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 issues such as customs duties, intellectual property protection, standards-setting, and intra-GCC investments.

As part of an overall plan for greater GCC economic integration, the six GCC members implemented a Customs Union in January 2003, unifying tariffs throughout the GCC. In theory, the Customs Union means the members have adopted unified customs laws and procedures, single point-of-entry with internally free movement of goods, and treatment of goods as national origin within the GCC. However, the practical details of numerous issues have yet to be resolved, including, but not limited to, tariff exemptions, standards, and revenue distribution. The GCC has set 2010 as the target date for adoption of a single currency, with 2005 as a deadline for agreement on convergence criteria.

The U.S. trade deficit with the Gulf Cooperation Council (GCC) was $6.8 billion in 2002, a decrease of $412 million from 2001. U.S. goods exports in 2002 were $10.5 billion, down 0.9 percent from the previous year. Corresponding U.S. imports from the GCC were $17.3 billion, down 2.8 percent. The stock of U.S. foreign direct investment (FDI) in the GCC in 2001 was $7.8 billion, up from $7.0 billion in 2000.

IMPORT POLICIES

Tariffs

At the December 2001 Summit, GCC Heads of State adopted an across-the-board tariff of 5 percent for most products to start in January 2003 as part of the Customs Union agreement. The GCC states will also develop a list of products to which a higher tariff will apply. Currently, some GCC countries maintain tariffs of 15 percent to 20 percent or higher on imported products. However, tariffs on tobacco, pork, and alcohol products can top 100 percent in countries where importation of such products is even permitted.

In anticipation of the GCC Customs Union, Bahrain reduced customs tariffs to five percent in January 2002 for imported goods, except alcohol (125 percent) and tobacco (100 percent), and exempted a list of 53 food and medical items from customs duties entirely. Kuwait was scheduled to increase tariffs from 4 percent to 5 percent by January 1, 2003, on the vast majority of imported goods. Exceptions include 53 food and agriculture items, which will remain free of duties, as well as tobacco products, which will remain at 100 percent. Oman maintains a maximum five percent tariff on most imported consumer products, including automobiles. However, Oman's tariff on tobacco, pork, and alcohol products is 100 percent. Qatar maintains a 4 percent tariff on a 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 rates of 12 percent and 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. Certain textile imports, including carpets but excluding apparel, are among the products to which the 12 percent rate applies. A number of Saudi infant industries enjoy 20 percent tariff protection, including furniture, cooking salt, mineral water, and plastic pipes. Saudi Arabia also imposes a 100 percent tariff on wheat, flour, dates, long-life milk products, and cigarette imports.

Import Licensing

Varying licensing requirements are enforced to protect domestic industries or channel trade to nationals of GCC countries. Locally established companies must be at least 51 percent Bahraini-owned to receive import licenses for retail sales 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 Commerce after approval 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. 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. 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 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, natural asphalt, and archaeological artifacts require special approval. In the UAE, only firms with the appropriate trade license can engage in importation, and only UAE nationals can get such a license.

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 and by the diplomatic mission of the importing country.

Bahrain

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.

Kuwait

In Kuwait, the clearing process can be manually intensive, requiring numerous transfers, vast paper work, and an array of duplications. This process is prone to errors and fraud, since human judgment plays a major role in processing the transactions, especially auditing, valuation, and inspection. In most instances, the same task is repeated two or more times at different stages of the process in order to capture customs-related data or to validate documentation.

Oman

In Oman, with the exception of food products, an authentication procedure is not required if the importing company has an existing agency agreement with a 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.

Qatar

In Qatar, a 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. The Qatari embassy, consulate, or 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.

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. The Qatari embassy, consulate, or chamber of commerce in the country of origin must legalize all shipping documents.

Saudi Arabia

To export products to Saudi Arabia from the United States, documentation must be authenticated by the U.S.-Saudi Business Council and the Saudi Embassy or Consulate. Some products, most notably bioengineered foods, need a certificate from the country of origin attesting to the product's fitness for human consumption and that it is sold widely in the country of origin. Products that are regulated by the Saudi Arabian Standards Organization (SASO) must have a certificate of conformity issued through Saudi Arabia's International Conformity Certification Program (ICCP) before entering the country. The categories of regulated products include, but are not limited to, toys, electronics, automotive, and chemicals.

UAE

Since July 1998, the UAE has required that documentation for all imported products 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. Bahrain has notified the WTO Customs Evaluation Committee of its legislation and was scheduled to implement the Agreement in January 2003. Kuwait began implementation of the Agreement in 2001 after receiving a one-year extension. Oman implemented the Agreement when it joined the WTO in the Fall of 2000. Qatar has not yet implemented the Agreement. The UAE implemented the Agreement in 2001.

Textiles

Import tariffs on textiles in Bahrain are five percent. Textiles accounted for approximately seven percent of Kuwait's imports in 2002. Import tariffs on textiles in Kuwait are four percent, but are expected to rise to five percent in 2003. Textile manufacturing represents approximately 11 percent of the UAE's gross domestic product, and Ministry of Economy officials have said that the textile sector is key to the UAE's efforts to diversify its oil-dependent economy. The UAE has attracted a number of garment manufacturers because of its close proximity to the Indian subcontinent and the lack of corporate or personal income taxes in the UAE. The majority of garment factories are located in free trade zones, where they operate exempt from UAE commercial law and can be owned 100 percent by foreigners.

STANDARDS, TESTING, LABELING AND CERTIFICATION

GCC 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 large variety of food products have been shortened to one year, in some cases by half the previous artificially set period. Further, a product's remaining shelf life at time of import must exceed the product's defined shelf life to be allowed entry. Recent developments are more troubling, with port officials detaining imported food products not arriving within three months of production. While detention is short, the penalty effect is steep as the product's marketable life is shortened. To avoid such difficulties, importers are seeking more perishable, short-life products from nearby sources. The removal of GCC shelf life standards could significantly increase U.S. food exports to the region.

As part of the GCC Customs Union, the member countries are working toward unifying their standards system or developing a single standards organization. However, each country currently imposes individual requirements.

Bahrain

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 the 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 providing such information 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.

Kuwait

Kuwait maintains restrictive standards that impede the marketing of some exports. Shelf life requirements for processed foods are often far shorter than necessary to preserve freshness and result in U.S. goods being non-competitive with products shipped from countries closer to Kuwait. Meanwhile, standards for medical, telecommunications, and computer equipment tend to lag behind technological developments, with the result that government tenders frequently specify the purchase of obsolete, often more costly items.

In October 2002, Kuwait announced it was considering adopting an import standards program similar to Saudi Arabia's International Conformity Certification Program (ICCP). The Kuwaiti government has said the program, which would apply to between 15 and 45 consumer products (primarily electrical goods and motor vehicle parts), was being implemented because Kuwait lacked laboratory facilities to properly conduct its own inspections. In December 2002, Kuwait submitted a proposal for such an import standards program to the WTO. Kuwait was expected to implement this new program as early as March 2003 depending on comments from WTO Members.

Oman

In its accession to the WTO, Oman committed to eliminate mandatory shelf-life standards for shelf-stable foods from the date of accession and revise its shelf-life requirements program to meet the substantive requirements of relevant WTO Agreements. Oman also agreed to establish regulations and procedures in line with international norms for highly perishable refrigerated food products and gradually replace remaining shelf-life requirements with a science-based regulatory framework by December 31, 2000. However, as of November 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

Most Qatari standards are derived from GCC standards. In October 2002, Qatar established a General Authority for Standards and Specification to replace the Standards Office of the Ministry of Economy and Commerce. The Ministry of Health provides input on standards related to public health issues, and 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.

Saudi Arabia

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.

Saudi Arabia has taken a number of actions over the past several years 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, and livestock offal, therapeutic medicines used in animal feed, and the entire range of Firestone tires. After extensive intervention by U.S. Government officials and Saudi importers, only the bans on livestock offal and therapeutic medicines used in animal feed currently remain in effect. The Saudi 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. These measures were taken with little to no advance notice, contrary to Saudi statements to follow the provisions of the relevant WTO agreements.

The Ministry of Commerce imposed a mandatory labeling requirement for bioengineered food and agricultural products in late 2000, and a requirement that importers sign a pledge stating that they were aware of the possible health risks of such products. After a period of uncertainty, the Ministry of Commerce announced a positive labeling only requirement (i.e., containing bioengineered ingredients), 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. In November 2002, the Ministry of Commerce agreed to the precise language that it would accept on an export certificate to accompany all shipments containing bioengineered goods entering Saudi Arabia. The export certificate must be issued by a government entity from the country of origin, preferably at the federal level, but the state level is acceptable. U.S. companies found to be in violation of Saudi Arabia's biotechnology labeling requirements will be banned from exporting the product in question into the Kingdom, but may continue to export other products that have been suitably labeled.

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 a private firm, 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 1998, the Saudi Ministry of Commerce removed all food and agricultural products from the ICCP.

UAE

In 2000, the UAE announced its intention to establish a national standards authority under the auspices of the Ministry of Finance and Industry.

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.

Bahrain

In October 2002, Bahrain implemented a new Government Procurement law that establishes the basic framework for a transparent, rules-based government procurement system. It provides that certain procurements may be conducted as international public tenders open to foreign suppliers. While the new law sets out the basic elements of its procurement system, the implementing regulations, which have not yet been issued, will be key to gaining a full understanding of how the system is intended to operate. Bahrain is not a signatory to the WTO Agreement on Government Procurement.

Kuwait

Kuwait's government procurement policies specify the purchase 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. In January 2002, the Kuwaiti government modified its offset program to become the major vehicle for inducing foreign investment in Kuwait. The new offset requirements will impose an offset obligation on civilian contracts with the Kuwaiti Government of 10 million Kuwaiti Dinar (approximately $33 million) or more and on defense contracts of KD 1 million (approximately $3.3 million) or more. The obligation will amount to 35 percent of the contract value, which must be invested in an approved offset business venture. A supplier must sign a memorandum of agreement with the Offset Program Division at the Ministry of Finance before the contract is signed. The supplier must also present a bank guarantee totaling 6 percent of the value of the offset obligation. Kuwait is not a signatory to the WTO Agreement on Government Procurement.

Oman

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 a product or service and support, as well as cost, in evaluating bids. For most major tenders, Oman typically invites 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 interested parties may view the process on the tender board 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

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 exceptions 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

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 services, to majority-owned Saudi firms. An exemption is granted in instances where no Saudi company can provide goods and services to fulfill the procurement requirement. In addition, Article 1(d) of the tender regulations requires that Saudi individuals and establishments be given preference over all other suppliers in government procurement. The same regulations also accord preference to other suppliers as long as Saudi nationals hold at least 51 percent of such suppliers' capital. Article 1(e) of the tender regulations gives preference to products of Saudi origin that satisfy the requirements of the procurement, even when the product is inferior to that 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 procurements in which foreign suppliers participate.

Foreign suppliers involved in government projects are required to establish a training program for Saudi nationals. Foreign companies providing services to the Saudi Arabian government can operate in country without a Saudi service agent and can market their services to various other public entities directly. For large military projects, there is frequently an offset requirement. Furthermore, the Saudi government reportedly has asked for offset in other procurement areas.

UAE

The UAE does not require that a portion of any government tender be subcontracted to local firms, but it imposes a 10 percent price preference for local firms in government procurement. The UAE requires a company to be registered 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 projects or defense contracts where there is no local company able to provide the goods or services required. Established in 1990, the UAE's offset program requires defense contractors that are awarded contracts valued at more than $10 million to establish joint venture projects that yield profits equivalent to 60 percent of the 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 offset 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 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.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

The GCC countries are in various stages of acceding to international intellectual property conventions. All 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 Qatar are currently on the Special 301 Watch List because of their failure to adequately protect IPR.

The GCC Secretariat has declared 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 with the goal of creating a patent system for all member states – however, the current GCC patent law is not fully consistent with TRIPS Agreement obligations. The GCC patent office in Riyadh has received approximately 2,300 applications since it began accepting patent applications in October 1998, and issued its first patent certificates in late Spring 2001. The GCC patent office plans to complete a review of all applications within two to three 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 videocassettes, 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. Revised legislation to implement Bahrain's obligations under the TRIPS Agreement is currently under review. Bahrain is also considering joining the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty. 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

Kuwait's copyright law must be amended to make it consistent with its obligations under the TRIPS Agreement – the government anticipates submitting amendments by mid-2003, which then must be passed into law. Kuwait's revised patent and trademark legislation took effect on January 14, 2001.

Although improving, enforcement of these laws remains inadequate to prevent widespread marketing of pirated products. In October 2002, the Government's Ministry of Information launched a joint work team that combines forces with the Ministry of Interior and the Kuwait City Municipality in an effort to enhance investigation and enforcement abilities. Cooperation with owners of intellectual property and raids and seizures against intellectual property violators have increased significantly since then. However, sales of pirated goods remain high in Kuwait, and the use of unauthorized computer software continues in private enterprise. Uncertain and slow judicial action remains a hurdle, and penalties, when imposed, are generally too weak to deter future crimes.

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 videocassettes, 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 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 had drafted amendments to these laws, it had not signed and implemented the necessary legislation by the time of the 2002 Annual Special 301 Review and was subsequently placed back on the Watch List. In June 2002, Qatar promulgated revised copyright and trademark laws – Law No. 7 for Copyright and Neighboring Rights and Law No. 9 for Trademarks and Geographical Indicators.

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. The Copyright Office of the Ministry of Economy and Commerce continues to prosecute resellers of unlicensed video and software.

Qatar utilizes the GCC patent law with derogations as needed to comply with its obligations under the TRIPS Agreement. It also 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

Saudi Arabia is currently working to revise its intellectual property laws to bring them into conformity with the TRIPs Agreement as part of its efforts to join the WTO. Saudi Arabia has drafted revised legislation that is making its way through the legislative process. However, it is not clear when the legislation will be approved.

Saudi Arabia has made progress on copyright enforcement over the past year. Throughout 2002, Saudi authorities from the Ministry of Information raided numerous piracy-related centers, including warehouses, shops, production facilities, and apartments. However, U.S. software manufacturers seek greater Saudi government enforcement action against software copiers and end-users of unauthorized software. Another area of concern is counterfeiting of U.S. trademarked products. The Saudi government is aware of these problems and is considering options to combat them. U.S. industry has expressed frustration with the lack of transparency in the enforcement system, procedural hurdles to judicial enforcement, and lack of deterrent penalties.

Although Saudi Arabia's current patent law generally provides an adequate legal basis for protection, in 2002, one U.S. pharmaceutical company filed a complaint that the Ministry of Health registered a local company's illegal copy of a U.S. patent-protected pharmaceutical product. The U.S. company applied for a patent in Saudi Arabia several years earlier, but the application has not yet been processed. The Saudi Patent Committee, which held its inaugural meeting in October 2002, is currently reviewing the case.

UAE

In April 2002, the UAE was removed from USTR's Special 301 Watch List in recognition of improvements in protection of intellectual property. Notably, the UAE agreed with U.S. pharmaceutical companies to end the registration of, and *de facto* patent protection for, a number of copies of U.S. patent-protected medicines. The UAE government has indicated that it is committed to abiding by the terms of the agreement and has provided an opportunity for the U.S. pharmaceutical industry group to review a draft version of the pending revised patent legislation. The current UAE patent law provides process, not product, patent protection for pharmaceutical products. The Ministry of Finance and Industry is currently in the process of amending the law to make it compliant with the UAE's obligations under the TRIPS Agreement and has forwarded the draft legislation to the President for final approval.

The UAE passed copyright, trademark, and patent legislation in 1992, and amended the copyright law in July 2002 to make it consistent with the UAE's obligations under the TRIPS Agreement. Although enforcement efforts did not begin in earnest until 1994, the UAE has now largely eliminated pirated sound recordings and films. The government has also undertaken enforcement actions against local companies selling pirated computer software. Efforts to combat computer software and video piracy in the UAE have been successful, and the UAE is recognized as a regional leader in fighting computer software and video piracy.

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 opened the life insurance sector to foreign competition, but general insurance companies still 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. Foreign insurance companies wishing to operate in Qatar are subject to the same laws that apply to foreign firms in all other sectors. Foreign insurance companies can establish a presence in the UAE by operating a branch or representative office. This option allows for 100 percent foreign-ownership, yet generally limits business activities to offshore operations.

Saudi Arabia has the second largest insurance market in the Gulf region. Insurance premiums in 2001 amounted to $800 million. Currently, about 75 insurance companies operate in the Kingdom and provide a wide range of insurance services. The only licensed insurance provider in Saudi Arabia is the National Company for Cooperative Insurance (NCCI). The other companies that provide insurance in Saudi Arabia are branch offices with headquarters in other countries. 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 life insurance and similar investment products, requiring them to come under the control of financial institutions which are already subject to central bank regulation and imposing other burdensome requirements on the operations of such companies. In June 2002, the Cooperative Health Insurance Council issued the by-laws of a mandatory cooperative health insurance scheme. The scheme will be implemented gradually over the next three years and will require employers to pay for insurance coverage of foreign workers and dependent family members. As of November 2002, third party motor vehicle insurance became mandatory in the Kingdom.

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 2002, Bahrain's central bank issued 22 new licenses (four full commercial banks, five investment advisory and other financial services institutions, two investment banks, eight offshore banking units and three representative offices). In Kuwait, foreigners may be allowed to own up to 49 percent of a Kuwaiti bank subject to approval by the Central Bank.

While Oman has laws permitting foreign banks to operate, it has barred new non-GCC banks from establishing operations on the grounds that there is excess capacity in the sector. Oman does not permit representative offices or offshore banking. In Qatar, regulations for local and foreign bank practices are the same, with new licenses available through the Qatar Central Bank application process. Given the small size of the Qatari market, no new banks have opened in recent years.

In Saudi Arabia, foreigners are permitted to own up to 40 percent of the equity in any individual bank. However, the Saudi Government has decided to allow GCC banks to open branches in the Kingdom. The Bahrain-based Gulf International Bank (GIB) was the first to do so, followed by the Dubai-based Emirates Bank International. In 1999, new government regulations allowed foreign-ownership of mutual funds managed by Saudi commercial banks.

Though the UAE permits foreign banks to operate, only GCC banks may establish operations on the grounds that there is excess capacity in the sector. The UAE does not allow offshore banking. 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.

Shipping

Bahrain presents no major impediments to shipping. Currently, Bahrain is evaluating procedures for privatizing its two major ports, a decision issued by decree in July 2002. 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 preferences.

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 1998 Agency Law eliminated the sole agent requirement; in October 2002 an amendment to the Agency Law eliminated the requirement for a local agent, except in retail sales, and abolished mandatory commissions. 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 non-exclusive agency agreements. In recent periods, Oman has attempted to address rising unemployment through mandating local hire quotas, through limiting distribution from food wholesale centers to Omani nationals, and in the fall of 2002, through restricting all grocery food retail sales to businesses owned and operated by Omani nationals. The *de facto* nationalization of key segments of the food distribution sector will have a chilling effect long-term on foreign investment in the industry.

The vast majority of foreign firms operating in Qatar are required to engage local agents. Only firms granted 100 percent foreign-ownership are excluded from the local agent requirement. In June

2002, Qatar passed a new commercial agents law that allows individuals other than exclusive agents to import products provided they pay up to five percent commission to the registered agent/distributor. Saudi law requires that domestic distributors receive licenses from the Ministry of Commerce. Only Saudi citizens can obtain licenses. However, a recent GCC decision may broaden this to include GCC citizens. In July 2001, the Saudi Council of Ministers canceled the requirement for foreign companies with government contracts to have a Saudi service agent. 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.

INVESTMENT BARRIERS

Bahrain

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 2001 U.S.-Bahrain Bilateral Investment Treaty (BIT) provides special 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. In June 2002, U.S.-Bahrain relations moved beyond the BIT with the signing of a Trade and Investment Framework Agreement (TIFA). The TIFA provides an ongoing forum for discussion to strengthen bilateral trade and investment relations and support economic reform.

Since 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. There are presently five wholly foreign-owned companies (four GCC and one non-GCC) listed on the Bahrain stock exchange. Any new additions to these five companies must be approved on a case-by-case basis. Individuals had been previously restricted to owning only 1.5 percent of a company's stock. Now Bahrainis and GCC nationals may own up to 100 percent as individuals, and non-GCC foreigners may own up to 49 percent. Bahrain is planning to open its stock market completely for all investors by the end of 2004.

Kuwait

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 the National Assembly has not addressed implementing rules and regulations, the law has not yet taken effect.

Oman

Oman provides national tax treatment (i.e., a corporate tax rate of 12 percent), 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.

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

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.

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.

Saudi Arabia

In April 2000, Saudi Arabia's Council of Ministers approved a new foreign investment code with the goal of facilitating establishment of foreign companies, both joint-ventures and 100 percent foreign-owned, 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. In theory, SAGIA must decide to grant or refuse a license within 30 days of receiving the application and supporting documentation from the investor. While SAGIA is intended as a one-stop-shop for foreign investors, some companies still experience delays in subsequent steps, for example, in obtaining a commercial registry or purchasing property. Following SAGIA's recommendations, the Supreme Economic Council released a negative list in February 2001 of 22 sectors in which foreign investment is prohibited. SAGIA reportedly approved more than 900 licenses for projects representing more than $10 billion in foreign investment by the end of September 2002. However, figures on actual projects initiated or foreign direct investment inflows are not available.

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.

UAE

Except for companies located in one of the free zones, at least 51 percent of a business establishment must be owned by a UAE national. A business engaged in importing and distributing a product must be either a 100 percent UAE owned agency/distributorship or a 51 percent UAE/49 percent foreign Limited Liability Company (LLC). Subsidies for manufacturing firms are only available to those with at least 51 percent local ownership.

The laws and regulations governing foreign investment in the UAE are evolving. There is no national treatment for investors in the UAE. Non-GCC nationals cannot own land. However, in the emirate of Dubai, so-called free hold real estate ownership by non-GCC nationals within certain properties is currently being offered, though the exact legal status is still uncertain. Only one stock is currently open to foreign investors and is capped at 20 percent total foreign ownership, although limited participation by foreigners in a few mutual funds is permitted. There have been no significant investment disputes during the past few years involving U.S. or other foreign investors. Claims resolution is generally not a problem, because foreign companies tend not to press claims, believing that to do so might jeopardize future business activity in the UAE.

ELECTRONIC COMMERCE

Electronic commerce is in its nascent stages of development in GCC countries. In September 2002, Bahrain implemented an Electronic Transactions law, recognizing the validity of electronic transactions. In a push to make use of this technological opening, the Commerce Ministry has implemented electronic government, banks offer electronic banking, and the parastatal telecommunications company now accepts electronic transactions for bill payments. Oman is in the process of establishing an Information Technology (IT) park as part of its Rusayl Industrial Estate. Qatar is increasingly interested in the possibilities of electronic government, and some government services, including immigration services, are now available online. Some Qatari banks have recently established online electronic banking facilities. Saudi Arabia is studying various options to incorporate electronic commerce into government and private industry. A proposed National Information Technology Plan encompasses infrastructure, industry, electronic government, and electronic learning. The Ministry of Commerce completed a national project in 2001 for safeguarding dealers' rights, establishing a dispute-settlement mechanism, and endorsing digital signatures. In the UAE, the Emirate of Dubai has established the Dubai Technology, Electronic Commerce and Media Free Zone (TECOM), which contains Dubai Internet City and Dubai Media City. 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.

OTHER BARRIERS

Corporate Tax Policies

Saudi Arabia and Kuwait tax foreign companies, but domestic entities are only required to pay zakat (a charitable donation). 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. 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 on foreign firms at rates from 5 percent to 35 percent of net profits, including profits from majority-owned Qatari joint ventures. All Qatari owned firms and joint ventures are exempt from corporate income taxes. Under Law No. 13 of 2002, the Ministry of Finance may grant a tax-holiday of up to ten years for new foreign investments in key sectors. Other foreign companies may be granted tax exemptions on a case-by-case basis by Emiri Decree.

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).

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.

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 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 some government documents still include outdated boycott language.

Saudi Arabia enforces only the primary level of the Arab League boycott on Israeli products. If a foreign company is found to have imported an Israeli-made product, or a product with even minimal Israeli content, the Saudis will ban that company from exporting to the Kingdom. Usual practice has been that the Saudi government will remove its ban after the company agrees to stop shipping further Israeli products. In 2002, according to press reports, Saudi Arabia banned five American companies for violating the primary 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.