

THE DOMINICAN REPUBLIC

In 1997, the U.S. trade deficit with the Dominican Republic was \$401 million, an increase of \$9 million from the U.S. trade deficit of \$392 million in 1996. U.S. merchandise exports to the Dominican Republic were \$3.9 billion, a decrease of \$745 million (23.4 percent) from the level of U.S. exports to the Dominican Republic in 1996. The Dominican Republic was the United States' thirtieth largest export market in 1997. U.S. imports from the Dominican Republic were \$4.3 billion in 1997, an increase of 754 million (21.1 percent) from the level of imports in 1996.

The stock of U.S. foreign direct investment (FDI) in the Dominican Republic in 1996 was \$465 million, an increase of 18 percent from the level of U.S. FDI in 1995. U.S. FDI in the Dominican Republic is concentrated largely in the manufacturing and financial sectors.

IMPORT POLICIES

Tariffs on most products fall within a range of 5 to 35 percent. However, the Government of the Dominican Republic imposes a 5 to 80 percent selective consumption tax on "nonessential" imports such as home appliances, alcohol, perfumes, jewelry, automobiles, and auto parts. Late in 1996, the Fernandez administration proposed an extensive tariff reduction on so-called luxury imports (particularly automobiles) to the Dominican Congress. The Congress has not yet acted on this proposal.

U.S. producers of many products face an additional de facto trade barrier in the form of a highly-discretionary customs valuation system. In addition, import permits are required for most agricultural items and are often delayed or withheld to protect local producers. 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 consular invoice and "legalization" of documents with attendant fees and delays, although this system is now under review by a Dominican Government interagency group.

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-scientific based 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 generally opaque. The new administration in the Dominican Republic is committed to more transparent decision-making.

EXPORT SUBSIDIES

The Dominican Republic does not have aggressive export-promotion schemes other than the exemptions given

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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.

LACK OF INTELLECTUAL PROPERTY PROTECTION

Dominican law does not provide adequate and effective protection of intellectual property rights including levels of protection that are consistent with international standards such as the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). For example, the copyright law is deficient in a number of areas. The Dominican Republic has inadequate patent protection, especially for pharmaceuticals. The Dominican Republic was added to the USTR Special 301 Watch List in 1997 due to concerns about lack of TRIPs consistent laws and inadequate enforcement against piracy and counterfeiting.

Copyrights

The piracy of computer software, video and audio tapes, and compact disc technologies, as well as TV piracy continues and is not hindered by the limited enforcement action by the Dominican Government. 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 Export Association of America 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, although smaller systems may still be pirating signals and programs. Therefore, the MPAA and Televisions Association of Programmers 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.

Patents

The existing 1911 law provides for broad exclusions of subject matter from patentability, and includes onerous local working requirements. Dominican patent law continues to be inadequate with respect to term of protection. Infringement is widespread. The Ministry of Health currently is granting marketing approvals for existing pharmaceutical products, thus allowing violation of patent holders' rights.

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. There is no secondary securities market in the Dominican Republic so questions of brokerage services and securities underwriting, trading, etc., do not arise.

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The Dominican Republic is overdue in providing to the World Trade Organization an acceptance of the Fourth Protocol to the General Agreement on Trade in Services, which is necessary to bring its commitments on basic telecommunications services into effect. The WTO Council on Trade in Services has extended the deadline for submission of the acceptance until July 31, 1998.

INVESTMENT BARRIERS

Foreign Investment Law

The December 1995 investment law is designed to remove barriers to investment and to provide equal access for foreign investors to all sectors of the economy except toxic waste disposal, public health and environment, and defense, for which express presidential authorization is required. Foreigners may register investments of cash, trademarks, or technology in new or existing companies or real estate (with some limitations). Implementing regulations were issued in September 1996.

Investors no longer need the authorization of the Foreign Investment Directorate to invest but must register any investment with the Central Bank within 90 days. Investors may remit the full amount of capital originally invested and capital gains as well as fees for technology transfer and royalties from previously-registered contracts. The law grants a five-year term for the gradual repatriation of non-remitted accumulated profits. Foreigners may represent their products directly without need for a local agent.

Telecommunications

In the WTO negotiations on basic telecommunications services, the Dominican Republic made limited commitments on most basic telecommunications services. It adopted the reference paper on regulatory commitments but did not guarantee national treatment for any telecommunication service. The Dominican Republic has not yet ratified this agreement.

OTHER BARRIERS

The Dominican Republic levies a value-added eight percent Tax on the Transfer of Industrialized Goods and Services (ITBIS). The ITBIS expressly taxes the importation of industrial goods. A very broad categories of domestic goods, but very few imported goods, are exempted from the ITBIS. For imports, the tax is levied on the c.i.f. value plus all customs duties and internal taxes on imports. For domestic goods, the tax base is the sales price plus related costs such as transportation. Services appear to be taxed in the same manner. The discrimination against imported products under the ITBIS effectively increases the protection afforded to many domestic industries.