

HONDURAS

TRADE SUMMARY

In 2000, the U.S. trade deficit with Honduras was \$515 million, an increase of \$172 million from the U.S. trade deficit of \$344 million in 1999. U.S. merchandise exports to Honduras were \$2.6 billion, an increase of \$205 million (8.7 percent) from the level of U.S. exports to Honduras in 1999. Honduras was the United States' 35th largest export market in 2000. U.S. imports from Honduras were \$3.1 billion in 2000, an increase of \$377 million (13.9 percent) from the level of imports in 1999.

The stock of U.S. Foreign Direct Investment (FDI) in Honduras in 1999 amounted to \$56 million, a decrease of 52.1 percent from the level of U.S. FDI in 1998. U.S. FDI is concentrated largely in the manufacturing sector.

IMPORT POLICIES

Tariffs

Honduras is a member of the Central American Common Market (CACM), which also includes Costa Rica, El Salvador, Guatemala and Nicaragua. There are no duties for products traded among CACM members, although exceptions exist, including certain agricultural products. In 1995, the members of the CACM agreed to reduce and harmonize the common external tariff (CET) at zero to 15 percent, but allowed each member to determine the timing of the reductions. In 1997, Honduras reduced its tariffs to one percent on capital goods, medicines, agricultural inputs, and raw materials for those imports produced outside of the CACM. Tariffs on non-CACM final goods were reduced to 16 percent on December 31, 2000. Honduras intends to reduce its non-CACM external tariffs for other goods (intermediate and finished) over the next several years to between 10 percent and 15 percent. The administrative customs service tax was reduced to 0.5 percent in 1996. By 1998, it was eliminated for most products. Due to tensions between Honduras and Nicaragua over their

Caribbean maritime boundary, the Government of Nicaragua implemented in December 1999 a 35 percent tariff on Honduran products imported into Nicaragua. To date, the tariff remains in place and the Honduran Government has not responded by imposing higher tariffs on Nicaraguan products; the Central American Court has instructed Nicaragua to lift the sanctions.

Non-tariff Measures

Honduras was obligated to implement the WTO Customs Valuation Agreement on January 1, 2000, but WTO records show that Honduras has not yet notified its legislation nor the Customs Valuation Checklist to the WTO Committee on Customs Valuation.

Honduras currently implements a price band mechanism for imports of yellow corn, sorghum, and corn meal. This price band is calculated from a time series of international prices on a given product for the prior 60 months. The 15 highest and lowest monthly prices are eliminated, with the remaining highs and lows establishing the price band. Imports entering with values within the defined band are assessed a 20 percent tariff. Imports entering with prices above the band are assessed duties at a rate lower than 20 percent, according to a predetermined schedule; those imports priced below the band are assessed a tariff higher than 20 percent. However, the government also maintains a seasonal restriction to the price band. From September to January the minimum allowable duty is 20 percent for corn and 15 percent for cornmeal and sorghum. From February to August, duties are allowed to fluctuate according to the predetermined duty tables for each commodity. This seasonal restriction has been added to provide additional protection to local grain farmers during the main harvest season. In addition to the above, the Government of Honduras, farm groups, and importers have agreed to a quasi-tariff rate quota in which the price band remains in effect until local grain

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supplies are exhausted, after which a one percent duty is applied to imports. The United States has strongly opposed the Honduran policies on corn and sorghum as limiting access of U.S. agricultural products.

Recent information from the Government of Honduras indicates that rice is also likely to be covered by the price band mechanism starting in mid-2001. A quasi-tariff rate quota similar to that applied to corn is also expected to be enforced.

STANDARDS, TESTING, LABELING AND CERTIFICATION

All import licensing requirements have been eliminated; however, Honduras maintains an onerous sanitary permit system that limits market access for some U.S. agricultural products, such as chicken parts. The frequent changes in sanitary and phyto-sanitary requirements are seldom reported to the WTO as required, and create a great deal of uncertainty among U.S. suppliers and Honduran importers. The Honduran Government insists that sanitary permits be obtained for all imported foodstuffs.

Honduran law requires that all imported processed food products be labeled in Spanish or be accompanied by a Spanish translation, show expiration dates, and be registered at the Division of Food Control in the Ministry of Public Health. Legally, products cannot be imported into Honduras with just the standard U.S. label; however, the law is usually not enforced for U.S. products in recognition of U.S. health inspection procedures.

Additional import restrictions, based mainly on phyto-sanitary, public health, public morality, and national security grounds, remain in place. For example, restrictions are imposed on firearms and ammunitions, toxic chemicals, chicken meat and cosmetics.

ELECTRONIC COMMERCE

There are currently no barriers or restrictions to electronic commerce. Nevertheless, the Ministry of Industries and Trade foresees the need for some type of control in the near future.

GOVERNMENT PROCUREMENT

Foreign firms are granted national treatment for public bids; in practice U.S. firms complain about the mismanagement and lack of transparency of government bid processes. Under the State Contracting Law, all public works contracts over \$13,000 must be offered through public competitive bidding. To participate in public tenders, foreign firms are required to act through a local agent. Local agency firms must be at least 51 percent Honduran-owned, unless the procurement is linked to a national emergency. Government purchases and project acquisitions are generally exempted from import duties.

Honduras is not a signatory of the WTO Government Procurement Agreement. The U.S. has raised concerns regarding Honduras' lack of cooperation in the WTO Working Party on Transparency in Government Procurement. As a result of these concerns, the U.S. in 2000 suspended a waiver of "Buy America Act" provisions which had previously been applied to Honduras.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Honduras largely complied with the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement requirements by the January 1, 2000 deadline. Honduras' Congress passed in December 1999 two new laws relating to intellectual property to correct deficiencies in previous legislation concerning copyrights, patents, and trademarks. The Ministry of Industries and Trade's IPR Division, the regulatory National Telecommunications Commission, and the Attorney General's Office

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are working closely to assure that these new laws are fully enforced. Laws protecting the design of integrated circuits and plant varieties are still pending before Congress.

Honduras and the U.S. initialed a Bilateral IPR Agreement in March 1999. Final signature of this agreement is still pending. Honduras became a member of the World Intellectual Property Organization (WIPO) in 1983.

Copyrights

In December 1999, the Honduran Congress passed a new TRIPS-compliant Copyright Law, which was published in the official gazette on January 15, 2000. The updated law adds more than 20 different criminal offenses related to copyright infringement and establishes fines and suspension of services that can be levied against offenders. The piracy of books, sound and video recordings, compact discs, and computer software is still widespread in Honduras, however.

Patents and Trademarks

Honduras ratified the Paris Convention for the Protection of Industrial Property in 1994. The Honduran Congress passed in December 1999 a new Law of Industrial Property, which covers both trademarks and patents. To be protected under Honduran law, patents and trademarks must be registered with the Ministry of Industries and Trade.

Subsequent modifications to the Patent Law of 1993 include patent protection for pharmaceuticals, extending the term from seventeen to twenty years to meet WTO standards. The term for cancellation of a trademark for lack of use has been extended from one year to three years. Trademarks are valid for up to 10 years from the registration date. The illegitimate registration of well-known trademarks has been a persistent problem in Honduras.

SERVICES BARRIERS

Special government authorization must be obtained to invest in the tourism, hotel and banking service sectors. Foreigners may not hold a seat on Honduras' two stock exchanges or provide direct brokerage services in these exchanges. Honduran professional bodies heavily regulate the licensing of foreigners to practice law, medicine, engineering, accounting, and other professions.

INVESTMENT BARRIERS

The 1992 Investment Law removed foreign ownership restrictions in most sectors. In an effort to promote investment in the wake of Hurricane Mitch (1998), the Government of Honduras has taken steps, including additional legislative measures, to create a more favorable investment climate in key sectors, including mining, energy, and tourism.

The Constitution of Honduras requires that all foreign investment complement, but not substitute for, national investment. Companies that wish to take advantage of the Agrarian Reform Law; engage in commercial fishing, forestry, or local transportation activities; serve as representatives, agents, or distributors for foreign companies; or operate radio and television stations, must be majority-owned by Hondurans.

In addition, special government authorization is required for foreign investment in the following sectors: forestry, telecommunications, basic health, air transport, fishing and aquaculture, mining, insurance and financial services, private education, and those agricultural and agro-industrial activities exceeding land tenancy limits established by law.

Small-scale commercial and industrial activities with an investment less than 150,000 lempiras

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(about \$10,000) (excluding land, buildings, and vehicles) are reserved exclusively for Honduran nationals. Foreign ownership of land within 40 km of the coastlines and national boundaries is constitutionally prohibited, though tourism investment laws allow for certain exceptions. Consideration of a proposed constitutional amendment to modify the prohibition was dropped in 1999 due to opposition by minority groups living along the Caribbean coast. For all investments, at least 90 percent of a company's labor force must be Honduran, and at least 80 percent of the payroll must be paid to Hondurans.

Historically, U.S. firms and private citizens have found corruption to be a problem and a constraint to foreign direct investment. Corruption appears to be most pervasive in the following areas: government procurement, performance requirements, the regulatory system, and the buying and selling of real estate, particularly land titling. Honduras' judicial system is easily influenced; investment and business disputes involving foreigners are rarely resolved in a transparent manner.

In May 1998, Honduras ratified, adopted and deposited its signature for the Inter-American Anti-Corruption Convention. On July 1, 1995, Honduras and the U.S. signed a Bilateral Investment Treaty (BIT). This treaty has been ratified by the Honduran Congress and is awaiting publication in the official register. The BIT was ratified by the U.S. in February 2001 and will go into effect following an exchange of instruments of ratification.