TURKEY

TRADE SUMMARY

The U.S. goods trade surplus with Turkey was $2 billion in 2007, an increase of $1.6 billion from $364 million in 2006. U.S. goods exports in 2007 were $6.6 billion, up 15.1 percent from the previous year. Corresponding U.S. imports from Turkey were $4.6 billion, down 14.2 percent. Turkey is currently the 31st largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Turkey was $2.1 billion in 2006 (latest data available), up from $2.0 billion in 2005. U.S. FDI in Turkey is concentrated largely in the banking, manufacturing, and wholesale trade sectors.

IMPORT POLICIES

Tariffs and Quantitative Restrictions

Turkey applies the EU’s common external customs tariff to third-country (including the United States) nonagricultural imports and imposes no duty on nonagricultural items from EU and European Free Trade Association (EFTA) countries.

Turkey maintains high tariff rates (an average 28.3 percent Most Favored Nation rate) on many food and agricultural product imports. The Turkish government often increases tariffs on grains during the domestic harvest. However, high feed prices harm Turkish livestock industries, particularly for the beef and poultry industries. Duties on fresh fruits range from 15.4 percent to 145.8 percent. Tariffs on processed fruit, fruit juice, and vegetables range between 19.5 percent and 130 percent. The Turkish government also levies high duties, excise taxes and other domestic charges on imported alcoholic beverages that increase wholesale prices by more than 200 percent.

Import Licenses and Other Restrictions

Import licenses are required for products that need after-sales service (*e.g.*, photocopiers, advanced data processing equipment, and diesel generators), distilled spirits, and agricultural products. Lack of transparency in Turkey’s import licensing system can result in costly delays, demurrage charges, and other uncertainties that stifle trade for many agricultural products, as well as for distilled spirits. In November 2005, the United States brought a dispute against Turkey in the World Trade Organization (WTO) arguing that, *inter alia*, Turkey’s tariff-rate quota (TRQ) scheme for rice, which contains an onerous domestic purchase requirement, and its refusal to issue import licenses for rice outside the TRQ, are inconsistent with Turkey's WTO obligations. In September, 2007, the dispute settlement panel agreed with the United States that Turkey’s failure to grant licenses to import rice and its operation of a discretionary import licensing system for rice are in breach of Turkey’s market access obligations under the WTO Agreement on Agriculture. The panel also agreed with the United States that Turkey's domestic purchase requirement, under which Turkey required importers of rice to purchase large quantities of domestic rice in order to import rice at preferential tariff rates, is in breach of the national treatment provisions of the WTO.

In some cases, notably for meat and poultry, the Turkish government simply does not issue licenses, thereby creating a *de facto* ban on imports of these products. Turkey has not allowed meat imports from any country since 1996 and has not established any public health requirements for the entry of meat. Outbreaks of Bovine Spongiform Encephalopathy (BSE) and foot and mouth disease (FMD) in Europe strengthened Turkey's resolve to keep poultry and meat products out of its market. In part as a result of ongoing discussions and the 2007 United States-Turkey Trade and Investment Framework Agreement (TIFA) Council meeting, a protocol permitting the import of live breeding cattle from the United States was agreed to in July 2007. The United States remains unable to export poultry meat for consumption within Turkey because the government of Turkey requires its officials to inspect and approve all foreign processing facilities and expects inspection costs to be covered by Turkish importers.

Despite liberalization of the spirits and tobacco markets, including a completed privatization of the state-owned alcoholic beverage company and plans to privatize the state-owned tobacco company in early 2008, as well as privatization of imports of wine and alcoholic beverages, increases in consumption have been inhibited by inordinately high tariffs (85 percent to 100 percent) and special consumption taxes (275 percent), along with the value added-tax (VAT). In 2006, legislation was introduced to reduce the number of control certificates required to import distilled spirits from two to one, but full jurisdiction could not be transferred to just one entity, so the legislation was never enacted. Instead, the Turkish government has focused on improving the efficiency and speed of the process so as not to put undue burden on importers. This topic also was discussed at the 2006 and 2007 TIFA Council meetings.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

The Turkish government has a poor track record of notifying WTO Members of proposed or final technical regulations and phytosanitary requirements. Most changes in regulations become effective immediately with little or no notification to trading partners. This often results in significant disruptions in trade. Furthermore, laws and regulations do not appear to be always implemented or enforced immediately or consistently at every port, creating unpredictability and making it difficult for the exporter and the importer to comply.

Importers report increasing difficulty in obtaining information on sanitary and phytosanitary requirements. The United States Government has used every opportunity to raise the issue of transparency with the Turkish government, including informal discussions at the July 2007 TIFA Council meeting, the October 2007 WTO Sanitary and Phytosanitary (SPS) Committee meeting, and during Turkey's November 2007 Trade Policy Review by the WTO. In January 2008, Turkey notified the WTO of an SPS measure related to phytosanitary requirements for seed potatoes – the first Turkish notification since 2004. The United States will continue to stress to Turkey the importance of transparency and timely notification of proposed requirements.

U.S. companies have reported that products bearing the EU certificate of conformity (CE mark), particularly medical devices, have been detained by Turkish customs authorities for inspection. In some cases, U.S. products apparently have been subjected to additional tests, despite their CE marks. For importation of distilled spirits, Turkish customs requires that between two and four bottles per consignment be submitted for unspecified analyses, raising the cost of importing.

The draft of a Biosafety Law, currently circulating in the Turkish government, would effectively halt U.S. exports of soy products and corn to Turkey and could affect cotton exports to Turkey as well. In 2006, U.S. exports of soy and corn products to Turkey were valued at $175 million and 90 million, respectively. U.S. cotton exports to Turkey reached $500 million in 2006 and exceeded $715 million for January through November 2007. Also of concern is a recently issued but then withdrawn directive to establish a traceability and labeling (T&L) system for biotechnology imports. This system was to be similar to and, in some respects, even more restrictive than the current EU traceability and labeling regime for biotechnology products. The Turkish directive was to go into effect August 1, 2007, but was withdrawn prior to implementation and remains pending.

GOVERNMENT PROCUREMENT

Turkey is not a signatory to the WTO Agreement on Government Procurement; however, it is an observer to the WTO Committee on Government Procurement.

Turkey's public tender law established an independent board to oversee public tenders. Foreign companies can participate in state tenders that are above an established threshold. The law provides a price preference of up to 15 percent for domestic bidders, which is not available if they form a joint venture with foreign bidders. Turkey has expanded the definition of domestic bidder to include foreign-owned corporate entities established under Turkish law. Although Turkey's laws require competitive bidding procedures for tenders, U.S. companies have complained that they can be lengthy and overly complicated.

Military procurement generally includes an offset requirement in the tender specifications. The offset guidelines were recently modified to encourage foreign direct investment and technology transfer.

EXPORT SUBSIDIES

Turkey employs a number of incentives to promote exports, although programs have been scaled back in recent years to comply with EU directives and WTO commitments. Historically, wheat and sugar have been Turkey's main subsidized commodities. Export subsidies, ranging from 10 percent to 20 percent of export values, are granted to 16 agricultural or processed agricultural products. In 2004, the Turkish Grain Board sold domestic wheat at world prices (well below domestic prices) to Turkish flour and pasta manufacturers in quantities based upon their exports of flour and pasta. Certain tax credits also are available to exporters.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Turkey's intellectual property rights regime (IPR) has improved in recent years. However, Turkey remained on the Special 301 "Priority Watch List" in 2007 due to concerns about protection for confidential test data submitted by pharmaceutical companies against unfair commercial use and continued high levels of piracy and counterfeiting of copyright and trademark materials. Turkey has made improvements since the 2007 Special 301 report in its enforcement efforts, including an increased number of raids, arrests, prosecutions, and issuance of deterrent sentences for IPR infringers.

Trademark holders contend that there is widespread and often sophisticated counterfeiting of their marks in Turkey, especially in apparel, film, cosmetics, detergent, and other products.

SERVICES BARRIERS

Telecommunications Services

In November 2005, 55 percent of the government-owned Turk Telecom was sold to a foreign investor. Although Turkey has committed to ending Turk Telecom's exclusive rights on fixed telephony services, its delay in issuing implementing regulations has resulted in a delay in the establishment of alternative fixed line suppliers. The Telecommunications Authority (TK) has been actively issuing the regulations needed to promote a competitive market, but it still lacks adequate authority to provide effective enforcement. TK is expected to have greater authority when the draft Electronic Communication Law, pending in the Turkish Parliament, passes. Currently, the Ministry of Transport and Communications (MOTC) has the authority on behalf of the Government to approve or disapprove TK's major regulatory decisions. Once the new law passes, MOTC's influence over such decisions will diminish. The new law will also further liberalize telecom services provided by the private sector. Applicable licensing regulations are published on the TK website.

Cellular mobile and paging services are open to competition.

Other Services Barriers

There are restrictions on establishment in financial services, the petroleum sector, broadcasting, and maritime transportation (see Investment Barriers section). Turkish citizenship is required to practice as an accountant or certified public accountant, or to represent clients in Turkish courts. Legislation awaiting final approval by Parliament would permit foreign doctors to work in Turkey.

INVESTMENT BARRIERS

The United States-Turkey Bilateral Investment Treaty entered into force in May 1990. Almost all areas open to investment by the Turkish private sector are fully open to foreign participation without screening or prior approval, although establishment in the financial and petroleum sectors requires special permission. Foreign equity ownership is limited to 25 percent in broadcasting and 49 percent in maritime transportation. Parliament is considering draft legislation easing restrictions on foreign ownership in the media sector.

Once investors have committed to the Turkish market, they have sometimes found their investments undermined by legislative action, such as the imposition of production limits. Turkish law calls for a liberalized energy market in which private firms are able to develop projects with a license obtained from the Energy Market Regulatory Authority, an independent regulatory body. The state electricity utility has been unbundled into power generation, transmission, distribution, and trading companies, but little progress has been made in privatizing power generation and distribution. The Privatization Agency announced a tender for three electricity distribution regions in late August 2006, but the privatization was postponed in January 2007 until after the November parliamentary elections. The Turkish government is preparing for privatization of electricity generation and distribution facilities, but has not set a date for the tenders yet. Liberalization in the natural gas sector has also faced delays. The state pipeline company, BOTAS, will remain dominant in gas importation, but legislation requires a phased transfer of 80 percent of its gas purchase contracts to the private sector. Natural gas distribution in cities is dominated by the private sector. The only two remaining natural gas distribution licenses, Ankara and Istanbul, are expected to be privatized in 2008. The Ankara Greater Metropolitan Municipality has already announced the privatization process for Ankara's natural gas distribution pipeline network.

As the result of a 1997 court decision, the Turkish government has blocked full repatriation of profits by oil companies under Article 116 of the 1954 Petroleum Law, which protected foreign investors from the impact of lira depreciation. Affected companies have challenged the 1997 decision. The judgments in almost all such lawsuits have been against the claimant companies. A new petroleum law that seeks to provide greater investment incentives and protections still awaits passage in the parliament.

OTHER BARRIERS

Corruption

Turkey has ratified the OECD antibribery convention and passed implementing legislation that makes bribery of foreign and domestic officials illegal and not tax deductible. Many perceive corruption to be a problem in Turkey, particularly by some government officials and politicians. The judicial system is also perceived to be susceptible to external influence and to be somewhat biased against outsiders.

Energy

In 2001, the Turkish government cancelled 46 contracted power projects based on the Build-Operate-Transfer (BOT) and transfer-of-operating-rights models. Turkey's constitutional court ruled in 2002 that the government would have to either honor the contracts or compensate the companies involved. Most of those companies launched international arbitration cases and won these cases. The GOT is in the process of compensating the companies. In 2002, the government requested BOT projects already in operation, which include U.S.-owned companies and/or creditors, to apply for new licenses from the new Energy Market Regulatory Authority. Negotiations between the Turkish government and the relevant companies concerning the request of the Turkish government to reduce electricity tariffs are continuing while the license application process is still underway. Despite a lack of action on new licenses, the Turkish government has continued to purchase electricity produced under the existing contracts.

The long-delayed investments in electricity generation and the continuing increase in demand with record growth rates are likely to cause serious electricity shortages in 2008. To address this problem, the GOT says it will expedite the privatization of electricity generation and distribution, and pass a Nuclear Power Law, both of which would present opportunities for U.S. companies.

Taxes

Taxation of all cola drinks (raised in 2002 to 47.5 percent under Turkey's "Special Consumption Tax") discourages investment by major U.S. cola producers. Turkey assesses a special consumption tax of 27 percent to 50 percent on all motor vehicles based on engine size, which has a disproportionate effect on U.S. automobiles.

Corporate Governance

A recent OECD report stated that Turkey's overall corporate governance outlook is positive because the authorities have already adopted, or are introducing, high quality corporate governance standards (including audit standards) and because transparency has improved significantly. The report cautions, however, that it is important for Turkey to improve further in the areas of control and disclosure of related party transactions and self-dealing, the protection of minority shareholders, and the role of the board in overseeing not only management but also controlling shareholders.

Pharmaceuticals

Aside from their intellectual property concerns detailed above, the pharmaceutical industry's sales have been affected by government price controls. U.S. research-based pharmaceutical firms are also concerned about achieving transparent and equitable treatment in upcoming reforms of the government's health care and pension system.