

CRS Report for Congress

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U.S.-Dominican Republic Free-Trade Agreement

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Summary

On March 15, 2004, the United States and the Dominican Republic concluded a draft free-trade agreement to integrate the Dominican Republic into the earlier signed Central American Free-Trade Agreement (CAFTA). The final agreement (DR-CAFTA) was signed by all parties on August 5, 2004. The Dominican Republic would have its own market access provisions, but would accept the rest of the CAFTA framework. Legislation to implement DR-CAFTA might be considered in the 109th Congress. This report will be updated as developments occur.

The United States and the Dominican Republic have a strong trading relationship. The United States was the most important trading partner of the Dominican Republic, accounting for 49% of the Dominican Republic's imports and 84% of its exports in 2003.¹ In 2003, the Dominican Republic was the sixth largest U.S. trading partner in the Western Hemisphere, following Canada, Mexico, Brazil, Venezuela and Colombia.

The United States imported \$4.5 billion in goods from the Dominican Republic and exported \$4.0 billion in 2003. The trading relationship is dominated by the two-way trade in textiles and apparel. U.S.-based companies send yarn, fabrics, or other inputs to the Dominican Republic, and finished products are shipped back to the United States. In 2003, 31% of U.S. exports to the Dominican Republic were yarn, fabrics, or articles of apparel and clothing, and almost 40% of U.S. imports were apparel and clothing.

Over half (58%) of U.S. imports from the Dominican Republic enter under either the Caribbean Basin Initiative (CBI) or the Caribbean Basin Trade Partnership Act (CBTPA). The CBI began in 1984 and is a permanent program offering duty-free benefits for eligible imports from designated Caribbean countries. The CBTPA became effective in 2000 and is a temporary program through 2008 that gives CBI countries parity with the North American Free Trade Agreement (NAFTA) and offers more benefits than under the CBI, especially for textiles and apparel. The CBTPA applies to twice as many U.S. imports

¹ International Monetary Fund. *Direction of Trade Statistics*. Quarterly. June 2004. p. 125.

from the Dominican Republic as the CBI, and it applies to the majority (81%) of U.S. imports of apparel and clothing from the Dominican Republic.

The two countries are tied together not only through the flow of goods, but also through repatriation of private funds. Family remittances to the Dominican Republic, mainly from residents in the United States, were \$2.0 billion in 2002, or almost 10% of the Dominican Republic's gross domestic product that year.²

An FTA with the Dominican Republic is part of the Bush Administration's trade policy of "competitive liberalization." That strategy is designed to push forward trade liberalization simultaneously on several fronts and is meant to spur broad trade negotiations by liberalizing trade through more limited agreements. For the Dominican Republic and Central America, the Administration saw FTAs as giving momentum to a timely conclusion of talks on a Free Trade Area of the Americas (FTAA).³

The Administration had several other reasons for pursuing an FTA with the Dominican Republic. In its notification to Congress of its intention to initiate FTA talks, the Administration said the Dominican Republic was the largest CBI beneficiary country and combined with the Central American markets would create the second largest U.S. trading partner in Latin America.⁴ It argued that the Dominican Republic was a regional economic engine with a relatively open trade and investment regime and had undertaken recent fiscal reforms. Further, it stated that an FTA would encourage economic growth and create higher-paying U.S. jobs through the elimination of trade and investment barriers, and would "...enhance our efforts to strengthen democracy...in the region...."

There were political and strategic reasons as well. According to the U.S. State Department, "...the Dominican Government has been supportive of many U.S. initiatives in the United Nations and related agencies."⁵ One article went further, "A commitment of Dominican troops for the Iraq peacekeeping effort has helped to win the country's inclusion in a free trade agreement with the U.S. and several Central American countries."⁶ Additionally, a number of news articles noted that the Administration might have considered the political benefits of adding the Dominican Republic to the Central American FTA (CAFTA) in order to improve the chances of approval in Congress.⁷

² The Economist Intelligence Unit. Country Report: Dominican Republic. Apr. 2004. pgs. 5, 30.

³ For information on the FTAA, see CRS Report RS20864, *A Free Trade Area of the Americas: Status of Negotiations and Major Policy Issues*, by (name redacted).

⁴ U.S. Office of the USTR. Letter to House of Representatives; Letter to Senate. August 4, 2003. Available at [<http://www.ustr.gov/releases/2003/08/index.shtml>].

⁵ U.S. Department of State. Bureau of Western Hemisphere Affairs. "Background Note: Dominican Republic." Available at [<http://www.state.gov/r/pa/ei/bgn/4153.htm>].

⁶ James, Canute. "Strains Show in US-Caribbean Relations." *Financial Times*. October 23, 2003. p. 2. Troops from the Dominican Republic returned home early in May 2004, following Spain's decision to withdraw its troops from Iraq. Dominican troops had been under Spanish command.

⁷ See Bussey, Jane. "Bush Trade Pact with Dominican Republic Faces Opposition from Southern States." *The Miami Herald*. March 16, 2004; Keith Koffler. "Zoellick Announces Trade Deal with Dominican Republic." *Congress Daily*, March 15, 2004; and Jeff Sparshott. "U.S. Widens Free-Trade Pact." *The Washington Times*, March 16, 2004.

Provisions of the Free-Trade Agreement

On August 5, 2004, representatives of the United States, the Dominican Republic, and five Central American countries signed a regional free-trade agreement (DR-CAFTA) among their countries. The United States first had concluded a free-trade agreement with the Central American countries (CAFTA) in January 2004. Later, on March 15, 2004, the United States and the Dominican Republic announced that they had concluded a bilateral trade agreement that from the outset of negotiations was intended to be integrated into (or “docked onto”) CAFTA.⁸ The USTR described the outcome at the time: “With its integration into the CAFTA, the Dominican Republic has assumed the same set of obligations and commitments as Costa Rica, Honduras, El Salvador, Guatemala, and Nicaragua. As with the Central American countries, individual market access schedules were negotiated with the Dominican Republic for goods, agriculture, services, investment and government procurement.”⁹

Under the agreement reached with the Dominican Republic FTA, 80% of U.S. exports of non-agricultural products would become duty-free immediately, with remaining duties phased out over 10 years.¹⁰ U.S. sectors that would have immediate duty-free access include information technology products, agricultural and construction equipment, paper products, wood, pharmaceuticals, and medical and scientific equipment. U.S. autos and auto parts would be able to enter duty-free after five years.

More than half of U.S. agricultural exports would receive duty-free treatment immediately, including corn, cotton, wheat, soybeans, many fruits and vegetables, and processed food products. Tariffs would be phased out on most agricultural products within 15 years and on all agricultural products by 20 years. Beef, pork, poultry, rice, and dairy products would become duty-free under tariff-rate quotas. Most U.S. agricultural producers support the agreement. For example, the U.S. Grains Council announced that, in partnership with the National Grain Sorghum Producers and the National Corn Growers Association, it “...applaud[s] the successful negotiations...” of the FTA.¹¹ An official with the Grocery Manufacturers of America said the Dominican Republic “...is a great market for food, agriculture, and beverage products,’ ...[and] an excellent potential market for U.S. beer, snack foods, pet food, nuts, and breakfast cereals.”¹²

⁸ For information on the CAFTA, see CRS Report RL31870, *The U.S.-Central America Free Trade Agreement: Challenges for Sub-Regional Integration*, by (name redacted).

⁹ U.S. Office of the USTR. “Adding Dominican Republic to CAFTA.” *Trade Facts*. March 15, 2004. Available at [<http://www.ustr.gov/new/fta/Dr/2004-03-15-factsheet.pdf>]. [Hereafter referred to as USTR, “Adding Dominican Republic”.]

¹⁰ This paragraph and the next one draw from USTR, “Adding Dominican Republic.” For further information on the DR-CAFTA, see U.S. International Trade Commission. *U.S.-Central America-Dominican Republic Free Trade Agreement: Potential Economywide and Selected Sectoral Effects*. Investigation No. TA-2104-13. Publication 3717. August 2004.

¹¹ U.S. Grains Council. “Council, Members Applaud U.S.-Dominican Republic Agreement.” March 16, 2004. Available at [<http://www.grains.org/news/index.html>].

¹² Sarah Thorn, Director of International Trade, Grocery Manufacturers of America, quoted in: Brevetti, Rossella. “U.S. Seeking to Preserve Haiti’s CBI Benefits in Continuing Talks with Dominican Republic.” *Bureau of National Affairs*. Daily Report for Executives. March 9, 2004.

The sugar provisions in the agreement with the Dominican Republic do not seem as controversial as those reached with the Central American countries. The continuing precedent of market-opening, however, worries the U.S. sugar industry. The tariff-rate quota (TRQ) on sugar for the Dominican Republic would increase by 10,000 metric tons the first year, increase by 2% annually for years 2-15, then increase by a smaller amount in perpetuity. The tariff on above-quota imports would not change. Dale Hathaway, a senior fellow at the National Center for Food and Agriculture Policy, said the increase in the Dominican Republic's cap on sugar was "not significant."¹³ The U.S. Sugar Industry Group argued, however, that more imports from the Dominican Republic could jeopardize the stability of domestic prices, which would help neither country.¹⁴

Textiles and apparel from the Dominican Republic would become duty-free and quota-free immediately, if they met the agreement's rules of origin, which include general rules for all signatories and specific rules for each country. As with the other CAFTA parties, the Dominican Republic would be allowed to use inputs also from Mexico or Canada to meet cumulation requirements for apparel or clothing. The American Textile Manufacturers Institute, which represents U.S. textile producers, said that CAFTA could lead to reduced U.S. employment in the textile industry.¹⁵ The American Apparel and Footwear Association (AAFA), which represents the North American apparel industry and its suppliers, said however, "...because many U.S. companies maintain production-sharing relationships with the [Dominican Republic], swift implementation of the [FTA] will likely have a positive economic impact in the United States...."¹⁶

An unresolved issue would be apparel made under co-production arrangements with Haiti. CBTPA benefits expire the earlier of: (1) September 30, 2008; or (2) the date on which the FTAA or another FTA as specified enters into force between the United States and a CBTPA beneficiary country (P.L. 106-200, Section 211). Thus, if the FTA between the Dominican Republic and the United States enters into force, articles co-produced by Haiti and the Dominican Republic might no longer qualify under CBTPA. The Administration said it would work with the Congress so that Haiti could continue to be eligible under CBTPA for apparel with inputs from the Dominican Republic.¹⁷

The Dominican Republic signed on to the principles and standards under CAFTA's chapter on intellectual property rights with its own transition periods for meeting certain obligations. In late 2003, the International Intellectual Property Alliance (IIPA), a coalition of trade associations representing copyright industries, called broadcast piracy

¹³ Nell Henderson. "U.S., Dominicans in Trade Pact; White House Hopes Individual Deals Lead to Wider Agreements." *The Washington Post*. March 16, 2004. p. E1.

¹⁴ Daniel Pruzin. "Industry Group Calls for Lifting Provisions for Sugar from U.S.-Dominican Trade Pact." Bureau of National Affairs, Inc. *Daily Report for Executives*. March 30, 2004.

¹⁵ American Textile Manufacturers Institute. "ATMI Opposes CAFTA as Job-Destroying Agreement." Press Release. December 23, 2003. Available at [<http://www.atmi.org>].

¹⁶ Statement of Rachel Subler, Manager of Government Relations and Communications, AAFA, before the U.S. International Trade Commission on October 7, 2003.

¹⁷ USTR, "Adding Dominican Republic."

in the Dominican Republic “...the worst in the entire hemisphere.”¹⁸ As part of the bilateral FTA, the Dominican Republic signed two side documents committing it to act against broadcast or cable piracy. U.S. industry advisors want the U.S. Government to monitor vigilantly the implementation of the side documents and the agreement.¹⁹ The USTR also expressed uncertainty, saying the FTA “...will require the Dominican Republic to upgrade considerably the level of intellectual property protection....”²⁰

On government procurement, cross-border trade in services, financial services, and investment, the Dominican Republic signed on to the general principles of each CAFTA chapter but negotiated its own list of specific concessions. For example, in the chapter on government procurement, all signatories, including the Dominican Republic, would accept general principles such as national treatment and transparency, but each signatory would observe these principles only with respect to its own negotiated list of agencies and its own thresholds for contract amounts covered by the chapter. Similarly, the chapters on cross-border trade in services, financial services, and investment include general principles such as nondiscriminatory treatment, but they have their own negotiated lists of services that are exempt from the general principles.

The Dominican Republic acceded to almost all of the other provisions concluded in the CAFTA, including the chapters on labor and the environment. Under those chapters, CAFTA parties agreed they would enforce their domestic labor and environmental laws but would retain the right to exercise discretion regarding investigations and related matters. They recognized that it is inappropriate to weaken labor and environmental laws to encourage trade, and agreed to ensure access to judicial proceedings. The text would establish governmental labor and environmental committees to oversee implementation, and other bodies would do further cooperative work. The labor and environment chapters link to a dispute process under which, if a party wins a labor or environmental complaint, the losing party could be assessed monetary damages.

The U.S. Trade Representative says that the FTA with the Dominican Republic “...will ensure effective enforcement of domestic labor laws, establish a cooperative program to improve labor laws and enforcement, and build the capacity of the Dominican Republic to monitor and enforce labor rights.”²¹ The U.S. Department of State, however, has recognized that there have been widespread problems with putting worker rights into practice, even though the Constitution of the Dominican Republic and its 1992 Labor Code provide for broad worker rights.²² Representatives of the AFL-CIO and the

¹⁸ Testimony of Maria Strong, Vice President and General Counsel, before the Trade Policy Staff Committee. Submitted October 1, 2003.

¹⁹ See the *Report of the Industry Functional Advisory Committee on Intellectual Property Rights for Trade Policy Matters* (IFAC-3), April 2004. Available at [<http://www.ustr.gov/new/fta/Dr/advisor/ifac03.pdf>].

²⁰ U.S. Office of the USTR. *2004 Special 301 Report*. Available at [<http://www.ustr.gov/reports/2004-301/special301-wl.htm#dr>].

²¹ USTR. “Adding Dominican Republic.”

²² U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. *Country Report on Human Rights Practices*. “Dominican Republic.” March 1, 2004. Available at [<http://www.state.gov/g/drl/rls/hrrpt/2003/27895.htm>].

Dominican labor group Consejo Nacional de Unidad Sindical (CNUS) have called for further reform of Dominican laws, effective enforcement provisions that allow for trade sanctions, and protection against trade law violations.²³ Human Rights Watch reports that women “...who become pregnant are routinely fired from jobs and shut out of employment in the Dominican Republic’s export-processing sector,” and such abuse of workers would be allowed to continue, because CAFTA does not prohibit workplace discrimination.²⁴ Workers’ groups also fear the loss of protections under current U.S. unilateral trade programs such as CBI.²⁵

The Dominican Republic also acceded to other chapters of CAFTA, including dispute settlement, trade remedies, electronic commerce, and telecommunications. These chapters would establish a process for resolving disputes, set out rules for safeguards, keep transmission of digital products duty-free, and ensure certain standards affecting suppliers of telecommunications services. There are also chapters on customs administration, technical barriers to trade, sanitary and phytosanitary measures, and transparency of laws and regulations. The Agreement would establish a Committee on Trade Capacity Building.

Outlook

In the last months of 2004, a newly passed tax in the Dominican Republic made that country’s participation in the FTA tenuous. In September 2004, the Dominican Republic enacted a revenue measure to meet conditions for a loan by the International Monetary Fund. The revenue measure included a 25% increase in the tax on soft drinks with high-fructose corn syrup. U.S. trade officials warned that the 25% tax threatened the FTA that the two countries just signed. Senate Finance Committee Chairman Grassley warned that the tax would jeopardize Senate support for the agreement.²⁶ Representative Rangel, Ranking Member on the House Ways and Means Committee, however, called the Administration’s threat to drop the Dominican Republic from the trade agreement “inappropriate and unfortunate.”²⁷ The Dominican Republic responded to the opposition by repealing the 25% tax in the last days of 2004.

It is uncertain when the Administration might submit implementing legislation for DR-CAFTA to the Congress. Regardless of when legislation might be introduced, it is expected to be controversial.

²³ Testimonies of Thea M. Lee, AFL-CIO, and of Maribel Batista Matos, CNUS, on a U.S.-Dominican Republic FTA before the Trade Policy Staff Committee. October 8, 2003.

²⁴ Human Rights Watch. “Dominican Republic: U.S. Trade Pact Fails Pregnant Women.” Press release. April 22, 2004. Available at [<http://hrw.org/doc/?t=news>].

²⁵ See AFL-CIO. “Central American Unions Speak Out Against CAFTA.” Available at [http://www.aflcio.org/issuespolitics/globaleconomy/upload/CAFTA_CA_unions3.pdf].

²⁶ “Zoellick, Grassley Say HFCS Tax Threatens Dominican Republic FTA.” *Inside US Trade*. September 24, 2004.

²⁷ Rugaber, Christopher S. “USTR Repeats Threat to Abandon Trade Pact over Dominican Republic’s Tax on Sweeteners.” Bureau of National Affairs, Inc. *Daily Report for Executives*. October 22, 2004.

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