EL SALVADOR

TRADE SUMMARY

The U.S. goods trade surplus with El Salvador was $269 million in 2007, a decrease of $26 million from $295 million in 2006. U.S. goods exports in 2007 were $2.3 billion, up 7.5 percent from the previous year. U.S. imports from El Salvador were $2.0 billion, up 10.1 percent over the corresponding period. El Salvador is currently the 56th largest export market for U.S. goods.

The stock of U.S. foreign direct investment in El Salvador was $774 million in 2006 (latest data available), down from $947 million in 2005.

IMPORT POLICIES

Free Trade Agreement

On August 5, 2004, the United States signed the Dominican Republic-United States-Central America 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).

During 2006, the Agreement entered into force for the United States, El Salvador, Guatemala, Honduras, and Nicaragua. The CAFTA-DR entered into force for the Dominican Republic on March 1, 2007. Costa Rica approved the CAFTA-DR through a national referendum on October 7, 2007, but the Agreement has not entered into force as Costa Rica has not yet completed the process of adopting implementing legislation and regulations.

In 2007, the Parties agreed to amend 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 textile amendments have not entered into force.

Under the Agreement, the Parties remove barriers to trade and investment in the region, which will strengthen regional economic integration. 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.

Tariffs

As a member of the Central American Common Market (CACM), El Salvador agreed in 1995 to reduce its common external tariff to a maximum of 15 percent.

Under the CAFTA-DR, about 80 percent of U.S. industrial and consumer goods now enter El Salvador duty free, with the remaining tariffs phased out over 10 years, starting in 2006. Nearly all textile and apparel goods that meet the Agreement's rules of origin now enter duty free and quota free, promoting new 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 El Salvador duty free. El Salvador will eliminate its remaining tariffs on nearly all agricultural products within 15 years (18 years for rice and chicken leg quarters and 20 years 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. El Salvador will liberalize trade in white corn through expansion of a TRQ, rather than by tariff reductions.

El Salvador and the other Parties have committed to improve transparency and efficiency in administering customs procedures, including the CAFTA-DR rules of origin. Under the CAFTA-DR, El Salvador 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. In addition, El Salvador has negotiated agreements with express delivery companies to allow for faster handling of their packages.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

Although sanitary standards have generally not been a barrier in El Salvador, practices with respect to raw poultry and eggs are notable exceptions. Since 1992, the Ministry of Agriculture has imposed restrictions on U.S. raw poultry and egg imports. El Salvador has yet to provide a scientific justification for these measures, which do not appear to be based on relevant international standards. Furthermore, the Salvadoran government does not appear to apply these same restrictions on domestic production, raising potential national treatment concerns. As a result of these measures, the United States has been unable to export raw poultry or eggs to El Salvador. U.S. industry estimates the value of lost U.S. poultry and eggs exports at $5 million to $10 million per year. Resolution of this issue is a priority for the United States.

El Salvador requires that rice imports be fumigated at the importers' cost unless they are accompanied by a U.S. Department of Agriculture (USDA) certificate stating that the rice is free of Tilletia barclayana. However, USDA cannot issue these certificates since there is no chemical treatment that is both practical and effective against Tilletia barclayana. El Salvador has failed to notify this measure to the World Trade Organization (WTO) Sanitary and Phytosanitary (SPS) Committee.

Importers must deliver samples of all foods for laboratory testing to the Ministry of Public Health, which, upon approval, issues the product registration numbers that allow them to be sold at retail outlets. Some processed foods approved for use in the United States were rejected after further analysis in El Salvador, thereby barring their sale. The United States has obtained access for U.S. products rejected by the Ministry of Public Health testing on a case-by-case basis.

Through the CAFTA-DR, the United States continues to engage El Salvador on this issue. In addition, in connection with the CAFTA-DR, El Salvador agreed to recognize the equivalence of the U.S. food safety and inspection system for beef, pork, poultry, and dairy products, thereby eliminating the need for plant-by-plant inspections. However, El Salvador continues to maintain restrictions on U.S. beef and beef products from animals over 30 months of age as well as live cattle over 30 months of age.

El Salvador and the other Central American countries are in the process of developing common standards for the importation of several products, including distilled spirits, which may facilitate trade.

GOVERNMENT PROCUREMENT

Government purchases of goods and services, including construction services, are usually open to foreign bidders.

The 2000 Public Sector Procurement and Contracting Law applies to the central government as well as to autonomous agencies and municipalities. The Ministry of Finance's Public Administration Procurement and Contracting Regulatory Unit establishes procurement and contracting policy, but all government agencies have their own procurement and contracting units to implement that policy. Under the law, government purchases worth more than approximately $108,000 must be announced publicly and are subject to open bidding; those worth approximately $13,600 or more must also be announced, but may be subject to bidding by invitation only; and for smaller purchases, government agencies are only required to evaluate not less than three offers for quality and price. If a domestic offer is assessed as equal to a foreign offer, the government must give preference to the domestic offer. Under certain provisions of the law, such as “urgent” or “emergency” procurements, the head of a government agency or ministry may intervene to award procurement to a seller who may not have otherwise been selected. For government procurement made using external financing or donations, separate procurement procedures may apply.

Under the CAFTA-DR, procuring entities must 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 Salvadoran government entities, including key ministries and state owned enterprises, on the same basis as Salvadoran suppliers. The anti-corruption provisions in the Agreement require each government to ensure under its domestic law that bribery in trade related matters, including in government procurement, is treated as a criminal offense, or is subject to comparable penalties.

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

EXPORT SUBSIDIES

El Salvador gives a 6 percent tax rebate on exports shipped outside Central America if they have undergone a transformation process that adds at least 30 percent to the original value. Firms operating in free trade zones enjoy a 10 year exemption from income tax as well as duty free privileges.

Under the CAFTA-DR, El Salvador is not permitted to adopt new duty waivers or expand existing duty waivers that are conditioned on the fulfillment of a performance requirement (*e.g.*, the exportation of a given level or percentage of goods). However, under the CAFTA-DR, El Salvador is permitted to maintain such measures through 2009, provided that it maintains the measures in accordance with its obligations under the WTO Agreement on Subsidies and Countervailing Measures.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

In December 2005, El Salvador amended the Intellectual Property Promotion and Protection Law, Law of Trademarks and Other Distinctive Signs, and Penal Code to implement its CAFTA-DR obligations on IPR. The CAFTA-DR provides for improved standards for the protection and enforcement of a broad range of IPR that are consistent with U.S. and international standards of protection and enforcement, as well as with emerging international standards. Such improvements include: state-of-the-art protection for digital copyrighted products such as U.S. software, music, text, and videos; stronger protection for U.S. patents, trademarks, and test data, including an electronic system for the registration and maintenance of trademarks; and further deterrence of piracy and counterfeiting.

Despite these efforts, the piracy of optical media, both music and video, remains a concern in El Salvador. Optical media imported from the United States by pirates in El Salvador are being used as duplication masters. Concern has also been expressed about inadequate enforcement of cable broadcast rights and the competitive disadvantage it places on legitimate providers of this service. In the first 10 months of 2007, the police and Attorney General’s Office seized optical media valued at $1.5 million and made 30 arrests.

SERVICES BARRIERS

El Salvador maintains few barriers to services trade. El Salvador has accepted the Fifth Protocol to the WTO General Agreement on Trade in Services, which was necessary to bring its CAFTA-DR commitments on financial services into effect. Foreign investors are limited to 49 percent of equity ownership in free reception television and AM/FM radio broadcasting. There are no such restrictions on cable television ownership. Notaries must be Salvadoran citizens. The CAFTA-DR granted substantial market access across the entire services regime, offering new access in sectors such as telecommunications, express delivery, computer and related services, tourism, energy, transport, construction and engineering, financial services, insurance, audio/visual and entertainment services, professional, environment, and other service sectors.

In October 2007, an International Services Law was approved. The law regulates the establishment and operation of services parks and centers with incentives similar to those received by the free zones, including tax exemptions for developers, administrators, and service companies. The law covers international distribution, international logistics operations, call centers, information technology, development and research, marine vessels and airships repair and maintenance, entrepreneurial processes, hospital medical services, and international financial services. Services firms operating under the benefits of the Services Law are exempted from income and municipal taxes as well from the tariffs for the imports of capital and intermediate goods.

INVESTMENT BARRIERS

The CAFTA-DR establishes a more secure and predictable legal framework for U.S. investors operating in El Salvador. Under the CAFTA-DR, all forms of investment are protected including enterprises, debt, concessions, contract, and intellectual property. U.S. investors enjoy, in almost all circumstances, the right to establish, acquire, and operate investments in El Salvador on an equal footing with local investors. Among the rights afforded to U.S. investors are due process protection and the right to receive fair market value for property in the event of an expropriation. Investor rights are protected under the CAFTA-DR through an impartial procedure for dispute settlement that is fully transparent and open to the public. Submissions to dispute panels and dispute panel hearings will be open to the public, and interested parties will have the opportunity to submit their views.

There are few formal investment barriers in El Salvador, except as noted in the Services Section. However, some U.S. investors complain that judicial and regulatory weaknesses limit or inhibit their investment in El Salvador.

El Salvador is developing a cost based pricing model for the electricity sector to replace the existing system. The new system would allow the adoption of long term contracts and may alleviate current market distorting regulations and intervention by the regulator, SIGET, as well as politicized management of hydroelectric resources by the state owned, autonomous hydropower generator CEL. The United States has expressed its concerns regarding the impact of duplicative regulations and the regulator's seemingly arbitrary decision making processes and how they are deterrents to U.S. electric energy investments in El Salvador.

ELECTRONIC COMMERCE

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