NIGERIA

In 1996, the U.S. trade deficit with Nigeria was $5.0 billion, a increase of $861 million from the U.S. trade deficit of $4.2 billion in 1995. U.S. merchandise exports to were $816 million, an increase of $214 million (35.6 percent) from the level of U.S. exports to Nigeria in 1995. Nigeria was the United States' fifty-seventh largest export market in 1996. U.S. imports from Nigeria were $5.8 billion in 1996, an increase of $1.1 billion (22.5 percent) from the level of imports in 1995.

The stock of U.S. foreign direct investment (FDI) in Nigeria in 1995 was $595 million, an increase of 84.8 percent from the level of U.S. FDI in 1994. U.S. FDI in Nigeria is concentrated largely in the manufacturing sector.

IMPORT POLICIES

Nigeria abolished all import licensing requirements and cut its list of banned imports in 1986. However, as of January 1997, the importation of some 15 different items (principally agricultural) is still banned. These bans were initially implemented to restore Nigeria's agricultural sector and to conserve foreign exchange. Although the bans are compromised by widespread smuggling, the reduced availability of grains has raised prices for both banned commodities and locally produced substitutes.

In April 1996, in an effort to reduce congestion and corruption in Nigerian ports and following a reported shortfall in customs duties, the Nigerian Government changed the procedures by which goods enter or leave the country. The new regulations require a pre-shipment inspection for all unaccompanied imports and exports, certifying the price, quantity, and quality before shipment; further, imports require documentation in the form of an Import Duty Report (IDR). Goods arriving without an IDR will be confiscated by the Nigerian Government. In addition, all goods are assessed a 1 percent surcharge to cover the cost of inspection by the port authorities.

In 1995, Nigeria announced a new tariff structure to be operated until 200l. The revision was aimed at narrowing the ranges of many custom duties and increasing rate coverage in line with WTO provisions, with fewer import prohibitions. The following commodities are subject to duty rates: rice, 50 percent; day-old chicks and parent stock, 5 percent; sparkling wines, wine coolers, and champagne, 100 percent plus a 40 percent excise tax; fruits and fruit juices, 75 percent; jute bags, 45 percent; cigarettes, 200 percent; cotton, 60 percent; wheat, 10 percent; and passenger vehicles, from 30 to 100 percent. However, a 25 percent general reduction in import tariffs became effective in January 1997, and is now being implemented, thus temporarily reducing the above-listed duty rates. This action followed complaints of importers that customs duty was calculated on the basis of 80 naira to the dollar, rather than the official rate of 22 naira to the dollar used in 1994. Also, in October 1995, the Nigerian Ports Authority reduced port charges by 60 percent in Lagos and 70 percent at the other delta ports.

Other import restrictions apply to aircraft and ocean-going vessels. Guidelines mandate that all imported aircraft and ocean-going vessels be inspected by a government-authorized inspection agent. In addition, performance bonds and off-shore guarantees must be arranged before either down payments or subsequent payments are authorized by the Ministry of Finance.

GOVERNMENT PROCUREMENT

Nigeria, a member of the World Trade Organization (WTO), generally uses an open tender system for awarding government contracts, and foreign companies incorporated in Nigeria receive national treatment. Approximately five percent of all government procurement contracts are awarded to U.S. companies. Nonetheless, competing for government contracts continues to be made more difficult for foreign firms by the patronage system commonly used and the need to provide “incentive” payments to government officials.

EXPORT SUBSIDIES

In 1976, the Government of Nigeria established the Nigerian Export Promotion Council (NEPC) to encourage development of non-oil exports. The NEPC administers various incentive programs, including a duty drawback program, the export development fund, tax relief and capital assets depreciation allowances, and a foreign currency retention program. The duty drawback or manufacturing in-bond program is designed to allow the duty-free importation of raw materials to produce goods for export, contingent on the issuance of a bank-guaranteed bond. The performance bond is discharged upon evidence of exportation and repatriation of foreign exchange. Though meant to promote industry and exportation, these schemes have been burdened by inefficient administration, confusion, and corruption, causing great difficulty and, in some cases, losses to those manufacturers and exporters who opted to use them.

The NEPC also administers the Export Expansion Grant Program, a fund that provides grants to exporters of manufactured and semimanufactured products. Grants are awarded on the basis of the value of goods exported, provided the export proceeds be repatriated to Nigeria. Though the grant amounts are small, ranging from 2 to 5 percent of total export value, they appear to be subsidies as designated by WTO.

LACK OF INTELLECTUAL PROPERTY PROTECTION

As is a signatory to the Universal Copyright Convention (UCC), the Berne Convention, and the Paris Convention (Lisbon text), as well as a member of the World Intellectual Property Organization (WIPO), Nigeria is a party to most of the major international agreements on intellectual property rights (IPR). Cases involving infringement of non-Nigerian copyrights have been prosecuted successfully in Nigeria, but enforcement of existing laws remains weak, particularly in the patent and trademark areas. Despite active participation in international conventions and the apparent interest of the central government in intellectual property rights issues, little has been done to stop the widespread production and sale of pirated tapes, videos, computer software, and books in Nigeria.

The Patents and Design Decree of 1970 governs the registration of patents, and the Nigerian Standard Organization is responsible for issuing patents, trademarks, and copyrights. Once conferred, a patent gives the patentee the exclusive right to make, import, sell, or use the products or apply a patented process. The Trademarks Act of 1965 governs the registration of trademarks. Registering a trademark gives its holder the exclusive right to use the registered mark for a particular good or class of goods.

Nigeria's television market, once reserved for official channels, was deregulated over a year ago, resulting in the formation of 8 private television stations, over 20 satellite redistribution companies, and a number of pirate television and cable stations. Recent statutes include the Copyright Act of 1988 (amended in 1992); the National Film and Video Censors Board Act of 1993 (which reinforces the enforcement measures of the Copyright Act); and the Nigerian Film Policy Law of 1993 (which encourages development of the Nigerian film industry). Nonetheless, Nigeria's anti-piracy legislation is inadequate. Recent legislative activity seems designed to attract foreign investment and protect the local industry, which produces over 100 films annually. These laws would provide for police raids, civil and criminal enforcement actions, modest fines, and up to two years of imprisonment for recidivists.

IPR problems in Nigeria became significant with the government's 1981 nationalization of the film industry (including distribution), although this policy has been officially abandoned. Motion Picture Association (MPA) member companies have not been paid contractual compensation promised by the Nigerian Government, and they have been unable to repatriate assets held locally at the time of nationalization. As a result of these adverse trading conditions, in recent years no trade has been possible between MPA member companies and Nigeria. Estimated accumulated losses to MPA member companies exceed $25 million.

Nigerian companies, including film makers, formed the Proteus Entertainment Agency to protect copyright laws in the music, video, and other copyright industries. The Copyright Decree of 1988, based on WIPO standards and U.S. copyright law, currently makes counterfeiting, exporting, importing, reproducing, exhibiting, performing, or selling any work without the permission of the copyright owner a criminal offense. Progress on enforcing the 1988 law has been slow. The expense and length of time necessary to pursue a copyright infringement case to its conclusion are detriments to the prosecution of such cases.

In the past, few companies have bothered to secure trademark or patent protection in Nigeria because it is generally considered ineffective. As a result, Nigeria is Africa's largest market for pirated products from third countries. Losses from poor IPR protection are substantial, although the exact cost is difficult to estimate. Most of the sound recordings sold in Nigeria are pirated copies and the entire video industry is based on the sale and rental of pirated tapes. Satellite signal piracy is also common. Violation of patents on pharmaceuticals is also a problem.

INVESTMENT BARRIERS

Nigeria, Africa's most populous nation with l00 million people, offers investors a low-cost labor pool, abundant natural resources, and the largest domestic market in sub-Saharan Africa. However, Nigeria also suffers from an autocratic military government, inadequate and poorly maintained infrastructure, confusing and inconsistent regulations, and endemic corruption. Therefore, considerably more time, money, and managerial effort than may be customary in other developing countries must be expended in Nigeria to begin operating and earning a profit.

Nigeria

In 1996, Nigeria continued the liberalizing of the foreign exchange mechanism instituted in 1995. Under the Foreign Exchange Decree of 1995, the autonomous foreign exchange market (AFEM) was reestablished, allowing private companies to source foreign exchange at the parallel market rate (about 80 naira to the dollar in January 1997). The official exchange rate of 22 naira to the dollar has been retained for some official government transactions. Companies can now hold domiciliary accounts in private banks, with account holders having "unfettered" use of the funds. Foreign investors may bring capital into the country without prior Finance Ministry approval, may service foreign loans, and remit dividends. Bureaus de Change are functioning, albeit with a limitation of $2,500 per transaction. The Central Bank has continued to intervene in the AFEM at regular intervals, going from monthly interventions in 1995 to weekly interventions in 1996. The Nigerian Finance Minister pledged to end the dual rates in the near future, but the 1997 budget did not include a provision for this.

In 1995, Nigeria promulgated the Nigerian Investment Promotion Commission (NIPC) Decree to replace the Enterprises Promotion Act. This decree liberalized the foreign investment regime, allowing 100 percent foreign ownership of firms outside the petroleum sector (which is still limited to the existing joint-venture agreement or production-sharing contracts with the Nigerian Government, though there has been discussion of the Nigerian Government selling off some or all of its part of the joint ventures). A foreign enterprise may now buy shares of any Nigerian firm except those on the "negative list" (firms producing firearms, ammunition, narcotics, and military and paramilitary apparel). The investment decree provides for the creation of the Nigerian Investment Promotion Commission that will register companies for foreigners after incorporation under the Companies and Allied Matters Decree of 1990. The decree also abolishes the expatriate quota system (except in the oil sector) and prohibits any nationalization or expropriation of a foreign enterprise by the Nigerian Government except for such cases determined to be in the national interest.

Nigeria has begun to implement the 1995 Money Laundering Decree, which introduced procedures designed to inhibit this practice, as well as a decree against advance-fee fraud, called 419 fraud after the section of the Nigerian criminal code that deals with it. The scope of 419 business fraud has brought international notoriety to Nigeria and constitutes a serious disincentive to exporters because any international transaction must be thoroughly vetted and confirmed.

As stated in the December 1989 circular, "Industrial Policy of Nigeria," the Nigerian Government maintains a system of incentives to foster the development of particular industries, to encourage firms to locate in economically disadvantaged areas, to promote research and development in Nigeria, and to favor the use of domestic labor and raw materials. The Industrial Development (Income Tax Relief) Act of 1971 provides incentives to "pioneer" industries, that is, industries deemed beneficial to Nigeria's economic development. Companies given "pioneer" status may enjoy a nonrenewable tax holiday of 5 years, or 7 years if the pioneer industry is located in an economically disadvantaged area.

In an effort to attract foreign investment, the Nigerian Government is developing an export processing zone near the city of Calabar in eastern Nigeria. When completed, it will allow investors duty free importation of raw materials and semi-finished products for manufacture and export. As in other parts of the country, however, insufficient infrastructure and overabundant bureaucracy have seriously hampered the zone's development. The zone has room for 88 factories. As of January 1997, only eight applications have been approved to manufacture at the zone. The government hopes to complete the zone in 1997.

Parastatals

In 1996, several federal parastatals were under investigation by special antifraud panels, and reports of widespread corruption continue to surface. Before the release of the 1997 budget there was much discussion of the privatization/commercialization of many of the parastatals. Public announcements of Nigeria's intent to sell off portions of its telecommunications, electric power authority, airports authority, postal company, railway corporation, coal corporation, and even the petroleum sector were common. However, the new budget did not provide for immediate action to privatize specific parastatals. Head of State Abacha announced that any privatization moves would be taken only after careful review.