SAUDI ARABIA

TRADE SUMMARY

The U.S. goods trade deficit with Saudi Arabia was $42.3 billion in 2008, an increase of $17.1 billion from $25.2 billion in 2007. U.S. goods exports in 2008 were $12.5 billion, up 20.0 percent from the previous year. Corresponding U.S. imports from Saudi Arabia were $54.8 billion, up 53.8 percent. Saudi Arabia is currently the 23rd largest export market for U.S. goods.

U.S. exports of private commercial services (*i.e.*, excluding military and government) to Saudi Arabia were $3.3 billion in 2007 (latest data available), and U.S. imports were $509 million. Sales of services in Saudi Arabia by majority U.S.-owned affiliates were $537 million in 2004 (latest data available), while sales of services in the United States by majority Saudi Arabia-owned firms were $2.8 billion in 2006.

The stock of U.S. foreign direct investment (FDI) in Saudi Arabia in 2007 was $5.3 billion (latest data available), up from $4.7 billion in 2006. U.S. FDI in Saudi Arabia is concentrated largely in the nonbank holding companies sector.

IMPORT POLICIES

Tariffs

As a member of the Gulf Cooperation Council (GCC), Saudi Arabia applies the GCC common external tariff of 5 percent for most products, with a limited number of GCC-approved country-specific exceptions. Saudi Arabia's exceptions include 666 products that may be imported duty-free, including aircraft and most livestock. Saudi Arabia also applies a 12 percent tariff on 294 products, in some cases to protect local industries. Certain textile imports are among the products to which the 12 percent rate applies.

The vast majority of food products are subject to a 5 percent import duty. However, selected processed food products are assessed higher import duties. In order to protect local food processors and production from competitively priced imports, Saudi Arabia ties import duties to the level of local production of similar products. As a general rule, a maximum import tariff rate of 40 percent is applied when local production of a food or agricultural product exceeds a self-sufficiency level. Currently, a 40 percent import duty rate applies to fresh, dried, and processed dates. Imports of rice, baby milk, and animal feed (soybean meal, feed corn, barley, rice, sorghum, palm kernel meal, wheat bran, alfalfa hay, sugarcane molasses, rice bran, sunflower meal, oats, canola meal, fish meal, alfalfa pellets, soy bean hulls, sunflower hulls, and rice bran) are subsidized while coffee, tea, and fresh red meat enter the country duty free. Saudi Arabia has no tariff-rate quota (TRQ) requirement.

On March 31, 2008, Saudi Arabia exempted wheat, wheat flour, and other grains from import duties and reduced duties levied on 75 other foodstuffs to 5 percent. The decree aims at alleviating the impact of the rising cost of living in Saudi Arabia. Major foodstuffs that benefited from the reduced 5 percent import tariff included chilled and frozen poultry and their products, eggs (fresh, dried, and powdered), cheese, cheese cream, vegetable oils, pasta, canned meat, fruit and vegetable juices, mineral and ordinary water, long life milk, corn flakes, peas, beans, peanut butter, yeast, and baking powder. The government will review the list in April 2011.

Confectionary products with cocoa and other bulk cocoa products are subject to a 15 percent tariff. Nine types of fresh or chilled vegetables (tomatoes, onions, carrots, cucumbers, marrow, okra, watermelons, melons, and potatoes) are subject to a 25 percent tariff on a seasonal basis. Saudi Arabia also imposes a 100 percent tariff on cigarette and other tobacco imports.

Import Prohibitions and Licensing

In Saudi Arabia, the importation of certain articles is either prohibited or requires special approval from competent authorities. Specifically, the importation of alcohol, firearms, pork products, and used clothing is prohibited. Imports of certain products, including agriculture seeds, live animals, books, periodicals, audio or visual media, religious materials that do not adhere to the state-sanctioned version of Islam or that relate to a religion other than Islam, chemicals and harmful materials, pharmaceutical products, wireless equipment, horses, radio-controlled model airplanes, products containing alcohol, natural asphalt, and archaeological artifacts, require special approval. Importation of some media products is subject to censorship.

Documentation Requirements

Pursuant to Saudi Arabia's WTO Accession Protocol, Saudi Arabia eliminated the requirement to authenticate import documentation as of December 31, 2007.

Some products, most notably agricultural biotechnology products, need a certificate from the country of origin attesting to the product's fitness for human consumption and its wide sales in the country of origin. Saudi Arabia requires that this certificate be authenticated by the local chamber of commerce in the country of origin. All nonfood consumer products must have a certificate of conformity issued under the guidelines of Saudi Arabia's Conformity Certificate Program (COCP) before entering the country.

Single Entry Point

In January 2008, the GCC adopted legislation to apply the principle of Single Entry Point, by which any products admitted into the GCC through a GCC customs point may legally traverse borders within the GCC without further examination or inspection. However, the land crossing between Saudi Arabia and the United Arab Emirates still has periodic inspections that have resulted in the confiscation of pirated pharmaceuticals and beauty products.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

Standards

As part of the GCC Customs Union, the six Member States are working toward unifying their standards and conformity assessment systems. However, each Member State currently continues to apply either its own standard or a GCC standard, resulting in a complicated situation for some U.S. businesses. GCC Member States do not consistently send notification of new measures to WTO Members and the WTO Committees on Sanitary and Phytosanitary Measures (SPS) and Technical Barriers to Trade (TBT) or allow WTO Members an opportunity to provide comments.

In May 2008, the GCC Standards Committee approved two new standards for the labeling and expiration periods of food products. The new GCC standards eliminate the long standing requirement that at least one-half of a product's shelf life be valid when a product reaches a port of entry in GCC Member States. Officials from the Gulf Standards Organization (GSO) have stated that GCC Member States will accept use of the terms "best by" and "best before" as meeting the date labeling requirement for shelf-stable products. The United States has requested written confirmation of this situation.

In December 2001 and January 2004, respectively, the Saudi Arabian Ministries of Commerce and Industry (MOCI) and Agriculture (MOA) implemented biotechnology labeling decrees on animal feed and processed foodstuffs. The decrees require a positive biotechnology label if a product contains more than 1 percent of biotechnology vegetable (plant) ingredients. In addition, for U.S. grains, the MOA has accepted a one-time biotechnology grains certification statement submitted by the U.S. Grain Inspection, Packers, and Stockyards Administration (GIPSA) in 2003. The statement certifies that exported biotechnology grains are the same as those consumed in the United States. The GIPSA certification statement eliminates the need for a shipment-by-shipment positive biotechnology certification for U.S. corn and soybean meal exported to Saudi Arabia. In 2004, the MOA banned imports of all types of biotechnology seeds.

SPS MEASURES

In May and October 2007, respectively, Bahrain and Oman notified WTO Members of proposed procedures meant to harmonize food safety import requirements for all GCC Member States. The United States and other WTO Members provided comments outlining significant concerns with the procedures, which, as currently drafted, do not appear to have a clear scientific basis and would substantially disrupt food exports to GCC Member States from their trading partners. The GCC Member States indicate that they are developing a response to these comments, and the United States has established a dialogue between U.S. and GCC technical experts to discuss the procedures and potential amendments to address the concerns raised.

Saudi Arabia requires an animal protein-free certificate for imports of poultry, beef, and lamb and their by-products. For beef and poultry meat imported from the United States, Saudi Arabia recognizes a two-certificate approach: (1) an official U.S. Food Safety Inspection Service (FSIS) export certificate issued for beef and poultry meat; and (2) a producer or manufacturer self-certification to cover any additional requirements not related to food safety or animal health issues, such as an animal protein-free feed declaration. In addition, Saudi Arabia bans the import of therapeutic medicines used in animal feed.

Conformity Assessment

In accordance with Ministers Decision No. 213, as of August 28, 2004, Saudi Arabia abolished the International Conformity Certification Program (ICCP), a pre-shipment certification program initiated in 1995 to monitor and control the importation of certain products. In place of the ICCP, in 2006 the Ministry of Commerce implemented the Conformity Certificate Program (COCP). This program requires every shipment of products sold in Saudi Arabia to be accompanied by a document certifying that the product conforms to the relevant Saudi Arabian technical regulation or standard ("conformity certificate"). The requirement applies to all products, including domestic products, except those subject to Saudi Arabia's sanitary and phytosanitary regulations. The conformity certificate may be submitted by a conformity assessment body, an independent third party, or a manufacturer to declare compliance with the relevant Saudi Arabian technical regulations or standards. U.S. exporters reported continued problems with customs officers at ports of entry failing to apply the new COCP procedures.

The GCC Standards Committee is currently developing a conformity assessment scheme to be adopted ultimately by each of the six Member States and has set 2010 as a deadline for full implementation by each Member State. The United States is working to establish a dialogue between U.S. and GCC technical experts to discuss this proposed scheme with the goal of helping to ensure that it is developed, adopted, and applied in accordance with WTO rules.

GOVERNMENT PROCUREMENT

When Saudi Arabia acceded to the WTO in December 2005, it committed to initiate negotiations for accession to the WTO Agreement on Government Procurement (GPA) and to complete its GPA negotiations within one year of becoming a WTO Member. Saudi Arabia became an observer to the WTO Committee on Government Procurement in December 2007, but it has not begun negotiations for GPA membership. Saudi Arabia published its revised government procurement procedures to bring them in line with GPA requirements in August 2006.

Several royal decrees apply to Saudi Arabia's government procurement. However, most Saudi defense contracts are negotiated outside these regulations on a case-by-case basis. Under a 1983 decree, contractors must subcontract 30 percent of the value of any government contract, including support services, to firms that are majority-owned by Saudi nationals. An exemption is granted where no Saudi-owned company can provide the goods and services necessary to fulfill the procurement requirement.

The tender regulations give a preference to products of Saudi origin that satisfy the requirements of the procurement. In addition, Saudi Arabia gives priority in government purchasing 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 that participate in government procurement are required to establish a training program for Saudi nationals. In addition, the government may favor joint venture companies with a Saudi partner over foreign firms and will also support companies that use Saudi goods and services. For large military projects, there is frequently an offset requirement, which is determined on a project-by-project basis.

Foreign companies can provide services to the Saudi Arabian government directly without a Saudi service agent and can market their services to other public entities through an office that has been granted temporary registration. Foreign suppliers working only for the government, if not already registered to do business in Saudi Arabia, are required to obtain a temporary registration from the Ministry of Commerce and Industry within 30 days of signing a contract. Foreign investment regulations also allow foreign companies to establish a branch office in Saudi Arabia.

In 2003, the Saudi Council of Ministers required increased transparency in government procurement. The procurement information to be made public includes: parties, date, financial value, brief description, duration, place of execution, and point of contact information.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Saudi Arabia has made progress on IPR enforcement over the past few years, but further improvements are still needed with respect to copyright enforcement. The United States continues to monitor Saudi Arabia's IPR enforcement regime, including its efforts to increase transparency, eliminate procedural hurdles to judicial enforcement, and impose deterrent penalties. Saudi Arabia has also taken steps to combat counterfeiting of trademarked products. The government has begun an awareness campaign on IPR violations, and in October 2008 hosted the first Arab Consumer and Brand Protection Forum in Jeddah. Enforcement has had some effect with regard to the availability of pirated media products as once plentiful pirated DVDs, software, and games are now more difficult to find among local vendors.

To speed the processing of patent applications, Saudi Arabia passed patent legislation and has taken measures to hire and train more examiners, translators, and clerks. However, the U.S. pharmaceutical industry continues to express concern that the new Patent Law does not provide protection for their products subject to pending patent applications that were filed under provisions of the old law. The government is considering providing exclusive marketing rights to companies so they might market their products in Saudi Arabia pending the grant of patents.

As part of the GCC Customs Union, the six Member States are working toward unifying their IP regimes. In this respect, the GCC is preparing a draft common trademark law. All six Member States are expected to adopt this law as national legislation in order to implement it. The United States has outlined specific concerns with the trademark law and has established a dialogue between U.S. and GCC technical experts to ensure that the law complies with the Member States' international and bilateral obligations.

SERVICES BARRIERS

Insurance

In recent years, Saudi Arabia has implemented a series of laws regulating what had been an essentially unregulated sector and requiring certain types of insurance coverage within the country. In October 2003, the government enacted the Control Law for Co-Operative Insurance Companies, which requires all insurance companies operating in Saudi Arabia to be locally incorporated joint-stock companies (foreign equity is limited to 60 percent, and the remaining 40 percent must be floated on the Saudi stock market), and to operate on a cooperative or mutual basis (*i.e.*, requiring that the profits be distributed between policy holders and the insurance company). Cooperative health insurance became mandatory in 2006. Employers are required to pay for insurance coverage of foreign workers and dependent family members. To enforce this law, foreign workers in Saudi Arabia are required to show proof of medical insurance in order to receive or renew national identification cards.

The Saudi Arabian Monetary Agency (SAMA) began accepting applications for insurance operations in November 2003 and on April 13, 2005, Royal Decree No. 3120/MB was promulgated to implement Saudi Arabia's GATS commitment allowing foreign insurance companies to operate in Saudi Arabia through direct branches. For a transitional period of three years, foreign insurance companies operating through an agent were allowed to continue operations in Saudi Arabia uninterrupted pending the issuance of insurance branching regulations. By the end of 2008, 25 insurance companies had been licensed by SAMA.

Banking

Although the Saudi Banking Control Law does not limit foreign participation, for the past 20 years the SAMA has capped foreign ownership in commercial banks at 40 percent of any individual bank operation. In the last few years, Saudi Arabia has taken steps to open up investment banking by granting operating licenses to foreign banks. SAMA granted 10 foreign bank licenses to operate in Saudi Arabia in December 2005. The Saudi Capital Markets Law (2004) provides for the creation of investment banks and brokerages in Saudi Arabia, with foreign participation in these ventures capped at 60 percent. As capital markets regulations are finalized, Saudi Arabian investment banking will likely provide significant growth opportunities.

On August 18, 2008, Saudi Arabia passed a regulation allowing non-residents to invest in swap agreements in the Saudi Stock Exchange, while local brokers and bankers retain legal title to traded shares.

INVESTMENT BARRIERS

In April 2000, the Council of Ministers approved a new foreign direct investment code with the goal of facilitating the establishment of foreign companies, both joint ventures and 100 percent foreign-owned enterprises, in Saudi Arabia. Key provisions allow foreign investors to transfer money freely into and out of the country, allow joint-venture companies to sponsor their foreign investors as well as their foreign employees (all foreigners in Saudi Arabia need a legal sponsor in order to reside in the country), and permit foreign investors to own real property for company activities. The government established the Saudi Arabian General Investment Authority (SAGIA) to function as a one-stop shop, where foreign investors can obtain all of the permits or authorizations necessary to make an investment. In addition to its four existing service centers (in Riyadh, Jeddah, Dammam, and Medina), SAGIA opened a Women's Investment Center in March 2003 to promote the participation of Saudi women in business.

SAGIA must grant or refuse an investment license within 30 days of receiving an application and supporting documentation from the investor. Licenses are required for all foreign investments. Wholly domestic projects funded with Saudi or other GCC Member money do not need licenses through SAGIA's investment services center, as it was specifically designed for foreign investors. However, many of the licenses SAGIA issues concern projects jointly owned with Saudi investors. Bureaucratic impediments arising in other ministries have sometimes delayed the application process. SAGIA continues to take steps to address these impediments and to streamline the process, including concluding 23 separate agreements relating to the processing of license applications with other ministries and government agencies. Some companies still experience bureaucratic delays after receiving licenses from SAGIA, for example, in obtaining a commercial registry or purchasing property.

Following SAGIA's recommendations in 2001, the Supreme Economic Council published a list of 16 manufacturing and service sectors and subsectors in which foreign investment is currently prohibited, including oil exploration, drilling and production, and manufacturing and services related to military activity.

In October 2003, Saudi Arabia passed the Capital Markets Law, which took effect in February 2004. The law allows for the creation of financial intermediaries (stock brokerages and investment banks) and created an independent stock market and an independent stock market regulatory body. The law sets SR50 million ($13.3 million) capitalization requirements for brokerages and provides penalties for insider trading and wrongful dissemination of information. The law also allows for the development of long-term investment instruments and limits the maximum equity share held by foreign partners in joint ventures with Saudi entities to 49 percent. Saudi Arabia agreed to raise the maximum allowable percentage of the foreign partner to 60 percent after WTO accession. The 2003 law does not repeal the prohibition on direct foreign participation in the Saudi stock market. However, foreigners can continue to purchase shares in bank operated investment funds. Foreign participation in these funds is limited to 10 percent of the total value of the fund.

ELECTRONIC COMMERCE

Pursuant to the Council of Ministers' decree concerning the regulation of use of the Internet in Saudi Arabia, all websites that contain content in violation of Islamic tradition or national regulations are blocked. Pornographic websites are identified and blocked through a filtering system, which does occasionally prevent access to sites that appear to fall outside stated prohibited topics. Non-pornographic sites are placed on the blocked list based upon direct requests from the security bodies within the government. Although the government is in the process of drafting an electronic commerce law, it is unclear when the law will be completed.