

DOMINICAN REPUBLIC

TRADE SUMMARY

In 2000, the U.S. trade surplus with the Dominican Republic was \$59 million, an improvement of \$256 million from the U.S. trade deficit of \$196 million in 1999. U.S. merchandise exports to the Dominican Republic were \$4.4 billion, an increase of \$358 million (8.8 percent) from the level of U.S. exports to the Dominican Republic in 1999. The Dominican Republic was the United States' 28th largest export market in 2000. U.S. imports from the Dominican Republic were \$4.4 billion in 2000, an increase of \$102 million (2.4 percent) from the level of imports in 1999.

The stock of U.S. foreign direct investment (FDI) in the Dominican Republic in 1999 amounted to \$952 million, an increase of 45.8 percent over the level of U.S. FDI in 1998. U.S. FDI in the Dominican Republic is concentrated largely in the manufacturing, petroleum and banking services.

IMPORT POLICIES

Tariffs

Tariffs on most products fall within a range of zero to twenty percent. However, the Government of the Dominican Republic imposes a five to eighty percent selective consumption tax on items such as home appliances, alcohol, perfumes, jewelry, automobiles and auto parts. This tax applies to domestically produced as well as imported goods. The calculation of this tax is non-transparent, and U.S. exporters have expressed concern that the consumption tax is applied to foreign products in a discriminatory manner.

In late 2000, the Dominican Republic enacted tax legislation which adjusted excise tax rates applied to alcoholic spirits. The new structure establishes a 35 percent tax rate for rum and a 45 percent rate for all other spirits. The U.S. has raised concerns that this distinction in tax rates may have a discriminatory effect against imported spirits.

Non-tariff Measures

U.S. producers of many products currently face problems with a highly discretionary customs valuation system, but these problems should come to an end when the Dominican Republic implements the WTO Agreement on Customs Valuation in July 2001. The Dominican Republic was obligated to implement this Agreement, which prohibits the use of arbitrary valuations, by January 1, 2000. However, before that date, the Dominican Government requested a sixteen month extension which was granted by the WTO Committee on Customs Valuation.

Import permits are required for most agricultural products which, in the case of beef, pork and poultry products, are often delayed or withheld. Arbitrary customs clearance procedures sometimes delay the importation of merchandise for lengthy periods. The Dominican Government recently eliminated a long-standing requirement that importers 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 subject to sanitary and phytosanitary measures that appear sometimes to be arbitrarily enforced and not based on science.

GOVERNMENT PROCUREMENT

In early 2001, the Dominican Congress passed legislation that prohibits the use of government budget funds to purchase imported goods and

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services. The new law has not been signed by the President and promulgated. 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. In the past, the U.S. Government has provided a waiver of "Buy America Act" provisions, conditioned on support for international efforts to promote transparency and openness in government procurement markets. In December 2000, for the second year, USTR announced that the waiver would not be provided to the Dominican Republic, primarily due to the Dominican Republic's opposition to progress in the WTO Working Group on Transparency in Government Procurement. This decision will be reviewed in September 2001.

EXPORT SUBSIDIES

The Dominican Republic does not have aggressive export-promotion schemes other than the exemptions given to firms in 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 currently 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 placed on the USTR Special 301 Priority Watch List in 1998, and designated again in 1999 and 2000, 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 \$23.35 million in 2000.

Copyrights

The piracy of computer software, video and audio tapes, and compact disc technologies, as well as television programming, continues although the Dominican copyright office has been more active in the past two years in enforcing 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 Dominican Government has taken some steps in response to U.S. industry concerns, 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. A new Copyright Law was passed in 2000 that appears to comply with TRIPS requirements.

Patents

A new patent law passed in 2000 appears to fall considerably short of the requirements of TRIPS in several areas including inappropriate limitations on what inventions may be patented, and overly broad provisions relating to compulsory licensing. Infringement of pharmaceutical patents remains widespread. The U.S. raised a series of concerns

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regarding the new patent law in consultations held with Dominican Republic officials in November 2000. In connection with the U.S. Government's review of the Dominican Republic's eligibility for enhanced trade preferences under the Caribbean Basin Initiative, the Mejia Administration pledged to bring intellectual property protection up to TRIPS standards.

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. The Dominican government recently began a program to speed up trademark registrations.

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 secondary securities market in the Dominican Republic. The Dominican Republic has not yet ratified its commitments under the 1997 WTO Financial Services Agreement and accepted the Fifth Protocol of the GATS. Under the agreement, 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 services.

INVESTMENT BARRIERS

Current Dominican investment 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 and the government's slowness in resolving claims for payments reduce the attractiveness of the investment climate.

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 previous Fernandez Administration 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. It 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. The new Mejia Administration is establishing a better record of meeting current invoices, and has indicated its commitment to resolving the problem of arrears.