EL SALVADOR

TRADE SUMMARY

In 2000, the U.S. trade deficit with El Salvador was $158 million, an increase of $74 million from the U.S. trade deficit of $85 million in 1999. U.S. merchandise exports to El Salvador were $1.8 billion, an increase of $255 million (16.8 percent) from the level of U.S. exports to El Salvador in 1999. El Salvador was the United States' 43rd largest export market in 2000. U.S. imports from El Salvador were $1.9 billion in 2000, an increase of $328 million (20.5 percent) from the level of imports in 1999.

The stock of U.S. Foreign Direct Investment (FDI) in El Salvador in 1999 amounted to $722 million, an increase of 26.9 percent from the level of U.S. FDI in 1998.

IMPORT POLICIES

El Salvador is a member of the Central American Common Market (CACM), which also includes Guatemala, Honduras, Nicaragua and Costa Rica. There are no duties for products traded among CACM members, with exceptions including certain agricultural products. In 1995, the members of the CACM agreed to reduce the common external tariff (CET) to a range from zero to 15 percent, but allowed each member to determine the timing of the reductions. Certain products, including vehicles, alcoholic beverages, tobacco, some agricultural goods and certain luxury items, are subject to higher duty rates. El Salvador completed its tariff reduction program in July 1999. CET tariffs on capital goods and raw materials currently range from 0 to 1 percent. Tariffs on intermediate goods range from 5 to 10 percent, and the duty for finished goods is generally 15 percent. Textiles, agricultural products, vehicles, and a few other products are charged higher tariffs ranging from 15 to 30 percent.

El Salvador is also an active member of the Central American Northern Triangle Subregional Group, formed by El Salvador, Guatemala and Honduras, which seeks further economic, political and social integration in the region. The Northern Triangle countries signed a Free Trade Agreement (FTA) with Mexico on June 29, 2000, and the Salvadoran Legislative Assembly ratified the Mexico FTA on December 7, 2000. In addition to the recently ratified FTA with Mexico, El Salvador is participating in FTA negotiations with Chile, Canada, Panama, and the Dominican Republic.

In April 2000, the Government of El Salvador announced some policy measures to foster agricultural development, including: the application of a 13 percent Value Added Tax (VAT) to grains, fruits, vegetables, and dairy products, (previously exempted from this tax); the maintenance of a variable 20 to 40 percent ad-valorem duty on grains imported from non-CACM countries; and the implementation of more rigorous sanitary standards on dairy products. El Salvador applies a 30 percent tariff on non-CACM beef imports, effectively blocking U.S. imports in a $50 million market. Considering U.S. exports might garner 20 percent of the market with lower tariffs, industry has estimated that this barrier could bar $10 million in U.S. exports.

Non-tariff Measures

El Salvador was obligated to implement the WTO Agreement on Customs Valuation by May 2000. However, before this date, El Salvador requested a sixteen-month extension, which was granted by the WTO Committee on Customs Valuation. El Salvador is now following its own work program to come into compliance with the WTO Agreement by September 2001.

Since 1992, the Ministry of Agriculture has imposed arbitrary sanitary measures on U.S. poultry imports. These sanitary restrictions call for zero tolerance or negative laboratory tests for diseases such as aviana denovirus, chicken anemia, and salmonella. These diseases, common worldwide, are not recognized as list "A" diseases by the International Office of Epizootics. Given the ubiquitous nature of salmonella throughout the world, it would be difficult for any established poultry-producing country to guarantee zero tolerance or negative lab tests on meat that has not been cooked or irradiated. These standards are applied in a discriminatory manner by El Salvador, since domestic production is not subject to the same requirements as imports. As a result of these measures, the United States has been unable to export poultry to El Salvador. U.S. officials have met with Salvadoran officials since November 1992 to discuss this problem, with no success to date. The industry estimates the value of lost U.S. poultry exports at $5 million per year.

The Government of El Salvador requires that rice shipments be accompanied by a U.S. Department of Agriculture certificate stating that the rice is free of Tilletia barclayana. There is no chemical treatment that is both practical and effective against T. barclayana. El Salvador failed to notify the WTO, under the Agreement on the Application of Sanitary and Phyto-Sanitary Measures, of these restrictions and apparently such restrictions are not based on a risk assessment.

The Government of El Salvador has initiated safeguard investigations on imports of rice and chemical fertilizers. The chemical fertilizer investigations will cover the years 1996-1999, and the deadline for interested parties' submissions was December 18, 2000.

STANDARDS, TESTING, LABELING AND CERTIFICATION

Consumer products require a certificate indicating that the product has been approved by U.S. health authorities for public sale, but it is not generally enforced. However, the requirement that importers deliver samples for laboratory testing to the Ministry of Health is enforced. In addition, product registration by importers is required by the Ministry of Public Health. All imports of fresh food, agricultural commodities, and live animals, coming from non-CACM countries, must be accompanied by a sanitary certificate. Basic grains and dairy products also must have an import license.

GOVERNMENT PROCUREMENT

Government purchases and construction contracts are usually open to foreign bidders. Infrastructure projects, especially those financed by multilateral financing institutions, are also open to international bidders. In April 2000, the Legislative Assembly passed a new, more transparent procurement law that applies to the central government structure as well as to autonomous agencies and municipalities. El Salvador is not a signatory to the WTO Agreement on Government Procurement.

EXPORT SUBSIDIES

El Salvador offers a six percent tax rebate to exporters of non-traditional goods based on the F.O.B value of the export. The following products do not enjoy this rebate: coffee, sugar, cotton, and metal/mineral products. However, processed coffee can apply for the rebate if it incorporates 30 percent of national value added, for instance if it is shipped as "gourmet" coffee, or if it is "organic" coffee. Sugar can apply if it is exported as refined sugar. Assembly plants (maquilas) are eligible if they meet the criteria of adding 30 percent Salvadoran input to the production process. As they already enjoy a ten-year exemption from income tax and duty-free privileges, firms operating in free trade zones are not eligible to receive rebates. According to COEXPORT (the El Salvadoran Exporters Association), 575 of their more than 600 registered members received rebates in 2000. The Ministry of Finance is reported to have reimbursed $13 million to Salvadoran exporters in rebates during 2000. Until 1997, the government withheld 25 percent of export rebates to satisfy income tax obligations. In 1998, however, this withholding requirement was abolished.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

El Salvador's Intellectual Property Protection Law has been in effect since 1993. The special unit for the monitoring of intellectual property rights, created in the Attorney General's Office in 1996, has conducted raids and seizures of pirated shoes, clothing, books, music recordings, videos, pharmaceuticals, and software. El Salvador was removed from the Special 301 Watch List in July 1996. El Salvador's intellectual property performance was analyzed in a September 2000 "out of cycle review," which acknowledged recent improvements in intellectual property protection and progress in bringing laws into compliance with the TRIPS Agreement but called attention to the need for further action to stem software piracy.

Patents

The 1993 Intellectual Property Protection Law and El Salvador's acceptance of the disciplines in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) addressed several areas of weakness in the patent regime. The 1993 law lengthened patent terms to 20 years from the application filing date. However, several provisions still do not appear to be TRIPS-consistent. These include: only 15 years of protection from the date of solicitation for pharmaceutical products and processes; overly broad compulsory licensing provisions; the potential for obligatory compulsory licenses; and no protection for products in the pipeline. The government is expected to introduce legislation to the Legislative Assembly in 2001 that is designed to meet its TRIPS obligations.

Copyrights

Copyrights are protected by the 1993 law. The Penal Code was amended that same year to provide for criminal penalties for copyright violations. El Salvador has adhered to the Berne Convention. Despite recent positive developments, losses from copyright piracy were estimated by the International Intellectual Property Alliance at $21.6 million in 2000. The government is preparing legislation to correct deficiencies in the country's Copyright and Trademark Legislation, with passage expected in 2001.

Trademarks

Trademarks are regulated by the Central American Convention for the Protection of Industrial Property. The National Registry Office has computerized and streamlined its trademark registration process. Users report improved service. El Salvador is a signatory of the Geneva Phonograms, Paris Industrial Property, and Berne Artistic and Library Work Conventions, but does not belong to the Plant Varieties (UPOV) or the Brussels Satellite Conventions. Also, the country does not belong to the following agreements: the Madrid Agreement on International Registration Marks; the Madrid Agreement for the Repression of False Indications of Source of Goods; the Nice Agreement Concerning the International Classification of Goods Services for the Registration of Marks; the Lisbon Agreement for the Protection of Appellations of Origins of their International Registration; the Locarno Agreement Establishing an International Classification for Industrial Designs; and the Patent Cooperation Treaty.

SERVICE BARRIERS

A new banking law was enacted in 1999. In November 2000, El Salvador implemented a law establishing the U.S. dollar as legal tender along with the *colon*. Foreign banks operating in El Salvador are governed by the same requirements as Salvadoran banks and can offer a full range of services. Rules governing the opening of foreign bank branches are clear and transparent. A 1996 law regulating the insurance sector establishes minimum requirements for net worth and capital investments, provides for a separate supervisory function, and lays out a framework for competition and transparency.

In 1999, El Salvador notified the WTO of its acceptance of the Fifth Protocol to the General Agreement on Trade in Services, which was necessary to bring its commitments on financial services into effect.

Foreign investors are limited to 49 percent of equity in TV and radio broadcasting. Foreign lawyers must be graduates of a Salvadoran university and notaries must be Salvadoran citizens.

ELECTRONIC COMMERCE

There are no known tariff or non-tariff measures, burdensome or discriminatory regulations, or discriminatory taxation affecting electronic commerce. Currently, the National Registry Center of the Ministry of Economy, together with the American Chamber of Commerce and the local Chamber of Commerce and Industry, are joining efforts to prepare a modern Electronic Commerce Law that can promote and regulate according to international E-Commerce standards.

INVESTMENT BARRIERS

There are no significant barriers to investment in El Salvador, and the government actively promotes investment in virtually all sectors of the economy. The United States and El Salvador signed a Bilateral Investment Treaty in early 1999; the U.S. ratified the treaty in February 2001.