

## The Dominican Republic and US Reach Agreement on CAFTA: Will It Get to Congress?

American and Dominican negotiators announced a free trade agreement that would allow the Dominican Republic to join the recently concluded Central American Free Trade Area (CAFTA). The DR has had one of the fastest growing economies in recent years, with total trade between the DR and US reaching \$8.7 billion (the thirteenth largest US export market). CAFTA reduces barriers to goods and services trade and commits to such reforms as greater transparency for government transactions and rule making, strengthening the rule of law and improving the protection and enforcement of intellectual property, domestic labor and environmental laws.

### *Congressional Approval*

President Bush was expected to notify the US Congress on March 19 of his intention to send implementing legislation for the DR FTA, but for unknown reasons, perhaps scheduling for the president to sign the letter and its legal preparation, it had not been sent as of March 24. This means the implementing legislation will be sent to Congress at best in late June; a 90-day period is required after notification for Congressional study of the agreement, and approval of CAFTA and DR accord will be sought together. Congress enters into summer recess on July 23, meaning that less than a month is available to secure passage. This is a very tight timeframe, USTR Robert Zoellick acknowledged.

### *Press Reaction in the DR*

Judging by articles in *Listin Diario* and *Hoy* of Santo Domingo, reporting of the agreement seems straightforward and generally favorable. One article in *El Caribe* dated March 22 quoted economist and former UN/WTO Ambassador Federico Cuello as saying that the FTA would not significantly benefit any national productive sectors. He criticized the fact that US agricultural subsidies were not mentioned and discriminatory sanitary measures were not changed. Cuello complained that the industrial goods sector did not get special and preferential treatment or delay of tariff reductions until 2007, among other concessions that it had wanted. The DR also did not get benefits it sought in services, telecommunications, labor rights, free trade zones and government procurement.

### *Sugar and Other Agricultural Products*

The US-DR agreement produces a larger quota for Dominican sugar exports to the US market. An immediate increase of 10,000 tons (20%) was granted with an annual growth rate of 10%. The percentage increase granted to the DR was much less than that granted to the CAFTA countries (70%), but the DR tariff rate quota (TRQ) was already much higher at 185,000 tons. The high US out-of-quota tariff is unchanged. However, the increase was not all that Dominican sugar producers hoped for and is equal to only 0.12% of US sugar production. Combined CAFTA and DR sugar exports to the US market will equal 1.3% of US production and after 15 years will only grow to 1.9%. Moreover, there is doubt that the DR can export more sugar as it apparently does not meet CAFTA's net-surplus criteria that requires a country to export more sugar than it imports.

The DR market for US farm products was opened for some key exports. US pork exporters received an immediate TRQ of 3,150 tons with annual increases of 10% for 4 years, followed by a jump to 5,000 tons and 10% annual increases for the remainder of the 15 year TRQ. The agreement negotiators also reached agreement on TRQs for poultry, beef, rice and dairy products. In poultry, the out-of-quota tariffs are not eliminated for 20 years and first year access is limited to 500 tons of leg quarters with a 10% annual growth rate. Rice received the same treatment but the initial volume for milled rice is set at 8,000 tons and brown rice at 2,000 tons. Dairy products (not all) received a 20-year TRQ but the initial import volumes were not disclosed.

### *Textiles and Goods and Services*

Textiles and apparel exports from the DR to the US will be quota free and duty free if they meet the rules of origin. The 100 million square meter equivalent negotiated for CAFTA will now apply to the DR, also with no increase. However, a one million SME for wool fabric was granted exclusively to the DR. Woven apparel from the DR, as with CAFTA, can contain inputs from Mexico and Canada up to a capped amount. The DR has several years to conclude an agreement with US producers providing reciprocal benefits. The US exports \$1.7 billion in yarn and fabric to the DR annually to be sown and processed.

Tariffs on manufactured goods are eliminated on 99% of DR exports and about 80% of US exports and the remainder are phased out over 10 years. Tariffs on US autos and parts are phased out over five years. The DR will grant substantial market access in many service areas including: telecommunications, computers, energy, transport, express delivery, engineering, financial services, insurance, audio/visual and others.

### *Intellectual Property and Others*

In the area of intellectual property, the DR made a "renewed commitment to fight broadcast piracy," an area where the DR has a poor record. Digital products are given protection and trademarks and copyrights protection are strengthened. Civil society will participate in a public submissions process and the DR will join the WTO Information Technology Agreement.

Other important aspects of the agreement are:

Workers rights were enhanced by commitment to enforce domestic labor laws and cooperation programs for more effective enforcement.

US investors in the DR will be subject to a secure legal framework and a mechanism to settle state-investor disputes.

US firms will be allowed to participate in DR government procurement, and anti-corruption measures in government contracting will be instituted.

The dispute settlement mechanisms in the agreement will be open and allow for third party participation.

Finally, the US commits to trade capacity building in the DR, including seminars and workshops on US bio-terrorism laws, rules of origin and technical barriers to trade.

### *Observations*

There has reportedly been some discussion of holding a signing ceremony for the presidents of the six CAFTA countries along with President Bush. Presumably, this would have to be done sometime in late June or early July. The political temperature is rising

as the presidential campaign heats up and there is much speculation that the White House is concerned about sending the CAFTA to Congress during this political year. It seems a good bet to this observer that it will in fact not be sent.

Big Sugar flexed its muscles, at least that is the impression given by looking at the outcome of the negotiations. The additional quota given to the DR is small and as USTR pointed out, even after growth in the quota, the total Central America plus DR exports to the US market will be only 1.9% of US production in 2019. Some observers state that the US sugar industry rejected giving away more quotas because of upcoming negotiations with the Andean countries and possibly other Latin American countries. They felt enough is enough, except when it comes to the price of sugar to US consumers. The cane sugar industry, mainly in Florida, produces 700,000 tons annually and has political clout. The additional quota to the Central Americans and the DR is not likely to have much effect on the high price of sugar for US consumers or the loss of jobs in the candy industry.

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