EL SALVADOR

TRADE SUMMARY

U.S. goods exports in 2013 were $3.2 billion, up 2.3 percent from the previous year. Corresponding U.S. imports from El Salvador were $2.4 billion, down 5.8 percent. The U.S. goods trade surplus with El Salvador was $731 million in 2013, an increase of $222 million from 2012. El Salvador is currently the 53rd largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in El Salvador was $2.7 billion in 2012 (latest data available), up from $2.6 billion in 2011.

Free Trade Agreement

The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR or 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 in 2009. The CAFTA-DR significantly liberalizes trade in goods and services as well as 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 environment.

IMPORT POLICIES

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. consumer and industrial goods 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.

Currently, under the CAFTA-DR, 68 percent of U.S. agricultural products qualify for duty-free treatment in El Salvador and by 2015 that number will reach 84 percent of qualifying U.S. agricultural exports. 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 continual expansion of a TRQ, rather than by the reduction of the out-of-quota tariff.

Nontariff Measures

Under the CAFTA-DR, all CAFTA-DR countries, including El Salvador, committed to improve transparency and efficiency in administering customs procedures. 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, U.S. exporters and Salvadoran importers of U.S. products, particularly agricultural goods, have expressed increasing concern about customs-related problems they are encountering in El Salvador, specifically issues related to origin

verification procedures. The United States is continuing to engage with El Salvador on these concerns. The treatment of trans-shipped goods is increasingly becoming an issue. Companies are stating that the Salvadoran customs authorities are delaying the release of goods that originate in the United States and transit through a non-CAFTA-DR country. The Salvadoran customs authorities have alleged that these goods lose origin when not coming directly from the United States, without meeting new and burdensome documentation requirements covering the goods' transit through the intermediary country.

In 2009, and again in 2010, El Salvador amended its law regulating the production and sale of alcoholic beverages. The amendments applied an 8 percent *ad valorem* tax on domestic and imported alcoholic beverages, as well as a specific tax 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 about the amended law with the government of El Salvador and continues to work with the 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 Salvadoran 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.

In May 2011, the Legislative Assembly approved a series of reforms to the LACAP (Ley de Adquisiciones y Contrataciones de la Administración Pública), which regulates government procurement. These reforms included easing procurement procedures to expedite contracts valued at less than $35,856. The U.S. Government, however, is discussing with the government of El Salvador additional measures that have passed subsequently, including a June 2011 law which would allow the Ministry of Health to purchase pharmaceuticals without going through an open tender, and a December 2012 decree covering procurements for 2013 and a subsequently revised decree covering procurements for 2014, that favor national seed producers in the Ministry of Agriculture's seed distribution program.

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

EXPORT SUBSIDIES

El Salvador has notified the WTO Committee on Subsidies and Countervailing Measures of the Export Processing Zones and Marketing Act, an export subsidy program which must be phased out by the end of 2015.

Beginning on February 1, 2011, El Salvador eliminated the 6 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 6 percent rebate, in January 2011, the Salvadoran 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, which remains in place.

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

While El Salvador remained unlisted in the 2013 Special 301 Report, the United States initiated an out-of-cycle review with El Salvador to highlight the need to make progress in IPR protection and enforcement, in particular with respect to implementation of recent legislation on geographic indications and pharmaceuticals, and enforcement efforts.

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 remains concerned about the adequacy of implementation of regulations to protect against the unfair commercial use, as well as unauthorized disclosure, of test and other data generated to obtain marketing approval for pharmaceutical products. The lack of an effective system to address patent issues expeditiously in connection with applications to market pharmaceutical products is also concerning. The United States engaged extensively with El Salvador as it prepared legislative amendments governing protections for geographical indications (GIs), in anticipation of European Union applications to register a range of GIs in El Salvador, which were received in 2013. During that ongoing engagement, the United States has stressed the need for CAFTA-DR consistency in protections and process, including public notice and opportunity for opposition and cancellation, and transparency and impartiality in decision making. The United States will continue to monitor El Salvador's implementation of its IPR obligations under the CAFTA-DR.

SERVICES BARRIERS

Telecommunications

Since June 2008, every international telephone call, regardless of origin, is charged a $0.04 per minute tax, while domestic calls within El Salvador are not assessed this 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. However, there are nontransparent and duplicative regulations, and licensing 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 have at times reportedly been excessive and unnecessarily complex. U.S.

firms have expressed concern about the “Medicines Act” passed by the Salvadoran Legislative Assembly in February 2012, and the implementing regulations issued in December 2012, particularly regarding the methodology to determine maximum sales prices of pharmaceuticals to be sold in El Salvador and the lack of transparency in the process.