TURKEY

In 1996, the U.S. trade surplus with Turkey was $1.1 billion, an increase of $182 million from the U.S. trade surplus of $927 million in 1995. U.S. merchandise exports to Turkey were $2.9 billion, an increase of $159 million (5.8 percent) from the level of U.S. exports to Turkey in 1995. Turkey was the United States’ thirty-sixth largest export market in 1996. U.S. imports from Turkey were $1.8 billion in 1996, a decrease of $23 million (1.3 percent) from the level of imports in 1995.

The stock of U.S. foreign direct investment (FDI) in Turkey in 1995 was $1.2 billion, an increase of 8.2 percent from the level of U.S. FDI in 1994. U.S. FDI in Turkey is concentrated largely in the manufacturing, banking, and wholesale sectors.

IMPORT POLICIES

Tariffs and Other Charges

The introduction of Turkey's customs union with the European Union (EU) in 1996 resulted in substantial revisions to Turkey's tariff regime. Turkey now applies the EU's common external customs tariff for third country (including U.S.) imports, and imposes no duty on non-agricultural items from EU and European Free Trade Association (EFTA) countries. Turkey eliminated its mass housing fund surcharge on almost all imports except for agricultural products and used construction machinery. The weighted rate of protection for industrial products from the U.S. and other third countries dropped from 11 to 6 percent with the introduction of the customs union. Higher transitional protection for imports of sensitive goods from third countries are being phased out starting in 1997. By 2000, the average weight is set to fall to 4 percent.

Although EU/EFTA countries have received preferential tariff treatment on industrial products for several years, initial data indicate that the introduction of the customs union led to a shift in Turkey's import pattern. During the first four months of 1996 the EU's share of total Turkish imports rose to 52 percent from 44 percent during the same period in 1995, while the share of U.S. goods fell from 12 percent to 8 percent.

Consistent with its WTO commitments, Turkey maintains high border protection on many agricultural goods and food products. Turkey also maintains certain surcharges on agricultural products which are inconsistent with its WTO commitments. In late 1996, Turkey imposed a temporary ban on cattle and beef imports.

Import Licenses

Turkey requires import licenses for some agricultural commodities, which are issued based on domestic supplies. The government also requires certification that quality standards are met for importation of human and veterinary drugs and certain foodstuffs. Import certificates are necessary for most products requiring after-sales service, including telecommunications and electronic equipment and vehicles. Importers are also required to establish repair facilities in all seven regions of Turkey. Some telecommunications equipment related to radio frequencies require type approvals.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

The Turkish Government's strict application of phytosanitary standards in late 1996 led to a temporary halt of U.S. grain exports to Turkey. Following extensive bilateral discussions, the government agreed to temporarily suspend its "zero tolerance" standard for certain grains, although the issue remains under discussion.

GOVERNMENT PROCUREMENT

Turkey normally follows competitive bid procedures for domestic, international, and multilateral development bank-assigned tenders. U.S. firms sometimes become frustrated over lengthy and complicated bidding/negotiating processes. Military procurements generally require an offset provision in tender specifications when the estimated tender value exceeds one million dollars.

In the absence of a bilateral tax treaty, U.S. bidders for Turkish Government service contracts are subject to a 20 percent withholding tax. This can significantly add to the cost of U.S. bids vis-a-vis those from countries which have a tax treaty reducing the rate of withholding for professional services. In March 1996, the United States and Turkey signed a tax treaty which will eliminate this withholding tax, although neither side has yet ratified the treaty.

EXPORT SUBSIDIES

In 1995, Turkey significantly reduced its export subsidy programs in order to meet commitments to the EU and WTO. The government still provides cash subsidies to a limited number of agricultural exporters. Domestic producers and exporters can take advantage of a number of state programs designed to support production for domestic and export markets, including cash and credit assistance for R&D projects, environmental projects, participation in trade fairs, market research, and establishment of branch offices overseas. From June 1995 to December 1996, the Government of Turkey spent only $6 million under these programs. Exporters also benefit from export credit schemes and guarantees provided by the Turkish Export-Import Bank.

LACK OF INTELLECTUAL PROPERTY PROTECTION

Turkey's intellectual property regime improved considerably in 1995. After years of complaints from Western businesses and governments about weak intellectual property laws and lax enforcement, the Turkish Parliament approved a number of new laws in mid-1995 as part of Turkey's harmonization with the EU in advance of the customs union. The new patent, trademark, copyright and other laws, as well as Turkish acceptance of a number of multilateral intellectual property conventions, have given Turkey a comprehensive legal framework for protecting intellectual property rights. Enforcement of the new laws, however, was uneven in 1996. Efforts are underway to educate businesses, consumers, judges, prosecutors and others regarding the implications of the new laws. The Turkish judicial system, however, remains overburdened and it will likely be some time before the necessary elements for a smoothly functioning system are in place.

Copyrights

In June 1995, the Turkish Parliament passed a bill amending Turkey's 1951 copyright law. The bill (1) extends the term of copyrights from 20 to 70 years; (2) extends coverage to computer software; (3) increases fines for violators; and (4) removes many previous exemptions to full copyright protection.

Turkey also acceded to a number of international copyright conventions during 1995, including the Paris Act (1971) of the Berne Convention and the 1961 Rome Convention. The amended copyright law, however, fails to address all of the deficiencies in Turkey's copyright regime or to bring Turkey fully into compliance with Uruguay Round standards for intellectual property protection. The government has acknowledged the need for further amendments and is committed to passing new legislation early in 1997.

Patents

A new patent law came into effect in June 1995, replacing Turkey's 19th century patent law. The new law was subsequently amended in August and November of 1995. Turkish officials insist the law is fully compatible with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs), although U.S. officials have questioned a number of provisions, including the law's broad compulsory licensing provisions.

The new law is clearly deficient in one significant respect: coverage for pharmaceutical products and processes will not begin until 1999. This date is in accordance with Turkey's commitments to the EU for the customs union. The legislation also does not contain "pipeline" protection for pharmaceutical products. The Turkish Patent Institute is now accepting applications for pharmaceutical patents in accordance with the TRIPs Agreement's "mailbox" provisions. U.S. industry has also indicated that Turkey fails to protect test data submitted to the regulatory authorities to support applications for marketing approval of pharmaceutical and agricultural chemical products, as required by Article 39.3 of the TRIPs Agreement.

Trademarks

Along with the patent law, Turkey replaced its trademark law in 1995. Here, too, it remains to be seen how effective the Turkish bureaucracy and legal system will be in controlling the spread of counterfeiting of foreign trademarked products.

Turkey acceded to a number of international patent and trademark conventions in 1995, including: (1) the Stockholm Act (1979) of the Paris Convention for Protection of Industrial Property, (2) the Patent Cooperation Treaty (1984), (3) the Strasbourg Agreement on International Patent Classifications, (4) the Geneva Act (1979) of the Nice Agreement on International Classification of Goods and Services, and (5) the Vienna Agreement Establishing an International Classification of Figurative Elements of Marks.

Turkey

SERVICES BARRIERS

Businesses in certain sectors, particularly finance and banking, must obtain special government permission before commencing operations in Turkey. While foreign films are not subject to quotas, Turkish law currently permits localities to assess a higher rate of taxation on receipts generated by foreign films than for domestic films. Despite bilateral consultations between the United States and Turkey in 1996, the Turkish Government has failed to fulfill its agreement to institute measures equalizing these tax rates.

Basic Telecommunication Services

In the recently concluded WTO negotiations on basic telecommunications services, Turkey made commitments on all such services, and will provide market access and national treatment for them as of 2006. It adopted some pro-competitive regulatory principles. Turkey set a 49 percent foreign investment limit on telecom services.

INVESTMENT BARRIERS

Turkey has a liberal investment regime in which foreign investments receive national treatment. The Treasury Undersecretariat screens foreign investment proposals, but this appears to be a routine and non-discriminatory process which does not impede investment or limit competition. Almost all areas open to the Turkish private sector are also fully open to foreign participation. Establishments in the financial and petroleum sectors require special permissions. The equity participation ratio of foreign shareholders is restricted to 20 percent in broadcasting and 49 percent in aviation and maritime transportation; in other sectors, 100 percent foreign ownership is permitted.

ANTICOMPETITIVE PRACTICES

As part of its customs union agreement with the EU, Turkey has pledged to adopt EU standards concerning competition and consumer protection. However, the Turkish Government has not yet appointed the "competition board" mandated in a 1994 law, effectively preventing the law's implementation. Government monopolies in a number of areas, particularly alcohol, tobacco, and telecommunications services, have been somewhat scaled back in recent years, but remain a barrier to certain U.S. products and services. In 1997, the Turkish telecommunications sector is to be partially privatized and licenses are to be issued for many value-added services. In the tobacco sector, two U.S. tobacco companies have factories in Turkey, although the dominant position of the state monopoly continues to limit their operations.