods imports. Starting in 1996, the government has been steadily reducing the number of foreign exchange quota holders, while also reducing the average size of quotas. In addition, foreign exchange has become so scarce that it is not readily available to the remaining quota holders. The government continued through 2000 and 2001 to reduce the number of remaining quota holders.

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 hard currency is used primarily to import capital rather than consumer goods. Prior registration of contracts is also required by the Government of Uzbekistan to prevent over-invoicing. Once approval is granted, banks then sell hard currency to importers at the commercial rate. The formal purpose of prior registration is to prevent imports at artificially high prices in cases in which the importer pays for the goods and has money left over which can then be exchanged at a below-market rate. In practice, however, the process ensures that import growth is restrained. In addition, the Government of Uzbekistan uses this system of regulations to favor imports of certain consumer products over others. Finally, by using the banking system to enforce such quotas, the Government of Uzbekistan attempts to ensure that the money provided at preferential rates is only used for its stated purpose.

Foreign companies or foreign joint ventures importing capital goods with their own funds held outside of Uzbekistan are also de facto subject to the import registration system. Although a 1998 presidential decree exempts such situations from the registration requirement, foreign businesses report that their Uzbek bankers strongly recommend that they register anyway.

In order to import items under the current import scheme, an importer must first obtain permission from the Ministry of Macroeconomics and Statistics to ensure that the items are within the "plan" for imports (a holdover from the country's days as a Soviet Socialist Republic). The Government of Uzbekistan is required by law to respond to such requests within ten working days. Once the request has been responded to, the import contract must be approved by the Ministry of Foreign Economic Relations. Again, the law requires that this step is completed within ten working days. An additional requirement for certification that an import is within the projections of the Ministry of Macroeconomics and Statistics has been eliminated.

Importers also face another administrative 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 significant storage costs. Delays affect all imports, as there is no procedure for releasing goods under bond. To avoid these problems, many firms contract for pre-shipment inspection (PSI) in order to reduce customs clearance delays. Arbitrary seizures of goods, or seizures based on ex-post-facto application of new laws or regulations, are not uncommon.

There are three joint ventures that perform price verification and otherwise assist in import contract registration. One of these three companies, Intertek Testing Services, is also accredited to perform PSIs to verify the quality of contracted goods. Only tobacco and alcohol are currently subject to mandatory PSI. A December 1997 presidential decree requires the Ministry of Foreign Economic Relations to approve import contract registration of pre-inspected goods within two days. Anecdotal reports from those doing business in Uzbekistan indicate that the decree has succeeded in accelerating the clearance of pre-inspected goods.

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 sanitary 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 on a decentralized and ad hoc basis. 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 short deadlines and are awarded to insider companies. Uzbekistan is in the process of modifying its trade regime to become a member of the WTO, and it is not yet a signatory of the WTO Agreement on Government Procurement.

EXPORT SUBSIDIES

The Government of Uzbekistan grants tax benefits, such as tax holidays, for Uzbek or foreign joint venture exporters. A July 5, 2001 presidential decree exempts most enterprises from profit taxes on their exports and from property tax if they export over 50 percent of their production. These tax benefits only partially offset the de-facto tax that large exporters (defined as companies with over 100 employees) pay through the hard currency surrender requirement. At the beginning of each quarter, all large exporters (small and medium sized exporters are exempt) must each surrender 50 percent of their projected earnings of hard currency for conversion to soum at the commercial exchange rate. Since these earnings are projected by the Government and not the firm on the basis of the previous year's receipts, the surrender quota could amount to more than 50 percent of real earnings if export volumes or prices drop.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

The 1994 U.S.-Uzbekistan Bilateral Agreement on Trade Relations incorporates provisions on the protection of intellectual property rights (IPR). In 1996, the Government of 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 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.

With respect to enforcement, Uzbekistan needs to adopt additional 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, and border enforcement is weak, allowing illegal copies freely to cross borders for sale in Uzbekistan.

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 waived by a special presidential decree granting the company the right to do business in dollars. To date only a state-owned insurance company, Uzbekinvest, that was established under a special presidential decree and an American-Uzbek joint venture, UzAig, have that permission. Although the Government of Uzbekistan has created an insurance supervisory board, there is not yet a system of licensing insurance companies. This means that firms can currently only operate in Uzbekistan on the basis of a governmental decree.

A ten percent withholding tax imposed on reinsurance premiums amounts to a de facto disadvantage for U.S. reinsurers vis-a-vis other foreign companies. The tax is not levied on insurers in countries that, unlike the United States, have a double taxation treaty with Uzbekistan. U.S. companies would, therefore, have to add the ten percent charge to their premiums.

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). However, Uzbekinvest and UzAig are also allowed to trade in hard currency.

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

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 is no legal means for smaller foreign-owned companies to register. Although reduced from previous levels, these capital requirements are still high enough to exclude foreign investment by small companies. The Government of Uzbekistan has postponed consideration of proposals to ease these requirements further. U.S.-owned companies in Uzbekistan face cumbersome regulations and licensing requirements. In the past, businesses had to register with numerous government organizations and obtain licenses from separate entities. However, in 2001 the Government of Uzbekistan introduced a “one stop shop” to make it easier for businesses to register their companies. These “one stop shops” are located in local government offices (Hokimiates) throughout Uzbekistan and have reportedly improved individuals’ abilities to form new businesses.

Uzbekistan’s Tax Code (introduced in 1997) is a great improvement over its predecessor. However, it lacks a few important provisions that are part of the business environment in most countries. For example, it allows no credit for VAT on capital goods, including plant, machinery and buildings. This puts firms operating in Uzbekistan at a competitive disadvantage compared to those in countries that do allow such credits. In addition, earnings of foreign-owned enterprises are subject to double taxation. Their earnings are taxed once when earned by the enterprise in Uzbekistan and then taxed again when remitted to the foreign parent.

Two factors increase labor costs for foreign firms. Uzbek staff face a 36 percent income tax on salaries as low as $1,200 a year. While most Uzbek companies do not comply with their tax duties, foreign investors generally feel obliged to adhere to the law. A September 29, 2001 decree imposes minimum salary levels for employees of firms with foreign investment, depending on the category of employee, but these minimum levels are not appreciably higher than prevailing local salary rates. The Government of Uzbekistan imposed these minimum salary requirements to force foreign firms to pay full taxes on their employees. U.S. companies have complained that Uzbek laws are not interpreted or applied in a consistent manner. On many occasions, local officials have interpreted laws in a manner that is detrimental to individual private investors and the business community at large. Companies are particularly concerned with the consistent and fair application of the Foreign Investment Law, which contains a number of specific protections for foreign investors.

OTHER BARRIERS

American investors unanimously complain that they do not control their corporate bank accounts in Uzbekistan. The main problem involves restrictions on businesses' access to, and use of, cash in their accounts. Every routine banking operation requires official permission. As a result, businesses expend an enormous amount of senior staff time on simple transactions. A March 24, 2000, decree improved this situation by allowing many farms, restaurants, cafes and other small and medium 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. Even small purchases, such as office supplies, must be paid for via bank transfer. Use of petty cash is not allowed. Uzbek companies handle this problem with salary withdrawals for non-existent staff. Western accounting practices prevent American companies from using these deceptive practices.

Persons doing business in Uzbekistan note that if they are engaged in a sector in which either the Government of Uzbekistan or an Uzbek-controlled firm is a competitor, they face increased bureaucratic hurdles and currency conversion problems. Often competitors are not allowed in the sector.

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.