HONDURAS[1]

TRADE SUMMARY

The U.S. goods trade surplus with Honduras was $60 million in 2009, down $745 million from 2008. U.S. goods exports in 2009 were $3.4 billion, down 30.2 percent from the previous year. Corresponding U.S. imports from Honduras were $3.3 billion, down 17.7 percent. Honduras is currently the 44th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Honduras was $700 million in 2008 (latest data available), up from $640 million in 2007.

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 provides 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.

[1] In light of the political crisis in Honduras, the U.S. Government was not able to engage with Honduras on trade matters for much of 2009. However, the U.S. Government continued to engage in monitoring to ensure the safety of food and other agricultural items imported from Honduras.

Tariffs

As a member of the Central American Common Market, Honduras applies a harmonized external tariff on most items at a maximum of 15 percent with some exceptions.

However, under the CAFTA-DR, approximately 80 percent of U.S. industrial and consumer goods now enter the region duty-free, with the remaining tariffs to be phased out by 2015. Nearly all textile and apparel goods that meet the agreement's rules of origin became duty-free and quota-free immediately, thus creating new opportunities for U.S. fiber, yarn, fabric, and apparel manufacturers.

Under the CAFTA-DR, more than half of U.S. agricultural exports now enter Honduras duty-free. Honduras 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 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. Honduras will liberalize trade in white corn through expansion of a TRQ, rather than by tariff reductions.

Nontariff Measures

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

The Dirección Ejecutiva de Ingresos (DEI), the Honduran customs and tax authority, has taken over verification of origin certifications from the Ministry of Industry and Trade. The DEI verifies that the origin certifications from producers, exporters, or importers comply with the minimum requirements according to the CAFTA-DR and other international agreements.

GOVERNMENT PROCUREMENT

Under the current version of the Government Contracting Law, which originally entered into force in October 2001 and was amended based on the CAFTA-DR, all public contracts over one million Lempiras (approximately $53,000) must be offered through public competitive bidding. Public contracts between 500,000 and 1 million Lempiras (approximately $26,000 - $53,000) can be offered through a closed bid, and contracts less than 500,000 Lempiras (approximately $26,000) are exempt from the bidding requirements. The CAFTA-DR eliminated the requirement that foreign firms act through a local agent (with at least 51 percent Honduran ownership) to participate in public tenders.

The CAFTA-DR requires fair and transparent procurement procedures, including advance notice of purchases and timely and effective bid review procedures. Under the CAFTA-DR, U.S. suppliers are permitted to bid on procurements covered by the agreement for most Honduran government entities, including key ministries, on the same basis as Honduran suppliers. The anticorruption provisions in the CAFTA-DR require each government to ensure that bribery in matters affecting trade and investment, including in government procurement, is treated as a criminal offense, or is subject to comparable penalties, under its law. Since the CAFTA-DR came into effect, government agencies have routinely declared "emergencies" to circumvent competitive bidding procedures for public procurements, including for large infrastructure projects.

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

EXPORT SUBSIDIES

There are no known export subsidies provided by the Honduran government, but it provides tax exemptions to firms in free trade zones. Under the CAFTA-DR, Honduras 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, Honduras may maintain such duty waiver measures for such time as it is an Annex VII country for the purposes of the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement). Thereafter, Honduras must maintain any such measures in accordance with Article 27.4 of the SCM Agreement.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Honduras previously had an independent IPR prosecutor's office, although it consisted of only two staff members. The IPR prosecutor's office was merged into the common crimes office in 2009 and is no longer an independent entity within the Public Ministry. After the U.S. Government raised concerns that Honduran cable television operators were using copyrighted U.S. programming without permission, in early 2009, the IPR prosecutor investigated the allegation, found and confiscated the illegal equipment, and disbanded the pirating network.

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, Honduras undertook legislative reforms providing for stronger IPR protection and enforcement.

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

SERVICES BARRIERS

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

Hondutel, the government-owned incumbent telecommunications operator officially lost its monopoly on fixed-line telephony services on December 25, 2005. Although there are regulations in place that allow the government to grant licenses, permits, and concessions for different telecommunications services in Honduras, many services continue to be provided through sub-operator agreements signed between Hondutel and private companies. A multi-year effort to introduce a new telecommunications law created uncertainty about the country's regulatory regime, with several proposed provisions of the new law potentially in conflict with the trade commitments undertaken by Honduras in the CAFTA-DR. Given the recent political turmoil following the removal of the President from office, the telecommunications bill appears to have been placed on hold. The United States will continue to monitor efforts to introduce new telecommunications legislation to ensure that any new legislation is consistent with Honduras' obligations under the CAFTA-DR.

INVESTMENT BARRIERS

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

Upon entry into force of the CAFTA-DR, the 2001 United States-Honduras Bilateral Investment Treaty (BIT) was suspended. For a period of 10 years, however, U.S. investors may choose dispute settlement either under the BIT or the CAFTA-DR. Investors will continue to maintain important investment rights and protections under the investment provisions of the CAFTA-DR.

Honduran law places certain restrictions on foreign ownership of land within 40 kilometers of the coastlines and national boundaries. However, recognizing that the constitutional prohibition of foreign property ownership in Honduras was a barrier to development of tourism and the economic potential of Honduras' coastal and island areas, the Honduran National Congress passed a law in 1990 to allow foreigners to purchase properties in designated tourism zones established by the Ministry of Tourism in order to construct permanent or vacation homes.

Notwithstanding the CAFTA-DR's legal framework for investment, inadequate land title procedures have led to numerous investment disputes involving U.S. nationals who are landowners. Resolution of disputes in court often takes several years. There have been claims of widespread corruption in land sales and in registry and in the dispute resolution process, including claims against attorneys, real estate companies, judges and local officials. Property registration is often out of date and the results of title searches are not reliable. In addition, the lack of implementing regulations in certain regions can lead to long delays in the awarding of titles. A law passed in April 2008 authorized the government to award certain agricultural lands that have been under dispute for more than two years to squatters with only nominal compensation to legal titleholders. A number of properties owned by U.S. citizens are potentially subject to confiscation under this law.

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 Honduras. 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. Corruption appears to be prevalent in the areas of government procurement, the buying and selling of real estate (particularly land title transfers), performance requirements, and the regulatory system. Telecommunications and energy are sectors that have proved most problematic. These issues have affected Honduras's ability to attract foreign investment.

Honduras is implementing an anticorruption plan, which includes elements such as civil service reform, external audits of public utilities (especially electricity and telecommunications), strengthening police capabilities, and implementation of the transparency law. Progress reports are public documents, are shared with members of the international donor community, and are available online. A commission was established to implement the transparency law, but the head commissioner resigned and the other two were fired by the Honduran Congress. As of the end of 2009, the Honduran Congress was in the process of selecting new commissioners.

U.S. industry has expressed concern that some investors in Honduras have at times been subject to practices that might be considered anticompetitive. In 2006, the Honduran Congress enacted a competition law, establishing an anti-trust enforcement commission to combat such conduct. Commissioners commenced operations in 2007. In 2007 and 2008, six complaints were filed with the commission and all six cases were investigated. The commission ruled in favor of one petition, ruled against three, and dismissed the remaining two cases. During the same period, the commission initiated eight investigations, of which five were closed and three continued into 2009.