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U.S. bilateral trade with Venezuela totalled \$15.8 billion in 1998. Venezuela was the United States' 22nd largest export market in 1998. U.S. merchandise exports to Venezuela totalled more than \$6.5 billion, a decrease of \$88 million (1.3 percent) from 1997. U.S. imports from Venezuela were approximately \$9.3 billion in 1998, a decrease of \$4.2 billion (31.0 percent) from 1997. This resulted in a U.S. trade deficit with Venezuela of \$2.8 billion, a decrease of \$4.1 billion from the \$6.8 billion U.S. trade deficit in 1997. The decrease in Venezuelan exports to the United States and the consequent reduction in the U.S. trade deficit during 1998 can be attributed to the sharp fall in oil prices caused in part by the recession in Asia.

The stock of U.S. foreign direct investment (FDI) in Venezuela in 1998 was nearly \$3.7 billion, an increase of 0.4 percent from the level of U.S. FDI in 1997. U.S. FDI in Venezuela is concentrated largely in the manufacturing and petroleum sectors.

IMPORT POLICIES

Tariffs

Venezuela has continued its efforts to conclude trade arrangements with other countries in Latin America and the Caribbean. Consequently, Venezuela extends preferential tariffs on a limited variety of products to member states of the Latin American Integration Association (ALADI). Venezuela signed a partial Free Trade Agreement with Chile in 1993. In 1997, the two countries agreed to expand the treaty's scope by eliminating the list of goods excluded from preferential treatment. Venezuela and Colombia have also concluded a Free Trade Agreement with Mexico (the "G-3" agreement), which entered into force on January 1, 1995. Under this agreement, most tariffs will be eliminated by 2004. Venezuela also has a preferential agreement with the Caribbean Common Market (CARICOM), under which CARICOM started to reduce tariffs on Venezuelan goods in 1998. Venezuela, jointly with Colombia, signed a framework agreement on free trade with several Central American countries in 1994, but has not yet negotiated schedules on tariff reduction and trade liberalization. Venezuela is also currently negotiating a free trade agreement with the Southern Common Market (MERCOSUR) in conjunction with other Andean Community members.

These preferential trade arrangements at the regional level put U.S. exports to Venezuela at a disadvantage. For instance, Venezuela imposes a 20 percent ad valorem duty on imports of U.S. beer, wines and distilled spirits, while some categories of wine from Argentina, Chile, and Mexico are subject to duties of only 4.0 and 5.6 percent, respectively. Under the G-3 Agreement, duties on almost all imported alcoholic beverages from Mexico will be reduced to zero by 2004.

The Andean Community tariff on soybeans and its byproducts is variable (set by a price band system), but it is usually 15 percent. Soybean oils from Paraguay, Argentina and Brazil are subject to lower duties of 1, 8, and 10 percent, respectively, as a result of trade preference agreements. Soybean meal from Paraguay is subject to a 3.75 percent tariff. Eliminating these preferences could increase U.S. exports by \$5-10 million.

Similarly, Venezuela imposes a 15 percent duty on fresh and dried fruit from the United States. Under the Venezuela-Chile free trade agreement, all fresh fruit from Chile is subject to a 2 percent tariff, while most dried fruit enters duty free. Elimination of these preferences could increase U.S. exports by \$5-10 million.

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Nontariff Measures

Venezuela prohibits the importation of used cars, used tires, and used clothing. No other quantitative import restrictions exist for industrial products. Used or rebuilt automotive parts, for example, are not restricted, despite the ban on used cars.

Agricultural Import Licenses:

The Government has a ban in place against U.S. pork and swine because Porcine Reproductive and Respiratory Syndrome (PRRS) exists in the United States. This ban was lifted in April 1997 after the Ministry of Agriculture received evidence that PRRS is also present in Venezuela. Furthermore, the Venezuelan Agricultural Health Service (SASA) and Ministry of Health officials reviewed the USDA-regulated U.S. meat processing system and approved U.S. facilities for export to Venezuela. A final report is to be written and sent to the Agricultural Section of the U.S. Embassy. Nonetheless, Venezuela now plans to invoke its WTO-negotiated tariff rate quota (TRQ) for pork imports, again limiting market access below actual demand. Full details of this TRQ are unavailable at this time.

The Ministry of Agriculture implemented a yellow corn import licensing system in February 1997, ostensibly to administer its WTO tariff rate quota for sorghum and yellow corn, but in actuality to enforce domestic sorghum absorption requirements. Under this system, feed manufacturers must purchase a government-assigned amount of domestic sorghum at the official (i.e., higher than world market) price in order to obtain import licenses for yellow corn.

The Ministry of Agriculture imposed a ban on the import of onions, potatoes, and forage seeds from the United States in late 1998. The Ministry maintains a ban on the import of citrus products as well, citing the danger of disease.

STANDARDS, TESTING, LABELING AND CERTIFICATION

In 1993, the Venezuelan Commission for Industrial Standards (COVENIN) began to apply obligatory domestic standards for commodities to certain imports. By the end of 1995, there were nearly 300 standards. Some Venezuelan importers of U.S. products have alleged that the Government of Venezuela applies these standards more strictly to imports than to domestic products. The certification process is expensive, increasing the cost of U.S. exports vis-à-vis domestic products. COVENIN requires certification from independent laboratories located in Venezuela.

GOVERNMENT PROCUREMENT

The 1990 law of tenders, its associated regulations, and a modifying decree of 1991, together establish three classifications for government procurement based principally on the value of the goods and services being procured: general tenders (more than \$21,200), selective tenders (\$2,120 to \$21,200), and direct purchases (less than \$2,120). For general and selective tenders, the law states that for offers that are within a "reasonable" range of each other for similar conditions, preference will be given to national tenders.

In the petroleum industry, the state oil company, PDVSA, is required to give preference to national materials and supplies. However, PDVSA can make foreign purchases if domestic firms cannot meet quantity, quality, or delivery requirements. In addition, imported materials supplied by local representatives of foreign

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manufacturers are classified as "domestic purchases." Venezuela is not a signatory to the WTO Agreement on Government Procurement.

EXPORT SUBSIDIES

Venezuela has reduced the number of export subsidies it provides, but retains a duty drawback system. Exporters can also get a rebate of the 16.5 percent wholesale tax paid on imported inputs.

Foreign as well as domestic companies are eligible for these drawback privileges. U.S. firms located in Venezuela complain of long delays in receiving rebates. Exporters of selected agricultural products -- coffee, cocoa, some fruits, and certain seafood products -- receive a tax credit equal to 10 percent of the export's f.o.b. value.

LACK OF INTELLECTUAL PROPERTY PROTECTION

Venezuela does not yet provide adequate and effective protection of intellectual property rights (IPR). There is still widespread piracy of well-known trademarks, videos, satellite signals, and other protected works. Moreover, the Venezuelan court system has proven to be an unreliable venue for pursuing IPR claims, particularly those that date from before 1994 when Andean Community Decision 344 came into effect. As a result of its deficient laws and practices, Venezuela has been on the "Watch List" under the Special 301 Provision of the 1988 Trade Act since 1989.

The Government created a new Intellectual Property Office (SAPI) in March 1997, which became operational in May 1998 and made a promising start in fighting trademark piracy. Under SAPI, the Government expanded the mandate of a special anti-piracy police unit (COMANPI) to include the enforcement of patents and trademarks as well as copyrights. SAPI has recently extended protection to certain varieties of genetically engineered vegetables in accordance with Andean Decision 345. SAPI began work at the end of 1998 on establishing an arbitration center to allow trademark disputes to be resolved at the administrative level rather than pursuing them in the courts. SAPI is improving enforcement practices as well, although it retains a large backlog of cases and many U.S. companies remain tied up in the Venezuelan court system in efforts to recuperate their trademarks. Neither SAPI nor COMANPI appears to have sufficient resources to combat the extent of piracy in Venezuela.

Venezuela is a member of the Paris Convention for the protection of industrial property and the Berne Convention for the protection of literary and artistic works. Venezuela has ratified, but not yet fully implemented, the provisions of the WTO Agreement on Trade-related aspects of Intellectual Property Rights (TRIPs).

Patents and Trademarks

Andean Community Decisions 344 and 345 on the protection of patents and trademarks and of plant varieties have been in effect in Venezuela since January 1, 1994, and October 29, 1993, respectively.

The decisions are comprehensive and offer a significant improvement over previous standards of intellectual property protection provided by the Andean Community countries. However, these decisions remain deficient with respect to patents and trademarks. The deficiencies include overly broad compulsory licensing provisions, working requirements, restrictions on biotechnology inventions, denial of pharmaceutical patent

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protection for patented products listed on the World Health Organization's model list of essential drugs, lack of transitional ("pipeline") protection, and lack of protection against parallel imports. The decisions also do not contain provisions for enforcing intellectual property rights.

The fines provided in the 1955 industrial property law for patent and trademark infractions are minimal. They have not been increased to account for inflation and devaluation. The Government introduced legislation in early 1996 to update the entire law, but the bill is still awaiting action by Congress. Outstanding cases involving famous U.S. trademarks continue to be a problem, and marketing approval is being given to pharmaceutical products known to be patented.

Copyrights

Venezuela's 1993 copyright law and a 1995 implementing regulation substantially improved protection of copyright products and enhanced penalties for copyright infringement. An Andean Community decision on copyright protection, which complements Venezuela's domestic copyright law, has been in effect since 1994 and has established a generally effective and Berne-consistent system.

A national copyright office, established in October 1995, is responsible for controlling, overseeing, and ensuring compliance with the rights of authors and other copyright holders. It can issue opinions, serve as an arbitrator, and impose fines for copyright infringements. The government formed a special anti-piracy police unit (COMANPI) in July 1996 to act as the enforcement arm of the copyright office. COMANPI works closely with private sector representatives of the U.S. copyright industry, who provide the unit with intelligence information, financial backing and training. To further combat the problem of imported copies of legitimate products, a new customs bill, which became law in late 1998, gives authorities the right to seize pirated goods at the border.

COMANPI continued to improve the protection of encrypted satellite signals in 1998. Venezuela falls within the range of U.S. satellite television transmission, and unauthorized reception and distribution of U.S. signals has historically been widespread. During 1998, COMANPI seized 99 unauthorized decoders and 26 parabolic antennas, a significant increase from the previous year.

SERVICES BARRIERS

Venezuela maintains barriers in a number of service sectors. For example, all professions subject to national licensing legislation (e.g., engineers, architects, economists, business consultants, accountants, lawyers, doctors, veterinarians, and journalists) are reserved for those who meet Venezuelan certification requirements. Local insurers must insure imports receiving government-approved tariff reductions or government financing, or those that are government-owned.

Basic Telecommunications Services

In the WTO Negotiations on Basic Telecommunications Services, which were concluded in February 1997, Venezuela made commitments on all basic telecommunications services. It will provide market access and national treatment for these services as of November 27, 2000, when the monopoly granted to the privatized national telephone company (CANTV) ends. Venezuela adopted parts of the reference paper on regulatory commitments. Venezuela does not currently levy tariffs on electronic commerce or on Internet-related equipment. Regulations on Internet telephony are forthcoming.

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Financial Services

In the WTO Negotiations on Financial Services, which were concluded in December 1997, Venezuela made commitments on banking, foreign exchange houses, capital markets, life insurance, reinsurance and brokerage. It will provide market access and national treatment for these services upon entry into force of the agreement. However, Venezuela did not make a commitment on pensions or on maritime, aviation and transportation insurance, and its offer includes an economic needs test and an MFN exemption.

INVESTMENT BARRIERS

The state continues to control key sectors of the economy, including oil, gas, petrochemicals, and much of the mining and aluminum industries. Despite continued state control in strategic sectors, Venezuela has an aggressive effort of privatization. In 1998, the government passed legislation allowing 49 percent of PEQUIVEN, the state petrochemical company, to be sold to private investors through domestic and international capital markets. In November 1998, the government also sold a 70 percent interest in the Nueva Esparta electric system and an 80 percent interest in the Venezuelan ferrosilicon producer FESILVEN to private investors.

Foreign investment continues to be restricted in the petroleum sector, with the exploration, production, refining, transportation, storage, and the foreign and domestic sales of hydrocarbons reserved to the Venezuelan Government and its entities (state oil company PDVSA) under the 1975 Hydrocarbons Law. However, private companies may engage in hydrocarbons-related activities through operating contracts or, when found to be in the public interest, through equity joint ventures as long as the joint ventures guarantee state control of the operation, are of limited duration, and have the prior authorization of Congress meeting in joint session.

The government passed legislation in 1998 aimed at introducing competition in the domestic gasoline market by domestic and foreign companies, allowing them to own and operate service stations, though the government retained the right to establish prices. By ministerial decree, Venezuela also introduced competition in the natural gas sector by allowing domestic and foreign private sector companies to process, store, transport, distribute and market methane and ethane.

Venezuela also limits foreign equity participation (except from other Andean Community countries) to 19.9 percent in enterprises engaged in television and radio broadcasting, Spanish language newspapers, and professional services whose practice is regulated by national laws. Foreign investors in the mining sector are subject to Venezuela's 1944 Mining Law and a complex set of executive decrees that require them to secure a concession from the government. Finally, in any enterprise with more than ten workers, foreign employees are restricted to 10 percent of the work force, and Venezuelan law limits foreign employee salaries to 20 percent of the payroll.

Venezuela also maintains several other investment-distorting measures. Under the Andean Community Common Automotive Policy, Venezuela, Ecuador and Colombia impose regional content requirements in the automotive assembly industry in order to qualify for reduced duties on imports. The local content requirement for passenger cars was 32 percent in 1997 and has risen to 33 percent for 1998. Venezuela has notified to the WTO the local content requirements in the automotive sector, which are inconsistent with its obligations under

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the WTO Agreement on Trade-Related Investment Measures. The United States is working in the WTO Committee on TRIMs to ensure that WTO members meet their obligations.

The government enforces a "one-for-one" policy that requires foreign musical performers giving concerts in Venezuela to share stage time with national entertainers. There is also an annual quota regarding the distribution and exhibition of Venezuelan films; a requirement that at least half of the television programming must be dedicated to national programs; and a requirement that at least half of the FM radio broadcasting from 7 a.m. to 10 p.m. be dedicated to Venezuelan music.