UZBEKISTAN

TRADE SUMMARY

The U.S. registered a trade surplus of $61 million with Uzbekistan in 2002, a decrease of $30 million from 2001. Uzbekistan was the United States' 98th largest export market in 2002. In 2002, U.S. goods exports to Uzbekistan were $138 million, down 4.8 percent from the pervious year. U.S. imports from Uzbekistan were $77 million in 2002, up 43.8 percent from 2001.

IMPORT POLICIES

The Government of Uzbekistan restricts imports in many ways, including high import duties, requirements for certificates of origin for imported products, licensing requirements for importers and wholesale traders, restriction of access of sellers of imported items to retail space, and limited access to hard currency.

On January 18, 2002, the International Monetary Fund (IMF) approved a staff monitored program (SMP) with Uzbekistan covering the period from January to June, 2002. This agreement required the Government to gradually reduce the gap between the official and black market exchange rates to less than twenty percent and also gradually to liberalize access to foreign exchange for current account transactions. As of December 2002, the import registration system had been significantly streamlined and access to hard currency, though not complete, had been somewhat liberalized. If Uzbekistan achieves a full-fledged IMF program, the import registration system would presumably be abolished.

Fears of a surge of imports as the margin between the black market rates and over-the-counter (OTC) rate (also known as the “commercial” or free interbank rate) closed to approximately 35 percent caused the Government of Uzbekistan to drastically restrict imports in July/August by imposing import surcharges. Moreover, the Government of Uzbekistan began requiring retailers to present certificates of origin and customs receipts for imported products upon request of tax or customs authorities, and confiscating goods found without such certificates. Surveys of foreign companies consistently concluded that restrictions on access to hard currency is the worst of the many serious obstacles to doing business in Uzbekistan.

Uzbekistan currently has five exchange rates. A large share of imports are purchased with foreign exchange obtained on the illegal curb (or black) market, where the most recent exchange rate was about 1380 soum/dollar. This rate contrasts with the approximately 955 soum/dollar “commercial” rate available to legal consumer goods importers, and the exchange booth rate for individual travelers, which is currently around 1030 soum/dollar and had fluctuated between 1000-1300 soum/dollar during 2002. There is also a fourth rate, the curb market non-cash rate, which is harder to monitor. The fifth and least important rate is the “official” exchange rate, used only for accounting purposes. Although the Central Bank claims that banks are authorized to set their own exchange booth rates, based on supply and demand, in practice the official, commercial, and exchange booth rates are actually administered by the Central Bank. Access to all exchange rates other than the black market rate is severely restricted and constitutes a major barrier to trade. The World Bank and IMF estimate that over one-half of all soum-dollar transactions are conducted at the black market rate.

In 2001, the Government of Uzbekistan completed the move of legal import transactions to the commercial exchange rate, virtually merging it with the “official” exchange rate. On July 1, 2001, consumer goods importers lost their access to the official exchange rate and were moved to a new 690 soum/dollar “commercial” rate for their transactions. This rate has been gradually devalued by the GOU. As of December 27, 2002, it stood at 960 soum/dollar. Even at this rate, however, the government continues to restrict consumer goods imports.

Prior registration of contracts is also required by the Government of Uzbekistan to prevent over-invoicing. Once approval is granted (required under the streamlined system in 5 days for transactions under $50,000 or 10 days for transactions over $50,000), banks then sell hard currency to importers at the commercial rate. The purpose of prior registration is to prevent imports at artificially high prices in cases in which the importer pays for the goods and has money left over which can then be exchanged at a below-market rate.

STANDARDS, TESTING, LABELING AND CERTIFICATION

Until recently, the government relied on other barriers to trade and did not unnecessarily apply restrictive sanitary and phytosanitary standards. The Government of Uzbekistan accepts U.S. manufacturer's self-certification of conformance to foreign product standards and environmental restrictions. However, we note that the Government announced a new requirement in June to go into effect in 2003 to ensure that all products be labeled in Russian and Uzbek.

GOVERNMENT PROCUREMENT

There is no systematic approach to government procurement in Uzbekistan. Instead, procurement decisions are made on a decentralized and *ad hoc* basis. Generally, the procurement practices of the central government are similar to those of many countries, with the use of tenders, bid documents, bids and a formal contract award. However, many tenders are announced with short deadlines and are awarded to domestic companies with contacts with procuring entities. Uzbekistan is in the process of modifying its trade regime to become a member of the WTO, and thus is not yet a signatory of the WTO Agreement on Government Procurement.

EXPORT SUBSIDIES

The Government of Uzbekistan grants tax benefits, such as tax holidays, for Uzbek or foreign joint venture exporters. A July 5, 2001 presidential decree exempts most enterprises from profit taxes on their exports and from property tax if they export over 50 percent of their production. In 2002, the Government completed the process of abolishing its hard currency "surrender requirement" which penalized exporters by requiring they surrender projected earnings of hard currency for conversion to soum at the commercial exchange rate. This eliminated a significant disincentive to export.

The Government of Uzbekistan does not provide agricultural export subsidies and, in fact, until very recently only allowed state-owned trading companies to export cotton. As called for in the SMP, in December 2002, the Government of Uzbekistan issued regulations allowing cotton farmers to export half of their actual harvest themselves. However, it is unclear how well the new regulation will be enforced. At present, the Government of Uzbekistan maintains no specific export subsidies for agricultural products or preferential financing for the export of agricultural products.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

The 1994 U.S.-Uzbekistan Bilateral Agreement on Trade Relations incorporates provisions on the protection of intellectual property rights (IPR). In 1996, the Government of Uzbekistan undertook a comprehensive revision of its copyright law, but significant deficiencies remain in Uzbekistan's regime for the protection of intellectual property. For example, Uzbekistan does not provide protection for pre-existing works. No protection is provided for U.S. sound recordings, since Uzbekistan is neither a member of the Berne Convention nor a member of the Geneva Phonograms Convention. In addition, Uzbekistan does not provide for civil or criminal *ex parte* search procedures needed for effective anti-piracy enforcement. In its December 2000 session, the Uzbek parliament made some minor changes to the Uzbek copyright law, and also added trademark protections.

With respect to enforcement, Uzbekistan needs to adopt additional reforms. The fact that the state-owned Uzbek airlines shows pirated U.S. films in flights to the United States and elsewhere is emblematic of the Government's disregard for intellectual property rights. On the streets, pirated audio and videotapes and compact disks are sold freely, and border enforcement is weak, allowing illegal copies freely to cross borders for sale in Uzbekistan.

SERVICES BARRIERS

The largest barrier to foreign services firms entering the Uzbek market is difficulty in currency conversion. For example, insurance companies must collect their premiums in Uzbek currency and may not pay reinsurance premiums in hard currency on the world market. Likewise, claims may only be paid in the unconvertible Uzbek currency. These provisions can only be waived by a special presidential decree granting the company the right to do business in dollars. To date only a state-owned insurance company, Uzbekinvest, that was established under a special presidential decree and an American-Uzbek joint venture, UzAig, have that permission. Although the Government of Uzbekistan has created an insurance supervisory board, there is not yet a system of licensing insurance companies. This means that firms can currently only operate in Uzbekistan on the basis of a governmental decree.

A ten percent withholding tax imposed on reinsurance premiums amounts to a *de facto* disadvantage for U.S. reinsurers vis-a-vis other foreign companies. The tax is not levied on insurers in countries that, unlike the United States, have a double taxation treaty with Uzbekistan. U.S. companies would, therefore, have to add the ten percent charge to their premiums.

Uzbek law grants state-owned companies a monopoly over certain forms of mandatory state insurance (i.e. mandatory insurance paid for out of the state budget). However, Uzbekinvest and UzAig are also allowed to trade in hard currency.

Foreign banks may not operate in Uzbekistan except as partners in joint ventures with Uzbek firms. Banking and insurance firms with foreign participation are required to establish a charter capitalization fund of $5 million, whereas the Government of Uzbekistan determines the required size of the charter funds of Uzbek firms on a case-by-case basis.

INVESTMENT BARRIERS

A Bilateral Investment Treaty (BIT) was signed between the United States and Uzbekistan in December 1994. The U.S. Senate gave advice and consent to ratify the treaty in October 2000. At that time, the Senate Committee on Foreign Relations raised concerns about aspects of the Uzbek investment regime that were inconsistent with the obligations under the treaty. The Administration gave assurances that procedures for the treaty's entry into force would not be initiated until the investment climate improved. Achieving full currency convertibility would remove a key obstacle to bringing the U.S.-Uzbekistan BIT into force.

Two laws, "On Foreign Investment" and "On Guarantees and Measures Designed to Protect Rights Granted to Foreign Investors" came into effect in April 1998. To be considered "an enterprise with foreign investment" under the new laws, a firm must be at least 30 percent foreign-owned and have initial foreign equity of $150,000. At present, there is no legal means for smaller foreign-owned companies to register. Although reduced from previous levels, these capital requirements are still high enough to exclude foreign investment by small companies. The Government of Uzbekistan has postponed consideration of proposals to ease these requirements further. U.S.-owned companies in Uzbekistan face cumbersome regulations and licensing requirements. Profit repatriation remains extremely difficult for foreign-owned companies here due to the lack of convertibility of the soum.

In the past, businesses had to register with numerous government organizations and obtain licenses from separate entities. However, in 2001 the Government of Uzbekistan introduced a "one stop shop" to make it easier for businesses to register their companies. These "one stop shops" are located in local government offices (Hokimiyats) throughout Uzbekistan and have reportedly improved individuals' abilities to form new businesses.

Uzbekistan's Tax Code (introduced in 1997) is a great improvement over its predecessor. However, it lacks a few important provisions that are part of the business environment in most countries. For example, it allows no credit for VAT on capital goods, including plant, machinery and buildings. This puts firms operating in Uzbekistan at a competitive disadvantage compared to those in countries that do allow such credits. In addition, earnings of foreign-owned enterprises are subject to double taxation. Their earnings are taxed once when earned by the enterprise in Uzbekistan and then taxed again when remitted to the foreign parent.

Two factors increase labor costs for foreign firms. Uzbek staff face a 36 percent income tax on salaries as low as $1,200 a year. While most Uzbek companies do not comply with their tax duties, foreign investors generally feel obliged to adhere to the law. A September 29, 2001 decree imposes minimum salary levels for employees of firms with foreign investment, depending on the category of employee, but these minimum levels are not appreciably higher than prevailing local salary rates. The Government of Uzbekistan imposed these minimum salary requirements to force foreign firms to pay full taxes on their employees. U.S. companies have complained that Uzbek laws are not interpreted or applied in a consistent manner. On many occasions, local officials have interpreted laws in a manner that is detrimental to individual private investors and the business community at large. Companies are particularly concerned with the consistent and fair application of the Foreign Investment Law, which contains a number of specific protections for foreign investors.

ELECTRONIC COMMERCE

In 2002, the Government of Uzbekistan eliminated the monopoly previously held by a state-owned enterprise on access to external (international) Internet connections. While the Government of Uzbekistan had not enforced this monopoly, the removal of this formal barrier to entry for Internet service providers (local and foreign) was a step toward a more open trading environment for electronic commerce.

OTHER BARRIERS

American investors unanimously complain that they do not control their corporate bank accounts in Uzbekistan. The main problem involves restrictions on businesses' access to, and use of, cash in their accounts. Every routine banking operation requires official permission. As a result, businesses expend an enormous amount of senior staff time on simple transactions. A March 24, 2000, decree improved this situation by allowing many farms, restaurants, cafes and other small and medium enterprises with foreign investment ($150,000 or more in foreign capital) to access their own funds in commercial bank accounts, so long as those funds were received and deposited within the previous ninety days.

Most other businesses may hold cash for only a small number of permitted purposes, such as paying salaries and travel expenses. All other money must be held in the bank. Cash receipts must be deposited on the day they are received. Even small purchases, such as office supplies, must be paid for via bank transfer. Use of petty cash is not allowed. Uzbek companies handle this problem with salary withdrawals for non-existent staff. Western accounting practices prevent American companies from using these deceptive practices.

Persons doing business in Uzbekistan note that if they are engaged in a sector in which either the Government of Uzbekistan or an Uzbek-controlled firm is a competitor, they face increased bureaucratic hurdles and currency conversion problems. Often competitors are not allowed in the sector.

Businesses complain that they lack access under Uzbek law to international arbitration. Moreover, the judiciary in Uzbekistan is not independent. In the event of disputes, courts usually favor firms that are controlled or owned by the state. Trade disputes involved foreign-owned businesses are common and have proven to be nearly impossible to resolve even with high-level intervention from senior U.S. policymakers and legislators.

Local and international entrepreneurs face payoff-seeking officials (local, regional, and national -- tax, customs, police, fire/health/safety inspectors, and labor inspectors) due to pervasive corruption, exacerbated by low salaries for officials and an opaque, cumbersome, and internally contradictory legal regime that makes it difficult for business owners to comply with Uzbek regulations. Bribery and other corrupt practices are common and represent another barrier to trade.