KUWAIT

TRADE SUMMARY

The U.S. goods trade deficit with Kuwait was $2.6 billion in 2010, up $773 million from 2009. U.S. goods exports in 2010 were $2.8 billion, up 42.4 percent from the previous year. Corresponding U.S. imports from Kuwait were $5.4 billion, up 42.3 percent. Kuwait is currently the 52nd largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Kuwait was $1.4 billion in 2009 (latest data available), down from $1.5 billion in 2008.

IMPORT POLICIES

Tariffs

As a member of the Gulf Cooperation Council (GCC), Kuwait applies the GCC common external tariff of five percent for most products, with a limited number of GCC approved country-specific exceptions. Kuwait's exceptions include 417 food and agriculture items that have zero tariffs. Tobacco products are subject to a 100 percent tariff. According to the WTO, Kuwait's simple average applied tariff is 5.2 percent for agricultural goods and 4.7 percent for non-agricultural goods.

Import Prohibitions and Licensing

Kuwait prohibits the importation of alcohol and pork products, and requires a special import license for firearms. Previously used medical equipment and automobiles over five years old cannot be imported. The import of books, periodicals, or movies that insult religion and public morals, and all materials that promote political ideology is prohibited.

Customs

The import clearance process in Kuwait historically has been time consuming, requiring extensive documentation and involving numerous redundancies. In 2010, the Ministry of Commerce and Industry formed a committee to focus on trade facilitation and streamline required paperwork.

Kuwait began implementation of the WTO Customs Valuation Agreement in September 2003.

GOVERNMENT PROCUREMENT

Kuwait's government procurement policies require the purchase of local products, where available, and prescribe a 10 percent price advantage for local firms in government tenders.

Procurement by the Kuwaiti government and its agencies is regulated by Law No. 37 of 1964 (modified by Laws No. 13 and 31 of 1970 and 1977, respectively) concerning Public Tenders, in which any procurement made by the Kuwaiti government with a value in excess of KD 5,000 ($17,700) must be conducted through the Central Tenders Committee.

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

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Kuwait was listed on the Watch List in the 2010 Special 301 Report. The United States welcomes continued progress on enforcement against copyright piracy and trademark counterfeiting, particularly by Customs authorities. However, there are areas of IPR protection and enforcement that continue to represent barriers to U.S. exports and investment. Key issues cited in the report include the lack of deterrent criminal penalties and excessive delays in the enactment of key pieces of IPR related legislation, which have been pending for years. The IPR Department at the Ministry of Commerce and Industry is currently drafting a revised copyright law. The United States has provided technical assistance on this legislation and encourages Kuwait to pass the necessary IPR-related legislation and improve its enforcement efforts.

As part of the GCC Customs Union, the six Member States are preparing a draft common trademark law, as well as a draft common unfair competition law to protect companies from unfair commercial use of undisclosed information submitted for marketing approval of pharmaceutical products. The United States is engaged in a dialogue with GCC technical experts to help ensure that the trademark law and unfair competition law will facilitate Member States' implementation of international and bilateral obligations.

SERVICES BARRIERS

Banking

The banking sector has been opened to foreign investment under the Direct Foreign Capital Investment Law and the Central Bank has granted licenses to ten foreign banks. While foreign banks may operate in Kuwait, they are restricted to opening only one branch and to offering only investment banking services, and are prohibited from competing in the retail banking sector. Furthermore, foreign banks are subject to a maximum credit concentration equivalent to less than half the limit of the largest local bank and are expressly prohibited from directing clients to borrow from external branches of their bank or taking any other measures or arrangements to facilitate such borrowing.

INVESTMENT BARRIERS

Major barriers to foreign investment in Kuwait include: regulations limiting participation of foreign entities from investing in the petroleum and real estate sectors, long bureaucratic delays associated with starting new enterprises, and obstacles created by a business culture heavily influenced by clan and family relationships. Foreign investment in projects involving oil and gas exploration and production are not authorized under Kuwait's Direct Foreign Capital Investment Law. Foreign investment in such oil and gas projects must be approved pursuant to a separate law. While foreign firms are permitted to participate in some downstream activities, the experience of U.S. investors in this sector has not been positive. In November 2008, a U.S. company agreed to establish a plastics joint venture with Petrochemical Industries Co., a subsidiary of Kuwait Petroleum Corporation. However, the Government of Kuwait instructed Kuwait's Supreme Petroleum Council to cancel the joint venture in December 2008 after the deal attracted sharp criticism from some members of Parliament.

OTHER BARRIERS

Corporate Tax Policies

Arbitrary tax assessments are a continuing complaint of foreign companies operating in Kuwait. In 2005, a number of foreign corporations with local distributors received income tax bills from Kuwaiti tax authorities, even though these companies had no direct commercial presence in Kuwait. Some of these companies have challenged the tax bills in court, and others are working with the U.S. and Kuwaiti governments to seek a legislative or regulatory solution.