

DOMINICAN REPUBLIC

TRADE SUMMARY

In 2001, the U.S. trade surplus with the Dominican Republic was \$200 million, an increase of \$111 million from the U.S. trade surplus of \$90 million in 2000. U.S. goods exports to the Dominican Republic were \$4.4 billion, a decrease of \$90 million (2.0 percent) from the level of U.S. exports to the Dominican Republic in 2000. The Dominican Republic was the United States' 26th largest export market in 2001. U.S. imports from the Dominican Republic were \$4.2 billion in 2001, a decrease of \$200 million (4.6 percent) from the level of imports in 2000.

The stock of U.S. foreign direct investment (FDI) in the Dominican Republic in 2000 amounted to \$1.1 billion, an increase of 17.8 percent over the level of U.S. FDI in 1999. U.S. FDI in the Dominican Republic is concentrated largely in the manufacturing and banking sectors.

Much of the U.S. investment in the manufacturing sector is located in export processing zones where apparel, footwear, electronic products and medical goods are assembled from U.S. components and materials and then exported back to the United States.

IMPORT POLICIES

In December 2000, the Dominican government unilaterally lowered its maximum tariff on most items from 40 percent to 20 percent. These steps were taken in connection with Dominican commitments under free trade agreements with Central American and Caribbean countries. Tariffs on beef imports, however, were recently raised from 25 percent to 40 percent, and U.S. exporters of fresh fruit have raised concerns about the restrictive impact of a 35 percent tariff on these products.

The Government of the Dominican Republic imposes a selective consumption tax ranging from 15 percent to 60 percent on "nonessential" products such as home appliances, alcohol, perfumes, jewelry, automobiles and auto parts. The United States has raised concerns about the possible discriminatory effect of application of this tax on distilled spirits, because the tax on whisky (much of which is imported) is 45 percent, while that on rum (nearly all of which is domestically produced) is only 35 percent.

Bringing goods through Dominican Customs can often be a slow and arduous process. Customs Department interpretations often provoke complaints by business persons, and arbitrary 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 consular invoice and "legalization" of documents, with attendant fees and delays. The use of "negotiated fee" practices to gain faster customs clearance continues to put some U.S. firms at a competitive disadvantage in the Dominican market.

The Dominican government implemented the WTO Agreement on Customs Valuation in July 2001 following a 16 month extension granted by the WTO Committee on Customs Valuation. It has notified its implementing legislation to the WTO. In October 2001, the Dominican Republic was granted a waiver which permits continued use of reference prices on over two dozen categories of goods until July 1, 2003. Import permits are required for most agricultural products which, in the case of beef and pork products, are often delayed or withheld.

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.

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STANDARDS, TESTING, LABELING AND CERTIFICATION

The Dominican Republic generally accepts U.S. certifications and standards. U.S. agricultural exports are sometimes subject to sanitary and phytosanitary measures that appear to be arbitrarily enforced and not based on science.

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. The U.S. has raised concerns regarding the Dominican Republic’s lack of cooperation in the WTO Working Party on Transparency in Government Procurement. As a result of these concerns, the U.S. has suspended a waiver of “Buy America Act” provisions which had previously been applied to the Dominican Republic.

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 (IPR) 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 with respect to both the copyright and patent regimes, as well as enforcement. The Dominican Republic was placed on the USTR Special 301 Priority Watch List in 1998, where it has remained to date due to continuing concerns about the apparent lack of TRIPS-consistent laws, and inadequate enforcement against piracy and counterfeiting.

Patents

Patent legislation 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 related to compulsory licensing. Enforcement against patent infringement, especially concerning pharmaceuticals, remains a problem. The Dominican government has pledged to bring its intellectual property regime up to TRIPS standards, and the United States and Dominican governments have held consultations on these matters.

Copyrights

Despite a new, TRIPS-compliant copyright law passed in 2000 and some improvement in enforcement activity, piracy of copyrighted materials is still widespread. Video and audio recordings and software are being copied without authorization despite the government’s efforts to seize and destroy such pirated goods. Some television and cable operators are re-broadcasting signals without compensating either the original broadcaster or the originator of the recording. The Motion Picture Association of America estimates that losses to the U.S. motion picture industry due to audiovisual piracy in the Dominican Republic exceed \$2 million per year.

Trademarks

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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 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 thereunder 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

Dominican legislation does not contain procedures for settling disputes arising from Dominican Government actions. 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, and is currently examining several cases for possible

resolution through issuance of government bonds under a 1999 law. The Dominican Republic has never recognized the right of investors to binding international arbitration, but in 2001 the Dominican Congress ratified the Convention on Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention).

In 1999, capitalization of the state electric company left 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 independent power producers (IPPs) that together provide nearly forty percent of the nation's electricity.