PAKISTAN

TRADE SUMMARY

U.S. goods exports in 2013 were $1.6 billion, up 7.7 percent from the previous year. Corresponding U.S. imports from Pakistan were $3.7 billion, up 1.6 percent. The U.S. goods trade deficit with Pakistan was $2.0 billion in 2013, down $58 million from 2012. Pakistan is currently the 69th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Pakistan was $218 million in 2012 (latest data available) down from $254 million in 2011.

IMPORT POLICIES

Pakistan's overall average applied tariff in 2013 was 14.4 percent, but it has 15 different *ad valorem* tariff levels ranging from zero to 150 percent. Specific duty rates are applied on 47 products. The tariffs on approximately 94 percent of the tariff lines fall in the range of zero percent to 30 percent. The highest duties are applied to vehicles.

Pakistan imposes higher tariff rates (50 percent) on imports of automobile parts that compete with domestically manufactured products than the tariff rates (35 percent) it imposes on imports of automotive parts where there is no domestic production. Pakistan grants sector- or product-specific duty exemptions, concessions, and other protections through promulgation of Statutory Regulatory Orders (SROs), although it has pledged to eliminate the use of SROs by June 2014 under the terms of its International Monetary Fund program approved in September 2013. A list of SROs and other trade policy and regulatory documents can be found on the Federal Board of Revenue's website: http://www.cbr.gov.pk.

In January 2000, Pakistan modified its system for valuation of goods. Since then, a number of traders in the food and consumer products sectors have expressed concerns regarding a lack of uniformity in customs valuation. Similarly, in the machinery and materials sector there are reports that customs officials have erroneously assessed goods based on a set of minimum values rather than the declared transaction value.

On October 5, 2009, Pakistan began to enforce a 2005 regulation requiring that commercial invoices and packing lists be included inside each shipping container. This requirement presents challenges to industry because invoices and packing lists do not always originate in the same location as the shipment and may be generated after the shipment departs. The penalty for non-compliance is $526 per container.

GOVERNMENT PROCUREMENT

The Public Procurement Regulatory Authority, established in 2002, is an autonomous body responsible for prescribing and monitoring public sector procurement regulations and procedures. According to a 2004 public procurement framework, international tender notices must be publicly advertised and sole source contracting tailored to company-specific qualifications is prohibited. There are no official "buy national" policies.

Political influence on procurement awards, charges of official corruption, lack of transparency, judicial intervention, and long delays in bureaucratic decision making are common in government procurement. Suppliers have reported instances in which the government used the lowest bid as a basis for further negotiations, rather than accepting the lowest bid as required by regulation.

Pakistan is not a signatory to the WTO Agreement on Government Procurement.

EXPORT POLICIES

Pakistan promotes the export of Pakistani products (such as textiles, surgical products, leather, and sporting goods) through measures such as tariff concessions on imported inputs, along with income and sales tax concessions. Three SROs (SRO 565, 567, and 575) provide exemptions and concessions on imports of certain machinery and imports of a large number of raw materials used by domestic industries.

The government established the Export Processing Zone (EPZ) Authority in 1980 to establish and administer EPZs. In 1989, Pakistan established its first EPZ in Karachi. Export oriented industries, defined as those that export 80 percent to 100 percent of their production, receive various incentives for operating in the EPZ. These incentives include access to developed land at competitive rates for 30 years, non-applicability of exchange control regulations, exemption from taxes and duties on equipment, machinery, and materials (including components, spare parts, and packing material), exemption of sales tax on other inputs, including gas and electricity, and indefinite loss carry-forward. Final taxes are presumptively 1 percent of the total profits. The EPZ Authority also collects a “development surcharge” of 0.5 percent of the total profits. Exports from EPZ companies are otherwise exempt from all other federal, provincial, and municipal taxes.

Aside from the first EPZ in Karachi, Pakistan has authorized nine additional EPZs. These EPZs are located in Risalpur in Khyber Pakhtunkhwa Province; Gujranwala and Sialkot in Punjab; Saindak, Gwadar, Reko Dek, Duddar, and Khalifa Coastal Oil Refinery in Balochistan; and the Tuwairqi Export Processing Zone in Karachi. Of these, only Risalpur, Sialkot, Saindak, and Duddar are operational. Foreign investors are eligible to establish businesses in the EPZ and are guaranteed full repatriation of capital and profits. There are no minimum or maximum limits for investment. Up to 3 percent of defective goods/waste from the EPZs can be sold in the domestic market after payment of applicable duties. Despite the various incentives offered, most EPZs have failed to attract significant investment.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Pakistan remained on the Priority Watch List in the 2013 Special 301 report. The report cites weak protection and enforcement of intellectual property rights (IPR) and widespread counterfeiting and piracy, particularly book and optical disc piracy.

The Intellectual Property Organization law was enacted in December 2012 and provides for specialized IPR tribunals to adjudicate cases and a policy board with private sector representation to assess policy decisions. However, in 2013 Pakistan made little progress implementing the provisions of the law. Although the Intellectual Property Organization forwarded a proposal to form the policy board to the Cabinet, the Cabinet has not yet approved it and IPR tribunals have not yet been established.

In 2013, Pakistan did not make progress in providing effective protection against unfair commercial use of undisclosed test or other data generated to obtain marketing approval for pharmaceutical products. While the government and international and local pharmaceutical companies have been negotiating a draft data protection law for the past five years, it has not yet been enacted. With respect to patents, Pakistan lacks an effective system to prevent the issuance of marketing approvals for unauthorized copies of patented pharmaceutical products. Furthermore, the processing of pending patent applications has been hampered due to a 2009 ordinance that removed an 18 month deadline for the processing of patent applications. With respect to copyrights, Pakistan did not take any significant steps in 2013 to improve copyright enforcement, especially with respect to addressing optical disc piracy. Only a very small proportion of arrests resulted in prosecutions, and the few verdicts that were issued resulted in minor prison sentences. Pakistan is reportedly used as a conduit for infringing products from Russia, Malaysia, Singapore, China, Bangladesh, and Sri Lanka for onward distribution to third countries. Book piracy also continues to undermine legitimate trade and investment. With respect to trademarks, counterfeit products, both imported and domestically produced, are increasingly entering the market with few efforts at enforcement. The only entity with legal standing to take a case against an alleged counterfeiter is the company whose product was copied.

SERVICES BARRIERS

Pakistan generally permits foreign investment in services. Except in certain sectors such as aviation, banking, agriculture, and media, there is no upper limit on the share of equity that foreign investors can hold. Foreign investors in Pakistan are limited in the remittance of royalty payments to a maximum of $100,000 for the first payment. Royalty payments are then capped at 5 percent of net sales for the subsequent five years.

Pakistan prohibits the importation, sale, distribution, and transmission of films the government deems inconsistent with local religious and cultural standards, and also bans websites deemed to be blasphemous or immoral. A ban on the popular video-sharing website YouTube has been in effect in Pakistan since September 2012.

In October 2012, the Ministry of Information Technology and Telecommunication ordered establishment of an International Clearing House (ICH) that quadrupled charges and curtailed competition for international calls to Pakistan. The United States, the Competition Commission of Pakistan (CCP), and cellular operators expressed serious concern with this change.

After several court cases about the legality of the ICH, Pakistan's Supreme Court directed the matter back to the jurisdiction of the CCP. In April 2013, the CCP issued a ruling against international call termination rate increases. Despite the ruling, the increased rate of $0.088 per minute remains in effect, even though the Pakistan Telecommunications Authority no longer officially mandates it.

The Pakistani rate increase caused a reaction in the United States. On March 5, 2013 the U.S. Federal Communications Commission (FCC) issued a Memorandum Opinion and Order that found:

> [R]ecent and ongoing actions by certain Pakistani long distance international carriers (Pakistani LDI carriers) to set rate floors over previously negotiated rates with U.S. carriers for termination of international telephone calls to Pakistan are anticompetitive and require action to protect U.S. consumers in accordance with FCC policy and precedent. Their continuation would result in a substantial increase in the cost of and repress demand for calling Pakistan.

The FCC ordered all U.S. carriers not to pay termination rates to Pakistani carriers in excess of "the rates that were in effect immediately prior to the rate increase on or around October 1, 2012."

Foreign banks that do not have a global Tier-1 paid up capital (*e.g.*, equity and retained earnings of $5 billion or more) or are not from countries that are part of regional groups and associations of which Pakistan is a member (*e.g.*, the Economic Cooperation Organization and the South Asian Association for Regional Cooperation) and that wish to conduct banking business in Pakistan must incorporate a local company. A foreign bank may hold a maximum of 49 percent of the shares of a bank in Pakistan. The National Insurance Company, a majority state-owned enterprise, has the exclusive authority to underwrite and insure public sector firms, assets, and properties. The government has discretion to grant exemptions to this requirement pursuant to Section 166 of the Insurance Ordinance 2000. Private sector firms may seek foreign reinsurance facilities to meet up to 65 percent of their re-insurance needs. The government has allowed 100 percent of foreign equity in an insurance business. The Investment Policy 2013, approved on March 13, 2013, eliminated the minimum capital requirements for the insurance sector. Nonetheless, the Investment Policy retained the 49 percent equity cap for foreign investors in the banking sector and 60 percent equity cap in the non-corporate agriculture sector.

OTHER BARRIERS

Foreign businesses in Pakistan have been vocal in expressing concern over corruption and a weak judicial system, which act as substantial disincentives to investment. In 2002, Pakistan's Cabinet approved the National Anti-Corruption Strategy (NACS) that identified areas of pervasive corruption and recommended the implementation of reforms to combat corruption. The NACS recognized the National Accountability Bureau (NAB) as the sole federal anticorruption agency. In mid-2009, the Supreme Court directed that legislation replace the executive ordinance establishing the NAB, but as of the date of publication of this report, the National Assembly has yet to pass such legislation.

Contract enforcement can be difficult for U.S. and other foreign investors in Pakistan. Parties pursuing legal remedies in the Pakistani judicial system may face years of delays and unpredictable outcomes in the country's overloaded courts. A law ratifying the New York Convention was enacted by the Parliament in 2011.