COSTA RICA

TRADE SUMMARY

The U.S. goods trade deficit with Costa Rica was $3.5 billion in 2010, up $2.6 billion from 2009. U.S. goods exports in 2010 were $5.2 billion, up 10.3 percent. Corresponding U.S. imports from Costa Rica were $8.7 billion, up 52.2 percent. Costa Rica is currently the 40th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Costa Rica was $2.4 billion in 2009 (latest data available), down from $2.6 billion in 2008. U.S. FDI in Costa Rica is led by the manufacturing and nonbank holding company sectors.

IMPORT POLICIES

Free Trade Agreement

On August 5, 2004, the United States signed the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR or Agreement) with five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) and the Dominican Republic (the Parties). Under the Agreement, the Parties are significantly liberalizing trade in goods and services. The CAFTA-DR also includes important disciplines relating to: customs administration and trade facilitation; technical barriers to trade; government procurement; investment; telecommunications; electronic commerce; intellectual property rights; transparency; and labor and environmental protection.

The Agreement entered into force for the United States, El Salvador, Guatemala, Honduras, and Nicaragua in 2006 and for the Dominican Republic in 2007. The CAFTA-DR entered into force for Costa Rica on January 1, 2009.

In 2008, the Parties implemented amendments to several textile-related provisions of the CAFTA-DR, including, in particular, changing the rules of origin to require the use of U.S. or regional pocket bag fabric in originating apparel. The Parties also implemented a reciprocal textile inputs sourcing rule with Mexico. Under this rule, Mexico provides duty-free treatment on certain apparel goods produced in a Central American country or the Dominican Republic with U.S. inputs, and the United States will provide reciprocal duty-free treatment under the CAFTA-DR on certain apparel goods produced in a Central American country or the Dominican Republic with Mexican inputs. These changes further strengthen and integrate regional textile and apparel manufacturing and create new economic opportunities in the United States and the region.

In February 2011, the CAFTA-DR Free Trade Commission (FTC), the central oversight body for the agreement, met for the first time in San Salvador, El Salvador. The FTC reviewed the implementation of the agreement and its trade and economic impact on the region and agreed to certain changes to strengthen the agreements operation. The FTC discussed a broad range of ways to enhance competitiveness in the region and endorsed several initiatives to generate new opportunities for all of the countries to realize the benefits of the CAFTA-DR Agreement, with a heightened focus on small- and medium-sized businesses.

Tariffs

As a member of the Central American Common Market, Costa Rica applies a harmonized external tariff on most items at a maximum of 15 percent with some exceptions.

However, under the CAFTA-DR, 100 percent of U.S. industrial trade will enter Costa Rica duty-free by 2015. Nearly all textile and apparel goods that meet the Agreement's rules of origin now enter Costa Rica duty-free and quota-free, creating economic opportunities for U.S. and regional fiber, yarn, fabric, and apparel manufacturing companies.

Under the CAFTA-DR, more than half of U.S. agricultural exports now enter Costa Rica duty-free. Costa Rica will eliminate its remaining tariffs on virtually all agricultural products by 2020 (2022 for chicken leg quarters and 2025 for rice and dairy products). For certain agricultural products, tariff-rate quotas (TRQs) will permit some immediate duty-free access for specified quantities during the tariff phase out period, with the duty-free amount expanding during that period. Costa Rica will liberalize trade in fresh potatoes and onions through expansion of a TRQ, rather than by tariff reductions.

Nontariff Measures

Under the CAFTA-DR, Costa Rica committed to improve transparency and efficiency in administering customs procedures, including the CAFTA-DR rules of origin. Costa Rica also committed to ensuring greater procedural certainty and fairness in the administration of these procedures, and all the CAFTA-DR countries agreed to share information to combat illegal transshipment of goods.

Costa Rica implemented the Information Technology Customs Control (TICA) system in 2007 for imports and in early 2009 for exports (other than exports from free trade zones). The TICA system has significantly improved what had been a complex and bureaucratic import process. Under the TICA system, the Costa Rican customs authority has changed its focus from the verification of goods to the verification of processes and data. Customs officials now have up to four years to review the accuracy of import declarations, which allows customs to facilitate the free flow of goods while gathering necessary documentation.

GOVERNMENT PROCUREMENT

The CAFTA-DR requires that procuring entities use fair and transparent procurement procedures, including advance notice of purchases and timely and effective bid review procedures, for procurement covered by the Agreement. Under the CAFTA-DR, U.S. suppliers are permitted to bid on procurements of most Costa Rican government entities, including key ministries and state-owned enterprises, on the same basis as Costa Rican suppliers. The anticorruption provisions in the Agreement require each government to ensure under its domestic law that bribery in matters affecting trade and investment, including in government procurement, is treated as a criminal offense or is subject to comparable penalties.

The government of Costa Rica's "Digital Government" development group, in partnership with the Costa Rican Electricity Institute (ICE) and others, is currently implementing an automated procurement system dubbed "MerLink." Merlink is streamlining procurement procedures and should significantly reduce the risk of corruption or fraud in the procurement process. In September 2010, the United States Trade and Development Agency (USTDA) announced a grant to support the "Digital Government" group by providing a roadmap and guidelines for implementation of a government-wide backbone network and shared data center.

In 2010, a state-owned corporation cited the "public good" in cancelling a contract with a foreign supplier. This may have been the first use of this justification by a state-owned corporation. The foreign supplier is not fully satisfied with the compensation received from the Costa Rican government but does not plan to pursue the matter further.

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

EXPORT SUBSIDIES

Tax holidays are available for investors in free trade zones, unless tax credits are available in an investor's home country for taxes paid in Costa Rica.

Under the CAFTA-DR, Costa Rica may not adopt new duty waivers or expand existing duty waivers that are conditioned on the fulfillment of a performance requirement (*e.g.*, the export of a given level or percentage of goods). However, under the CAFTA-DR, Costa Rica was permitted to maintain such measures through 2009, provided that it maintained the measures in accordance with its obligations under the WTO Agreement on Subsidies and Countervailing Measures. The U.S. Government is working with the government of Costa Rica in an effort to ensure it implements its CAFTA-DR obligation.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Costa Rica was again listed on the Watch List in the 2010 Special 301 report. Recent improvements include passage of legislation to strengthen IPR protection and enforcement in Costa Rica, and the publication of regulations to provide for the protection of undisclosed information submitted in support of the registration of new agricultural chemical products. Key concerns cited in the report included the need to assign higher priority to, and allocate greater resources for, combating piracy and counterfeiting, and the need to seek deterrent penalties. Additionally, strengthened enforcement efforts are needed. During 2010, the U.S. Government continued to address these concerns with the Costa Rican government by providing IPR training both to members of the judiciary and staff of the National Property Registry and by continuing an IPR dialogue through the Judicial Branch's training department ("The Judicial School").

The United States will continue to monitor Costa Rica's implementation of its IPR obligations under the CAFTA-DR.

SERVICES BARRIERS

Under the CAFTA-DR, Costa Rica committed to open important segments of its telecommunications market, including private network services, Internet services, and mobile wireless services. Costa Rica's telecommunications market is now open for competition in private network services and Internet services. However, a prospective supplier has encountered serious delays in attempting to obtain the license authorization required to provide Internet services via satellite because Costa Rica's telecommunications regulator, the Superintendencia de Telecomunicacines (SUTEL) and the telecommunications ministry (MINAET) are working through technical issues. The Costa Rican government has been engaged in an auction process to allocate the radioelectric spectrum necessary to allow for new entrants in the wireless telephony market, and it is expected that competitors will begin to establish operations in 2011. Competition in Costa Rica's mobile telephony market is stymied by pending implementation of a regime to ensure that operators are able to share certain microwave links that are needed to connect base stations to towers throughout the country.

INVESTMENT BARRIERS

The regulatory environment can pose significant barriers to successful investment in Costa Rica. One common problem is inconsistent government action between institutions within the central government or between the central government and the municipal government. Several large U.S. investors have faced the related problem that the central government's approach towards a specific project has changed significantly over time. Another concern for U.S. investors is the frequent recourse to legal challenges before Costa Rica's constitutional court to review whether government authorities have acted illegally or to review the constitutionality of legislation or regulations. Some U.S. investors believe that such challenges have been used at times to thwart their investments or hinder the quick resolution of disputes.

ELECTRONIC COMMERCE

The CAFTA-DR includes provisions on electronic commerce that reflect its importance to global trade. Under the CAFTA-DR, Costa Rica has committed to provide nondiscriminatory treatment of digital products, and not to impose customs duties on digital products transmitted electronically.

OTHER BARRIERS

Some U.S. firms and citizens have found corruption in government, including in the judiciary, to be a concern and a constraint to successful investment in Costa Rica. Administrative and judicial decision making appear at times to be inconsistent, non-transparent, and very time consuming.