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Jonathan Russin

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*Jonathan Russin**

TRADE WITH THE UNITED STATES

While reflecting on relationships among the Caribbean, Latin America and the United States at a conference in Puerto Rico on October 11th of last year, First Lady Rosalynn Carter made the following comments:

> The Caribbean is important to us. It is not only its proximity. It is not only the many immigrants who have come to the U.S. These are powerful reasons for us to pay attention to the region. But more

* Partner, Kirkwood, Kaplan, Russin & Vecchi of Santo Domingo and Washington, D.C.

> important, the Caribbean offers to all of the nations of the hemisphere — indeed the world — the chance to participate in transforming a proud but economically weak area into a vigorous and cooperative region.
>
> The entire region is rich with potential. With interest, common purpose and resources, I think the new spirit will insure the realization of our mutual goals.[1]

These words of Mrs. Carter become especially significant when viewed in the context of the relationship between the Dominican Republic and the United States, for the U.S. is the single most important trading partner of the Dominican Republic. Imports into the Dominican Republic from the United States totalled $431.8 million in 1976 and $424 million in 1977, thereby making the Dominican Republic the single largest market for U.S. goods and services in all of Central America and the Caribbean.[2] In terms of total Dominican imports, the United States has supplied from fifty to sixty percent of all imports to the country during the last four years.[3]

More importantly, from the standpoint of the Dominican economy exports from the Dominican Republic to the United States have amounted to over seventy percent of all Dominican exports for the last three years. In terms of value, exports from the Dominican Republic to the United States equalled $520.4 million in 1976 and $631 million in 1977.[4]

If Mrs. Carter correctly reflects the current administration's policy when she speaks of the U.S. objective "to participate in transforming a proud but economically weak area into a vigorous and cooperative region . . .," then surely the Dominican Republic must be a major focal point for U.S. policymakers in implementing this objective. An examination of direct U.S. foreign assistance to the Dominican Republic over the past decade reveals that the island republic has been a recipient of substantial United States aid. While the yearly total of direct assistance has decreased somewhat since the late sixties, multilateral assistance through the IDB and the World Bank has increased in recent years. Thus, on balance, an observer is led to the conclusion that United States action,

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1. Office of the First Lady's Press Secretary, Remarks to UPI Conference of Editors and Publishers, Rosalynn Carter, Puerto Rico, October 11, 1977.
2. U.S. Foreign Service, FOREIGN ECONOMIC TRENDS AND THEIR IMPLICATIONS FOR THE UNITED STATES, Dominican Republic, August 1977.
3. *Id.* at 2.
4. U.S. Foreign Service, FOREIGN ECONOMIC TRENDS AND THEIR IMPLICATIONS FOR THE UNITED STATES, Dominican Republic, March 1978.

insofar as development assistance aid is concerned, is consistent with its announced policy.

With respect to trade, the gross statistics are also currently favorable to the Dominican Republic. Total exports to the United States have increased in recent years, and the balance of Dominican trade with the United States has been positive. However, beneath the overall trade statistics, if one focuses on the development of export markets for nontraditional products, recent history has witnessed an increasing number of disturbing developments. This paper attempts to direct attention to what appears to be an increasing trend toward the piecemeal but substantial development of new barriers affecting the ability of the Dominican Republic to export nontraditional products to the United States.

General trade statistics tend to focus on traditional Dominican exports since these comprise the bulk of export earnings. In 1977, traditional exports — sugar, coffee, cacao, ferronickel, gold and silver, tobacco and bauxite — amounted to ninety-two percent of total exports.[5] Nontraditional exports reached $66.6 million, or approximately eight percent of total exports.

But it is precisely in the area of nontraditional exports that the attention of the Dominican Government is and should be directed. Expansion of nontraditional exports provides the most attractive target for potential increases in total exports and, perhaps more importantly, for achievement of export diversification.

The ability of a small tropical country to increase nontraditional exports is quite limited. Major gains, however, have been registered by the Dominican Republic in the exportation of beef and textiles and nontraditional products exported from Industrial Free Trade Zones have increased. Other nontraditional exports have benefited from U.S.

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5. 1977 Traditional Dominican exports amounted to:

Sugar and sugar products	US $248.6 million
Coffee	174.7
Cacao	93.8
Ferronickel	91.4
Gold and silver	54.9
Tobacco	28.1
Bauxite	22.0
	US $713.5 million

Since total 1977 exports were 780.1 million, these traditional exports were approximately 92%. Source: U.S. Foreign Service, FOREIGN ECONOMIC TRENDS AND THEIR IMPLICATIONS FOR THE UNITED STATES, Dominican Republic, March 1978.

legislation affecting Assembly Operations and the GSP. But, in each of these areas, impediments to increased trade with the United States are on the horizon. It is important to review these individual products and export promotion programs to arrive at an understanding of obstacles which are currently being created and which are likely to impede the development of increased exportation of nontraditional goods.

Beef

The Dominican Republic has devoted substantial resources to the creation of a beef cattle industry. The Dominican government has sought to stimulate the production of beef, first through loan programs administered by the Agricultural Bank and the Agricultural Development Fund of the Central Bank; and secondly, through the creation of incentives to induce the private banking industry to channel funds to cattle ranching ventures. The development of beef as a nontraditional export product was part of the government's strategy, and the Dominican Republic began exporting limited amounts of beef to the United States as early as the 1960s. Generally speaking, it is fresh, chilled or frozen beef (falling under TSUS Item 106.10)[6] although the Dominican Republic does now export some canned and prepared beef products. No livestock is exported, however.

The principal U.S. market for Dominican beef is Puerto Rico,[7] where most of the beef is consumed locally, with little being transhipped to mainland United States. The bulk of the beef exported to Puerto Rico is boned chuck and is consumed there in the form of hamburgers.

In recent years, exports of beef from the Dominican Republic to the United States have proved to be a growing source of foreign exchange, earning for the country in excess of $4.7 million in 1975 and approximately $9 million in 1976.[8] Indeed, the $9 million earned in 1976 proved to be important in partially alleviating the shortage of foreign exchange that resulted from the dramatic decline in sugar prices in that year. The Dominicans themselves have also begun to demand more beef, with domestic consumption of beef growing at a rate of between three and five percent per year in recent years.[9]

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6. TSUS Item 106.10 includes: "Meats (except meat offal), fresh, chilled or frozen of . . . cattle (including veal)." 19 U.S.C. § 1202 (1978).

7. Puerto Rico is within the "Customs Territory" of the U.S.

8. Department of Commerce, U.S. GENERAL IMPORTS, Table 3, *Dominican Republic,* 1975 and 1976.

9. Foreign Agricultural Service, 4 *Dominican Republic — Livestock and Meat Quarterly Report,* November 30, 1977.

This generally optimistic picture is clouded, however, as a result of recent United States trade policy limiting beef imports. Under the provisions of the Agricultural Act of 1956,[10] the United States has for the past several years required the Dominican Republic to enter into annual Voluntary Restraint Agreements limiting exports of beef products to the United States. The limitations set for the calendar years 1975-77 were 14 million, 14.4 million and 15 million pounds, respectively.[11]

The quota limit has been generous, and except for the year 1976, the Dominican Republic has failed to reach the quota level for beef imports into the United States. The deterrent effect of the existence of the United States quota should, however, not be underestimated. Individual ranchers realize that exports to the United States are limited, and they can be assumed to take this fact into account in planning their investment decisions. In effect, the United States has placed a ceiling on the Dominican Republic's ability to develop this nontraditional export.[12]

Textiles

Textile production represents an industry in which competitive advantage favors the Dominican Republic. Sewing operations are labor-intensive, and the relatively low Dominican labor cost means that Dominican garments can be profitably exported to the United States. This nontraditional product has been increasing in importance. In 1975, Dominican textile exports to the United States were valued at $10.5 million; by 1976 they had grown to $20.2 million, and by 1977 to $32.3 million.[13]

This success in development of a nontraditional export has not gone unnoticed. In the opinion of the U.S. Department of Commerce, textile imports from the Dominican Republic have now reached levels considered disruptive to our domestic textile industry. The Department of Commerce has given notice to the Dominican government that it intends to negotiate a bilateral agreement within the framework of the GATT "Arrangement Regarding International Trade in Textiles."[14] During the

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10. 7 U.S.C. § 1854 (1956).
11. T.I.A.S. No. 8329.
12. For domestic reasons, in May 1977, the Dominican government placed price controls on the sale of beef and enacted a total ban on exports. These measures have obviously created additional disincentives for investment in the beef cattle industry.
13. Department of Commerce, U.S. GENERAL IMPORTS, Table 3, Dominican Republic 1975, 1976, 1977.
14. GATT Document Tax NG/1, December 20, 1973.

week of December 5, 1977, a "study team" was sent by the United States government to Santo Domingo to review the textile situation. A diplomatic note, received by the Dominican government announcing the arrival of the team, had earlier expressed U.S. concern over the substantial increase in textile exports. The note indicated that United States Customs records showed that for the year ending July 1976 some eleven million square yards of textiles had been exported from the Dominican Republic into the United States, and that for the year ending July 1977 the amount had doubled to approximately twenty-two million square yards.

It now appears likely that the United States government will press the Dominican government to negotiate a textile report restraint agreement. If such agreement follows the usual format, a ceiling will be placed on textile exports to the United States, and growth of another Dominican nontraditional export will be curtailed.

INDUSTRIAL FREE ZONES

The Dominican Republic has attempted to increase nontraditional exports through implementation of an Industrial Free Zone Program.[15] Qualified firms are located in designated Industrial Free Zones, and may import materials duty-free, process them with local labor, and then reexport the finished product, again duty-free. Most of these firms are also eligible for a 100% exemption from Dominican income taxes.[16] The governing legislation, enacted in 1969, was formulated with the assistance of technical advice provided through AID.

These zones have proven to be a significant asset to the Dominican economy. In 1977 some fifty plants, employing over 5,000 Dominican workers, were operating under the program.

The continued success of the Industrial Free Zones is threatened, however, by a recent Treasury Department decision which appears to indicate that U.S. countervailing duty laws can be invoked to negate benefits conferred under the Industrial Free Zone program. The Treasury decision involved a countervailing duty investigation of handbags imported from the Republic of China. The Taiwanese industrial free zone legislation is similar to the law in force in the Dominican Republic. The

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15. Industrial Free Zones, Law No. 431 of May 3, 1969. For the English language text of the law *see*, Fenwick, Heredia, LaBrucherie, and Russin, 307 T.M., BUSINESS OPERATIONS IN THE DOMINICAN REPUBLIC (1975).

16. For a description of the administration of the law, *see* Russin and Brown, *Automatism v. Discretion: The Industrial Investment Incentive Law of the Dominican Republic*, 3 L. POL'Y INT'L BUS. 336 (1971).

June 1977 Treasury Department decision found that an income tax exemption for firms operating in industrial free zones constitutes a bounty or grant which can lead to the imposition of a countervailing duty.[17]

To date, the Dominican Republic has escaped such a challenge to its Industrial Free Zone program. However, the knowledge that U.S. countervailing duties may be imposed will be taken into account by firms considering Industrial Free Zone operations in the future. Again, the potential growth of nontraditional exports is affected negatively.

ASSEMBLY OPERATIONS

The general rule for tariff treatment of United States goods exported abroad and then returned after having been increased in value or improved upon is that such returned products are dutiable on their full value. No advantage is created by the fact that such returned goods contain United States origin components.[18] An important exception to this general rule is created by TSUS Item 807.00.[19] Under this provision, U.S. origin components may be shipped abroad for assembly only and returned to the United States with the original U.S. value of the components deductible from the dutiable value. The United States duty is thus based only on the value added by assembly overseas.

The Dominican Republic has attracted a significant number of such assembly operations which produce a variety of nontraditional exports. These plants are beneficial to the Dominican economy not only for the positive contribution made to the Dominican Republic balance of trade, but also because the plants provide much needed training for the largely unskilled Dominican labor pool.

There are now pending in the present United States Congress some twenty-five bills calling for the repeal of TSUS Item 807. The Chairman of the House Trade Subcommittee, Charles Vanik (D-Ohio), has indicated his support for the repeal of Item 807 and his intent to schedule hearings on these bills in the near future. Repeal is actively supported by the International Ladies' Garment Workers Union and by the AFL-CIO who claim that Item 807 encourages the export of jobs to overseas plants.

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17. TREAS. DEC. 77-151, *Countervailing Duties; Certain Handbags from the Republic of China,* 42 Fed. Reg. 28,531 (1977). On countervailing duties, *see generally* Dr. B. Smith, *Export Subsidies of the Caribbean Basin and a Proposed Revision of International Rules Regarding Countervailing Duties, infra* at 124.

18. 19 U.S.C. § 1202, Headnote 2, Schedule 8.

19. *Supra* note 6.

Given the current protectionist sentiments expressed in the Congress, the future for assembly plant operations producing nontraditional products in the Dominican Republic is uncertain.

CONCLUSIONS

In conclusion, the further development of nontraditional Dominican exports is subject to a number of restraints and uncertainties which arise from United States action. These restraints appear to be the result of individual U.S. decisions affecting single products or single issues, rather than a concerted policy to erect obstacles to Dominican exports. But the aggregate impact on the Dominican Republic has been substantial, and it appears that efforts to protect specific domestic industries through such piecemeal action are gaining increased momentum.

These increased restraints are attracting the attention of both trading partners. In January 1978, President Balaguer noted that, "Trade between the Dominican Republic and Puerto Rico . . . is encountering obstacles, not so much from local legislation and the authorities of the island, as from federal laws and regulations."[20]

In his address to the Center for Inter-American Relations in New York City on February 14, Assistant Secretary of State for Inter-American Affairs, Mr. Terence Todman, speaking about the Carter administration's Latin American policy stated, "It is true that increased domestic demands for import protection have increased concern abroad that new trade restrictions may limit future growth. However, few petitions for import relief under the Trade Act have resulted in actions adversely affecting Latin American products."[21]

I am not as sanguine as Mr. Todman. Admittedly, the export limitations on beef and textiles are not imposed under the Trade Act. But they are constraints, nonetheless. Countervailing duties have not fallen directly on nontraditional exports from Dominican Industrial Free Trade Zones, but the 1977 United States Treasury decision with respect to similar legislation in effect in Taiwan has already had a chilling effect on new investment in the Dominican Zones. Momentum is growing for the repeal of U.S. legislation favoring assembly plant operations and this development is having a clear, immediate and negative impact on

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20. Remarks of His Excellency Dr. Joaquin Balaguer, President of the Dominican Republic, Second Caribbean Conference on Trade, Investment and Development, Miami, Florida, January 19, 1978 (mimeo).

21. Address by Terence A. Todman, Assistant Secretary of State for Inter-American Affairs, *The Carter Administration's Latin American Policy: Purposes and Prospects,* Center for Inter-American Relations, (New York, Feb. 14, 1978) (mimeo).

investors contemplating the establishment of new assembly plants in the Dominican Republic. The restraints are piecemeal, but the cumulative effect is substantial. Executive branch pronouncements that United States policy favors increased trade are undermined by the thicket of fast-growing restraints. Hopefully, the new wave of protectionism will be dissipated and the two countries will be able to pursue ever increasing and mutually satisfactory trade relations.