EL SALVADOR

TRADE SUMMARY

The U.S. goods trade surplus with El Salvador was $889 million in 2011, an increase of $661 million from 2010. U.S. goods exports in 2011 were $3.4 billion, up 38.6 percent from the previous year. Corresponding U.S. imports from El Salvador were $2.5 billion, up 12.6 percent. El Salvador is currently the 49th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in El Salvador was $3.7 billion in 2010 (latest data available), up from $3.3 billion in 2009.

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 provides 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 Agreement's 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.

The United States hosted an FTC meeting on January 23, 2012 in Miami at which CAFTA-DR countries recognized continued growth in trade and integration, and acted to further strengthen CAFTA-DR institutions and initiatives.

Tariffs

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

Under the CAFTA-DR, however, 100 percent of U.S. industrial trade will enter El Salvador duty free by 2015. Nearly all textile and apparel goods that meet the Agreement's rules of origin now enter El Salvador 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 El Salvador duty free. El Salvador will eliminate its remaining tariffs on nearly all agricultural products by 2020 (2023 for rice and chicken leg quarters and 2025 for dairy products). For certain agricultural products, tariff-rate quotas (TRQs) permit some duty-free access for specified quantities during the tariff phase out period, with the duty-free amount expanding during that period. El Salvador will liberalize trade in white corn through expansion of a TRQ, rather than by tariff reductions.

Nontariff Measures

Under the CAFTA-DR, all CAFTA-DR countries, including El Salvador, committed to improve transparency and efficiency in administering customs procedures, including the CAFTA-DR rules of origin. The CAFTA-DR countries also committed to ensuring greater procedural certainty and fairness in the administration of these procedures, and agreed to share information to combat illegal trans-shipment of goods. However, over the last year, U.S. exporters and Salvadoran importers of U.S. products, particularly agricultural goods, are increasingly complaining about customs-related problems they are encountering in El Salvador. The United States is continuing to engage with El Salvador on these issues. In addition, El Salvador has negotiated agreements with express delivery companies to allow for faster handling of their packages, but the Salvadoran customs administration and U.S. express delivery companies disagree on whether the agreements have been implemented. In particular, U.S. express delivery companies have raised concerns regarding customs clearance delays, acceptance of electronic documents, and the submission of a single manifest covering all goods contained in an express delivery shipment.

In 2009 and again in 2010, El Salvador amended its law regulating the production and sale of alcoholic beverages. The amendments applied an eight percent *ad valorem* tax on domestic products and imports. The amendments also adjusted taxes on alcoholic beverages which are ostensibly based on percentage of alcohol by volume. This tax structure applies a lower rate per percentage of alcohol on alcoholic beverages that are typically produced locally or imported from other Central American countries (*e.g.*, *aguardiente*) than on alcoholic beverages that are imported from non-Central American countries (*e.g.*, whiskey and gin). The U.S. Government has raised concerns with the legislation with the government of El Salvador and continues to work with that government in an effort to address those concerns.

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 procurements covered by the Agreement. Under the CAFTA-DR, U.S. suppliers are permitted to bid on procurements of most El Salvador government entities, including key ministries and state-owned enterprises, on the same basis as Salvadoran 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 LACAP (*Ley de Adquisiciones y Contrataciones de la Administración Pública*), which regulates government procurement, entered into force in 2000.

In May 2011, the Legislative Assembly approved a series of reforms to the LACAP, including easing procurement to expedite contract valued at less than $35,856, or the equivalent of 160 salaries at the minimum urban wage. In addition, under the 2011 reforms, the Ministry of Health is authorized to acquire medicines without complying with the LACAP in cases of need.

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

EXPORT SUBSIDIES

Beginning on February 1, 2011, El Salvador eliminated the six percent tax rebate it had applied to exports shipped outside Central America for goods that had undergone a transformation process adding at least 30 percent to the original value. To compensate for the elimination of the six percent rebate, in January 2011, the government approved a new form of drawback, consisting of a refund of custom duties paid on imported inputs and intermediate goods exclusively used in the production of products exported outside of the Central American region. The new regulations also include the creation of a Business Production Promotion Committee with the participation of the private and public sector to work on policies to strengthen the export sector, and the creation of an Export and Import Center. The Export and Import Center will replace the current system under which export procedures are handled by the Central Bank and import procedures are handled by the Ministry of Finance.

Under the CAFTA-DR, El Salvador 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).

INTELLECTUAL PROPERTY RIGHTS PROTECTION

To implement its CAFTA-DR intellectual property rights (IPR) obligations, El Salvador undertook legislative reforms providing for stronger IPR protection and enforcement. Despite these efforts, the piracy of optical media, both music and video, in El Salvador remains a concern. In addition, the business software industry continues to report very high piracy rates for El Salvador. Optical media imported from the United States into El Salvador are being used as duplication masters for unauthorized copies of copyrighted works. The United States has expressed concern to the Salvadoran government about inadequate enforcement of cable broadcast rights and the competitive disadvantage it places on legitimate providers of this service. The United States will continue to monitor El Salvador's implementation of its IPR obligations under the CAFTA-DR.

SERVICES BARRIERS

Under the CAFTA-DR, El Salvador granted U.S. services suppliers substantial access to its services market, including financial services. El Salvador maintains a few barriers to services trade, however: foreign investors are limited to 49 percent of equity ownership in free reception television and AM/FM radio broadcasting, and notaries must be Salvadoran citizens.

Since June 2009, every international telephone call, regardless of origin, is charged a $0.04 per minute tax. A previous exemption for calls from other Central American countries is no longer in effect.

INVESTMENT BARRIERS

There are few formal investment barriers in El Salvador, except as noted in the services section above. However, the United States has expressed concerns regarding the impact of duplicative regulations and regulatory decision-making processes that appear to be inconsistent and contradictory. Such barriers have affected sectors including energy, mining, and retail sales.

OTHER BARRIERS

Some U.S. firms and citizens have found corruption in government, including in the judiciary, to be a significant concern and a constraint to successful investment in El Salvador. Administrative and judicial decision-making appear at times to be inconsistent, nontransparent, and very time-consuming. Bureaucratic requirements, such as certification of imported food products, have at times reportedly been excessive and unnecessarily complex.