COSTA RICA

TRADE SUMMARY

U.S. goods exports in 2014 were $7.0 billion, down 2.7 percent from the previous year. Costa Rica is currently the 38th largest export market for U.S. goods. Corresponding U.S. imports from Costa Rica were $9.5 billion, down 20.2 percent. The U.S. goods trade deficit with Costa Rica was $2.5 billion in 2014, a decrease of $2.2 billion from 2013.

The stock of U.S. foreign direct investment (FDI) in Costa Rica was $969 million in 2013 (latest data available), down from $1.0 billion in 2012. U.S. FDI in Costa Rica is led by the manufacturing sector.

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 and 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.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

The Costa Rican Ministry of Health requires a Good Manufacturing Practices (GMP) certificate or a License of Operation as a prerequisite for approval of cosmetics and toiletries registrations in Costa Rica. However, U.S. manufacturers have difficulty in complying with this requirement because a U.S. Federal Government certificate of this kind does not exist. U.S. companies have, in some cases, been able to comply with the requirement by submitting documents from state or local authorities or trade organizations. However, for U.S. manufacturers unable to obtain such documents, the regulation results in an inability to access the Costa Rican market. The United States has explained that the U.S. Federal Government does not issue the GMP certificate, but the issue persists. In one case, a U.S. company reported losing $1,000,000 in sales during the first half of 2013 because of its inability to register a particular cosmetic product.

Sanitary and Phytosanitary Barriers

In September 2013, Costa Rica banned the import of fresh potatoes from the United States allegedly due to excess soil in some shipments and the presence of "zebra chip," a disease that causes striping of potatoes. To date, Costa Rica has not provided details of the zebra chip identification or testing methods. The U.S. Government continues to engage with the Government of Costa Rica to resolve these issues.

IMPORT POLICIES

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.

Under the CAFTA-DR, however, 100 percent of U.S. consumer and industrial goods enter Costa Rica duty free as of January 1, 2015. Nearly all textile and apparel goods that meet the Agreement's rules of origin also enter Costa Rica duty free and quota free. In addition, under the CAFTA-DR, more than half of U.S. agricultural exports currently enter Costa Rica duty free. Costa Rica will eliminate its remaining tariffs on virtually all U.S. agricultural products by 2020 (2022 for chicken leg quarters; 2025 for rice; and 2028 for dairy products). For certain agricultural products (rice, pork, dairy, poultry), tariff-rate quotas (TRQs) will permit some 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 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 Costa Rica, 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.

Costa Rica's Information Technology Customs Control (TICA) system has suffered system-wide breakdowns as the volume of entries has increased since its implementation in 2006. The system is designed to allow for a single automated customs declaration process, with a centralized database, including electronic payment, integrated risk analysis and connectivity with public and private institutions. Some have argued that TICA is still one of the best customs systems in Central America, but rapid development and installation of a new "TICA2" customs system, believed to still be in the concept stage, will be critical to Costa Rica's ability to facilitate the import and export of goods without undue delays.

In July 2014, a Costa Rican court ruling eliminated the value-added tax (VAT) of 40 percent on imported carbonated beverages. However, the tax authorities do not have a firm deadline to implement the change and did not publish new draft regulations until late November. Once implemented, imported and domestic carbonated beverages will be subject to the same 25 percent VAT, but until then, imported carbonated beverages continue to be subject to the higher, 40 percent VAT.

Costa Rica maintains a specific excise tax system for spirits that is calculated based on the percent of alcohol per liter, with a lower rate per percentage of alcohol on alcoholic beverages that are typically produced locally (Ley 7972). The local spirit, guaro, (which is produced in largest volume by the state-owned alcohol company) is assessed an excise tax of 30 percent alcohol-by-volume (a.b.v.), while the vast majority of internationally traded spirits, such as whiskey and gin, are assessed at a rate of 40 percent a.b.v.

Both imported and domestic beers are subject to the same consumption tax of 0.22332 colones per milliliter. However, imported beer is subject to a 10 percent customs tax while locally produced beer is exempt. U.S. exporters question whether the 10 percent tax is legal under the Costa Rican constitution. Mexican beer manufacturers reportedly won a claim in 2001 that the 10 percent tax was unconstitutional and are therefore now exempt from it. The United States is continuing to follow this issue.

GOVERNMENT PROCUREMENT

Some U.S. company representatives have commented that they find it difficult to compete with domestic suppliers in Costa Rican government procurement because bids are often due within three weeks to six weeks of the procurement announcement. U.S. companies interpret the short deadlines as reflecting Costa Rica's reluctance to attract foreign bidders to its government procurement processes. The United States will continue to monitor Costa Rica's government procurement practices to ensure they are applied consistent with CAFTA-DR obligations.

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

EXPORT SUBSIDIES

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). Costa Rica has modified its free trade zone regime in order to conform to this requirement. While tax holidays are available for investors in free trade zones, sources have expressed concern that the Ministry of Foreign Trade (COMEX) exercises significant discretionary power using undefined criteria in determining what investors qualify for Free Trade Zone status, making it unpredictable and nontransparent.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Costa Rica was again on the Watch List in the 2014 Special 301 report. Key concerns include Costa Rica's need to place a higher priority on intellectual property rights (IPR) protection, to devote more resources to IPR enforcement efforts, and to impose deterrent penalties. The United States engaged extensively with Costa Rica as it prepared legislative amendments governing protections for geographical indications (GIs), in anticipation of action on applications from the European Union, which were received in 2013, to register a range of GIs in Costa Rica. During that ongoing engagement, the United States has stressed the need for use of CAFTA-DR consistent protections and processes, including providing public notice and opportunity for opposition and cancellation and transparency and impartiality in decision making. The United States will continue to monitor Costa Rica's implementation of its IPR obligations under the CAFTA-DR.

SERVICES BARRIERS

Insurance

While foreign companies operate in most segments of the market, mandatory insurance categories such as worker's compensation and basic automobile liability are still serviced only by National Insurance Institute (INS), despite being open to new entrants. New market entrants continue to face challenges in light of the market power INS derives from its former monopoly position. Specific concerns relate to deceptive advertising by the former monopoly, a cumbersome and nontransparent product approval process, and the extension of exclusivity contracts between INS and insurance retailers designated as agents.

Telecommunications

Under the CAFTA-DR, Costa Rica has progressively opened important segments of its telecommunications market, including private network services, Internet services, and mobile wireless services, which are now formally open for competition as a matter of law or regulation. As of December 2013, the Costa Rican telecommunication consumer is guaranteed the opportunity to switch mobile service providers while retaining the same cell phone number; this number portability heightens competition among mobile service providers by facilitating the transfer process for consumers. The telecommunication market has grown, with revenue jumping from 1.1 percent of GDP in 2010 to 2.4 percent of GDP in 2013. While this market opening is a notable achievement, Costa Rica's new wireless service providers continue to face obstacles, including reluctance by some municipal governments to approve cell tower construction necessary to support new providers and expand coverage areas.

INVESTMENT BARRIERS

Costa Rica's regulatory environment can pose significant barriers to investment. One common problem is inconsistent action between institutions within the central government or between institutions in the central government and municipal governments. The resulting inefficiency in regulatory decision-making is especially noticeable in infrastructure projects which can languish for years between the award of a tender and the start of project construction. Construction on a new container terminal at Costa Rica's main Atlantic port, a public-public partnership project that is critical to facilitating trade, has been delayed by more than 13 months, reportedly costing the investing private company more than $300 million to date.

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, nontransparent, and very time consuming.

In July 2009, Costa Rica notified levels of agricultural domestic support to the WTO for 2007 that were above its $15.9 million Total Aggregate Measurement of Support (TAMS) ceiling on trade-distorting domestic support. Costa Rica's subsequent notifications to the WTO for the years 2008 through 2012 listed domestic support expenditures at ever increasing levels, reaching $109.7 million in 2010. In 2013, domestic support expenditures dropped to $86.1 million, still well above Costa Rica's WTO ceiling. Between 2009 and 2013, Costa Rica's price support for rice accounted for all of its notified TAMS, and rice accounted for a majority of its notified TAMS prior to 2009. Between 2009 and 2013, Costa Rica's domestic production of rice has increased while U.S. rice exports to Costa Rica have dropped by 37 percent. In May 2013, the government of Costa Rica issued Decree #37699-MEIC, which reduced the price support by a modest amount and stated that the then current price support mechanism for rice would be eliminated starting in March 2014. However, in January 2014, Costa Rica delayed that deadline by a year until March 2015. In January 2015, Costa Rica announced a four-year safeguard of 27.06 percent on milled rice. On February 27, 2015 the Government of Costa Rica published Executive Decree #38884-MEIC which established producer prices for dry and clean paddy rice and also set the minimum and maximum price for different presentations and qualities of milled rice, either locally produced or imported. Those prices will enter into effect on June 8, 2015.

As the Costa Rican government has increased tax collection efforts in recent years, several U.S. companies have found themselves facing what they consider to be novel or inconsistent interpretations of tax regulations and principles. Adoption of a new set of transfer-pricing regulations in September 2013 represented a significant advance by the Costa Rican government in the area of transparency and predictability. The United States will continue to monitor implementation of the regulations and other tax measures.