HONDURAS

TRADE SUMMARY

The U.S. goods trade deficit with Honduras was $25 million in 2006, a decrease of $471 million from $495 million in 2005. U.S. goods exports in 2006 were $3.69 billion, up 13.5 percent from the previous year. Corresponding U.S. imports from Honduras were $3.72 billion, down 0.8 percent. Honduras is currently the 38th largest export market for U.S. goods.

The stock of U.S. foreign direct investment in Honduras in 2005 was $402 million (latest data available), up from $314 million in 2004. U.S. FDI in Honduras is concentrated largely in the manufacturing sector.

IMPORT POLICIES

Free Trade Agreement

The United States concluded free trade agreement negotiations with El Salvador, Guatemala, Honduras and Nicaragua in December 2003 and with Costa Rica in January 2004. In May 2004, the six countries signed the United States–Central America Free Trade Agreement. During 2004, the United States and the Central American countries integrated the Dominican Republic into the free trade agreement. On August 5, 2004, the seven countries signed the Dominican Republic–Central America–United States Free Trade Agreement (CAFTA-DR).

All of the signatory countries have ratified the agreement, with the exception of Costa Rica. The agreement entered into force for Honduras on April 1, 2006. The agreement also has entered into force for the Dominican Republic, El Salvador, Guatemala and Nicaragua.

The agreement removes barriers to trade and investment in the region and will strengthen regional economic integration. The CAFTA-DR also requires the Central American countries and the Dominican Republic to undertake needed reforms to provide market liberalization as well as greater transparency and certainty in a number of areas, including: customs administration, protection of intellectual property rights, services, investment, financial services, government procurement, and sanitary and phytosanitary (SPS) measures.

Tariffs

As a member of the Central American Common Market, Honduras 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 Honduras duty-free, with the remaining tariffs phased-out over ten years. Nearly all textile and apparel goods that meet the agreement's rules of origin are now traded duty-free and quota-free, promoting new opportunities for U.S. and regional fiber, yarn, fabric and apparel manufacturing. The agreement's tariff treatment for textile and apparel goods is retroactive to January 1, 2004.

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 within 15 years (18 years for rice and chicken leg quarters and 20 years for dairy products). For the most sensitive 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.

The agreement also requires transparency and efficiency in administering customs procedures, including the CAFTA-DR rules of origin. Under the CAFTA-DR, Honduras committed to ensure greater procedural certainty and fairness in the administration of these procedures, and all CAFTA-DR countries agreed to share information to combat illegal trans-shipment of goods. In the early months of the CAFTA-DR, a small number of U.S. exporters experienced delays in their product clearing Honduran customs, due to confusion over classification procedures.

Honduras implemented the WTO Customs Valuation Agreement in February 2000.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

Food imports into Honduras could grow significantly with a more transparent and efficient process of granting sanitary permits. The Honduran government requires that sanitary permits be obtained from the Ministry of Health for all imported foodstuffs and that all processed food products be labeled in Spanish and registered with the Division of Food Control of the Ministry of Health. While the Ministry of Health (under the previous Maduro administration) agreed to expedite this surveillance process by focusing most closely on products considered to be a high risk for sanitary concerns (such as raw meat) and simplifying the procedures for low risk products, concerns remain that the regulations are not being strictly enforced for Honduran competitors. Importers of U.S. products note difficulty in obtaining permits for new product lines. The Honduran government has also cited SPS concerns in periodically denying applications for the importation of pork, poultry and dairy products. Lack of clear guidelines regarding the exact cooking temperatures to determine the difference between "cooked" and "raw" chicken continue to pose challenges for U.S. importers. The U.S. Department of Agriculture and the U.S. Poultry and Egg Export Council have been working with the Honduran government to determine the exact regulations and documentation for raw chicken imports.

From 2002 to mid-year 2006, Honduras imposed a ban on poultry products from a number of U.S. states, due to concerns over low-pathogenic avian influenza. The ban was eliminated in June 2006.

When the United States and Central America launched the free trade agreement negotiations, they initiated an active working group dialogue on sanitary and phytosanitary (SPS) barriers to agricultural trade that met alongside the negotiations to facilitate market access. The objective was to use the impetus of active trade negotiations to seek changes to the Central American countries' SPS regimes. Through the work of this group, Honduras committed to resolving specific measures affecting U.S. exports to Honduras. In addition, under the CAFTA-DR, Honduras agreed to recognize the equivalence of the U.S. food safety and inspection system for meat and poultry, thus eliminating the need for plant-by-plant inspection.

The five Central American countries, including Honduras, are in the process of developing common standards for the importation of several products, including distilled spirits, which should facilitate trade.

GOVERNMENT PROCUREMENT

Honduras is not a signatory to the World Trade Organization (WTO) Agreement on Government Procurement. Under the Government Contracting Law, which entered into force in October 2001, all public works contracts over one million lempiras (approximately $53,000 as of November 2006) must be offered through public competitive bidding. Public contracts between 500,000 and one million lempiras ($25,000 and $50,000) can be offered through a private bid, and contracts less than 500,000 lempiras ($25,000) are exempt from the bidding process.

The CAFTA-DR requires the use of 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 will be permitted to bid on procurements covered by the agreement of most Honduran government entities, including most key ministries, on the same basis as Honduran suppliers. The anti-corruption provisions in the CAFTA-DR require each government to ensure under its domestic law that bribery in matters affecting trade and investment, including government procurement, is treated as a criminal offense, or is subject to comparable penalties. The CAFTA-DR eliminated a Honduran requirement that foreign firms act through a local agent that was at least 51 percent Honduran-owned.

EXPORT SUBSIDIES

Honduras does not have export promotion schemes other than the tax exemptions given to firms in free trade zones.

Under the CAFTA-DR, Honduras may not adopt new duty waivers or expand existing duty waivers conditioned on the fulfillment of a performance requirement (e.g., the exportation of a given level or percentage of goods). Honduras may maintain existing 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). Thereafter, Honduras shall maintain any such measures in accordance with Article 27.4 of the SCM Agreement.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

In early 2006, Honduras strengthened its legal framework for the protection of intellectual property rights (IPR) with the passage of new laws in preparation for the entry into force of the CAFTA-DR. CAFTA-DR provides for improved standards for the protection and enforcement of a broad range of intellectual property rights, which are consistent with U.S. standards of protection and enforcement and with emerging international standards. Such improvements include state-of-the-art protections for digital 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 .

During 2006, Honduran government prosecutors engaged in a series of raids against producers and vendors of pirated goods. This renewed emphasis on enforcement marks a notably positive shift towards greater anti-piracy efforts.

SERVICES BARRIERS

Under the CAFTA-DR, Honduras allows substantial market access in services across their entire services regime, subject to very few exceptions. The right to provide professional services may be granted on a reciprocal basis depending on the requirements in individual U.S. states. In addition, U.S. financial service suppliers have full rights to establish subsidiaries, joint ventures or branches for banks and insurance companies. There is a phase-in for branching in insurance. Honduras allows U.S.-based firms to offer cross-border services in areas such as financial information and data processing, and financial advisory services. Portfolio managers in the United States will be able to provide portfolio management services to both mutual funds and pension funds in Honduras.

In 2006, two major U.S. financial services firms each acquired Central American regional banks, including their Honduran portfolios, primarily credit card customers. However, a proposed Honduran law setting credit card rates and banning late fees has raised serious concerns for at least one of these regional banks.

Until December 2005, the government-owned telephone company Hondutel maintained monopoly rights over all fixed-line telephony services. In 2003, the government began to allow foreign investors to participate in fixed-line telephony services as "sub-operators" in partnership with Hondutel. At present, approximately 40 firms have entered into "sub-operator" contracts with Hondutel.

INVESTMENT BARRIERS

The CAFTA-DR establishes a more secure and predictable legal framework for U.S. investors operating in Honduras. 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 Honduras on an equal footing with local investors. Among the rights afforded to U.S. investors are due process protections and the right to receive a fair market value for property in the event of an expropriation. Investor rights are protected under the CAFTA-DR by an effective, 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. Under the CAFTA-DR, the existing United States-Honduras Bilateral Investment Treaty will be suspended after a period of 10 years. Investors will continue to have important investment rights and protections under the investment provisions of the CAFTA-DR.

In 2006, the Honduran government announced that it would develop a bidding system to select importers of petroleum products into Honduras. This has caused great concern among the private sector as it could disenfranchise existing importers and call into question existing contracts. The U.S. Government continues to work through these issues with Honduras. Currently, the Honduran government must approve any foreign investment in sectors including telecommunications, basic health, air transport, private education, and most sectors related to natural resources and farming. Foreign ownership of land within 40 km of the coastlines and national boundaries is constitutionally prohibited, although tourism investment laws allow for certain exceptions. Inadequate land title procedures, including overlapping claims and a weak judiciary, have led to numerous investment disputes involving U.S. nationals who are landowners.

ELECTRONIC COMMERCE

The CAFTA-DR includes provisions on electronic commerce that reflect its importance to global trade. Under the CAFTA-DR, Honduras has committed to provide non-discriminatory treatment of digital products, not to impose customs duties on digital products transmitted electronically, and to work together with the United States in policy areas related to electronic commerce.

Honduras currently has no domestic legislation concerning electronic commerce, as the sector is still not developed in the Honduran market. The Electronic Commerce System Directorate, a joint project of the Chamber of Commerce and Industry of Tegucigalpa, the Chamber of Commerce and Industry of Cortés and the National Industry Association, is the institution in charge of establishing the policies and norms pertaining to electronic commerce in Honduras.

Although improving, Honduras still lacks adequate basic telecommunications infrastructure and Internet bandwidth capacity to effectively support significant electronic commerce. Except for web page promotional material, companies are not utilizing computer-based sales as a substantial distribution channel in Honduras.

OTHER BARRIERS

Historically, U.S. firms and private citizens have found corruption to be a serious problem, which complicates doing business in Honduras. Corruption appears to be most prevalent in the areas of government procurement, the buying and selling of real estate (particularly land title transfers), performance requirements, and the regulatory system. Honduras' judicial system is subject to influence, and the resolution of investment and business disputes involving foreigners is largely non-transparent. The anti-corruption provisions in the CAFTA-DR require each government to ensure under its domestic law that bribery in trade-related matters is treated as a criminal offense, or is subject to comparable penalties.

Anti-Competitive Practices

U.S. industry has expressed concern that investors who set up business in Honduras have at times found themselves subject to practices that, in the United States, might be considered anticompetitive. For example, in 2003, a U.S.-Japanese joint venture established a cement company in Honduras, challenging the duopoly enjoyed by the two Honduran companies in the market. In 2004, the investor complained that the existing duopoly in the sector was engaging in anti-competitive predatory pricing practices. Despite the conclusions of an investigation by the Ministry of Commerce and the Attorney General's office that the duopoly "seeing the reduction in its market share, began to apply predatory pricing with the intention of eliminating [the U.S. firm] from the market," no subsequent prosecution was ever brought and the U.S. firm was forced to leave the Honduran market. After the firm left the market, prices increased dramatically to well above their previous level, until they were subsequently regulated by Honduran government action. There have also been allegations that steel prices are also fixed in Honduras, and on a regional basis there are reports of price collusion by the major steel producers. In 2006, the Honduran government passed a Competition law, establishing an anti-trust enforcement commission to combat such abuses. However, the government delayed for more than six months in naming the commissioners. As of March 2007, the Commission has received some funding, begun hiring staff and secured permanent office space.