PERU

TRADE SUMMARY

U.S. goods exports in 2014 were $10.1 billion, down .3 percent from the previous year. Peru is currently the 32nd largest export market for U.S. goods. Corresponding U.S. imports from Peru were $6.1 billion, down 25.1 percent. The U.S. goods trade surplus with Peru was $4.0 billion in 2014, an increase of $2.0 billion from 2013.

The stock of U.S. foreign direct investment (FDI) in Peru was $10.1 billion in 2013 (latest data available), up from $8.7 billion in 2012. U.S. FDI in Peru is led by the mining, and manufacturing sectors.

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 resulted 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 with respect 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. Since 2009, two-way trade between the U.S. and Peru has increased by 76.6 percent, reaching nearly $16.2 billion in 2014.

Peru 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 Peru, the TPP negotiating partners currently include Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Singapore, and Vietnam.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Moratorium on Agricultural Biotechnology

On November 3, 2011, the Peruvian Congress approved Law 29811, which declared a ten-year moratorium on the importation or production of products derived from agricultural biotech because of concerns they may adversely affect the environment. Risk assessment standards conducted under the November 14, 2012, implementing regulations (Supreme Decree 008-2012) were vague, and have not clarified exemptions in the 2011 law for controlled research, pharmaceutical and veterinary products, and biotech-derived products for human consumption, feed or processing. Peru's lack of specific regulatory standards on risk assessments threatens to impede trade of both biotech seeds for controlled experiments as well as conventional seeds for planting.

U.S. government efforts to address concerns related to the moratorium have included frequent discussions with Peruvian government officials and business associations. Among other venues, the issue was raised by the United States at the annual meetings of the PTPA Standing Committee on Sanitary and Phytosanitary Measures (PTPA SPS Committee), held in June 2012, June 2013, and August 2014.

Labeling of Foods Derived from Agricultural Biotech

Article 37 of the Consumer Defense Code, approved by Congress in March 2011, mandates the labeling of products containing agricultural biotech ingredients. Although the law required publication of implementing regulations within 180 days of approval of the Consumer Defense Code, these remain pending as INDECOPI, the Peruvian government's intellectual property and consumer protection agency, struggles to draft implementing regulations that will not interrupt normal trade.

The law specifies that labels must detail the percentage of biotech content for each input that exceeds a minimum threshold of detection, instead of indicating that the final product contains biotech content, *i.e.,* one or more ingredients derived from plants grown from biotech seeds. The scientific and technical considerations involved in setting minimum thresholds are highly complex and would require sophisticated and expensive regulatory capacity to set, monitor and enforce such standards that Peru currently lacks.

U.S. government efforts to engage on this issue have included repeated discussions with Peruvian government officials at both the working and policy levels. The issue was also raised during the meeting of the PTPA's Committee on Technical Barriers to Trade (PTPA TBT Committee) in June 2014.

Labeling Requirements for "Unhealthy" Prepackaged Food Items

President Humala signed the "Act to Promote Healthy Eating among Children and Adolescents" on May 16, 2013, which was notified to the WTO. The law establishes a mandatory front-of-pack warning statement on food labels for prepackaged foods that pass an established threshold for sugar, sodium, and saturated fats, and for all food products that contain trans-fats. The Act also establishes restrictions on advertising and promoting such food products to children and adolescents. Following approval of the law, Peru's Ministry of Health (MOH) had 60 days to develop implementing regulations. To date, MOH has not met this deadline; however, Peruvian authorities have confirmed they are developing the regulations and that they plan to notify any proposed regulations to the WTO. Once the WTO is notified, a 90-day period would be set for comment. The regulations would include a six-month period for entry into force. The United States will continue to engage with the Peruvian government on this issue as appropriate.

Sanitary and Phytosanitary Barriers

Pork

Peru requires that U.S. pork be shipped to Peru frozen, or be tested upon arrival in Peru, due to concern over trichinae, a parasitic nematode. The United States believes this requirement is unnecessary as U.S. producers maintain stringent biosecurity protocols that limit the incidence of trichinosis, the disease caused by eating undercooked pork infected with trichinae larvae, in the United States to extremely low levels.

The United States has requested that Peru revise these requirements for fresh and chilled pork and provided evidence to Peru in March 2012 that supports this request. The United States raised the issue at the PTPA

SPS Committee meetings held in June 2012, June 2013, and August 2014. In March 2013, Peru requested that the United States complete a questionnaire so that they could initiate a risk assessment of pork shipments. The United States submitted the completed questionnaire in September 2013 and raised the issue again in a bilateral meeting in January 2015.

Peru is requesting U.S. government oversight surveillance and certification of export shipments. As the trichinae risk is so insignificant, the position of the United States is that no additional certification should be required. The United States will continue to engage with Peru in seeking a favorable resolution to the trichinae issue.

Live Cattle

Peru prohibits U.S. live cattle from entry into Peru ostensibly due to concerns over bluetongue, a viral disease that affects ruminants such as sheep and cattle, and bovine spongiform encephalopathy (BSE). The United States has requested the removal of the bluetongue measures, noting that the United States has been exporting cattle since the 1960s to the Western Hemisphere, including Central and South America, without a single clinical case of bluetongue reported in animals imported from the United States. Peru does not meet the conditions to self-declare itself free of bluetongue, since it neither undertakes surveillance nor maintains control programs. Following the World Organization for Animal Health (OIE) recognition of the United States as a country with negligible risk for bovine spongiform encephalopathy (BSE), the United States answered questions from Peru in a new proposal in September 2013. The proposal addresses BSE and other diseases of concern.

The United States continues to engage with Peru to re-open its market for U.S. live cattle closed since and has raised the issue at the PTPA SPS Committee meetings held in June 2012 and June 2013. The United States again raised these issues during the August 2014 PTPA SPS Committee Meeting, submitting complementary information on the status of bluetongue in Peru and details on the U.S. surveillance and control programs. The United States raised this issue in January 2015, and will continue to work with Peru to secure a favorable resolution to this issue.

Beef Export Verification (EV) Program

Peru established sanitary requirements for importing U.S. beef into Peru under the PTPA on October 10, 2006. The requirements included certification that Canadian beef and specified risk materials (SRMs), such as spinal cord, brain, eyes and other organs, were not being imported into Peru. This condition could only be met at the time through the establishment of an export verification (EV) program, administered by the U.S. Department of Agriculture.

Since the implementation of the PTPA, the sanitary conditions regarding beef have changed. First, Peru granted access to Canadian beef on May 10, 2012, and subsequently, the OIE changed the sanitary status of the United States regarding BSE to negligible risk in May 2013.

In light of these developments, the United States has been engaging with Peru with the objective of updating the import requirements for U.S. beef such that the EV program will no longer be required. The issue was discussed at the PTPA SPS Committee meeting, held in August 2014, and again in a bilateral meeting in January 2015. The United States will continue its efforts to secure a favorable outcome.

IMPORT POLICIES

Tariffs

According to the WTO, Peru's average bound WTO tariff rate was 29.5 percent in 2013 and its average most favored nation (MFN) applied tariff rate was 3.4 percent. 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 U.S. consumer and industrial goods exports to Peru will be phased out by 2018. More than two-thirds of current U.S. agricultural exports enter Peru duty-free; the remaining tariffs on U.S. agricultural exports to Peru will be phased out by 2025. In accordance with its PTPA commitments, Peru has eliminated its price band system on trade with the United States.

Nontariff Measures

The Government of Peru has eliminated many of Peru's nontariff barriers, and under the PTPA, it subjects 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) over eight years old. 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.

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.

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. For instance, the Peruvian Ministry of Health allows the registration of biosimilars of biologic drugs with only an affidavit that successful clinical trials have taken place and that the drug is safe for use. As a result, local companies can register biosimilar products that infringe on patented biologic drugs. In September 2014, the Ministry of Health proposed draft regulations that would close this loophole, but grandfather all biosimilar applications submitted under the old regime. There is currently no timetable on when these new regulations will be adopted.

Peru passed Presidential Supreme Decree DS053-2010-MTC in 2010, which requires exporters of remanufactured auto parts to provide documentation from the original manufacturer granting them consent to remanufacture and export the auto part.

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 can bid on procurements of most Peruvian central government entities on the same basis as Peruvian suppliers. This includes procurements by covered state-owned enterprises, such as Peru's oil company and Peru's electrical company. Some American companies have commented that Peru's arduous bureaucratic requirements makes it challenging for them to successfully participate in, let alone win, government tenders. 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 2013 Special 301 Report. Pirated and counterfeit goods remain widely available in Peru. Challenges including inadequate resources for law enforcement, lack of coordination among enforcement agencies, and the need for improvements at Peru's border and in its judicial system remain. Piracy over the Internet continues to be a growing problem, especially with respect to music, software, and video content (movies and TV programs). There has been improvement in removing unlicensed software from government computers, but further steps are needed to ensure adequate intellectual property protection.

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 government may grant special authorization to operate within those areas. Under current law, foreign employees may generally 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 expressed concerns about reinterpretation of rules by SUNAT, Peru's customs and tax agency, as well as the imposition of fines by SUNAT perceived by investors to be disproportionate.