MEXICO

TRADE SUMMARY

U.S. goods exports in 2014 were $240.3 billion, up 6.3 percent from the previous year. Mexico is currently the second largest export market for U.S. goods. Corresponding U.S. imports from Mexico were $294.2 billion, up 4.9 percent. The U.S. goods trade deficit with Mexico was $53.8 billion in 2014, a decrease of $618 million from 2013.

U.S. exports of services to Mexico were $29.9 billion in 2013 (latest data available), and U.S. imports were $17.8 billion. Sales of services in Mexico by majority U.S.-owned affiliates were $40.7 billion in 2012 (latest data available), while sales of services in the United States by majority Mexico-owned firms were $6.5 billion.

The stock of U.S. foreign direct investment (FDI) in Mexico was $101.5 billion in 2013 (latest data available), up from $98.4 billion in 2012. U.S. FDI in Mexico is led by the manufacturing, nonbank holding companies, and finance/insurance sectors.

Trade Agreements

The North American Free Trade Agreement (NAFTA), signed by the United States, Canada, and Mexico (the "Parties"), entered into force on January 1, 1994. Under the NAFTA, the Parties progressively eliminated tariffs and nontariff barriers to trade in goods, provided improved access for services, established strong rules on investment, and strengthened protection of intellectual property rights. After signing the NAFTA, the Parties concluded supplemental agreements on labor and the environment, under which the Parties are obligated to effectively enforce their environmental and labor laws, among other things. The agreements also provide frameworks for cooperation among the Parties on a wide variety of labor and environmental issues.

Mexico is a participant in the Trans-Pacific Partnership (TPP) negotiations, through which the United States and 11 other Asia-Pacific partners are working to establish a comprehensive, high-standard, next-generation regional agreement to liberalize trade and investment in the Asia-Pacific. Once concluded 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; set high standards for regional trade and investment that promote U.S. interests and values; and serve as a potential platform for economic integration across the Asia-Pacific region. The United States is proposing to include in the TPP agreement ambitious commitments on goods, services, and other traditional trade and investment matters, and enforceable labor and environment obligations. TPP will also address a range of new and emerging issues of concern to U.S. businesses, workers and other stakeholders in the 21st century. In addition to the United States and Mexico, the TPP negotiating partners currently include Australia, Brunei, Canada, Chile, Japan, Malaysia, New Zealand, Peru, Singapore, and Vietnam.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Labeling of processed packaged foods

The United States remains concerned that Mexico failed to provide advance notifications under the WTO Agreement on Technical Barriers to Trade (TBT Agreement) and NAFTA before implementing amendments to its its nutritional labeling requirements. The amendments were first announced on April 15, 2014, by Mexico's Federal Commission for the Protection against Sanitary Risks in the *Diario Oficial*. Mexico later notified the amendments via two notifications under the TBT Agreeement in July and September 2014, after the regulations had already been finalized. In written comments to Mexico's WTO TBT Enquiry Point on November 17, 2014, the United States sought clarity on several provisions and expressed concern that trade of prepackaged foods could be disrupted if with new labeling requirements became mandatory without providing producers adequate time to comply. Mexico provided responses to the United States comments both orally and in writing on December 11, 2014, at the NAFTA Committee on Standards Related Measures. The United States is reviewing these responses and will continue to work with Mexico to resolve any concerns.

The new regulation also introduces a stamp identifying a product as healthy. Producers must apply for Ministry of Health approval in order to include the stamp on product labels, but further guidance is needed on application procedures.

Energy Efficiency Labeling and Standby Power Usage Regulations

On January 23, 2014, Mexico's National Commission on Efficient Energy Use ("CONUEE") published an energy efficiency measure, PROY-NOM-032-ENER-2013 ("NOM-032"), which requires certain testing methods, standby energy consumption limits, and labeling for electronic and electrical equipment. The NOM-032 imposes additional burdensome and costly labeling requirements for exports to Mexico, including for an extensive list of electronic products which operate at a relatively low wattage. NOM-032 also requires duplicative testing and certification requirements and currently there are only a limited number of laboratories in Mexico authorized to perform the required laboratory testing and certification. According to U.S. industry, the approved laboratories may not have the requisite capacity to process the large volume of consumer electronic products in the marketplace. In addition, U.S. industry has expressed concern with the short time frame under which they were required to obtain certification under the new regulation and the lack of communication from the approved laboratories related to scheduling product testing. The United States continues to monitor this issue.

Sanitary and Phytosanitary Barriers

Fresh Potatoes

In 2003, the United States and Mexico signed the Table Stock Potato Access Agreement, allowing U.S. fresh potatoes access to the whole of Mexico over a three-year period. However, for years Mexico refused to move forward with further implementation, citing pest detections in shipments. In 2011, the North American Plant Protection Organization (NAPPO) released a report that identified six pests in their analysis which should be considered quarantine pests by Mexico for the pathway "potato for consumption." The NAPPO report and recommendations were agreed to by both the United States and Mexico. On May 19, 2014, Mexico published its new import regulations for potatoes in the *Diario Oficial,* opening the entire Mexican market to U.S. potato exports. The Mexican Potato Industry Association, CONPAPA, challenged the new import regulations in Mexico courts and, on June 9, 2014, was granted the first of eight injunctions provisionally suspending imports of U.S. potatoes beyond the 26 kilometer border zone. The United States is monitoring the progress of the litigation.

Raw Milk

Since May 2012, when Mexico determined that the Hoja de Requisitos Zoosanitarios (HRZ) veterinary import requirements were not applicable to raw milk, U.S. dairy exporters have been blocked from shipping raw milk for pasteurization to Mexico. Raw milk for pasteurization represents a substantial export opportunity for several dairy producers who can supply this product to Mexican milk pasteurization plants when the plants are faced with insufficient domestic supplies of raw milk. In 2014, Mexico reinitiated work to develop revised HRZ import requirements, and the United States continues to engage with Mexico on a technical level to resolve the issue.

Stone Fruit

The United States and Mexico developed a systems approach for U.S. peach, nectarine, and apricot exports to control the oriental fruit moth and other pests considered to be quarantine pests by Mexico. However, U.S. growers in California, Georgia, South Carolina, and the Pacific Northwest increasingly have expressed concerns regarding the appropriate level of direct oversight by Mexican inspectors. The United States and Mexico are in discussions to reduce inspections and remove unnecessary regulatory requirements.

<u>California</u>: Under the California Stone Fruit Work Plan, Mexico imposes a high level of direct oversight on the operations of Californian stone fruit producers as a condition for access to Mexico's market. The Mexican government requires numerous inspections by Mexican authorities of the operations of U.S. producers for the presence of oriental fruit moth and other pests. Through ongoing bilateral discussions, the United States and Mexico have sought to reduce this costly and burdensome oversight of U.S. producers and have agreed to the goal of reducing on-site monitoring by Mexican authorities and to transfer oversight of the program to U.S. regulatory authorities. Proposed terms and criteria for transfer of oversight are under discussion.

<u>Georgia and South Carolina</u>: In October 2011, due to interceptions of plum curculio in shipments from Georgia and South Carolina, Mexico temporarily suspended shipments. As an alternative to the systems approach, Mexico agreed, in 2013, to allow the importation of Georgia and South Carolina peaches using methyl bromide fumigation treatment under direct oversight of Mexican inspectors. The United States and Mexico are also discussing an Irradiation Operational Work Plan that would allow market access under reduced oversight by Mexican authorities.

<u>Pacific Northwest</u>: Because of the low risk associated with the region, producers of stone fruit in the Pacific Northwest believe that any program allowing exports to Mexico should require minimal oversight of their operations. Mexico has stated that in the absence of a pest risk assessment (PRA), it would accept peaches, nectarines, and plums from this region only with on-sight inspection of U.S. operations similar to that required in California. Mexico is currently in the process of completing the PRA and the United States continues to engage with Mexican authorities on this issue.

IMPORT POLICIES

Tariffs and Market Access

Pursuant to the terms of the NAFTA, on January 1, 2003, Mexico eliminated all remaining tariffs on industrial products and most remaining tariffs on agricultural products imported from the United States. On January 1, 2008, Mexico eliminated its then-remaining tariffs and tariff-rate quotas on U.S. agricultural exports.

Administrative Procedures and Customs Practices

U.S. exporters continue to express concerns about Mexican customs administrative procedures, including insufficient prior notification of procedural changes, inconsistent interpretation of regulatory requirements at different border posts, allegations of under-invoicing of agricultural products, and uneven enforcement of Mexican standards and labeling rules. Numerous U.S. companies reported in 2012 that Mexico's tax authority, the *Servicio de Administración Tributaria* (SAT), was initiating audits to verify NAFTA origin for the entry of products dating back to 2007. Although some audits questioning NAFTA origin are still being conducted, SAT has adopted new procedures to address complaints, including a "selective sampling" procedure implemented on a case-by-case basis and has modified its notification system to ensure that all parties are aware of an audit and have adequate time to respond. The U.S. Government continues to monitor the situation and urge SAT to resolve all pending audit cases in a timely and transparent manner.

On December 5, 2013, Mexico issued new rules that require parties to obtain a license before certain steel products may be shipped into Mexico; these rules were revised on August 11, 2014. The stated objectives of the import licensing system are to combat customs fraud and improve statistical monitoring of steel imports. U.S. steel companies have expressed concerns about the procedures, citing disruptions in supply chains and additional shipment/demurrage costs, as shipments must remain at the border until licenses are issued. The U.S. government is actively engaged with Mexico to address stakeholder concerns and to reduce or eliminate the burdens of this licensing system upon U.S. steel exporters and their Mexican customers. In 2014, U.S. exports of steel mill products to Mexico reached 3.8 million metric tons (up 3.2 percent over 2013), worth $4.7 billion (up from $4.3 billion in 2013).

In the second half of 2014, the Government of Mexico set out several new regulations governing the importation of footwear and apparel and textile goods, to include the creation of reference prices and the establishment of an import licensing system. According to the Mexican government, the measures are designed to enhance the productivity and competitiveness of Mexican footwear and apparel producers and protect Mexico's domestic footwear and apparel industries from damage caused by the importation of undervalued goods. U.S. exporters have expressed a number of concerns with regard to the schemes, noting significant confusion during the early period of implementation, lack of information regarding how to comply with new requirements, insufficient consultation with the trade community prior to operationalization, a lack of transparency in how reference prices are determined, and uneven enforcement by Mexico's customs and tax authorities. The U.S. Government will continue to monitor the implementation of these schemes and encourage SAT to clarify the process for complying with their requirements.

Customs procedures for express packages also continue to be burdensome, although Mexico has raised the *de minimis* level (below which shipments are exempt from customs duties) from $1 to $50. U.S. exporters have highlighted the benefits of harmonizing the hours of customs operation on the U.S. and Mexican sides of the border, but they cite delays stemming from the lack of pre-clearance procedures. The U.S. and Mexican Governments are actively working to find a solution that would allow pre-inspection pilot programs.

In 2012, the Mexican Government implemented the *Ventanilla Unica de Comercio Exterior Mexicana* (VUCEM), or Single Window for Trade. Mexican importers and U.S. exporters have experienced some delays and difficulties with the process.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Mexico was listed on the Watch List in the 2014 Special 301 report. The report noted the wide availability of pirated and counterfeit goods mostly via physical and virtual notorious markets. Criminal enforcement of intellectual property rights (IPR) suffers from weak coordination among federal, state, and municipal officials, limited resources for prosecutions, the lack of long-term sustained investigations targeting high-level suppliers of counterfeit and pirated goods, and the lack of sufficient penalties to deter violations. The United States continued to encourage Mexico to provide its customs officials with *ex-officio* authority to provide Mexican Customs and the Mexican Industrial Property Institute (IMPI) with the authority to act administratively against the transshipment of alleged counterfeit and pirated goods and to give the Attorney

General's Office the authority to prosecute transshipments of alleged counterfeit and pirated goods. In addition, the United States continues to encourage Mexico to enact legislation to strengthen its copyright regime, including by implementing the World Intellectual Property Organization (WIPO) Internet treaties and by providing stronger protection against the unauthorized camcording of motion pictures in theaters. The United States continues to work with Mexico to resolve IPR concerns through bilateral, regional, and other means of engagement.

There were also positive developments in 2014. Mexico formally joined the Madrid Protocol, which provides a simple streamlined process for rights holders to apply for trademark protection. In addition, the Mexican Attorney General Specialized Unit for Industrial Property and Copyrights Crime was active in dismantling small scale counterfeit vendors and seizing counterfeit and pirated products in the markets of Tepito and San Juan de Dios on behalf of U.S. rights holders. This action was significant because there had been no previous law enforcement action in these notorious markets. Finally, since its permanent implementation in 2012, the number of patent applications processed under the U.S. Patent and Trademark Office and IMPI Patent Protection Highway (PPH) Agreement has increased substantially. The PPH is a worksharing agreement for fast track patent examination of corresponding patent claims that allows applicants to obtain patents faster and more efficiently. As a member of the TPP negotiations, Mexico has also indicated its willingness to improve its IPR climate in line with future TPP standards.

SERVICES BARRIERS

Telecommunications

In 2013 and 2014, the government of Mexico conducted a sweeping reform of the country's telecommunications sector that included amendments to the Mexican constitution and modifications to related legislation such as the Federal Telecommunications and Broadcasting Law. The reform addressed longstanding market access barriers, such as limitations on foreign investment in telecommunications broadcasting; strengthened independent regulation; and sought to eliminate the dominance of near monopolistic companies in the wireless, fixed telephony and broadcasting markets. To improve the competitive environment and incentivize the entry of new players, the reform established asymmetric regulations that will be applied to companies with more than a 49 percent market share. With a current market share of approximately 70 percent, wireless incumbent Telcel will now be required to allow new market entrants to interconnect with it at regulated rates. Additionally, a nationwide shared network providing wholesale Long Term Evolution services is set to be deployed during the current presidential term and is intended to further increase opportunities for new entrants under Mobile Virtual Operator models. The Mexican constitution establishes that this shared network will be built under a Private Public Partnership (PPP), but there is still a lack of clarity surrounding how this PPP will be structured.

The Mexican telecommunications reform also created a new regulatory agency, the Federal Institute of Telecommunications, with greater autonomy from the Mexican Ministry of Communications and Transportation and a wider purview than its predecessor. The reform also established specialized telecommunications courts, loosened limits on foreign investment in telecommunications and broadcasting and lifted all restrictions on investment in fixed telephony and satellite communications. Finally, the cap of 49 percent on foreign investment in broadcasting is subject to a reciprocity clause, adjusting actual allowed investment to the limits established by the country of the investing company in its own broadcasting market.

Broadcasting

Pay TV, which is the primary outlet for foreign programmers, continues to be subject to more stringent advertising restrictions than free-to-air broadcast TV, which is supplied by domestic operators. In 2014, Mexico's new Telecommunications and Broadcasting Law established advertising guidelines on all media platforms, including radio, broadcast TV, and pay TV. The new provision in the law with regard to pay TV is similar to the prior regulation, permitting pay TV programmers to follow the industry's practice since 2001 of inserting up to an average of 12 minutes per hour for advertising without exceeding 144 minutes per day. The new law creates uncertainty for foreign programmers since the inventory per day granted to pay-TV programmers is described in minutes per hour as opposed to percentages per day (as the new law allocates advertising on the other platforms). Broadcasters are not limited to a number of minutes per hour and are permitted to devote as much as 25 percent of air time to advertising each day.

The two national broadcasters, Televisa and TV Azteca, control roughly 90 percent of the national TV broadcast market and at least 65 percent of pay-TV distribution. However, on March 10, 2015, Grupo Radio Centro and Cadena Tres were announced as the winners of an auction for two additional national broadcast networks tendered by the Mexican government.

INVESTMENT BARRIERS

In December 2013, Mexico passed the most significant energy reform legislation since the 1938 nationalization of the sector. The reform opens Mexico's oil and gas sector to private sector participation and allows greater private investment in power generation. While the Mexican government retains ownership of subsoil resources, the legislation amends the Mexican constitution to allow private companies to enter into competitive contracts, including profit-sharing, production-sharing, and license contracts independently, with the government, or with the state-owned petroleum company Pemex for the exploration and extraction of hydrocarbons. The reform also allows private companies to participate in downstream operations, such as refining, petrochemicals, transport, retail, and supply. Implementing legislation was passed in August 2014.

The energy reform legislation also establishes a minimum average local content requirement for exploration and production activities of 25 percent through 2015, which will gradually increase to 35 percent by 2025. There may be lower content requirements for deepwater and ultra-deep-water activities, as determined by the Ministry of Economy.

The specific percentage of local content required will be established in the bidding terms of individual exploration and production contracts. The Ministry of Economy is required to establish the measurement methodology for local content requirements in entitlements and exploration and production contracts, taking into account the following factors:

- goods and services to be contracted, considering their place of origin;
- qualified local work;
- investment in local and regional infrastructure; and
- transfer of technology.

The entitlements and exploration and production contracts will include specific penalties for failure to comply with local content requirements.

Certain other sectors or activities (*e.g.*, forestry) are closed to foreign participation. Mexico also prohibits foreign ownership of residential real estate within 50 kilometers of the nation's coasts and 100 kilometers of its land borders (although foreigners may acquire use of residential property in these zones through trusts administered by Mexican banks). An interagency National Foreign Investment Commission reviews foreign investment in Mexico's restricted sectors, as well as investments in unrestricted sectors in which foreign equity exceeds 49 percent and which have a value greater than $165 million (adjusted annually).