

# DOMINICAN REPUBLIC

## TRADE SUMMARY

In 1999, the U.S. trade deficit with the Dominican Republic was \$196 million, a decrease of \$269 million from 1998. U.S. merchandise exports to the Dominican Republic were \$4.1 billion, an increase of \$108 million over 1998. The Dominican Republic was the United States' 28<sup>th</sup> largest export market in 1999. U.S. imports from the Dominican Republic were \$4.3 billion in 1999, a decrease of \$161 million from the level of imports in 1998.

The stock of U.S. Foreign Direct Investment (FDI) in the Dominican Republic in 1998 was \$535 million. U.S. FDI in the Dominican Republic is concentrated largely in the manufacturing and financial sectors. Much of the U.S. investment in the manufacturing sectors is located in export processing zones where footwear, apparel and, to a lesser extent, electronic products and medical goods, are assembled from U.S. components and materials and then exported back to the United States.

## IMPORT POLICIES

### Tariffs

Tariffs on most products fall within a range of three to thirty-five percent. However, the Government of the Dominican Republic imposes a five to eighty percent selective consumption tax on "nonessential" imports such as home appliances, alcohol, perfumes, jewelry, automobiles and auto parts. The calculation of this tax is non-transparent, and U.S. exporters have complained that it is applied to foreign products in a discriminatory manner. In 1998, the Fernandez Administration again proposed an extensive tariff reduction to the Dominican Congress in connection with its plans to submit for ratification a free trade agreement negotiated with Central America. The Congress has not yet acted on the proposal.

## Non-tariff Barriers

U.S. producers of many products face an additional *de facto* trade barrier in the form of a highly discretionary customs valuation system. The Dominican Republic had committed to meet the obligations of the WTO Customs Valuation Agreement, which prohibits the use of arbitrary valuations, by January 1, 2000. The Dominican Government is currently seeking an extension of this deadline, but continues to confirm its commitment to coming into compliance with its WTO obligations.

Import permits are required for most agricultural products which, in the case of beef and pork products, are often delayed or withheld. Arbitrary customs clearance procedures sometimes delay the importation of merchandise for lengthy periods. Furthermore, the Dominican Government continues to require importers to obtain from a Dominican Consulate in the United States a consulate invoice and "legalization" of documents with attendant fees and delays.

U.S. companies have expressed concern that Dominican dealer protection legislation makes it extremely difficult to terminate contracts with local agents or distributors without paying exorbitant indemnities.

## STANDARDS, TESTING, LABELING AND CERTIFICATION

The Dominican Republic generally accepts U.S. certifications and standards. U.S. agricultural exports are sometimes subject to arbitrarily enforced and non-scientifically based sanitary and phytosanitary measures.

## GOVERNMENT PROCUREMENT

There is no explicit "buy national" policy; however, government procurement is often conducted without the benefit of open bidding. The processes by which contractors and/or suppliers are chosen are often opaque. The Dominican Republic is not a signatory of the WTO Agreement on Government Procurement.

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### EXPORT SUBSIDIES

The Dominican Republic does not have aggressive export-promotion schemes other than the exemptions given to firms in the free trade zones. A tax rebate scheme designed to encourage exports is considered a failure and is usually avoided by exporters.

### INTELLECTUAL PROPERTY RIGHTS PROTECTION

Dominican law does not provide adequate and effective protection of intellectual property rights, in apparent contravention of international standards such as the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Concerns exist in both the copyright and patent regimes.

The Dominican Republic was upgraded to the USTR Special 301 Priority Watch List in 1998, and designated again in 1999, due to continuing concerns about lack of TRIPS-consistent laws, and inadequate enforcement against piracy and counterfeiting. U.S. industry currently assesses its economic losses in the Dominican market in pharmaceutical products alone are in excess of \$50 million. A report prepared by the International Intellectual Property Alliance (IIPA) estimates that copyright infringements in the Dominican Republic cost U.S. firms \$17.5 million in 1998.

#### Copyrights

The piracy of computer software, video and audio tapes, and compact disk technologies, as well as television programming, continues although the Dominican copyright office has been more active in the past year in seeking to enforce the law. A U.S. Government review of the Dominican Republic's trade preferences under the Generalized System of Preferences (GSP), in response to a petition from the Motion Picture Association (MPA) claiming widespread cable television piracy, was terminated in 1994 when the Dominican Government took steps to address U.S. concerns. Larger cable television companies now generally pay fees and royalties,

but some systems are still pirating signals and programs. The MPA and Television Association of Programmers (TAP) visited the Dominican Republic in 1997 to raise this recurring problem. The Dominican Government has taken some steps in response, although such initiatives have not been enough to stem the problem. In early 2000, USTR accepted a GSP petition filed by the IIPA alleging deficiencies in both the Dominican Republic's legal framework, as well as its enforcement regime, which result in insufficient protection of intellectual property rights for copyrighted materials.

#### Patents

The existing 1911 Law provides for broad exclusions of subject matter from patentability, and includes onerous local working requirements. Current law is also inadequate with respect to term of protection. The Fernandez Government has submitted new intellectual property legislation to the Congress. There is some concern that the patent provisions of this legislation may not comply with the TRIPS Agreement. Moreover, the Ministry of Health is apparently continuing to grant marketing approvals for patent infringing products.

#### Trademarks

Trademark enforcement is inadequate, particularly in the area of well-known apparel and athletic shoe brands, which are counterfeited and sold widely on the local market.

### SERVICES BARRIERS

Until recently, foreign participation in the financial services sector was restricted by law. The 1995 Foreign Investment Law, and a Financial-Monetary Code still before the Dominican Congress, permit foreign involvement in the financial services sector. However, the practical impact of these provisions is not clear. The Dominican Insurance Law requires that at least 51 percent of the shares of national insurance companies be held by Dominican shareholders. There is no

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secondary securities market in the Dominican Republic. The Dominican Republic has not yet ratified the 1997 WTO financial services agreement, formally known as the Fifth Protocol to the General Agreement on Trade in Services, which is necessary to bring its commitments under the financial services agreement into force. Under the Fifth Protocol, the Dominican Republic committed to allow foreign banks to establish branches or local companies with up to 49 percent foreign equity to supply deposit taking, lending, and credit card services. Foreign investors may also own up to 49 percent equity in local suppliers of leasing and insurance service suppliers.

### INVESTMENT BARRIERS

Legislation designed to improve the investment climate passed in November 1995. Its implementing regulations were issued by the Fernandez administration in September 1996. The legislation does not contain procedures for settling disputes arising from Dominican Government actions. The seizures of foreign investors' property by past governments which are still unresolved, refusal to honor customs exoneration commitments, and the government's slowness in resolving claims for payments reduce the attractiveness of the investment climate, notwithstanding passage of the 1995 legislation.

Dominican expropriation standards do not appear to be consistent with international law standards; several investors have outstanding disputes concerning expropriated property. The Government continues to maintain that it wishes to resolve these issues although progress has been slow. The Dominican Republic does not recognize the right of investors to binding international arbitration.

The Fernandez Administration has made great efforts to increase foreign investment in the Dominican electrical sector, especially through a capitalization of the state electric company that leaves control of the distribution system and most of its generating capacity in private hands. The Dominican Government has failed,

however, to live up to its commitments under agreements signed in connection with the capitalization, particularly with regard to payments to the six independent power producers (IPPs) that together provide nearly one-half of the nation's electricity. Substantial arrears to the IPPs have impeded their ability to buy fuel and meet other expenses, thus requiring some of them to suspend operations from time to time.