HONDURAS

TRADE SUMMARY

The U.S. goods surplus with Honduras was $807 million in 2008, an increase of $258 million from $549 million in 2007. U.S. goods exports in 2008 were $4.8 billion, up 8.6 percent from the previous year. Corresponding U.S. imports from Honduras were $4.0 billion, up 3.2 percent. Honduras is currently the 41st largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Honduras was $968 million in 2007 (latest data available), down from $1.0 billion in 2006. U.S. FDI in Honduras is concentrated largely in the manufacturing and wholesale trade 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. The CAFTA-DR entered into force for the Dominican Republic on March 1, 2007, and 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 will 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, 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 by 2015. Nearly all textile and apparel goods that meet the Agreement's rules of origin now enter Honduras 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 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. In 2008, Honduras delayed for approximately eight months the issuance of implementing regulations to establish a TRQ for chicken leg quarters of 534 metric tons.

Nontariff Measures

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

The Directorio Ejecutivo 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 treaties. The U.S. Department of Treasury Office of Technical Assistance (OTA) provides ongoing technical assistance to the customs authority aimed at increasing efficiency and capacity of customs officials while reducing fraud. OTA conducted training for five judges in customs procedures in October 2008.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

All imported foodstuffs must be registered with the Sanitary Regulations Directorate (previously the Division of Food Control), after which a sanitary registration number is issued. All products (except samples used to obtain the registration number) must have this identification prior to entering the country. In addition, products cannot be imported with only an English language label. Stick-on labels in Spanish are allowed for product information, but not for manufacturing information or expiration date. Labels must be affixed prior to customs clearance and at the time of product registration.

Honduras and the other four Central American Parties to the CAFTA-DR are in the process of developing common standards for the importation of several products, including distilled spirits, which may facilitate trade.

Sanitary and Phytosanitary Measures

The Ministry of Health has expedited the 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. Regulations appear to be evenly enforced for both U.S. and Honduran producers. However, some companies still experience problems. Despite a scientific analysis by the National Committee of Biosafety, one U.S. company has been unable to sell several thousand bags of GMO seed, which is resistant to a type of worm that attacks corn. Losses so far are estimated at $35,000, plus additional damage to the company’s brand. The action appears inconsistent with Honduran procedure and prior approvals and creates a monopoly for another multinational firm. U.S. officials have spoken to the Minister of Agriculture regarding this issue.

During the CAFTA-DR negotiations, the governments created an intergovernmental working group to discuss sanitary and phytosanitary barriers to agricultural trade. Through the work of this group, Honduras committed to resolving specific measures affecting U.S. exports to Honduras. For example, Honduras now recognizes the equivalence of the U.S. food safety and inspection systems for beef, pork, and poultry, thereby eliminating the need for plant-by-plant inspections of U.S. producers.

In 2008, Honduras and the other four Central American Parties to the CAFTA-DR notified to the WTO a set of microbiological criteria for all raw and processed food products imported into any of these countries. The United States has some concerns with these criteria and in May 2008 submitted comments to the five countries. The Central American countries are currently evaluating possible amendments to the proposed criteria.

GOVERNMENT PROCUREMENT

Under the 2001 Government Contracting Law, all public works contracts over 1 million lempiras (approximately $53,000) must be offered through public competitive bidding. Public contracts between 500,000 and 1 million lempiras ($26,500 and $53,000) can be offered through a private bid, and contracts less than 500,000 lempiras ($26,500) are exempt from the bidding process.

Under the CAFTA-DR, U.S. suppliers may bid on procurements of most Honduran government entities, including most key ministries and other government entities, on the same basis as Honduran suppliers. 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 procurements covered by the Agreement. However, over the past two years, a number of government agencies have attempted to justify the use of non-competitive procurement procedures for public procurements, including large infrastructure projects such as airports and hospitals, by declaring "emergencies."

The anticorruption provisions of 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. However, Honduras does not always investigate and prosecute these types of crimes.

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

EXPORT SUBSIDIES

Honduras maintains 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 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

The CAFTA-DR provides improved standards for the protection and enforcement of a broad range of IPR, which are consistent with U.S. and international standards, as well as with emerging international standards, of protection and enforcement of IPR. Such improvements include: state-of-the-art 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 U.S. software, music, text, and videos; and further deterrence of piracy and counterfeiting.

Honduran authorities lack dedicated personnel and resources necessary to wage a truly effective campaign against IPR infringement. The prosecutor's office currently contains just two staff members. Although these prosecutors have the authority to seize pirated and counterfeit goods when found, they do not have the ability to prosecute the case without a formal written complaint from an injured party. This complicates and prolongs an already lengthy judicial process. That process also lacks sufficient transparency. Numerous trademark cases are pending in Honduran courts, including one involving the unauthorized use of a U.S. restaurant company's trademark that has been pending in the Honduran judicial system for several years. The U.S. Government continues to raise concerns that Honduran cable television operators are using copyrighted U.S. programming without permission.

Overall, lawyers and judges sometimes lack training in IPR matters, particularly with regard to evidence gathering and keeping statistics on prosecution of IPR crimes. Criminal prosecution efforts are difficult to evaluate since the victims of these crimes almost always settle at the administrative court level. In February 2008, the U.S. Department of Justice trained 25 judges in IPR. We expect that Honduras will also develop a "Best Practices" manual to be used country-wide. Three of these judges received additional training in Puerto Rico in 2008.

SERVICES BARRIERS

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

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. Approximately 40 foreign and domestic firms since then have entered into "sub-operator" contracts with Hondutel. Despite the purported elimination of its monopoly, the lack of a legal framework for granting concessions has left investors unsure of whether they may legally establish as fully independent service providers. Hondutel currently charges the highest international termination rates in the region.

Both foreign and domestic firms invest in cellular telephony services. In 2006, Hondutel awarded itself the third of three cellular licenses on a noncompetitive basis. In January 2008, an international company won a competitive bid for a fourth cellular license over three other international firms.

The Honduran Congress has been debating new telecommunications legislation for over two years that would require congressional approval for each new license to operate mobile or long-distance services. The United States has expressed concerns over this proposal and over indications that Honduras intends to open sectors only "gradually."

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, contracts, 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 fair market value for property in the event of an expropriation. Investor rights are protected under the

CAFTA-DR by 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. 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 maintain important investment rights and protections under the investment provisions of the CAFTA-DR.

Foreign ownership of land within 40 kilometers 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. 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 of U.S. citizens are potentially subject to confiscation under this law.

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 nondiscriminatory treatment to digital products, and not to impose customs duties on digital products transmitted electronically.

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 Cortes, and the National Industry Association, is the institution in charge of establishing the policies and norms pertaining to electronic commerce in Honduras. The Directorate is currently in the process of developing legislation. In addition, three Honduran officials attended the Department of Justice/Organization of American States-sponsored training on combating cybercrime in September 2008.

Although the infrastructure in Honduras is improving, the country 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

U.S. firms and citizens have found corruption to be a serious problem in Honduras. In 2008, Transparency International ranked Honduras 126 out of 180 countries on corruption indicators. Honduras is now implementing a corruption remediation 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. Quarterly progress reports are public documents that are shared with members of the international donor community.

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. Telecommunications and energy are the areas that have proved most worrisome. Honduras's judicial system is allegedly subject to outside influence, and the resolution of investment and business disputes involving foreigners is largely nontransparent. This has affected Honduras's ability to attract foreign investment; the country fell to 133 out of 181 countries in the 2009 World Bank Doing Business Index.

Anticompetitive Practices

U.S. industry has expressed concern that investors who set up business in Honduras have at times found themselves subject to practices that might be considered anticompetitive. In 2006, the Honduran government enacted a Competition law, establishing an anti-trust enforcement commission to combat such conduct. The government has now named the commissioners to the new commission and the commission was operational in 2007.