COSTA RICA

TRADE SUMMARY

The U.S. goods trade deficit with Costa Rica was $4.0 billion in 2011, up $483 million from 2010. U.S. goods exports in 2011 were $6.1 billion, up 18.1 percent. Corresponding U.S. imports from Costa Rica were $10.1 billion, up 16.3 percent. Costa Rica is currently the 41st largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Costa Rica was $1.7 billion in 2010 (latest data available), roughly the same as in 2009. U.S. FDI in Costa Rica is primarily in the manufacturing sector.

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 will provide 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.

In February 2011, the CAFTA-DR Free Trade Commission (FTC), the central oversight body for the Agreement, met for the first time in San Salvador, El Salvador. The FTC reviewed the implementation of the Agreement and its trade and economic impact on the region and agreed to certain changes to strengthen the Agreement's operation. The FTC discussed a broad range of ways to enhance competitiveness in the region and endorsed several initiatives to generate new opportunities for all of the countries to realize the benefits of the CAFTA-DR Agreement, with a heightened focus on small and medium sized businesses.

The United States hosted an FTC meeting on January 23, 2012 in Miami at which CAFTA-DR countries recognized continued growth in trade and integration, and acted to further strengthen CAFTA-DR institutions and initiatives.

Tariffs

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

Under the CAFTA-DR, however, 100 percent of U.S. industrial trade will enter Costa Rica duty free by 2015. Nearly all textile and apparel goods that meet the Agreement's rules of origin now enter Costa Rica duty free and quota free, creating economic 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 Costa Rica duty free. Costa Rica will eliminate its remaining tariffs on virtually all agricultural products by 2020 (2022 for chicken leg quarters and 2025 for rice and dairy products). For certain agricultural products, tariff-rate quotas (TRQs) will permit some duty-free access for specified quantities during the tariff phase out period, with the duty-free amount expanding during that period. Costa Rica will liberalize trade in fresh potatoes and onions through expansion of a TRQ, rather than by tariff reductions.

Nontariff Measures

Under the CAFTA-DR, all CAFTA-DR countries, including Costa Rica, committed to improve transparency and efficiency in administering customs procedures, including the CAFTA-DR rules of origin. The CAFTA-DR countries also committed to ensuring greater procedural certainty and fairness in the administration of these procedures, and agreed to share information to combat illegal trans-shipment of goods.

Costa Rica implemented the Information Technology Customs Control (TICA) system in 2007 for imports and in early 2009 for exports (other than exports from free trade zones). The TICA system has significantly improved what had been a complex and bureaucratic import process. Under the TICA system, the Costa Rican customs authority has changed its focus from the verification of goods to the verification of processes and data. Customs officials now have up to four years to review the accuracy of import declarations, which allows customs to facilitate the free flow of goods while gathering necessary documentation.

Costa Rica has ratified the "Hague Convention Abolishing the Requirement for Legalization of Foreign Public Documents" or "Apostille Convention," to which the United States is also a party. With implementation of this agreement on December 14, 2011, official documents originating in the United States are subject to a single act of authentication, which is expected to facilitate paperwork for commerce between the United States and Costa Rica.

GOVERNMENT PROCUREMENT

The CAFTA-DR requires that procuring entities 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 Costa Rican government entities, including key ministries and state-owned enterprises, on the same basis as Costa Rican suppliers. The anticorruption provisions in the Agreement require each government to ensure under its domestic law that bribery in matters affecting trade and investment, including in government procurement, is treated as a criminal offense or is subject to comparable penalties.

The government of Costa Rica's "Digital Government" development group, in partnership with the Costa Rican Electricity Institute and others, is currently implementing an automated procurement system dubbed "MerLink." MerLink is streamlining procurement procedures and should significantly reduce the risk of corruption or fraud in the procurement process. In late 2011 and early 2012, the United States Trade and Development Agency disbursed a $430,000 grant to support the "Digital Government" group by providing a roadmap and guidelines for implementation of a government-wide backbone network and shared data center.

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

EXPORT SUBSIDIES

Tax holidays are available for investors in free trade zones, unless tax credits are available in an investor's home country for taxes paid in Costa Rica.

Under the CAFTA-DR, Costa Rica 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, under the CAFTA-DR, Costa Rica was permitted to maintain such measures through 2009, provided that it maintained the measures in accordance with its obligations under the WTO Agreement on Subsidies and Countervailing Measures. The U.S. Government is working with the government of Costa Rica in an effort to ensure compliance with its CAFTA-DR obligations.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Costa Rica was again listed on the Watch List in the 2011 Special 301 report. Recent improvements include passage of legislation to strengthen intellectual property rights (IPR) protection and enforcement in Costa Rica, and the publication of regulations to clarify Internet intermediary liability for copyright infringement. Key concerns include the need to publish better judicial IPR statistics and to seek deterrent penalties for, assign higher priority to, and allocate greater resources for combating piracy and counterfeiting.

The Costa Rican Attorney General's office has recently voiced a willingness to pursue IPR crimes more forcefully than in the past. The United States looks forward to seeing a corresponding improvement in IPR enforcement and will continue to monitor Costa Rica's implementation of its IPR obligations under the CAFTA-DR.

SERVICES BARRIERS

Under the CAFTA-DR, Costa Rica committed to open important segments of its telecommunications market, including private network services, Internet services, and mobile wireless services. Costa Rica's telecommunications market is now open for competition in private network services, Internet services, and mobile wireless services. However, while this market opening is a notable achievement, Costa Rica's new wireless service providers continue to face obstacles, including reluctance by some municipal governments to approve cell tower structures. Furthermore, a prospective supplier that has been seeking to provide Internet services via satellite in Costa Rica since Costa Rica implemented its obligations under CAFTA-DR has been subjected to a lengthy and onerous regulatory review and has not been able to obtain the required license authorization from Costa Rica's telecommunications regulator, the *Superintendencia de Telecomunicaciones* and the telecommunications ministry. Industry claims that competition in Costa Rica's mobile telephony market is hindered by a still under-developed regime to ensure that operators are able to share certain microwave links that are needed to connect base stations to towers throughout the country.

Costa Rica's insurance monopoly no longer exists, and 10 private companies are operating in the market, including four U.S. companies. The new market entrants continue to face challenges from the market power of the former monopoly provider, the National Insurance Institute (INS). In addition, the regulatory regime is not fully developed. Specific concerns relate to deceptive advertising by the former monopoly, the product approval process, and the potential extension of exclusivity contracts between INS and insurance retailers designated as "agents."

INVESTMENT BARRIERS

The regulatory environment can pose significant barriers to successful investment in Costa Rica. One common problem is inconsistent government action between institutions within the central government or between the central government and the municipal government. Another concern for U.S. investors is the frequent recourse to legal challenges before Costa Rica's constitutional court to review whether government authorities have acted illegally or to review the constitutionality of legislation or regulations. Some U.S. investors believe that such challenges have been used at times to undermine their investments or hinder the quick resolution of disputes.

ELECTRONIC COMMERCE

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

OTHER BARRIERS

Some U.S. firms and citizens have found corruption in government, including in the judiciary, to be a concern and a constraint to successful investment in Costa Rica. Administrative and judicial decision making appear at times to be inconsistent, nontransparent, and very time-consuming.

In July 2009, Costa Rica notified the WTO that Costa Rica exceeded its $15.9 million Total Aggregate Measurement of Support (TAMS) ceiling with $17.2 million of trade-distorting domestic support in 2007. Costa Rica later revised its notification for 2007 upwards to $23.3 million. Costa Rica subsequently notified for the years 2008 through 2010 that Costa Rica had continued to exceed its TAMS ceiling at ever increasing levels (*i.e.*, $62.5 million in 2008, $91.7 million in 2009, and $109.7 million in 2010). The entirety of Costa Rica's notified TAMS since 2008 and a majority prior to 2008 is accounted for by price support for rice. Costa Rica's administered price for rice has steadily increased from $258 per ton in 2004 to the current rate of $602 per ton. The United States and other WTO Members have urged Costa Rica to take steps to lower its TAMS below its ceiling commitment, but with no Costa Rican action leading to results to date. The United States is exploring its enforcement options.