NIGERIA

TRADE SUMMARY

The U.S. goods trade deficit with Nigeria was $26.5 billion in 2010, up $11.0 billion from 2009. U.S. goods exports in 2010 were $4.0 billion, up 9.6 percent from the previous year. Corresponding U.S. imports from Nigeria were $30.5 billion, up 59.5 percent. Nigeria is currently the 44th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Nigeria was $5.4 billion in 2009 (latest data available), up from $3.3 billion in 2008. 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 that harmonizes its tariffs with the Economic Community of West African States (ECOWAS) Common External Tariff (CET). Nigeria had partially implemented the ECOWAS CET since 2005. The 2008-2012 CET has five tariff bands. The five tariff bands include 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 government seeks to protect. Import duties were reduced on a number of items, including rice, cigars, and manufactured tobacco. Adoption of the 2008-2012 CET is part of the government of Nigeria's economic reforms aimed at improving Nigeria's trade and investment environment and the harmonization of economic policies in the sub region. Resistance remains within the Nigerian government and the private sector to further trade reforms. According to the WTO, Nigeria's average MFN applied tariff rate is 11.2 percent. For agricultural goods the average applied tariff is 15.5 percent and for non-agricultural products it is 10.5 percent.

Companies report that high tariffs, nontransparent valuation procedures, frequent policy changes, and unclear interpretations by the Nigerian Customs Service (NCS) make importing difficult and expensive, and often create bottlenecks for commercial activities. Nigeria's dependence on imported raw materials and finished goods aggravates this problem, affecting both foreign and domestic manufacturers. Reportedly, many importers resort to undervaluing and smuggling to avoid paying full tariffs.

Nontariff Measures

The government continues to ban certain imports, citing the need to protect local industries. However, in December 2010, the government removed the ban on the importation of textile and other sundry items.

Items remaining on the import prohibition list include 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.

Customs Administration

Nigeria 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 contribute to product deterioration which may 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 practices 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.

The Nigerian government recognizes that port delays significantly increase the cost of doing business in Nigeria and plans to implement a 48 hour cargo clearance policy at ports. In this regard, in August 2010, the Minister of Finance established a committee on customs and port reforms to provide recommendations on improving port operations in Nigeria. Plans also exist to automate all customs payments and modernize NCS operations.

Roads entering and leaving ports are decaying, and overuse results in around-the-clock traffic congestion. Ports lack rail systems to transport freight in and out of ports. As a result, congestion leads to ships queuing up to berth at cargo terminals and containers waiting to be transported out of the ports. The bottlenecks resulting from the lack of infrastructure in and around the ports affect the level of efficiency at which goods can be processed for import. Currently, over 15 agencies operate at the ports, further complicating the port clearance process.

EXPORT SUBSIDIES AND OTHER EXPORT PROMOTION PROGRAMS

The Nigerian government administers various export incentive programs, such as tax concessions, export development funds, capital asset depreciation allowances, and foreign currency retention programs, in addition to operating Free Trade Zones and Export Processing Zones. According to the 2008-2012 CET Book, authorities have halted most concessions, waivers, or exemptions. However, the Nigerian Export Promotion Council will continue to implement the Export Expansion Grant scheme to improve non-oil export performance.

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, signed into law in June 2007, established the Bureau of Public Procurement (BPP). The 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. Procurement above 50 million naira (approximately $333,000) remains subject to review by the BPP. The 36 state governments have also agreed to enact the Public Procurement Act in their respective states.

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 energy 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 (IPR) PROTECTION

Nigeria is a party to the World Intellectual Property Organization (WIPO) Convention, the Berne Convention for the Protection of Literary and Artistic Works, the Paris Convention for the Protection of Industrial Property, the Patent Cooperation Treaty, and the Patent Law Treaty. Nigeria has also signed the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty. Legislation intended to implement WTO obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights has been pending in the National Assembly for several years.

The Nigerian government's lack of institutional capacity to address IPR issues is a major barrier to enforcement. Relevant Nigerian government institutions suffer from low morale, poor training, and limited resources. Piracy remains a problem despite Nigeria's active participation in the conventions cited above and the growing interest among Nigerians in seeing their intellectual property protected. Counterfeit automotive parts, pharmaceuticals, business and entertainment software, music and video recordings, and other consumer goods are sold openly. Piracy of books and optical disc products is also a problem. Industry reports contend that intellectual property infringers from other countries appear increasingly active in using Nigeria as a base for the production of pirated goods.

Patent and trademark enforcement remains weak, and 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 United States has provided training to government IP officials through various training programs offered by the United States Patent and Trademark Office's (USPTO) Global Intellectual Property Academy (GIPA) under the Trade and Investment Framework Agreement (TIFA) 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.

Widespread pirating of foreign and domestic videotapes discourages the entry of licensed distributors. In 2004, the Nigerian Copyright Commission (NCC) launched an anti-piracy initiative named "Strategy against Piracy." The Nigerian Police Force, working closely with the NCC, has raided enterprises producing and selling various pirated works such as software, books, and videos. About 29 cases are currently being prosecuted against IPR violators in various courts in the country. The Nigerian Economic and Financial Crimes Commission (EFCC) has also been active in IPR enforcement.

Discussions continue between the Standards Organization of Nigeria and the Chinese government to combat the influx of sub-standard and pirated Chinese products into Nigeria.

SERVICES BARRIERS

Foreign oil and gas services suppliers face a number of barriers in Nigeria, particularly with respect to the movement of personnel. Nigeria imposes quotas on foreign personnel based on the issued capital of firms. 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 energy industry in acquiring the necessary personnel for their operations.

According to industry representatives, the Nigerian Content Development Bill (NCDB), which was signed into law on April 23, 2010, will adversely affect a diverse range of actors, which include industry operators, contractors, subcontractors, and service providers. This bill also affects professional services, including legal and financial services.

INVESTMENT BARRIERS

A variety of barriers restrict potential U.S. investment in Nigeria. Potential investors must contend with complex tax administration 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. Nigeria's corruption levels remain high and the EFCC has faltered recently in its actions on the issue. Companies report that the sanctity of contracts is often violated and Nigeria's court system for settling commercial disputes is weak and can be biased. In late 2009, for example, officials of a financial services company and two manufacturing companies were subject to arrest warrants, resulting in the detention of senior officials from all three companies, with the understanding that authorities would drop the cases if the companies met certain conditions.

Investment in the oil and gas sector remains strictly limited to existing joint ventures or production-sharing agreements. A proposed Petroleum Industry Bill (PIB) would change the way Nigeria's oil and gas sector is regulated and funded. The PIB could increase taxes and royalties to the government, at least in the short term, and make it unprofitable to invest in Nigeria's deepwater fields. The international oil companies (IOCs) have approved no major investments in the oil and gas sector since the first quarter of 2009. According to the IOCs, the imposition of price controls on natural gas, the absence of a domestic gas market, and the high cost of building infrastructure to capture and distribute gas have made it economically unviable to end gas flaring. The IOCs must operate as minority partners in joint ventures with the Nigerian National Petroleum Corporation, which consistently fails to provide its share of the required investment.

OTHER BARRIERS

Frequent power outages in Nigeria serve as a major barrier to economic growth. The privatization and reform efforts of the power sector have been stalled since 2005. The Nigerian government has committed to move the power sector reform to completion and establish a healthy investment climate by mid-2011. The results to-date include removing obstacles to private sector investment; implementing a government strategy for the divestiture of the nationally owned distribution and generation companies, establishing a market-based tariff, and addressing the fuel-to-power pricing to market based pricing.

As noted above, poor infrastructure, including power (electricity), water, roads, ports, and railways, also poses a major challenge to doing business in Nigeria. This lack of infrastructure increases production costs and hinders both exports and competition in regional and international markets. In many cases, the increased production costs also make it difficult to compete with imports.

The Nigerian government has attempted to eliminate financial crimes, such as money laundering and advance fee fraud (also known as "419 fraud," after the relevant section of the Nigerian Criminal Code). In June 2006, the Financial Action Task Force removed Nigeria's name from the list of non-cooperating countries and territories in the fight against money laundering and other financial crimes. In May 2007, Nigeria gained entry into the Egmont Group of Financial Intelligence Units.