TURKEY

TRADE SUMMARY

The U.S. goods trade surplus with Turkey was $6.2 billion in 2012, a decrease of $3.2 billion from 2011. U.S. goods exports in 2012 were $12.5 billion, down 14.5 percent from the previous year. Corresponding U.S. imports from Turkey were $6.3 billion, up 20.4 percent. Turkey is currently the 26th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Turkey was $5.2 billion in 2011 (latest data available), up from $4.0 billion in 2010. U.S. FDI in Turkey is led by the manufacturing and wholesale trade sectors.

IMPORT POLICIES

Tariffs and Quantitative Restrictions

Due to its customs union with the European Union, Turkey applies the EU's common external tariffs to nonagricultural imports from countries (including from the United States) with which it has not concluded free trade agreements.

Turkey continues to maintain high tariff rates on many food and agricultural products not covered by the EU-Turkey customs union agreement. Tariffs on fresh fruits range from 15.4 percent to 145.8 percent. Tariffs on processed fruit, fruit juice, and vegetables range between 19.5 percent and 130 percent. The government of Turkey also levies high tariffs, excise taxes and other domestic charges on imported alcoholic beverages that increase wholesale prices by more than 200 percent.

U.S. exporters of rice, dried beans, pulses, sunflower seeds, and wheat have reported concerns with valuation of their products by Turkish customs authorities.

Import Licenses and Other Restrictions

Import licenses are required for products that need after sales service (*e.g.*, photocopiers, advanced data processing equipment, and diesel generators), distilled spirits, and agricultural products. U.S. firms complain that lack of transparency in Turkey's import licensing system results in costly delays, demurrage charges, and other uncertainties that inhibit trade. U.S. producers have reported difficulties in obtaining import licenses during the domestic harvest season for products that compete with domestically produced food (such as pulses, nuts, dried fruits, cotton, grain, and oilseeds), though this situation reportedly has improved in recent years.

U.S. companies also frequently find Turkish documentation requirements affecting food imports to be onerous, inconsistent, nontransparent, and not administered in accordance with standard international practices; the companies state that these problems have resulted in shipments on numerous occasions being held up at ports.

Turkey's efforts to harmonize its national laws on food safety with European Union rules have led in a number of instances to the imposition of regulatory requirements and methods of enforcement that are not transparent. Turkey has frequently implemented changes to its regulations and procedures, without notifying or consulting with its trading partners, which result in additional costs to exporters. Moreover, as Turkey is not a member of the European Union, U.S. firms have sometimes experienced difficulties certifying their products to Turkish standards that are modeled after, but not entirely consistent with, EU standards.

The government of Turkey has taken a number of steps to liberalize the spirits and tobacco markets – including completing the privatization of the state-owned alcoholic beverage company and the state-owned tobacco company, as well as some opening to private firms to import wine and alcoholic beverages. However, sales of imported products in these sectors have been inhibited in some cases by inordinately high tariffs and special tax treatment (compared to domestic products). Turkey assesses higher excise taxes on some types of distilled spirits, and U.S. industry maintains that the higher rates are applied to alcoholic beverages that are primarily imported.

GOVERNMENT PROCUREMENT

Foreign companies can participate in public tenders valued above an established threshold. In addition, the definition of domestic bidder includes foreign-owned corporate entities established under Turkish law. However, Turkish government contracting authorities have on occasion inserted provisions into tender documents that restrict foreign companies' participation. In addition, local bidders are allowed a price advantage of up to 15 percent compared with foreign bidders.

Although Turkish law requires competitive bidding procedures, U.S. companies have complained that Turkey's procurement process can be lengthy and overly complicated. One of the problems identified is the requirement that procuring entities use model contracts, which some Turkish government procuring agencies interpret as not being subject to any modification. This makes it difficult for companies to formulate proposals if the model contracts contain financial requirements or technical specifications not germane to the product or service being procured.

Additionally, U.S. firms have reported that, to be eligible to participate in procurements in Turkey, they have been required to submit documentation certifying that business officials are authorized to bid on behalf of their company or certifying that key personnel are in fact employees of that company. This documentation requirement, which does not exist in the United States, has made it difficult for firms to compete in procurement contracts. The U.S. Government is engaging the government of Turkey on this and other procurement issues.

Turkish military procurement specifications generally contain offset requirements. Since the offset guidelines were modified in 2005 to encourage foreign direct investment and technology transfers, U.S. companies have won few new commercial defense sales.

Turkey is not a signatory to the WTO Agreement on Government Procurement; however, it is an observer to the WTO Committee on Government Procurement.

EXPORT SUBSIDIES

Turkey employs a number of incentives to promote exports, although programs have been scaled back in recent years to comply with EU directives and WTO commitments. Published export subsidies ranging from 5 percent to 20 percent of export values are granted to 16 agricultural or processed agricultural product categories in the form of tax credits and debt forgiveness programs, and are paid for by taxes on exports of primary products such as hazelnuts and leather. The Turkish Grain Board generally sells domestic wheat at world prices (which are well below domestic prices) to Turkish flour and pasta manufacturers in quantities based upon their exports of flour and pasta.

The U.S. steel industry has raised serious concerns about the growth of Turkish steel production and exports. Turkey's steel production grew 117 percent in the last decade, making Turkey the 8th largest producer in the world in 2012. Turkey exported 18.4 million metric tons of steel products in 2012, approximately half of its steel production, making it the 7th largest steel exporting country. The U.S. Department of Commerce has previously found several Turkish subsidy programs to be contingent upon export performance, and countervailed these programs in U.S. countervailing duty cases. These programs include pre-shipment and short-term export credits, and income tax deductions for export revenue. U.S. industry has raised concerns that Turkey continues to provide benefits to Turkish exporters under these programs

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Turkey remained on the Watch List in the 2012 Special 301 Report. Efforts by Turkish authorities to protect intellectual property rights (IPR) have been characterized by the same pattern in recent years: incremental but encouraging progress on public awareness and training, and efforts at improving law enforcement (led by the Ministry of Culture and Tourism, the Ministry of Customs and Trade, and the Turkish National Police). However, serious problems remain with copyright piracy, a growing trend toward online piracy, and the manufacture and trans-shipment of counterfeit hard goods. The Turkish Patent Institute has drafted amendments to the patent law. These are currently being reviewed by the Prime Ministry and reportedly will be voted on by the Turkish Parliament in 2013. The Ministry of Culture and Tourism has also drafted amendments to the copyright law. After stakeholder opinions have been considered and the draft amendments are finalized, they will be submitted to the Prime Ministry for review before being presented to the Parliament.

SERVICES BARRIERS

Turkish citizenship is required to practice as an accountant or certified public accountant or to represent clients in Turkish courts. Foreign doctors are allowed to work only in private hospitals in Turkey.

INVESTMENT BARRIERS

Energy Sector

Liberalization/privatization in the natural gas sector has faced delays. The state pipeline company, BOTAS, remains dominant in gas importation, despite legislation requiring a phased transfer of 80 percent of its gas purchase contracts to the private sector by the end of 2009. Some contracts have been transferred, but BOTAS still controls over 75 percent of gas purchase contracts. The Turkish government has plans to introduce an amendment to the Natural Gas Market law, but the timetable remains unclear. Under the amendment, BOTAS would be broken up into three different companies charged with transportation, trading and storage; in addition, the timing for transferring the contracts to the private sector would be extended.

As the result of a 1997 court decision, the Turkish government blocked full repatriation of profits by foreign oil companies under Article 116 of the 1954 Petroleum Law. Affected companies have challenged this decision in Turkish courts, but the judgments in almost all lawsuits have gone against claimant companies.

A new petroleum law that would provide greater investment incentives and protections has been under consideration by a Turkish Parliament subcommittee since 2007, but is yet to come up for legislative consideration.

Real Estate

In May 2012, the Turkish Parliament passed Law 6302 amending the existing Title Deed Law. This amendment increased the amount of land that foreign individuals can own from 2.5 acres to 12 acres. No foreign individual may own more than 10 percent of the land in any district. There are no limits on the amount of land that can be owned by foreign companies with a legal presence in Turkey, so long as the land is being used in accordance with their business activities.

OTHER BARRIERS

Corruption

Turkey has ratified the OECD anti-bribery convention and passed implementing legislation that makes bribery of foreign and domestic officials illegal and no longer tax deductible. Despite this, many foreign firms doing business in Turkey perceive corruption of some government officials and politicians to be a problem.

The judicial system is also perceived by many observers to be susceptible to external influence and to be somewhat biased against foreigners.

Taxes

Turkey assesses a special consumption tax ranging from 37 percent to 130 percent on all motor vehicles based on engine size, which has a disproportionate adverse effect on larger automobiles imported from the United States.

Pharmaceuticals

The U.S. pharmaceutical industry has expressed concerns about the Turkish government's reimbursement policies for pharmaceutical products, citing a lack of transparency, timeliness, and predictability. Since introducing significant revisions to its reimbursement system in 2009, the Turkish government has requested additional discounts from pharmaceutical suppliers, which U.S. companies contend may dissuade them from introducing new products in Turkey. Currently, Turkey's discount requirements are among the highest in the world.

U.S. companies have also complained that an exchange rate issue is negatively affecting their ability to participate successfully in the Turkish market. In 2009, the industry negotiated with the Ministry of Health (MOH) to sell pharmaceutical products using a 1.95 TL = 1 Euro exchange rate. Since 2009, the Turkish Lira has depreciated significantly. The MOH agreed in 2009 to adjust the exchange rate if it went up or down in excess of 15 percent of the 2009 baseline. The exchange rate did swing in excess of 15 percent of the baseline in 2011, but the Turkish government thus far has not adjusted the exchange rate as promised. Companies complain that the failure to adjust the exchange rate has cut significantly into their profits, causing them to incur losses of over $1 billion during 2010 and 2011.