NICARAGUA

TRADE SUMMARY

U.S. goods exports in 2014 were $1.0 billion, down 4.3 percent from the previous year. Nicaragua is currently the 81st largest export market for U.S. goods. Corresponding U.S. imports from Nicaragua were $3.1 billion, up 10.6 percent. The U.S. goods trade deficit with Nicaragua was $2.1 billion in 2014, an increase of $344 million from 2013.

The stock of U.S. foreign direct investment (FDI) in Nicaragua was $211 million in 2013 (latest data available), down from $218 million in 2012.

Free Trade Agreement

The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR or 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 in 2009. The CAFTA-DR significantly liberalizes trade in goods and services as well as 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 environment.

TECHNICAL BARRIERS TO TRADE / SANITARY AND PHYTOSANITARY BARRIERS

Technical Barriers to Trade

Goods can be delayed due to Nicaragua's labeling requirements, which require product descriptions in Spanish. Translation errors and inaccurate product descriptions can add to delays to getting goods through the customs process.

Law 891 of December 2014, which is an amendment to Nicaragua's Harmonized Tax Code, prohibits the importation of vehicles that are seven years or older and came into effect in 2015. There are several exceptions such as classic or historic vehicles, certain donated vehicles, and certain vehicles used for cargo or public transportation.

Sanitary and Phytosanitary Barriers

The Nicaraguan Institute of Agricultural Protection and Safety (IPSA) requires the inspection of U.S. seafood packing plants by Nicaraguan authorities prior to the exportation of any shipment to Nicaragua from such plants. This import requirement, which is also being enforced in other Central American Countries, comes from the 2011 Central American Technical Regulation on SPS Measures and Procedures (COMIECO Resolution No.271-2011). This measures was not notified to the WTO. U.S. exporters have complained that this import requirement increases trade costs significantly since they must incur all costs associated with plants inspections, including the travel expenses of Nicaraguan technicians to the United States.

IMPORT POLICIES

Tariffs

As a member of the Central American Common Market, Nicaragua applies a harmonized external tariff on most items at a maximum of 15 percent, with some exceptions. Approximately 95 percent of tariff lines are harmonized at this rate or lower. In response to rising prices, in 2007, Nicaragua issued a series of decrees to eliminate or reduce to 5 percent tariffs on many basic foodstuffs and consumer goods. These decrees have been extended every six months and are currently in effect through June 30, 2015.

Under the CAFTA-DR, as of January 1, 2015, all of U.S. consumer and industrial goods enter Nicaragua duty free. Nearly all textile and apparel goods that meet the Agreement's rules of origin also now enter Nicaragua duty free and quota free, promoting new opportunities for U.S. and regional fiber, yarn, fabric, and apparel manufacturing companies.

More than half of U.S. agricultural exports now enter Nicaragua duty free under the CAFTA-DR. Nicaragua will eliminate its remaining tariffs on virtually all U.S. agricultural goods 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. Nicaragua will liberalize trade in white corn through continual expansion of a TRQ rather than the reduction of the out-of-quota tariff.

Nontariff Measures

Under the CAFTA-DR, all of the Parties, including Nicaragua, committed to improve transparency and efficiency in administering customs procedures. The Nicaraguan government levies a "selective consumption tax" of 15 percent or less on some luxury items, with a few exceptions such as yachts and helicopters, for which the consumption tax is zero as of 2015. The tax is not applied exclusively to imports; domestic goods are taxed on the manufacturer's price, while imports are taxed on a "cost, insurance, and freight" (CIF) value. Alcoholic beverages and tobacco products are taxed on the price billed to the retailer.

U.S. companies report that difficulties with the Nicaraguan Customs Administration are a significant impediment to trade. Complaints concern bureaucratic delays, arbitrary valuation of goods, technical difficulties, corruption, and politicization. In particular, U.S. exporters and importers of U.S. goods have also raised concerns about the tariff classification of their goods by Customs, delays, and lack of transparency in customs release procedures.

There are also significant delays at the borders; six government institutions process paperwork to import. Additionally many services, such as lab testing for food safety, are available only in Managua, meaning importers often experience delays as goods sometimes have to be stored in Managua while testing is completed.

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. Despite these protections, there are many allegations of irregularities in the procurement process, in particular involving procuring entities splitting procurements into smaller lots, an action which allows them to use a less competitive bidding process. The United States will continue to monitor Nicaragua's government procurement practices to ensure they are applied consistent with CAFTA-DR obligations. Nicaragua is not a signatory to the WTO Agreement on Government Procurement.

EXPORT SUBSIDIES

ALBANISA, the state-owned company that imports and distributes Venezuelan petroleum, provides preferential financing to parties that agree to export their products to Venezuela.

All exporters receive tax benefit certificates equivalent to 1.5 percent of the free-on-board value of the exported goods. Under the CAFTA-DR, Nicaragua 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, Nicaragua 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. The U.S. Government continues to work with the Nicaraguan government to ensure compliance with Nicaragua's CAFTA-DR obligations.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Nicaragua did not appear on the Watch List or Priority Watch List in the 2014 Special 301 Report. To implement its CAFTA-DR intellectual property rights (IPR) obligations, Nicaragua undertook legislative reforms providing for stronger IPR protection and enforcement. Despite these reforms, the United States continues to be concerned about the piracy of optical media and trademark violations in Nicaragua. The United States has expressed concern to the Nicaraguan government about inadequate IPR enforcement, as well as a lack of transparency about its legislative and regulatory processes. Nicaragua amended its laws governing protections for geographical indications (GIs) in anticipation of the European Union Central American Association Agreement's trade pillar that came into effect on August 1, 2013. The United States has stressed the need for use of CAFTA-DR-consistent protections and processes, including providing public notice and an opportunity for opposition and cancellation, and transparency and impartiality in decision making. The United States will continue to monitor Nicaragua's implementation of its IPR obligations under the CAFTA-DR.

SERVICES BARRIERS

Telecommunications

Under the CAFTA-DR, Nicaragua committed to opening its telecommunications sector to U.S. investors and services suppliers. The Nicaraguan executive branch has proposed legislation that would strengthen the enforcement capacity of the telecommunications regulator (TELCOR). The United States is monitoring this process.

INVESTMENT BARRIERS

During the 1980s, the Nicaraguan government confiscated some 28,000 properties in Nicaragua. Since 1990, thousands of individuals have filed claims for the return of their property or to receive compensation. Where granted, compensation is most commonly provided via low interest bonds issued by the government. Since taking office in January 2007, the administration of President Ortega has resolved over 400 U.S. citizen claims; as of November 2014 a total of 150 U.S. claims registered with the U.S. Embassy remain outstanding. The United States continues to press the Nicaraguan government to resolve these outstanding claims.

OTHER BARRIERS

Some U.S. firms and citizens report corruption in government, including in the judiciary, to be a significant concern and a constraint to successful investment in Nicaragua. Administrative and judicial decision-

making at times appear to be inconsistent, nontransparent, and very time-consuming. Courts have frequently granted orders (called “amparos”) that enjoin official investigatory and enforcement actions indefinitely. Such delays appear to protect individuals suspected of white collar crime.

Investors have raised concerns that regulatory authorities are slow to apply existing laws or apply laws that should have been superseded by CAFTA-DR provisions, act arbitrarily, and often favor one competitor over another. Investors cite arbitrariness in taxation and customs procedures. There is concern that the frequency and duration of tax audits of foreign investors could interfere with normal business operations.