COSTA RICA

TRADE SUMMARY

The U.S. goods trade deficit with Costa Rica was $897 million in 2009, shifting from a surplus of $1.7 billion in 2008. U.S. goods exports in 2009 were $4.7 billion, down 17.2 percent. Corresponding U.S. imports from Costa Rica were $5.6 billion, up 42.2 percent. Costa Rica is currently the 37th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Costa Rica was $2.5 billion in 2008 (latest data available), up from $2.3 billion in 2007. U.S. FDI in Costa Rica is led by the manufacturing and the professional, scientific, and technical sectors.

IMPORT POLICIES

Free Trade Agreement

On August 5, 2004, the United States signed the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR or Agreement) with five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) and the Dominican Republic (the Parties). Under the Agreement, the Parties are significantly liberalizing trade in goods and services. The CAFTA-DR also 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 environmental protection.

The 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 on January 1, 2009.

In 2008, the Parties implemented amendments to several textile-related provisions of the CAFTA-DR, including, in particular, changing the rules of origin to require the use of U.S. or regional pocket bag fabric in originating apparel. The Parties also implemented a reciprocal textile inputs sourcing rule with Mexico. Under this rule, Mexico provides duty-free treatment on certain apparel goods produced in a Central American country or the Dominican Republic with U.S. inputs, and the United States will provide reciprocal duty-free treatment under the CAFTA-DR on certain apparel goods produced in a Central American country or the Dominican Republic with Mexican inputs. These changes further strengthen and integrate regional textile and apparel manufacturing and create new economic opportunities in the United States and the region.

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.

However, under the CAFTA-DR, about 80 percent of U.S. industrial and consumer goods now enter Costa Rica duty-free, with the remaining tariffs on these goods phased out by 2015. Nearly all textile and apparel goods that meet the Agreement’s rules of origin now enter Costa Rica duty-free and quota-free, creating economic opportunities for U.S. and regional fiber, yarn, fabric, and apparel manufacturing companies.

Under the CAFTA-DR, more than half of U.S. agricultural exports now enter Costa Rica duty-free. Costa Rica will eliminate its remaining tariffs on virtually all agricultural products by 2020 (2022 for chicken leg quarters and 2025 for rice and dairy products). For certain agricultural products, tariff-rate quotas (TRQs) will permit some immediate 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 expansion of a TRQ, rather than by tariff reductions.

Nontariff Measures

Under the CAFTA-DR, Costa Rica committed to improve transparency and efficiency in administering customs procedures, including the CAFTA-DR rules of origin. Costa Rica also committed to ensuring greater procedural certainty and fairness in the administration of these procedures, and all the CAFTA-DR countries agreed to share information to combat illegal transshipment of goods.

Costa Rica implemented the Information Technology Customs Control (TICA) system in 2007 for imports and in early 2009 for exports (other than exports from free trade zones). The TICA system has significantly improved what had been a complex and bureaucratic import process. Under the TICA system, the Costa Rican customs authority has changed its focus from the verification of goods to the verification of processes and data. Customs officials now have up to four years to review the accuracy of import declarations, which allows customs to facilitate the free flow of goods while gathering necessary documentation.

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 procurement covered by the Agreement. Under the CAFTA-DR, U.S. suppliers are permitted to bid on procurements of most Costa Rican government entities, including key ministries and state-owned enterprises, on the same basis as Costa Rican 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.

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

EXPORT SUBSIDIES

Tax holidays are available for investors in free trade zones, unless tax credits are available in an investor's home country for taxes paid in Costa Rica.

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). However, under the CAFTA-DR, Costa Rica was permitted to maintain such measures through 2009, provided that it maintained the measures in accordance with its obligations under the WTO Agreement on Subsidies and Countervailing Measures. The U.S. Government is working with the Costa Rican government in an effort to ensure it implements its CAFTA-DR obligation.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Costa Rica was listed on the Watch List in the 2009 Special 301 report. Key concerns cited in the report included the need to assign higher priority to, and allocate greater resources for, combating piracy and counterfeiting, and the need to seek deterrent penalties. During 2009, the U.S. Government worked with the Costa Rican government on the latter's efforts to meet its commitments to make certain changes to its IPR laws and to ensure that effective regulations on agricultural chemicals are in place.

The CAFTA-DR provides for improved standards for the protection and enforcement of a broad range of IPR, including protections for patents, trademarks, undisclosed test and other data submitted to obtain marketing approval for pharmaceuticals and agricultural chemicals, and digital copyrighted products such as software, music, text, and videos; and further deterrence of piracy and counterfeiting. To implement its CAFTA-DR IPR obligations, Costa Rica undertook legislative reforms providing for stronger IPR protection and enforcement.

The United States will continue to monitor Costa Rica's implementation of its IPR obligations under the CAFTA-DR.

SERVICES BARRIERS

Under the CAFTA-DR, Costa Rica granted U.S. services suppliers substantial access to its services market, including financial services.

In 2008, Costa Rica made significant changes in its legal and regulatory framework intended to implement its CAFTA-DR commitments on insurance. The newly established insurance regulator authorized six insurance companies, including one U.S.-owned company, to compete with the former monopoly state insurance provider, and will accept applications from other interested insurers. These new competitors are expected to start operating in the market in 2010.

Under the CAFTA-DR, Costa Rica committed to open important segments of its telecommunications market, including private network services, Internet services, and mobile wireless services. Costa Rica's telecommunications market is now open for private network services and Internet services, and the Costa Rican government recently announced that it will begin an auction process to allocate the radioelectric spectrum necessary to allow for new entrants in the wireless telephony market. Although the announced timeline has since been delayed, it is hoped that the auctions will take place in mid-2010 and that competitors will enter the wireless market by the end of the year.

INVESTMENT BARRIERS

The CAFTA-DR establishes a secure and predictable legal framework for U.S. investors operating in Costa Rica. The investment protection obligations of the CAFTA-DR apply to a broad definition of investments, including enterprises, debt, concessions, contracts, and intellectual property. In almost all sectors, the CAFTA-DR provides U.S. investors the right to establish, acquire, and operate investments in Costa Rica on an equal footing with local investors. Investor rights are protected under the CAFTA-DR by a procedure for dispute settlement that is impartial and transparent.

Notwithstanding the CAFTA-DR's legal framework for investment, the Costa Rican regulatory environment can pose significant barriers to successful investment in Costa Rica. One common problem is inconsistent government action between institutions within the central government or between the central government and the municipal government. Several large U.S. investors have faced the related problem that the central government's approach towards a specific project has changed significantly over time. Another concern for U.S. investors is the frequent recourse to legal challenges before Costa Rica's constitutional court to review whether government authorities have acted illegally or to review the constitutionality of legislation or regulations. Some U.S. investors believe that such challenges have been used at times to thwart their investments or hinder the quick resolution of disputes.

ELECTRONIC COMMERCE

The CAFTA-DR includes provisions on electronic commerce that reflect its importance to global trade. Under the CAFTA-DR, Costa Rica has committed to provide nondiscriminatory treatment of digital products, and not to impose customs duties on digital products transmitted electronically.

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. The general perception is that government agencies and the judicial system are weak and subject to outside influence. Administrative and judicial decision making appear at times to be inconsistent, non-transparent, and very time consuming.