NIGERIA

TRADE SUMMARY

U.S. goods exports in 2013 were $6.5 billion, up 28.8 percent from the previous year. Corresponding U.S. imports from Nigeria were $11.7 billion, down 38.3 percent. The U.S. goods trade deficit with Nigeria was $5.2 billion in 2013, down $8.7 billion from 2012. Nigeria is currently the 40th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Nigeria was $8.2 billion in 2012 (latest data available), up from $5.3 billion in 2011. U.S. FDI in Nigeria is concentrated in the mining sector.

IMPORT POLICIES

Tariffs

Nigeria's most recent tariff review occurred in September 2008, when the Nigerian government issued the 2008-2012 Common External Tariff (CET) Book, which harmonizes its tariffs regime with the proposed ECOWAS Common External Tariff under the ECOWAS Trade Liberalization Scheme (ETLS). The 2008-2012 CET has five tariff bands: zero duty on capital goods, machinery, and essential drugs not produced locally; 5 percent duty on imported raw materials; 10 percent duty on intermediate goods; 20 percent duty on finished goods; and 35 percent duty on goods in certain sectors that the Nigerian government seeks to protect.

The Nigerian government included harmonizing Nigeria's tariff policy with ETLS as part of its economic reform agenda, aimed at improving Nigeria's trade and investment environment and harmonizing economic policies within ECOWAS. The Ministry of Finance has confirmed that the CET would be extended for 2013, pending ongoing ECOWAS negotiations towards a region-wide CET. According to the WTO, Nigeria's average MFN applied tariff rate was 11.7 percent in 2011. The average applied tariff is 15.5 percent for agricultural goods and 11.2 percent for non-agricultural products.

In 2012, Nigeria added a number of supplemental levies and duties on selected agricultural imports that significantly raise effective tariff rates. These levies and duties increase the effective duty on wheat grain imports from 5 percent to 20 percent, on wheat flour imports from 35 percent to 100 percent, on brown rice imports from 5 percent to 35 percent, and on milled rice imports from 30 percent to 80 percent. In addition, the government announced effective tariffs, as of January 1, 2013, of 60 percent on raw sugar imports and 80 percent on refined sugar.

In October 2013, the Nigerian government announced an Automotive Industry Development Plan, which seeks to expand domestic vehicle manufacturing. Under the plan, effective October 2013, a 70 percent tariff rate is applied to imports of fully built vehicles while zero percent and 5 percent tariffs are applied to imports of completely knocked down and semi-knocked down vehicles, respectively.

Companies report that high tariffs, nontransparent valuation procedures, frequent policy changes, and unclear interpretations by the Nigerian Customs Service (NCS) make importation difficult and expensive, and often create bottlenecks for commercial activities. These problems are particularly acute for Nigeria because of its dependence on imported raw materials and finished goods. Reportedly, many importers resort to undervaluing and smuggling to avoid paying full tariffs.

Nontariff Measures

Nigeria uses nontariff measures in an effort to achieve "self-sufficiency" in certain commodities. In line with an Agricultural Transformation Action Plan that seeks to increase domestic food production and employment, the government has announced it will supplement its 2012 increase in wheat import tariffs with a policy requiring flour millers to substitute up to 40 percent of wheat flour produced in the country with cassava flour by 2015.

The government continues to ban certain imports, citing the need to protect local industries. The list of prohibited imports currently includes: bird's eggs; cocoa butter, powder, and cakes; pork; beef; live birds; frozen poultry; refined vegetable oil and fats; cassava; bottled water; spaghetti; noodles; fruit juice in retail packs; nonalcoholic beverages (excluding energy drinks); and bagged cement. Nigeria also imposes a ban on imports of poultry, including live poultry and fresh, frozen, and cooked poultry meat (with the exception of day-old chicks) due to concerns about the government's ability to enforce less onerous SPS measures on imports and thus ensure their safety for consumption.

The government has announced plans to boost the development of domestic sugar cane production to meet the raw sugar needs of existing and new domestic sugar refining companies. In January 2013, to supplement the planned increase in effective tariffs on the import of raw sugar, the government banned imports of refined packaged sugar and offered a variety of tariff breaks on imports of sugar processing equipment and tax holidays for investors in the sugar value chain. The government also announced that it intends to ban all rice imports by 2015.

Customs Procedures

Nigerian port practices continue to present major obstacles to trade. Importers report erratic application of customs regulations, lengthy clearance procedures, high berthing and unloading costs, and corruption.

These factors can sometimes contribute to product deterioration and result in significant losses for importers of perishable goods. Disputes between Nigerian government agencies over the interpretation of regulations often cause delays, and frequent changes in customs guidelines slow the movement of goods through Nigerian ports. Nigeria uses a destination inspection policy for imports. Under this policy, all imports are inspected on arrival into Nigeria. Such actions delay the clearing process and increase costs.

Although the Nigerian government recognizes that port delays significantly increase the cost of doing business in Nigeria, a 48-hour cargo clearance policy at ports announced in 2010 has yet to be fully implemented. Plans to automate all customs payments and modernize NCS operations similarly have yet to be implemented. In October 2011, Minister of Finance Okonjo-Iweala announced additional plans to facilitate goods clearance through Nigerian ports by reducing the number of government agencies in the ports from 14 to 7 (NCS, Nigerian Ports Authority, Nigerian Immigration Service, the Nigerian Police Force, the Nigerian Maritime Security and Safety Agency, the National Drug Law Enforcement Agency, and the Ports Health Agency). However, implementation of this new policy has reportedly been uneven, and there have been no reports of significant reductions in the time required to clear goods through the ports. Roads entering and leaving ports are decaying and ports lack rail systems to transport freight into and out of ports. The resulting congestion leads to ships queuing up to berth at cargo terminals and containers waiting to be transported out of the ports.

In March 2013, the NCS also launched a single window trade portal that allows traders to access customs regulations online, submit customs documents electronically, track transaction status online, submit electronic payments, and provides links to other regulatory agencies.

GOVERNMENT PROCUREMENT

The Nigerian government has made modest progress on its pledge to conduct an open and competitive bidding process for government procurement. The Public Procurement Act of 2007 established the Bureau of Public Procurement (BPP). Public procurement reforms seek to ensure that the procurement process for public projects adheres to international standards for competitive bidding. The BPP acts as a clearinghouse for government contracts and monitors the implementation of projects to ensure compliance with contract terms and budgetary restrictions. All procurement above NGN 100 million (approximately $320,000) remains subject to review by the BPP. The 36 state governments also agreed to enact the Public Procurement Act in their respective states and 22 states have passed procurement legislation.

Foreign companies incorporated in Nigeria receive national treatment in government procurement, government tenders are published in local newspapers, and a "tenders" journal is sold at local newspaper outlets. U.S. companies have won government contracts in several sectors. Unfortunately, some of these companies have had trouble getting paid, often as a result of delays in the national budgetary process.

The National Petroleum Investment and Management Services (NAPIMS) agency must approve all procurement in the oil and gas sector with a value above $500,000. Slow approval processes can significantly increase the time and resources required for a given project.

Nigeria is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Legislation intended to implement Nigeria's WTO obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights has been pending in the Nigerian National Assembly for several years.

The Nigerian government's lack of institutional capacity to address intellectual property rights (IPR) issues presents challenges to enforcement. Relevant Nigerian government institutions lack sufficient resources to enforce IPR and legislation to update intellectual property laws has yet to be passed by the National Assembly. Piracy remains a problem despite Nigeria's active participation in the World Intellectual Property Organization and other international fora and the growing interest among Nigerians to protect their IPR. Counterfeit automotive parts, pharmaceuticals, business and entertainment software, music and video recordings, and other consumer goods are sold openly. Piracy of software, books and optical disc products continues to be an ongoing concern. Also, judicial procedures are slow and reportedly compromised by corruption. However, the government has taken steps to improve enforcement. Efforts to combat the sale of counterfeit pharmaceuticals, for example, have yielded some results.

The lack of trained staff and adequate funding causes significant delays registering and obtaining a patent or trademark. The United States has provided training to government IP officials through various programs offered by the United States Patent and Trademark Office's Global Intellectual Property Academy and the U.S. Department of Commerce Commercial Law Development Program under the Trade and Investment Framework Agreement between the United States and Nigeria.

Nigeria's broadcast regulations do not permit rebroadcast or excerpting of foreign programs unless the station has an affiliate relationship with a foreign broadcaster. This regulation is generally complied with, but some cable providers transmit foreign programs illegally. The National Broadcasting Commission monitors the industry and is responsible for punishing infractions. Nigeria has strong film and music

industries, and the Nigerian Copyright Commission (NCC) works to strengthen copyright protection. However, the NCC is not sufficiently funded. Furthermore, widespread pirating of foreign and domestic content discourages the entry of licensed distributors.

INVESTMENT BARRIERS

A variety of barriers restrict potential U.S. investment in Nigeria. Investors must contend with complex tax procedures, confusing land ownership laws, arbitrary application of regulations, corruption, and crime. International monitoring groups routinely rank Nigeria among the most corrupt countries in the world. Companies report that contracts are often violated and that Nigeria's system for settling commercial disputes is weak and often biased. Frequent power outages, as well as poor road, port, rail, and aviation transportation infrastructure pose a major challenge to doing business in Nigeria. Such infrastructure deficits hinder Nigeria's ability to compete in regional and international markets.

A Petroleum Industry Bill (PIB), currently under review by the National Assembly, would further and significantly change the way Nigeria's oil and gas sector is structured and regulated. Years of delays in the passage of the PIB has created uncertainty in the investment community, and delayed significant investment in infrastructure needed to sustain and grow Nigeria's oil and gas production.

OTHER BARRIERS

In 2010, Nigeria enacted a trade restrictive law in the oil and gas sector called the Oil and Gas Content Development Act (the Act). The Act puts in place legally mandated local content requirements for projects in Nigeria's oil and gas sector. The Act gives preferential treatment to Nigerian goods and services and requires that positions in the oil and gas sector are first filled by Nigerian nationals. The Act's coverage is broad; it includes any activity or transaction carried out in, or connected with, the oil and gas industry, a sector that accounts for roughly 30 percent of Nigeria's GDP. The Act's local sourcing mandate, which applies to an extensive list of goods and services supplied to the oil and gas industry, has been a particular concern of U.S. oil and gas service suppliers.

Companies are also required to create and seek approval for a "Nigerian Content Plan" to demonstrate how companies will increase local content in oil and gas operations. Companies that do not follow a Nigerian Content Plan can face fines of 4 percent of the contract value or cancelation of the contract. Also, international companies must put 10 percent of their annual profit in a Nigerian bank.

Restrictions also apply with respect to the movement of personnel. Nigeria imposes quotas on foreign personnel based on the total budget of the project or budget along with approval from the Nigerian Content Management Development Board. Such quotas remain especially strict in the oil and gas sector and may apply to both production and services companies. Oil and gas companies must hire Nigerian workers, unless they can demonstrate that particular positions require expertise not found in the local workforce. Positions in finance and human resources are almost exclusively reserved for Nigerians.

Certain geosciences and management positions may be filled by foreign workers with the approval of the NAPIMS agency. Each oil company must negotiate its foreign worker allotment with NAPIMS. Significant delays in this process, and in the approval of visas for foreign personnel, present serious challenges to the oil and gas industry in acquiring the necessary personnel for their operations. According to industry representatives, the Act is adversely affecting a diverse range of companies, including operators, contractors, subcontractors, and service providers.