

# HONDURAS

In 1997, the U.S. trade deficit with Honduras was \$309 million, an increase of \$154 million from the U.S. trade deficit of \$155 million in 1996. U.S. merchandise exports to Honduras were \$2 billion, an increase of \$373 million (22.7 percent) from the level of U.S. exports to Honduras in 1996. Honduras was the United States' fortieth largest export market in 1997. U.S. imports from Honduras were \$2.3 billion in 1997, an increase of \$526 million (29.3 percent) from the level of imports in 1996.

The stock of U.S. foreign direct investment (FDI) in Honduras in 1996 was \$145 million. U.S. FDI in Honduras is concentrated largely in the manufacturing, finance and banking sectors.

## IMPORT POLICIES

### Tariffs

Honduras is a member of the Central American Common Market (CACM), which also includes Costa Rica, El Salvador, Guatemala, and Nicaragua. CACM members are working toward the full implementation of a common external tariff (CET) between ranging from 1 to 19 percent for most products. In 1995 the members of the CACM agreed to reduce the CET to between 0 and 15 percent, but allowed each member country to determine the timing of the changes. With the exception of certain items, there are no duties for products traded among CACM members.

### Agricultural Price Bands

Honduras implemented a price band mechanism for yellow corn, sorghum, rice, and soybeans in August 1992. In recent years corn flour has also been added to the list of products subject to this tariff mechanism. Similar to the price band practices of other countries in the region, the Government of Honduras calculates the price band from a time series built on international prices for the prior 60 months on a given product. The fifteen highest and lowest prices are eliminated, with the remaining highs and lows establishing the price band. Imports entering with values within the defined band are assessed a 20 percent tariff. Imports entering with prices above the band are assessed lower duties, according to a predetermined schedule; those imports priced below the band are assessed a higher tariff. However, the GOH has recently added a seasonal restriction to the price band. From September to January the minimum allowable duty is 20 percent for corn and 15 percent for all other products. From February to August duties are allowed to fluctuate freely according to the predetermined duty tables of each commodity. This seasonal restriction has been added to provide additional protection to local grain farmers during the main harvest. The United States has strongly opposed this policy, which limits access of U.S. agricultural products.

## STANDARDS, TESTING, LABELING, AND CERTIFICATION

Although Honduras has eliminated all import licensing requirements, imports of certain key U.S. agricultural products continue to be blocked or limited by phytosanitary and zoosanitary restrictions. Restrictive zoosanitary requirements have blocked U.S. poultry imports for several years. Throughout much of 1996 and

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1997 Honduras also blocked imports of rough rice from the United States by imposing arbitrary phytosanitary requirements which could not be met by U.S. suppliers. After nearly a year, the GOH finally lifted the restriction, but only after the local harvest had passed. More recently, the GOH has begun requiring that the U.S. corn shipments to Honduras be inspected at the port of origin by a Honduran official. Although, this new requirement does not entirely block U.S. corn shipments to Honduras, it does create a burden to the import process and adds to its cost as well. Frequent changes in sanitary and phytosanitary requirements are seldom reported to the WTO as required, and create a great deal of uncertainty among U.S. suppliers and Honduras importers.

### **GOVERNMENT PROCUREMENT**

The Government Procurement Law (Decree No. 148.5) governs the contractual and purchasing relations of Honduran state agencies. Under this law, foreign firms are given national treatment for public bids and contractual arrangements with state agencies. In practice, U.S. firms frequently complain about the mismanagement and lack of transparency of the governmental bid processes. These deficiencies are particularly evident in telecommunications, pharmaceuticals, and energy public tenders.

### **LACK OF INTELLECTUAL PROPERTY PROTECTION**

In 1997, Honduras was included in the "Watch List" category of the U.S. government's annual Special 301 review due to a lack of adequate and effective protection and enforcement of intellectual property rights (IPR). Since 1992, Honduras has been the subject of a continuing review under the Generalized System of Preferences (GSP) for deficiencies in its IPR regime. On September 1, 1993, the Honduras Congress approved modern copyright, trademark, and patent legislation. The Government of Honduras has drafted and submitted to the Honduran Assembly amendments intended to address shortcomings found in Honduras' 1993 copyright law, but that legislation is stalled. During the past year, Honduras and the United States have held extensive consultations on the issue of broadcast television piracy. The United States has informed the Government of Honduras that it could face the partial suspension of GSP/CBI benefits, in the very near future, unless the piracy is terminated. While the Honduras executive branch has taken action to criminally prosecute an offender, these efforts have not yet proven effective, and the case remains before the Honduras judiciary.

### **Copyrights**

The piracy of books, sound and video recordings, compact discs, computer software, and television programs is widespread in Honduras. Although Honduras enacted a reformed copyright law in August 1993, amendments submitted to the Congress in May 1995 that would strengthen the law are stalled. However, on February 8, 1997 Honduras, under decree number 191-96, passed amendments to the 1982 Honduran penal code which for the first time included stiff criminal penalties for violators of intellectual property. IPR violators are now subject to incarceration from three to six years. Significant progress has been made toward curbing cable piracy since 1992, and currently 90 percent of the cable market is legal. The government also conducted several raids in 1997 in which significant quantities of audio and audio-visual products were confiscated.

Despite some progress in the area of copyright protection, broadcast piracy by several local television stations remains a problem. In 1992 the U.S. Trade Representative accepted a petition filed by the Motion Picture

Export Association of America (MPEAA) under the GSP legislation which alleged widespread video/cable television piracy, estimated at \$2.5 million in lost revenue per year. In May of 1997 the Trade Policy Staff Committee (TPSC) recommended the GSP and CBI benefits be partially suspended unless the Government of Honduras improved its IPR enforcement in this area. In order to implement the TPSC recommendation, on October 31, 1997, Ambassador Barshefsky initiated an investigation under Section 301 of the Trade Act of 1974 with respect to IPR protection in Honduras. The U.S. and Honduras have held extensive consultations during the past year on the matter and the Honduras executive branch has filed a criminal case against the pirates. However, these efforts to end the violations have not yet proven effective.

A report prepared by the International Intellectual Property Alliance estimated that losses in Honduras due to copyright infringement cost U.S. firms xxx million US dollars in 1997.

### Patents

The patent law enacted in December 1993 provides patent protection for pharmaceuticals, although the patent term of seventeen years from the date of application must be extended by at least three years to meet international standards. Other shortcomings in the Honduran patent law are an overly broad compulsory licensing provision, potential allowance for parallel imports, no protection for products in the pipeline and limited enforcement of the law.

### Trademarks

The illegitimate registration of well-known trademarks is a persistent problem in Honduras, in spite of 1993 modifications to the trademark law.

## INVESTMENT BARRIERS

The Honduran Government reserves the right to reject any foreign investment based upon the effect on economic activity, market stability, and other factors. Establishment of banks and life insurance companies is subject to approval by the Central Bank, in accordance with market needs; foreign ownership of other insurance companies is limited to 40 percent. Under Honduran law, special government approval must be obtained to invest in the tourism, hotel, and banking services sectors. In addition, under the 1992 investment law, special government approval must be obtained for foreign investment in the forestry, telecommunications, air transport, and aquaculture industries. This law also requires majority Honduran ownership in certain areas, such as investments in commercial fishing, direct exploitation of forest resources, local transportation, and those areas benefiting directly from the national agrarian reform law. Foreign investors are prohibited from holding a majority stake in foreign exchange trading companies. Moreover, foreign owners may not hold a seat or provide direct brokerage services in either of Honduras' two stock exchanges. Furthermore, the Honduran Government prohibits the establishment of investments of less than 150,000 lempiras (about \$11,500).

Historically, U.S. firms and private citizens have found corruption to be a problem and a constraint to foreign direct investment. Corruption appears to be most pervasive in the recurring following areas: government procurement, performance requirements, the regulatory system, and in the buying and selling of real estate, in particular, land titling. President Reina's "moral revolution" has helped thwart corruption, although it remains a serious problem.

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The United States and Honduras signed the U.S.-Honduras Bilateral Investment Treaty (BIT) on July 1, 1995. The BIT has not yet been ratified by either the U.S. or the Honduran Congresses.