TURKEY

In 1997, the U.S. trade surplus with Turkey was $1.4 billion, an increase of $312 million from 1996. U.S. exports to Turkey during 1997 totaled $3.5 billion, an increase of $653 million (22.6 percent) from the level of exports in 1996. U.S. imports were $2.1 billion, an increase of $342 million (19.2 percent) from 1996.

The stock of U.S. foreign direct investment in Turkey was $1.0 billion in 1996, 8.1 percent more than in 1995. U.S. direct investment in Turkey is largely concentrated in the manufacturing, petroleum, and wholesale sectors.

IMPORT POLICIES

Tariffs and Quantitative Restrictions

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 (including automobiles, leather and ceramics) from third countries are being phased out over a five year period; a ten percent reduction in these duties in 1998 lowers the average rate of protection to 5.3 percent. By 2000, this rate is set to fall to 4 percent.

Although EU/EFTA countries have received preferential tariff treatment on industrial and agricultural products for several years, the introduction of the customs union led to a shift in Turkey's import pattern in 1996. The EU's share of total Turkish imports rose to 52.9 percent from 47.2 percent in 1995, while the share of U.S. goods fell from 10.4 percent to 7.7 percent. However, this trend appears to have reversed in 1997: in the first nine months of the year the share of U.S. goods in total imports was 9.0 percent (versus 7.8 percent in the first nine months of 1996), while EU exports accounted for 47.0 percent (versus 50.1 percent).

Turkey maintains high tariff protection on many agricultural and food products. Because of high support prices well above world levels, Turkey recently adopted high, although WTO-consistent, applied tariffs on grains and oilseeds to discourage imports and encourage consumption of local crops. Since 1996, Turkey increased its applied tariff on milling wheat (currently 45 percent), corn (35 percent), sorghum (30 percent), rice (35 percent) and sunflower seed (29 percent). The new tariffs have adversely affected U.S. exports of these products. Improved market access for U.S. bulk commodities would help the growth and modernization of Turkish livestock and poultry sectors and would reduce inflationary pressures within the Turkish economy. In late 1996, responding to an outbreak of hoof and mouth disease, Turkey imposed a "temporary" ban on cattle and beef imports. Although U.S. cattle poses no health threat to Turkish livestock, the government has failed to make good on its promise to lift the ban.

Turkey

Turkey is one of the 43 signatories of the Information Technology Agreement that will eliminate tariffs on over $500 billion of world trade in computers, telecommunications equipment, semiconductors, and other information technology products. Turkey will eliminate tariffs on all ITA products by the year 2000.

Import Licenses

The Government of Turkey 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.

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.

A bilateral tax treaty between the United States and Turkey became effective in 1998. U.S. bidders for Turkish government service contracts will benefit through an exemption from a 20 percent withholding tax which made U.S. bids less competitive than those from countries with a tax treaty.

EXPORT SUBSIDIES

Turkey's generous export subsidy programs were reduced in 1995 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. Exporters also benefit from export credit schemes and guarantees provided by the Turkish Export-Import Bank.

SERVICES BARRIERS

Businesses in certain sectors, particularly finance and banking, must obtain special government permission before commencing operations in Turkey.

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. Subsequently, however, Turkish officials have said the market for basic services could be opened to competition as early as 2002. Turkey adopted only two of the WTO Agreement's pro-competitive regulatory principles: establishment of an independent regulatory authority and public availability of licensing criteria. Turkey currently has a 49 percent foreign investment limit on telecom services.

LACK OF INTELLECTUAL PROPERTY PROTECTION

In 1995, as part of Turkey's harmonization with the EU in advance of the customs union, the Turkish parliament approved new patent, trademark, copyright and other laws, as well as Turkish acceptance of a number of multilateral intellectual property conventions. While some of these laws still require amendments to meet international standards, the laws have given Turkey an improved comprehensive legal framework for protecting intellectual property rights. However, with the exception of the patent law, enforcement of the new laws has been uneven and, on the whole, insufficient. 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.

In January 1998, the U.S. announced that, as a result of the December Special 301 "out-of-cycle" review, Turkey would remain on the Priority Watch List for failure to achieve progress on a number of benchmarks for improving protection of intellectual property. As part of this decision, the United States announced that it will not consider requests to augment Turkey's benefits under the U.S. Generalized System of Preferences until further progress is made on the benchmarks.

Copyrights

The 1995 amendments to Turkey's 1951 copyright law introduced the following improvements: (1) term of copyright protection extended from 20 to 70 years; (2) computer software protected; (3) fines increased, but not to levels sufficient to deter piracy; and (4) many previous exemptions to full copyright protection were abolished. 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, did not address all of the deficiencies in Turkey's copyright regime.

Patents

The 1995 patent law replaced Turkey's nineteenth century patent law. 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 and whether importation satisfies the working requirements of those provisions. The Turkish Patent Office has assured the U.S. that importation would constitute working and has promised to issue a regulation to that effect.

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

Turkey

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 counterfeit 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.

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, telecom services, and maritime transportation; in other sectors, 100 percent foreign ownership is permitted.

A significant barrier to foreign investment has emerged in the area of public utilities, particularly power projects: Turkey's constitution defines private investments in public utilities as "concessions" which require administrative court ("Danistay") review of contracts and forbid international arbitration. The "Danistay" approval has slowed progress on many power investments; the provisions on international arbitration could make many projects unfinanceable. The Turkish government is considering the possibility of legislation to either streamline the "Danistay's" role or eliminate the "concession" classification.

ANTICOMPETITIVE PRACTICES

As part of its customs union agreement with the EU, Turkey has pledged to adopt EU standards concerning competition and consumer protection . In 1997 a government "competition board" commenced operations, putting into force the 1994 competition law. Government monopolies in a number of areas, particularly alcohol, and telecommunications services, have been scaled back in recent years, but remain a barrier to certain U.S. products and services. Privatization and liberalization in these sectors remain slow.