EL SALVADOR

TRADE SUMMARY

U.S. goods exports in 2014 were $3.3 billion, up 2.2 percent from the previous year. El Salvador is currently the 53rd largest export market for U.S. goods. Corresponding U.S. imports from El Salvador were $2.4 billion, down 1.7 percent. The U.S. goods trade surplus with El Salvador was $951 million in 2014, an increase of $115 million from 2013.

The stock of U.S. foreign direct investment (FDI) in El Salvador was $2.9 billion in 2013 (latest data available), up from $2.7 billion in 2012.

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.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Since 2013, U.S. companies have been disadvantaged by onerous labeling regulations issued by the Ministry of Health. Though recent legislation was supposed to do away with such restrictions, they continue to be applied and the United States is working closely with affected U.S. companies and associations to address these concerns.

In El Salvador, the Certificate of Free Sale is a requirement to register food products, cosmetics and hygienic products. Since no such equivalent certificate exists in the United States for these products, local companies occasionally have difficulties complying with this requirement in order to import U.S. products.

The Ministry of Health has drafted regulations without the requisite consultation and notification processes and then attempted to enforce such unapproved regulations via unofficial notifications. Labeling requirements that are not contemplated by laws have also been inserted into implementing regulations.

Sanitary and Phytosanitary Barriers

El Salvador's Ministry of Agriculture has issued a new protocol for imports of bone-in beef cuts which includes recognition of the United States as a negligible-risk country. As a result, U.S. bone-in beef is now entering the Salvadoran market without Specific Risk Material restrictions.

The Ministry of Agriculture requires plant inspections in the United States in order to accept U.S. seafood imports. The United States will work with the Ministry of Agriculture to consider recognizing NOAA and FDA approvals in El Salvador.

In order to register samples, large quantities of the product, even those deemed low-risk, are required for the required laboratory tests, which are often redundant and add to costs.

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.

United States qualifying goods, however, can enter under the CAFTA-DR; as of 2015 100 percent of U.S. consumer and industrial goods enter El Salvador duty free. Nearly all textile and apparel goods that meet the Agreement's rules of origin also now enter El Salvador duty free and quota free, creating economic opportunities for U.S. and regional fiber, yarn, fabric, and apparel manufacturing companies.

Eighty-four percent of U.S. agricultural products qualify for duty-free treatment in El Salvador under the CAFTA-DR as of 2015. 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 yellow corn through a 5 percent continual expansion of the initial 350,000 metric ton TRQ with a 15-year phase-out period.

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 transshipment of goods. In 2013, Salvadoran Customs implemented nonintrusive inspections with x-rays at border crossings. Unfortunately, the procedures, designed to facilitate cross-border movements, have resulted in considerable delays, causing losses to exporters and importers. Customs is also increasingly charging fines when the shipment's weight differs from that presented on the paperwork without taking account of shipping losses or providing an opportunity to amend the manifest.

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. In 2013 and 2014, the Ministry of Agriculture's family seed distribution program procured bean and corn seeds in a scheme favoring national seed producers, raising questions on the program's compliance with CAFTA-DR. The U.S. Government has sought various assurances from the government of El Salvador that future seed purchases will take place in compliance with CAFTA-DR norms. The U.S. Government is currently monitoring the 2015 seed purchase program and will continue to monitor El Salvador's government procurement practices to ensure they are applied consistent with CAFTA-DR obligations.

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.

The Salvadoran government operates a form of duty 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 2014 Special 301 Report, the United States initiated an out-of-cycle review of El Salvador in 2013 which found "significant and ongoing concerns with El Salvador's protection and enforcement of intellectual property, including the treatment of geographical indications and pharmaceutical products," and the necessity to closely monitor ongoing developments. 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 U.S. stakeholders continue 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 disconcerting. The United States will continue to monitor El Salvador's implementation of its IPR obligations under the CAFTA-DR.

SERVICES BARRIERS

Telecommunications

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

While there are few formal investment barriers in El Salvador, investment can be impeded by nontransparent and duplicative regulations, and by licensing and regulatory decision-making processes that appear to be inconsistent and contradictory. Such barriers have affected sectors including energy, mining, and retail sales. Foreign direct investment inflows are paltry compared to other countries in the region. The Legislative Assembly is discussing a Judicial Stability Law, which would provide some measure of assurances regarding prejudicial changes in taxes, customs, and investment income regulations for foreign investors.

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. A proposed Sovereignty and Food and Nutrition Security Law may include trade protectionist measures; the National Association of Private Enterprise (ANEP) is also concerned it may impose onerous advertising restrictions under the guise of protecting public nutritional health.