PAKISTAN

TRADE SUMMARY

The U.S. goods trade deficit with Pakistan was $2.1 billion in 2012, up $258 million from 2011. U.S. goods exports in 2012 were $1.5 billion, down 23.1 percent from the previous year. Corresponding U.S. imports from Pakistan were $3.6 billion, down 5.2 percent. Pakistan is currently the 68th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Pakistan was $762 million in 2011 (latest data available).

IMPORT POLICIES

Pakistan's overall average applied tariff in 2012 was 14.32 percent. There are 14 different *ad valorem* tariff levels, ranging from 0 percent to 150 percent. Specific duty rates are applied on 45 products. In the 2012-2013 budget, Pakistan reduced duties on 293 items from 35 percent to 30 percent (including for dairy products, preparations of vegetables or fruits, tobacco, cosmetics, soaps, ceramic products, and furniture). In the same budget, the government reduced the maximum general tariff rate from 35 percent to 30 percent (except for vehicles) and simplified the tariff structure by reducing the number of duty brackets from 8 to 7.

Pakistan imposes higher tariff rates (50 percent) on imports of automobile parts that compete with domestically manufactured products than the tariff rates (35 percent) it imposes on imports of automotive parts where there is no domestic production. Pakistan grants sector- or product-specific duty exemptions, concessions, and other protections through promulgation of Statutory Regulatory Orders (SROs). Pakistan also provides concessionary tariffs for the import of raw materials used as active ingredients in pharmaceutical production. In the 2012-2013 budget, the government reduced duties on 88 pharmaceutical raw materials and other input goods from 10 percent to 5 percent. A list of SROs and other trade policy and regulatory documents can be found on the Federal Board of Revenue's website: http://www.cbr.gov.pk.

In January 2000, Pakistan implemented the WTO Customs Valuation agreement and modified its system for valuation of goods. Since then, a number of traders in the food and consumer products sectors have expressed concerns regarding a lack of uniformity in customs valuation. Similarly, a few major U.S. companies in the machinery and materials sector have reported specific concerns that customs officials have erroneously assessed goods based on a set of minimum values rather than the declared transactional value.

On October 5, 2009, Pakistan began to enforce a 2005 regulation requiring that commercial invoices and packing lists be included inside each shipping container. This requirement presents challenges to industry: invoice and packing lists do not always originate in the same location as the shipment and invoices and packing lists may be created after the shipment departs. The penalty for non-compliance is $526 per container.

GOVERNMENT PROCUREMENT

Pakistan is not a signatory to the WTO Agreement on Government Procurement. The Public Procurement Regulatory Authority (the Authority), established in 2002, is an autonomous body responsible for prescribing and monitoring public sector procurement regulations and procedures. According to a 2004

public procurement framework, international tender notices must be publicly advertised, and sole source contracting tailored to company-specific qualifications is prohibited. There are no official "buy national" policies.

Political influence on procurement awards, charges of official corruption, lack of transparency, and long delays in bureaucratic decision making are common in government procurement. Suppliers have reported instances in which the government used the lowest bid as a basis for further negotiations, rather than accepting the lowest bid as required by regulation.

EXPORT POLICIES

Pakistan promotes the export of Pakistani products (such as textiles, surgical products, leather, and sporting goods) through measures such as tariff concessions on imported inputs, along with income and sales tax concessions. Three SROs (SRO 565, 567 and 575) provide exemptions and concessions on imports of certain machinery and imports of a large number of raw materials used by domestic industries.

The government established the Export Processing Zone (EPZ) Authority in 1980 to establish and administer EPZs. In 1989, Pakistan established its first EPZ in Karachi. Export oriented industries, defined as those that export 80 percent to 100 percent of their production, receive various incentives for operating in the EPZ. These incentives include exemption from all taxes and duties on equipment, machinery, and materials (including components, spare parts, and packing material), and indefinite loss carry-forward. Import and foreign exchange control regulations are not applicable in these zones. The EPZ Authority has the exclusive right to collect estimated taxes on exports. Final taxes are 1 percent of the total profits. The EPZ Authority also collects a "development surcharge" of 0.5 percent of the total profits. Exports from EPZ companies are otherwise exempt from all other federal, provincial, and municipal taxes. Companies in the EPZ do not pay sales taxes on input goods, including electricity and gas.

Besides the EPZ in Karachi, Pakistan has authorized eight additional EPZs. These EPZs are located in Risalpur in Khyber Pakhtunkhwa Province; Gujranwala and Sialkot in Punjab; and Saindak, Gwadar, Reko Dek, and Duddar in Balochistan. Of these, only Risalpur, Sialkot, Saindak, and Duddar are operational. Foreign investors are eligible to establish businesses in the EPZ and are guaranteed full repatriation of capital and profits. There are no minimum or maximum limits for investment. Up to 3 percent of defective goods/waste can be sold in the domestic market after payment of applicable duties. Despite the various incentives offered, most EPZs have failed to attract significant investment. Pakistan enacted the Special Economic Zones (SEZ) legislation in September 2012; unlike EPZs, the SEZs have no performance requirements and offer more incentives for investors. Specifically, SEZs create industrial clusters through the provision of incentives, infrastructure, and investor facilitation services to reduce business costs. The law permits private companies to establish these zones in addition to public/private partnerships.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Pakistan remains on the Priority Watch List in the 2012 Special 301 report, and the 2013 Special 301 Report will be released in late April, 2013. The report cites weak protection and enforcement of intellectual property rights (IPR), particularly with respect to copyrights, pharmaceutical data, and media piracy.

While the government took some steps in 2012 to improve copyright enforcement, especially with respect to addressing optical disc piracy, it appears that only a very small proportion of arrests resulted in prosecutions, and the few verdicts that were issued resulted in minor prison sentences. Pakistan is

reportedly being used as a conduit for infringing products from Russia, Malaysia, Singapore, China, Bangladesh, and Sri Lanka, for onward distribution to third countries. Book piracy also continues to undermine legitimate trade and investment. The Intellectual Property Organization law was adopted in December 2012, and provides for specialized IPR tribunals to adjudicate cases and a policy board with private sector representation to assess policy decisions. It is too early to evaluate the effectiveness of the tribunal.

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. While the government and international and local pharmaceutical companies have been negotiating a draft data protection law for the past four years, it has still not been enacted. Pakistan also lacks an effective system to prevent the issuance of marketing approvals for unauthorized copies of patented pharmaceutical products. With respect to patents, the processing of pending patent applications has been hampered due to a 2009 ordinance that removed an 18 month deadline for the processing of patent applications.

SERVICES BARRIERS

Pakistan generally permits foreign investment in services, subject to certain provisions. These provisions unless specified otherwise, include a minimum initial capital investment requirement of $150,000. Foreign investors in services and other non-manufacturing sectors are limited in remittance of royalty payments to a maximum of $100,000 for the first payment. Royalty payments are capped at 5 percent of net sales for the subsequent five years.

Pakistan deregulated the telecommunications sector in order 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 37 local loop companies (of which 17 are in use), and 93 licenses to 16 wireless local loop companies (of which 11 are in use).

The ability of telecommunications companies to operate in Pakistan is dependent upon access to PTCL infrastructure. The government combined a number of value-added services, including provision of Internet service, vehicle tracking systems, and data network operations, into one license, the Class Value Added Services (CVAS) license. Applicants which applied prior to the announcement of this policy were given the option to either continue their old licenses or convert to CVAS licenses. To date, the government has issued 465 new CVAS licenses and converted 527 old licenses to CVAS. At present, the government does not issue licenses specifically for Voice over Internet Protocol (VoIP), but long distance/local loop telephone license holders may also provide VoIP services.

On October 1, 2012, the Ministry of Information Technology and Telecommunication (MoITT) ordered establishment of an International Clearing House (ICH) that effectively quadrupled charges and curtailed competition for international calls to Pakistan. The United States, the Competition Commission of Pakistan (CCP), and cellular operators expressed serious concern with this change. In November 2012, the Lahore High Court (LHC) rolled back the MoITT's international call termination rate increases, declaring the ICH to be in conflict with The Competition Act of 2010. The court additionally described the increase in termination rates as an additional tax, and stated that the MoITT does not have the mandate to levy such taxes. Following the decision, the MoITT scaled back rates to pre-October 1 levels. The Pakistan Telecommunication Authority (PTA) supposedly ordered carriers to revise their international termination rates back to the levels that existed prior to the adoption of the ICH agreement. However, multiple international carriers have informed U.S. officials the increased rate of $0.088 per minute remains in effect, even though PTA no longer officially mandates it. From October until

February, the Pakistan LDI operators seemingly worked together to fix prices through one carrier, PTCL. In February 2013, the Pakistan Supreme Court (SC) overturned the LHC ruling and directed the matter to the jurisdiction of the CCP.

On March 5, 2013 the U.S. Federal Communications Commission (FCC) released an Order concluding that "recent and ongoing actions by certain Pakistani long distance international carriers (Pakistani LDI carriers) to set rate floors over previously negotiated rates with U.S. carriers for termination of international telephone calls to Pakistan are anticompetitive and require action to protect U.S. consumers in accordance with FCC policy and precedent. Their continuation would result in a substantial increase in the cost of and repress demand for calling Pakistan[1]." The FCC ordered all U.S. carriers not to pay termination rates to Pakistani carriers in excess of "the rates that were in effect immediately prior to the rate increase on or around October 1, 2012."

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), and that wish to conduct banking business in Pakistan, must incorporate a local company because a foreign bank may hold a maximum of 49 percent of the shares of a bank in Pakistan. The National Insurance Company, a majority state-owned enterprise, has the exclusive authority to underwrite and insure public sector firms, assets and properties. The government has discretion to grant exemptions to this requirement pursuant to Section 166 of the Insurance Ordinance 2000. Private sector firms may seek foreign reinsurance facilities to meet up to 65 percent of their re-insurance needs. The government has allowed 100 percent of foreign equity in an insurance business. The Investment Policy 2013 was approved on March 13, 2013. The new policy eliminated the minimum capital requirements for the insurance sector. Nonetheless, the Investment policy retained the 49 percent equity cap for foreign investors in the banking sector and 60 percent equity cap in the non-corporate agriculture sector.

INVESTMENT BARRIERS

Foreign investors are generally free to establish wholly-owned business enterprises in Pakistan with the exception of five restricted sectors: arms and munitions; high explosives; currency/mint operations; radioactive substances; and new, non-industrial alcohol plants. The Investment Policy 2013 abolished the minimum foreign investment requirements for all non-restricted sectors.

OTHER BARRIERS

Businesses operating in Pakistan consistently call for strengthening Pakistan's domestic security. Foreign businesses are equally vocal in expressing concern over corruption and a weak judicial system, as these are 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, and provincial anticorruption departments shared official responsibility for combating corruption. In October 2002, Pakistan's Cabinet approved the National Anti-Corruption Strategy (NACS) that identified areas of pervasive corruption and recommended the implementation of reforms to combat corruption. The NACS recognized the NAB as the sole federal anticorruption agency. In mid-2009, the Supreme Court directed

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1 See Petition for Protection from Anticompetitive Behavior and Stop Settlement Payment Order on the U.S.-Pakistan Route, Memorandum Opinion and Order, DA No. 13-341, IB Docket No. 12-324 (Int'l Bur. 2013), available at http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0305/DA-13-341A1.txt

that legislation replace the executive ordinance establishing the NAB, but as of the date of publication of this report, the National Assembly has yet to pass such legislation.

Contract enforcement can be difficult for U.S. and other foreign investors in Pakistan. Parties pursuing legal remedies in the Pakistani judicial system may face years of delays and unpredictable outcomes in the country's overloaded courts. In July 2005, Pakistan's Cabinet ratified the 1958 New York Convention on Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) by ordinance. That ordinance expired in August 2010. A law ratifying the New York Convention was enacted by the Parliament on July 15, 2011.

The Drug Regulatory Authority (DRA) ceased to exist after the 18th Constitutional Amendment returned the provision of health services to the provinces. In the absence of the DRA, the Cabinet Division was to approve drug registration and licenses, but close to 14,000 drug registration cases remained pending in 2012. On October 15, 2012, the National Assembly approved the Drug Regulatory Authority Act, re-establishing the DRA.