PERU

TRADE SUMMARY

The U.S. goods trade surplus with Peru was $2.9 billion in 2012, an increase of $1.2 million from 2011. U.S. goods exports in 2012 were $9.4 billion, up 12.3 percent from the previous year. Corresponding U.S. imports from Peru were $6.4 billion, down 2.7 percent. Peru is currently the 32nd largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Peru was $7.8 billion in 2011 (latest data available), up from $6.4 billion in 2010. U.S. FDI in Peru is led by the mining sector.

Trade Agreements

The United States-Peru Trade Promotion Agreement (PTPA) entered into force on February 1, 2009. The PTPA is a comprehensive free trade agreement that is resulting in significant liberalization of trade in goods and services between the United States and Peru. Under the PTPA, Peru immediately eliminated most of its tariffs on U.S. exports, with all remaining tariffs phased out over defined time periods. The PTPA also includes important disciplines relating to customs administration and trade facilitation, technical barriers to trade, government procurement, services, investment, telecommunications, electronic commerce, intellectual property rights, transparency, and labor and environmental protection.

Peru is a participant in the Trans-Pacific Partnership (TPP) negotiations, through which the United States and 10 other Asia-Pacific partners are seeking to establish a comprehensive, next-generation regional agreement to liberalize trade and investment. This agreement will advance U.S. economic interests with some of the fastest-growing economies in the world; expand U.S. exports, which are critical to the creation and retention of jobs in the United States; and serve as a potential platform for economic integration across the Asia-Pacific region. The TPP agreement will include ambitious commitments on goods, services, and other traditional trade and investment matters. It will also include a range of new and emerging issues to address trade concerns our businesses and workers face in the 21st century. In addition to the United States and Peru, the TPP negotiating partners currently include Australia, Brunei, Canada, Chile, Malaysia, Mexico, New Zealand, Singapore, and Vietnam.

IMPORT POLICIES

Tariffs

Under the PTPA, more than 80 percent of U.S. exports of consumer and industrial products now enter Peru duty free. All remaining tariffs on these goods will be phased out by 2018. More than two-thirds of current U.S. agricultural exports enter Peru duty free, and remaining tariffs on U.S. agricultural exports to Peru will be completely phased out by 2025. In accordance with its PTPA commitments, Peru has eliminated its price band system on trade with the United States.

Imported spirits are assessed an effective tax rate that is higher than the tax assessed on domestically-produced pisco products, thus putting distilled spirits produced in the United States at a competitive disadvantage.

Nontariff Measures

The government of Peru already has eliminated many nontariff barriers, and, under the PTPA, is subjecting remaining measures, including subsidies, to additional disciplines. Peru currently restricts imports of certain used goods, including used clothing and shoes (except as charitable donations), used tires, cars over five years old, and heavy trucks (weighing three tons or more) more than eight years old. The value-added tax does not apply to charitable donations, although this charitable exemption requires prior registration by the importer with APCI (the Peruvian government's Agency for International Cooperation). A 45 percent excise tax applies to used cars and trucks (compared to 20 percent for a new car). However, if these used cars and trucks undergo refurbishment in an industrial center in the south of the country (located in Ilo, Matarani, or Tacna) after importation, no excise tax applies.

Peru currently requires that biopharmaceutical companies submit a "Batch Release Certificate" issued by the competent authority of the country of origin. The United States Food and Drug Administration (FDA) does not issue such certificates for all types of biological pharmaceuticals. As a result, this requirement adversely affects market access for some biologics produced in the United States. Other administrative processing requirements and duplicative product testing have a negative impact on access to the Peruvian market.

GOVERNMENT PROCUREMENT

The PTPA requires that procuring entities use fair, nondiscriminatory, and transparent procurement procedures, including advance notice of purchases and timely and effective bid review procedures for procurements covered by the Agreement. Under the PTPA, U.S. suppliers also can bid on procurements of most Peruvian central government entities on the same basis as Peruvian suppliers. This includes procurements by state-owned enterprises, such as Peru's oil company and Peru's public health insurance agency.

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

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Peru was listed on the Watch List in the 2012 Special 301 Report. Pirated and counterfeit goods remain widely available in Peru. Inadequate resources for law enforcement and the need for improvements at Peru's border and in its judicial system are evident. Piracy over the Internet is a growing problem, especially with respect to music. There has been improvement in removing pirated and unlicensed software from government computers, but the problem persists. A further concern is the lack of deterrent penalties in criminal intellectual property rights (IPR) cases and against businesses found to have engaged in infringing activity. In addition, Peru needs to clarify its system for protecting against the unfair commercial use, as well as unauthorized disclosure, of undisclosed test or other data generated to obtain marketing approval of agricultural chemical products. In accordance with provisions of the PTPA, Peru must also clarify its protections for biotechnologically-derived pharmaceutical products.

In order to address IPR-related trade barriers, the United States is engaging in discussions with Peru, facilitating training for Peruvian prosecutors on IPR issues, and organizing programs highlighting the benefits to Peru and its citizens.

SERVICES BARRIERS

Telecommunications

In 2012, Peru promulgated a privacy law that has caused concern among companies dependent on cross-border data flows, as it is unclear how certain provisions, particularly consent requirements, can be implemented. The United States will continue to monitor the development of implementing regulations for this new regime.

INVESTMENT BARRIERS

Peruvian law prohibits majority foreign ownership in the broadcast media sector. Peruvian law also restricts foreigners from owning land or investing in natural resources located within 50 kilometers of its border, although the Peruvian government may grant special authorization to operate within those areas. Under current law, foreign employees may not comprise more than 20 percent of the total number of employees of a local company (whether owned by foreign or Peruvian persons) or more than 30 percent of the total company payroll.

Both U.S. and Peruvian firms remain concerned that executive branch ministries, regulatory agencies, the tax agency, and the judiciary often lack the resources, expertise, or impartiality necessary to carry out their respective mandates. U.S. and Peruvian investors have also complained about the reinterpretation of rules and the imposition of disproportionate fines by Peru's tax agency, *Superintendencia Nacional de Administracion Tributaria*.