NIGERIA

In 1997, the U.S. trade deficit with Nigeria was $5.5 billion, an increase of $502 million from the U.S. trade deficit of $5.0 billion in 1996. U.S. merchandise exports to Nigeria were $814 million, a decrease of $2 million (1 percent) from the level of U.S. exports to Nigeria in 1996. Nigeria was the United States' fifty-eighth largest export market in 1997. U.S. imports from Nigeria were $6.3 billion in 1997, an increase of $500 million (8.6 percent) from the level of imports in 1996.

IMPORT POLICIES

As of January 1998, the importation of dozens of items, primarily agricultural products, remains banned. The official listing outlines fewer than 15 items but the definitions are so broad that the actual number of products is far greater than 15. The ban on certain agricultural imports was initially implemented to help restore Nigeria's agricultural sector, but the ban is severely compromised by widespread smuggling. Agriculture officials report that an effective tariff of 25 to 30 percent is levied on smuggled produce and livestock by those trading in banned products.

Following a reported shortfall in customs duties, the Nigerian government in April 1996 implemented an extensive port-and-customs reform to reduce congestion and corruption in Nigerian ports. The scheme involved pre-shipment inspection (PSI) and assessment of import duties. An import duty report was mandatory for all shipments. Although customs revenue following the reforms has increased by two-thirds, the revenue failed to achieve the goal of port clearance in 48 hours. Following widespread complaints from importers about lengthy delays, in January 1998 the government of Nigeria announced its intention to eliminate the PSI requirement for imports originating from all African countries and 15 other major trading partners. However, according to the government of Nigeria's 1998 budget announcement, the United States and other countries not immediately exempted from the PSI requirement will receive similar treatment during the coming year. The failure to include the United States in the PSI exemption list represents a significant nontariff barrier to U.S.-Nigerian trade. As a result, appropriate appeals were made to the government of Nigeria by U.S. embassy officials.

In January 1998, Nigeria announced a revised tariff schedule. Although higher tariffs were imposed on some items, the list of prohibited imports was reduced and all excise duties were eliminated. The following commodities duty rates apply: rice, 50 percent; day-old chicks and parent stock, 5 percent; sparkling wines, wine coolers, and champagne, 100 percent; fruits and fruit juices, 75 percent; jute, 10 percent; cotton, 60 percent; fertilizers, 5 percent; textile fabrics, 65 percent; and garments, 75 percent. For 1998, the government of Nigeria also continues a 25 percent import duty rebate, which effectively reduces these tariffs. The items that were removed from the prohibited imports list in 1998 (poultry and eggs, beer and stout, barley and malt, mineral and similar waters) do not qualify for the rebate.

GOVERNMENT PROCUREMENT

Nigeria, though a member of the World Trade Organization (WTO), generally does not use an open-tender system for awarding government contracts. Competing for government contracts continues to be made difficult for foreign firms by the commonly used patronage system and by the need to provide "incentive" payments to Nigeria's officials.

EXPORT SUBSIDIES

For more than 20 years the government of Nigeria has operated the Nigerian Export Promotion Council (NEPC) to encourage development of non-oil exports. The NEPC administers various incentive programs, including a duty-drawback program, an export development fund, an export expansion grant fund, a duty suspension scheme, a manufacture-in-bond program, and a pioneer status scheme. The government reports that the duty-drawback and export expansion grant schemes have been the most widely utilized incentives, although each program distributed less than $1 million in subsidies annually. These schemes are largely ineffective owing to inefficient administration. Shortening the application process for subsidy consideration from 38 to 18 steps is one of the promised reforms for 1998. Exporters do not believe these steps will be effective.

LACK OF INTELLECTUAL PROPERTY PROTECTION

As a member of the World Intellectual Property Organization (WIPO) and a signatory to the Universal Copyright Convention (UCC), the Berne Convention, and the Paris Convention (Lisbon text), Nigeria is a party to most of the major international agreements on intellectual property rights (IPR). Cases involving copyright infringement of non-Nigerian materials have been successfully prosecuted in Nigeria. In 1997 reports surfaced of sporadic raids in Lagos on video stores renting pirated tapes. However, enforcement of existing laws remains weak, particularly in the patent and trademark areas. Despite active participation in international conventions and the apparent interest of the central government in IPR issues, its efforts have been ineffectual in curtailing the widespread production and sale of pirated tapes, videos, computer software, and books in Nigeria.

The Patents and Design Decree of 1970 governs the registration of patents. The Nigerian Standard Organization is responsible for issuing patents, trademarks, and copyrights. Once conferred, a patent gives the patentee the exclusive right to make, import, sell, or use a product or to apply a patented process. The Trademarks Act of 1965 governs the registration of trademarks. Registering a trademark gives its holder the exclusive right to use the registered mark for a particular product or class of products.

Nigeria's television market, once reserved for official channels, was deregulated over a year ago, resulting in the formation of 8 private television stations, over 20 satellite redistribution companies, and a number of pirate television and cable stations. Recent statutes include the Copyright Act of 1988 (amended in 1992); the National Film and Video Censors Board Act of 1993 (which reinforces the measures of the Copyright Act); and the Nigerian Film Policy Law of 1993 (which encourages the development of the Nigerian film industry).

IPR problems in Nigeria increased with the government's 1981 nationalization of the film industry (including distribution), although this policy has been officially abandoned. Motion Picture Association (MPA) member companies were not paid the contractual compensation that was promised by the Nigerian Government. The companies were unable to repatriate assets held locally at the time of nationalization. As a result of these adverse trading conditions, no trade has been pursued in recent years between MPA member companies and Nigeria. The estimated accumulated losses to MPA member companies exceed $25 million.

Nigerian companies, including film makers, formed the Proteus Entertainment Agency to protect copyright laws in the music, video, and other industries. The Copyright Decree of 1988, based on WIPO standards and U.S. copyright law, currently makes counterfeiting, exporting, importing, reproducing, exhibiting, performing, or selling any work without the permission of the copyright owner a criminal offense. Progress on enforcing the 1988 law has been slow. The expense and time necessary to pursue a copyright infringement case to its conclusion deter prosecuting such cases.

Attorneys active in IPR issues have formed the Industrial Property Law Interest Group (IPLIG) to educate and lobby on industrial IPR issues. They have sponsored several copyright conferences throughout Nigeria and credit themselves for including an IPR course at the Lagos Law School.

In the past, few companies have secured trademark or patent protection in Nigeria because it was generally considered ineffective. Nigeria is considered to be Africa's largest market for pirated products. Losses from poor IPR protection, though difficult to estimate, are substantial. Most of the sound recordings and videotapes sold in Nigeria are pirated copies. Satellite signal piracy is also common. The manufacture and sale of pharmaceuticals and auto parts are also emerging problems.

INVESTMENT BARRIERS

Nigeria, Africa's most populous nation of more than l00 million people, offers investors a low-cost labor pool, abundant natural resources, and a large domestic market. However, Nigeria suffers from an inadequate and poorly maintained infrastructure, confusing and inconsistent regulations, endemic corruption, and a lack of confidence in the rule of law. Therefore, a considerable amount of time, money, and managerial effort must be expended by investors before they can begin operations, let alone earn a profit.

In 1997, Nigeria continued liberalizing the foreign exchange mechanism instituted in 1995. Under the Foreign Exchange Decree of 1995, the autonomous foreign exchange market (AFEM) was reestablished, allowing private companies to source foreign exchange at the parallel market rate (about 80 naira to the dollar in January 1998). The central bank intervenes weekly in the AFEM. Although expectations were high that the 1998 budget would consolidate the exchange rates, the official exchange rate of 22 naira to the dollar has been retained for some official government transactions. Companies can now hold domiciliary accounts in private banks, with account holders having unfettered use of the funds. Foreign investors may bring capital into the country to service foreign loans, and to remit dividends without prior Finance Ministry approval.

Nigeria has notified to the WTO measures that are inconsistent with its obligations under the WTO Agreement on Trade-Related Investment Measures. The measures deal with local content requirements in the economy in general. Proper notification allows developing-country WTO members to maintain such measures for a five-year transitional period after entry into force of the WTO. Nigeria, therefore, must eliminate these measures before January 1, 2000. The United States is working in the WTO Committee on TRIMs to ensure that WTO members meet these obligations.

Nigeria

In 1995, Nigeria promulgated the Nigerian Investment Promotion Commission (NIPC) Decree which liberalized the foreign investment regime, allowing 100 percent foreign ownership of firms. A foreign enterprise may now buy shares of any Nigerian firm except those on the "negative list" (firms producing firearms, ammunition, narcotics, and military and paramilitary apparel). The decree also abolishes the expatriate quota system (except in the oil sector) and prohibits any nationalization or expropriation of a foreign enterprise by the Nigerian government except for such cases determined to be in the national interest.

Nigeria has begun to implement the 1995 Money Laundering Decree designed to inhibit money laundering. Another decree to combat advance-fee fraud, called 419 fraud (after the section of the Nigerian criminal code that deals with it) has done little to deter 419 fraud. The scope of 419 business fraud has brought international notoriety to Nigeria and discourages investors from working there.

Establishment of a Nigerian export processing zone authority (NEPZA) in 1992 was an additional effort to attract foreign investment. The first and only zone to date is located in eastern Nigeria in the port city of Calabar. After 5 years and $50 million in investment, the zone is still not fully operational. Although the government of Nigeria reports that 16 firms have provisional authority to begin operating, only 6 firms have begun test production runs, and no exports have yet been generated.

OTHER BARRIERS

Parastatals

Although expectations were high in 1997 that Nigeria would begin to privatize portions of its state holdings, this did not occur. The 1998 budget does provide for the privatization of the telecommunications sector in 1998. The plan provides for the government to retain 40 percent equity in the state telecommunications parastatal (NITEL), reserve 20 percent equity for Nigerian citizens and public sale of the remaining 40 percent. Invitations to invest will be made to specific investors with relevant expertise. The government of Nigeria plans on using lessons learned from this "guided privatization" approach of NITEL to improve upon future sales of state assets. The 1998 budget specifically targets the reorganization of the electricity generating parastatal (NEPA) during the coming year. Nigeria's 1998 announcement on privatization is an encouraging signal, though the government's record in implementing promised economic reforms is a checkered one.