

DOMINICAN REPUBLIC

TRADE SUMMARY

The U.S. goods trade surplus with the Dominican Republic was \$1.9 billion in 2007, an increase of \$1.1 billion from \$818 million in 2006. U.S. goods exports in 2007 were \$6.1 billion, up 13.8 percent from the previous year. U.S. imports from the Dominican Republic over the corresponding period were \$4.2 billion, down 6.9 percent. The Dominican Republic is currently the 32nd largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in the Dominican Republic was \$896 million in 2006 (latest data available), up from \$770 million in 2005. U.S. FDI in the Dominican Republic is concentrated largely in the manufacturing sector.

IMPORT POLICIES

Free Trade Agreement

On August 5, 2004, the United States signed the Dominican Republic-United States-Central America 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).

During 2006, the Agreement entered into force for the United States, El Salvador, Guatemala, Honduras, and Nicaragua. The CAFTA-DR entered into force for the Dominican Republic on March 1, 2007. Costa Rica approved the CAFTA-DR through a national referendum on October 7, 2007, but the Agreement has not entered into force as Costa Rica has not yet completed the process of adopting implementing legislation and regulations.

In 2007, the Parties agreed to amend 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 textile amendments have not entered into force.

Under the Agreement, the Parties remove barriers to trade and investment in the region, which will strengthen regional economic integration. 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.

Tariffs

Under the CAFTA-DR, about 80 percent of U.S. industrial and consumer goods now enter the Dominican Republic duty free, with the remaining tariffs phased out over 10 years. Nearly all textile and apparel goods that meet the Agreement's rules of origin now enter 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 enter the Dominican Republic duty free. The Dominican Republic will eliminate its remaining tariffs on nearly all agricultural goods within 15 years. 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.

Nontariff Measures

Customs Department (Customs) policies and procedures frequently provoke complaints by businesses, and arbitrary clearance requirements sometimes delay the importation of merchandise for lengthy periods of time. On July 1, 2001, the Dominican Republic agreed to apply the WTO Agreement on Customs Valuation (CVA) whereby all imported goods from WTO Members are assessed duties based on the transaction value, unless use of another valuation method specified in the Agreement is necessary. The Dominican Republic requested and received a waiver from the WTO to exclude 31 items from application of the CVA. Duties on the excluded products are assessed on the basis of a minimum “reference value” assigned by Dominican Customs. However, U.S. exporters report that Dominican Customs has often used the list of reference values for products other than those covered by the WTO waiver.

On July 11, 2006, the Deputy Director of Customs announced that Customs would make adjustments to reference values due to high levels of undervaluation by businesses. Since that time Dominican importers and associations have complained to the U.S. Embassy that Dominican Customs has increased reference values for all products entering the country and refuses to accept an importer’s commercial invoice as proof of price paid, and thus dutiable value. The United States has raised this issue with Dominican Customs each time it has been reported to the Embassy.

The 17 percent tax on the first *matricula* (registration document) for all vehicles which was created by the government in 2006 remains in effect.

On October 31, 2005, the United States and the Dominican Republic signed a Customs Mutual Assistance Agreement that allows customs officials to exchange information, intelligence, and documents designed to help prevent customs offenses. The Agreement provides a basis for cooperation and investigation in the areas of trade fraud, money laundering, smuggling, export controls, and related security. The United States donated nonintrusive (X-ray) verification equipment that will upgrade and expedite the verification process. Dominican Customs is in the process of expanding the project by either purchasing or leasing additional equipment.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

Sanitary permits have been used in the Dominican Republic as import licenses to control import levels of selected commodities and other products. The lengthy and unpredictable approval process for sanitary permits for shipments of U.S. meat and dairy products has been a serious problem for importers. In connection with the implementation of the CAFTA-DR, the Dominican Republic issued regulations that would discontinue this practice. However, there are complaints from some U.S. companies that this practice continues to be a problem.

In addition, the Ministry of Agriculture and Livestock enforces sanitary measures that appear to be inconsistent with international standards and the differences do not appear to be based on science (*e.g.*, zero tolerance for *Salmonella* on raw meat and poultry products and for *Tilletia* on shipments of U.S. rice). During the CAFTA-DR negotiations, the governments created an intergovernmental working group to discuss Sanitary and Phytosanitary (SPS) barriers to agricultural trade. As a result of the work of this group, the Dominican Republic committed to resolve specific measures restricting U.S. exports to the Dominican Republic. In addition, the Dominican Republic agreed to recognize 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. However, at this point the Dominican Republic maintains restrictions on U.S. beef and beef products from animals over 30 months of age as well as live cattle of any age.

GOVERNMENT PROCUREMENT

U.S. suppliers have complained that Dominican government procurement is not conducted in a transparent manner and that corruption is widespread. 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 Dominican government entities, including key ministries and state-owned enterprises, on the same basis as Dominican suppliers. The anti corruption provisions in the Agreement require each government to ensure under its domestic law that bribery in trade related matters, including in government procurement, is treated as a criminal offense or subject to comparable penalties.

The Dominican Republic is not a signatory to the WTO Agreement on Government Procurement.

EXPORT SUBSIDIES

The Dominican Republic does not have export promotion schemes other than the tariff exemptions for inputs given to firms in the free trade zones. Under the CAFTA-DR, the Dominican Republic is not permitted to adopt new duty waivers or expand existing duty waivers that are conditioned on the fulfillment of a performance requirement (*e.g.*, the exportation of a given level or percentage of goods). However, under the CAFTA-DR, the Dominican Republic is permitted to maintain such measures through 2009, provided that it maintains the measures in accordance with its obligations under the WTO Agreement on Subsidies and Countervailing Measures.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

While Dominican law provides for sanctions to protect copyrighted works, and the Dominican regulatory framework for patent and trademark protection was improved, U.S. industry continues to cite lack of IPR enforcement as a major concern. To implement the CAFTA-DR requirements, the Dominican government passed legislation in November 2006 to strengthen its IPR protection regime by, for example, requiring authorities to seize and destroy counterfeit and pirated goods and the equipment used to produce them. There has been improved coordination among various government agencies including the Secretariat of Industry and Commerce, the Attorney General's Office, the Patent Office, and the Copyright Office to stop television broadcast piracy.

Patents and Trademarks

The U.S. pharmaceutical industry has expressed concern that the sanitary authority of the Dominican Republic Ministry of Health and Social Welfare continues to approve the import, export, manufacture, marketing, and/or sale of pharmaceutical products that infringe on patented products registered in the Dominican Republic. The Industrial Property Law, which was amended in 2000, has not often been applied in legal proceedings, so the effectiveness of the law has not been thoroughly tested.

The CAFTA-DR requires that test data submitted to the Dominican government for the purpose of product approval be protected against unfair commercial use for a period of 5 years for pharmaceuticals and 10 years for agricultural chemicals from the date of product approval in the Dominican Republic. Legislation providing for this protection was passed in November 2006.

Copyrights

Despite a strong copyright law, the existence of a specialized IPR office within the Public Ministry (Attorney General's office), and some improvement in enforcement activity, piracy of copyrighted materials remains common. Audio recordings, video recordings, and software are often copied without authorization and, in the case of software; copies are often used without proper license. While the authorities have made some effort to seize and destroy pirated goods, they often fail to target those that are responsible for copying such copyrighted works or those in the distribution network. Investigations are often hampered by a lack of resources and poor interagency cooperation. U.S. industry representatives point to lengthy delays when cases are submitted for prosecution.

SERVICES BARRIERS

Under the CAFTA-DR, U.S. financial service suppliers are allowed to establish subsidiaries, joint ventures, or branches for banks and insurance companies. In addition, U.S. based firms are permitted to supply insurance on a cross border basis, including reinsurance, reinsurance brokerage, as well as marine, aviation, and transport insurance.

The Dominican Republic ratified the 1997 WTO Financial Services Agreement and its monetary and financial laws are consistent with the commitments of the WTO agreement.

INVESTMENT BARRIERS

The CAFTA-DR establishes a more secure and predictable legal framework for U.S. investors operating in the Dominican Republic. Under the CAFTA-DR, all forms of investment are protected including enterprises, debt, concessions, contracts, and intellectual property. In almost all circumstances, U.S. investors enjoy the right to establish, acquire, and operate investments in the Dominican Republic on an equal footing with local investors. Among the rights afforded to U.S. investors are due process protections and the right to receive a 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. Submissions to dispute panels and panel hearings will be open to the public, and interested parties will have the opportunity to submit their views.

The Dominican Republic implemented the New York Convention on Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention) in August 2002. The New York Convention provides courts a mechanism to enforce international arbitral awards. In a case that was recently concluded, a U.S. firm settled a dispute with a Dominican state-owned company after winning an international arbitral award at the International Commercial Court.

ELECTRONIC COMMERCE

Law 126-02 enacted in 2002 regulates electronic commerce, documents, and digital signatures. The CAFTA-DR includes provisions on electronic commerce that reflect the issue's importance to global trade. Under the CAFTA-DR, the Dominican Republic has committed to provide nondiscriminatory treatment of U.S. digital products, and not to impose customs duties on digital products transmitted electronically.

OTHER BARRIERS

U.S. companies have complained about a lack of transparency and corruption in many sectors, including the judicial system. While successful prosecutions of corrupt individuals and a general reduction in the

civil case backlog are beginning to inspire business confidence, a sometimes lengthy and unpredictable judicial process still creates a degree of uncertainty for U.S. companies. For example, a 1999 Dominican Supreme Court decision regarding the imposition of new taxes on airlines found that the Dominican Congress must approve any such tax. Nevertheless, an apparently contradictory resolution was issued in October 2006 by the Dominican civil aviation authority, which imposed, without Dominican congressional approval, a new tax on all airlines to be paid in U.S. dollars. The 2006 resolution is currently being challenged in the Dominican courts.

Dominican law provides that bribery in trade related matters is treated as a criminal offense or is subject to comparable penalties. These provisions should enhance transparency, predictability, and the rule of law.

Dealer Protection

Many U.S. companies have expressed concern that the Dominican Dealer Protection Law 173, which applies only to foreign suppliers, makes it extremely difficult to terminate contracts with local agents or distributors without paying exorbitant indemnities. Under Law 173, foreign firms may be tied to exclusive or inefficient distributor arrangements. Several U.S. companies have lost lawsuits brought under this law and have suffered significant financial penalties. One U.S. company is appealing a court ruling which threatens to inhibit its ability to sell as well as service its products in the Dominican Republic. By limiting the ability of a foreign firm to change its local agent without severe penalties and compensation, this law has had a negative effect on market access and on consumer welfare.

The CAFTA-DR required the Dominican Republic to change this dealer protection regime to provide more freedom to negotiate the terms of commercial relations and to encourage the use of arbitration to resolve disputes between parties to dealer contracts. In November 2006, the Dominican Congress passed legislation to modify Law 173 to make future contracts of U.S. companies exempt from its restrictive provisions.