PAKISTAN

TRADE SUMMARY

The U.S. goods trade deficit with Pakistan was $1.5 billion in 2009, down $155 million from 2008. U.S. goods exports in 2009 were $1.6 billion, down 14.4 percent from the previous year. Corresponding U.S. imports from Pakistan were $3.2 billion, down 11.9 percent. Pakistan is currently the 60th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Pakistan was $482 million in 2008 (latest data available), down from $514 million in 2007.

IMPORT POLICIES

Pakistan's overall average applied tariff in 2008 was 14.7 percent. There are 14 different *ad valorem* tariff levels, ranging from 0 percent to 150 percent. In FY2008-2009 (July 2008 – June 2009), specific rates of duty were applied to 44 products. These rates were continued in the 2009-2010 budget.

The government of Pakistan in FY2008-2009 increased the specific tariff rates on 397 non-essential and luxury items from the 15 percent to 25 percent range to between 30 percent and 35 percent as part of an effort to control Pakistan's global trade deficit. These items include cosmetics, many domestic appliances, luxury food items, and cigarettes. The tariff on cars with an 1800cc engine capacity has been raised from 90 percent to 100 percent, and on cars with a 2500cc engine capacity the tariff has been raised from 100 percent to 150 percent. A 50 percent tariff has been imposed on imported vehicles with engines smaller than an 850cc engine capacity. A tariff ranging from $6 to $9 per handset is being assessed on imported cell phone handsets. Pakistan provides protection to domestic manufacturers of automotive parts by imposing higher tariff rates on those auto parts that are manufactured in Pakistan. Pakistan has a 55 percent tariff on imported automotive parts that are also manufactured domestically, and a 35 percent tariff on those automotive parts that it does not manufacture domestically. Prior to this arrangement, Pakistan used a local content requirement (known as the Deletion Program) in the auto industry, which required using certain levels of local inputs. Also in FY2008-2009, Pakistan reduced tariffs on instant print film and instant print cameras to 5 percent from the 30 percent to 200 percent range, with a goal of reducing incentives to evade payment of tariffs on these products.

The government of Pakistan reserves the right to grant sector-specific duty exemptions and concessions, and other protections under Statutory Regulatory Orders (SROs). For example, the government in 2006 exempted all domestically-produced and imported pharmaceutical-related inputs from its General Sales Tax, and an SRO issued in August 2002 exempted pharmaceutical products from the General Sales Tax, a measure which remains in place. However, certain pharmaceutical products remain subject to a 2006 SRO imposing a 15 percent duty. In recent years, the use of SROs has decreased. SROs and other trade policy and regulatory documents are published on the Central Board of Revenue's website: http://www.cbr.gov.pk.

U.S. soft drink manufacturers have reported that Pakistan imposes a 12 percent Central Excise Duty (CED) on carbonated soft drinks and a 50 percent CED on soft drink concentrates.

In January 2000, the Pakistani government began implementing a transactional valuation system, in accordance with the WTO's Customs Valuation Agreement. Currently, about 90 percent to 95 percent of

imports are assessed duties pursuant to the transactional valuation system, including major imports such as industrial and power equipment, petroleum and petroleum products, and chemicals. A number of traders in food and nonfood consumer products, however, report that the system is not uniformly applied. A few major U.S. companies in the machinery and materials sector have reported specific concerns with application of customs valuation methods by Pakistan Customs, particularly the use of minimum values instead of the declared transaction value.

On October 5, 2009, Pakistan began to enforce a 2005 regulation requiring that the commercial invoice and the packing list be included inside a container. The inclusion of invoice and packing lists is difficult in situations when shipments originate in a different location from where the invoice and packing list are created, when invoices are created after the shipment departs, or when several companies are involved.

GOVERNMENT PROCUREMENT

Pakistan is not a signatory to the WTO Agreement on Government Procurement. The government uses an open procurement process, although bidders have to register with the government to be awarded contracts. Registration is required to ensure that legitimate businesses are bidding for contracts. The Public Procurement Regulatory Authority (the Authority), which was established in 2002, is an autonomous body responsible for prescribing regulations and procedures for procurement by public sector entities and for monitoring procurement by such entities. In 2004, the Authority enacted a regulatory framework for public procurement which is aimed at establishing transparent public procurement practices. Pursuant to the 2004 regulatory framework, international tender notices are publicly advertised and sole source contracting using company-specific qualifications has been eliminated. There are no official "buy national" policies.

Political influence on procurement decisions, charges of official corruption, non-transparency, and long delays in bureaucratic decision-making are common. Suppliers have reported instances where the government used the lowest bid as a basis for further negotiations, rather than accepting the lowest bid under its tender rules.

EXPORT SUBSIDIES

Pakistan actively promotes the export of Pakistani goods with measures such as tariff concessions on imported inputs and income and sales tax concessions. Other subsidies in Pakistan's 2009 fiscal year were confined mostly to wheat and totaled roughly $3.4 million, according to government sources. Although subsidies have been provided in the past, there was no freight subsidy in FY2009. The government provided $48.19 million as a Research and Development subsidy to the textile sector and a $9.7 million interest rate subsidy to the spinning sector in FY2009.

Pakistan established its first Export Processing Zone (EPZ) in Karachi in 1989, with special fiscal and institutional incentives available to encourage the establishment of exclusively export-oriented industries. The government subsequently established additional EPZs in eight other locations, including Risalpur, Gujranwala, and Sialkot in Punjab Province, and Saindak and Duddar in Balochistan Province. Principal government incentives for EPZ investors include an exemption from all federal, provincial, and municipal taxes for production dedicated to exports; exemption from all taxes and duties on equipment, machinery, and materials (including components, spare parts, and packing material); indefinite loss carry-forward; and access to Export Processing Zone Authority One Window services, including facilitated issuance of import permits and export authorizations. Despite the large incentives, most of these zones have failed to attract investment.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Pakistan was listed on the Priority Watch List in the 2009 Special 301 report. Key concerns cited in the report relate to weak protection and enforcement of IPRs, especially with respect to copyright and pharmaceutical data protection.

While the government took steps in 2006 and 2007 to improve copyright enforcement, especially with respect to optical disc piracy, it appears that only some of the arrests resulted in prosecutions and the few verdicts that were issued resulted in imposition of insignificant prison sentences. Pakistan's Federal Investigation Agency continues to conduct large scale raids, and from August 2008 to November 2009, 17 new cases were filed against IPR violators and $6.4 million worth of pirated material were confiscated. The raids were carried out in several cities, including Rawalpindi, Lahore, Karachi, Multan, and Faisalabad. However, the lack of successful prosecutions means that arrests have little deterrent effect. Moreover, Pakistan is now reportedly being used as conduit for infringing products transiting from Russia, Malaysia, Singapore, China, Bangladesh, and Sri Lanka for onward distribution to third countries. Book piracy also continues to present barriers to legitimate trade and investment.

Pakistan has not made progress in providing effective protection against unfair commercial use of undisclosed test and other data generated to obtain marketing approval for pharmaceutical products. The government of Pakistan and international and local pharmaceutical companies have been negotiating draft regulations on data protection for the past three years. Although draft data protection regulations were finally formulated in 2009, the regulations remain under government of Pakistan review and have not been promulgated. In addition, Pakistan does not have an effective system to prevent the issuance of marketing approvals for unauthorized copies of patented pharmaceutical products. In 2009 Pakistan's President issued an ordinance that removed an 18-month patent application processing deadline, slowing the processing of pending patent applications.

There has been some progress on IPR issues over the past year. In October 2009, the Cabinet approved a draft Plant Breeder's Rights Law, and parliament is currently reviewing an amendment to the Seed Act of 1976. If passed, these will provide an environment conducive to research and development attractive to both domestic and foreign researchers and plant breeders. The government of Pakistan has indicated it expects the draft laws to be enacted in 2010.

SERVICES BARRIERS

Pakistan generally permits foreign investment in services, subject to certain provisions, including a minimum initial capital investment requirement of $150,000 for most sectors. Exceptions to this requirement exist with respect to the information technology services sector, which is not subject to the minimum initial investment requirements and banking for which there are special rules (described below). Foreign investors may hold up to a 100 percent equity stake and are allowed 100 percent repatriation of profits in most sectors. The requirement that foreign investors accumulate 40 percent local equity within five years of an initial investment has been eliminated and the cap on repatriation of profits at a maximum of 60 percent of total equity or profits has been abolished. Foreign investors in services and other non-manufacturing sectors are allowed to remit royalties and technical fees, subject to certain conditions. These include limiting initial royalty payments to $100,000 and capping subsequent royalty payments at 5 percent of net sales for five years.

Telecommunications

In 2003, the Pakistani government deregulated the telecommunications sector in an effort to comply with its WTO commitments and encourage growth in the sector. The Pakistan Telecommunication Company Limited (PTCL) lost its monopoly on basic telephone services, and the government issued 14 licenses to long distance telephone companies (13 of which are currently in use), 84 licenses to local loop regional telephone companies (of which 13 are operational), and 92 licenses to wireless local loop companies (of which 5 are operational). The ability of telecommunications companies to operate in Pakistan will continue to depend on access to PTCL infrastructure. In 2005-2006, the government combined 15 value added services including Internet service provision, vehicle tracking systems, and data network operations into one license, the Class Value Added (CVA) license. The government gave those who applied prior to announcement of this policy the option either to continue their old licenses or convert to CVA licenses. To date, the government has issued 124 new CVA licenses and converted 93 old licenses to CVAs. At present, the government does not issue licenses specifically for Voice-over-Internet Protocol (VoIP), but long distance telephone license holders may also provide VoIP services.

Banking and Insurance

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) are capped at a 49 percent equity stake.

The government permits only the parastatal National Insurance Company to underwrite and insure public sector firms. Private sector firms must meet 35 percent of their reinsurance needs within the country. Firms may seek foreign reinsurance facilities to meet 65 percent of their re-insurance needs, but two thirds of this should be met from A-rated foreign companies and the rest from B-rated reinsurance companies. Market domination in the life insurance sector may pose a significant barrier to entry, as the state-owned State Life Insurance Company holds over 65 percent of this market, although that percentage has been declining over the past several years. Three domestically-owned companies account for 65 percent of the general insurance (property, casualty, and health) market.

INVESTMENT BARRIERS

Foreign investors are generally free to establish and own business enterprises in Pakistan, with the exception of five restricted areas: arms and munitions, high explosives, currency/mint operations, radioactive substances, and new non-industrial alcohol plants. There is a $150,000 minimum foreign investment requirement in nonfinancial services (except information technology services), and a minimum investment requirement of $300,000 in agriculture, infrastructure projects, and social services (such as education and health).

OTHER BARRIERS

The government's privatization program stalled following a series of Supreme Court decisions against the privatization of Pakistan Steel Mill. The amount earned through privatizations in FY2009 was only $16.4 million, compared to $224 million in the previous year. The lack of a sound privatization plan and investor interest (attributable to investment climate and security concerns) has led to a halt in privatizations of state-owned enterprises.

Businesses operating in Pakistan have repeatedly called for strengthening national security against extremists. Corruption and a weak judicial system remain recurrent and substantial disincentives to investment. Pakistani laws targeting corruption include the 1947 Prevention of Corruption Act, the 1973 Efficiency and Discipline Rules, and the 1999 National Accountability Bureau (NAB) Ordinance. Previously, the NAB, the Federal Investigation Agency (FIA), and provincial anticorruption departments shared official responsibility for combating corruption. In October 2002, Pakistan's cabinet approved a National Anti-Corruption Strategy (NACS) that identified areas of pervasive corruption and recommended timeframes for measures and reforms to combat corruption. The NACS named the NAB as the sole anticorruption agency at the federal level. In mid-2009, the Supreme Court directed that the executive ordinance establishing the NAB be replaced with legislation not later than November 2009. However, the new law was not completed by that time and the new NAB bill is currently with the National Assembly Standing Committee on Law and Justice. The draft bill proposes to change the name of the NAB and reduces the maximum punishment for corruption offenses from 14 years to 13 years. It also proposes to abolish accountability courts and refers NAB cases to special benches of High Courts.

Contract enforcement can be difficult for U.S. and other foreign investors in Pakistan. For example, a longstanding investment dispute between a major U.S. multinational company and a local partner raised concerns about the enforceability of international arbitration awards regarding contracts between private parties. After nearly a decade of litigation, the case was resolved in 2009 when the local party withdrew its appeal from the Lahore High Court.

In 2004, Pakistan's Cabinet approved the 1958 New York Convention on Recognition and Enforcement of Foreign Arbitral Awards (New York Convention). Pakistan's Cabinet ratified the New York Convention on July 14, 2005, and conveyed the instrument of ratification to the United Nations Secretary General, who is the depository of such instruments. The ordinance by which the New York Convention was implemented expired in November 2009. A new bill was submitted to the National Assembly for approval.