

DOMINICAN REPUBLIC

TRADE SUMMARY

The U.S. goods trade surplus with the Dominican Republic was \$2.6 billion in 2008, an increase of \$755 million from \$1.9 billion in 2007. U.S. goods exports in 2008 were \$6.6 billion, up 8.5 percent from the previous year. Corresponding U.S. imports from the Dominican Republic were \$4.0 billion, down 5.7 percent. The Dominican Republic is currently the 33rd largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in the Dominican Republic was \$933 million in 2007 (latest data available), up from \$907 million in 2006. U.S. FDI in the Dominican Republic is concentrated largely in the manufacturing and wholesale trade sectors.

IMPORT POLICIES

Free Trade Agreement

On August 5, 2004, the United States signed the Dominican Republic-Central America-United States 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). Under the Agreement, the Parties are significantly liberalizing trade in goods and services. 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.

The Agreement entered into force for the United States, El Salvador, Guatemala, Honduras, and Nicaragua in 2006. The CAFTA-DR entered into force for the Dominican Republic on March 1, 2007, and for Costa Rica on January 1, 2009.

In 2008, the Parties implemented amendments to 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 Parties also implemented a reciprocal textile inputs sourcing rule with Mexico. Under this rule, Mexico provides duty-free treatment on certain apparel goods produced in a Central American country or the Dominican Republic with U.S. inputs, and the United States provides reciprocal duty-free treatment under the CAFTA-DR on certain apparel goods produced in a Central American country or the Dominican Republic with Mexican inputs. These changes will further strengthen and integrate regional textile and apparel manufacturing and create new economic opportunities in the United States and the region.

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 by 2015. Nearly all textile and apparel goods that meet the Agreement's rules of origin now enter the Dominican Republic duty-free and quota-free, creating economic 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 by

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2020. For certain agricultural 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

The Dominican Republic's 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 World Trade Organization (WTO) Agreement on Customs Valuation (CVA), whereby goods imported from WTO Members are assessed duties based on the transaction value, unless use of another valuation method specified in the CVA 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 the Dominican customs authority. 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 Dominican customs authority announced that it 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 the Dominican customs authority 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 the Dominican customs authority each time it has been reported to the U.S. Embassy.

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

Under the CAFTA-DR, the Dominican Republic committed to improve transparency and efficiency in administering customs procedures, including the CAFTA-DR rules of origin. The Dominican Republic also committed to ensuring greater procedural certainty and fairness in the administration of these procedures, and all the CAFTA-DR countries agreed to share information to combat illegal transshipment of goods. 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 has upgraded and expedited the verification process. The Dominican customs authority is still in the process of expanding the project by either purchasing or leasing additional equipment, as well as through technical assistance from Korea.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

Sanitary and Phytosanitary Measures

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. 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. U.S. officials have raised this issue with Dominican Republic authorities and will continue to monitor it closely.

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 has recognized 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 of U.S. producers.

The Dominican Republic continues to prohibit imports of U.S. beef and beef products from cattle over 30 months of age, as well as all live cattle, due to the 2003 discovery of a Bovine Spongiform Encephalopathy (BSE) positive animal in the United States. Current World Organization for Animal Health (OIE) guidelines for BSE provide for conditions under which all beef and beef products from countries of any risk classification for BSE can be safely traded when the appropriate specified risk materials are removed. The OIE categorized the United States as "controlled risk" for BSE in May 2007. The United States continues to press the Dominican Republic to (1) base its import policies on science, the OIE guidelines, and the OIE's classification of the United States, and (2) put in place import requirements for BSE that allow for the entry of U.S. beef and beef products from cattle of any age as well as all live cattle.

GOVERNMENT PROCUREMENT

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 anticorruption provisions in the Agreement require each government to ensure under its domestic law that bribery in matters affecting trade and investment, including in government procurement, is treated as a criminal offense or is subject to comparable penalties. Nevertheless, U.S. suppliers have complained that Dominican government procurement is not conducted in a transparent manner and that corruption is widespread.

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 may not adopt new duty waivers or expand existing duty waivers that are conditioned on the fulfillment of a performance requirement (*e.g.*, the export 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.

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INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

To implement its CAFTA-DR commitments, the Dominican government passed legislation in November 2006 to strengthen its IPR protection regime. The CAFTA-DR provides improved standards for the protection and enforcement of a broad range of IPR, which are consistent with U.S. and international standards, as well as with emerging international standards, of protection and enforcement of IPR. Such improvements include state-of-the-art protections for patents; trademarks; undisclosed test and other data submitted to obtain marketing approval for pharmaceuticals and agricultural chemicals; digital copyrighted products such as software, music, text, and videos; and further deterrence of piracy and counterfeiting.

Despite a strong copyright law, the existence of a specialized IPR office within the Attorney General's office, and some improvement in enforcement activity, piracy of copyrighted goods 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 goods or those in the distribution network. Investigations are often hampered by a lack of resources and poor interagency cooperation, although in the case of television broadcast piracy, the Dominican government has improved coordination between responsible government agencies. U.S. industry representatives point to lengthy delays when cases are submitted for prosecution.

SERVICES BARRIERS

Under the CAFTA-DR, the Dominican Republic granted U.S. services suppliers substantial access to its services market, including financial services. Under the CAFTA-DR, U.S. financial service suppliers are allowed to establish subsidiaries, joint ventures, or branches for banks and insurance companies in the Dominican Republic. 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.

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 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.

In December 2007, a U.S. company filed a claim for arbitration against the government of the Dominican Republic under the investor-state dispute settlement procedures in Chapter 10 of the CAFTA-DR. The company alleges that the Dominican Republic expropriated its assets and breached several other obligations under Chapter 10. The claim is pending.

ELECTRONIC COMMERCE

Dominican law regulates electronic commerce, documents, and digital signatures. The CAFTA-DR includes provisions on electronic commerce that reflect its importance to global trade. Under the

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CAFTA-DR, the Dominican Republic has committed to provide nondiscriminatory treatment of 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.

Dealer Protection

The CAFTA-DR required the Dominican Republic to change its 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, the dealer protection law, to make future contracts of U.S. companies exempt from its restrictive provisions.