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Access to Latin American and Caribbean Exports in the U.S. Market 2001-2002

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Abstract

Access to Latin American and Caribbean Exports in the United States market, 2001-2002 is the seventh annual report released by the ECLAC Washington Office, updating information contained in previous reports. Its aim is to compile and make available information on trade inhibiting measures that Latin American and Caribbean exports encounter in the United States market.

I. Introduction

This report needs to be placed in the context of a trade relationship between the United States and Latin America and the Caribbean, which has grown strongly over the years to the benefit of both economies. Moreover, it must be viewed against the background of the commitment to achieve the Free Trade Area of the Americas (FTAA), through which barriers to trade and investment will be progressively eliminated. In this regard, it is hoped that this report will further contribute to transparency and the elimination of obstacles to the free flow of trade in the Americas.

The classification of trade inhibiting measures follows the definition used in the U.S. Trade Representative's (USTR) yearly publication National Trade Estimate Report on Foreign Trade Barriers. Based on this structure, the report focuses on the three areas of greatest relevance for Latin America and the Caribbean:

- Imports Policies (e.g., tariffs and other import charges, quantitative restrictions, import licensing, customs barriers).
- Standards, testing, labeling and certification (e.g., unnecessarily restrictive application of phytosanitary standards).
- Export subsidies (e.g., export financing on preferential terms and agricultural export subsidies that displace other foreign exports in third country markets).

II. Import Policies

1. Tariffs

It is well known that U.S. tariffs do not constitute a major barrier to exports from Latin American and Caribbean countries. In 2001, 78.6% of all U.S. imports from the region entered duty free[1], up slightly from the 2000 level of 74.7%. The trade-weighted tariff for all U.S. imports remained the same at 1.64% from 2000 to 2001. Furthermore, the collected duties on exports from Latin America and the Caribbean to the U.S. have been reduced to about 0.60 % of the total value in 2001 (Table 1).

While the Ad Valorem Equivalent (AVE)[2] total for U.S. imports from the region in 2001 was 0.60%, U.S. imports from the world paid an average duty rate of 1.64%. Countries from the Central American Common Market (CACM) paid an AVE total of 4.28%. Exports from MERCOSUR paid 1.98%, those from the Andean Community 0.81% and from CARICOM 0.39 %. Overall, the North American Free Trade Agreement (NAFTA), which includes Canada and Mexico, had the lowest duty rate of 0.09%.

Over 50% of all imports from South America entered duty free to the U.S. in 2001, and over 72% from the Caribbean. U.S. duty free imports from Venezuela amounted to 37.7%, in part due to the high volume of petroleum exports from this country that did not enter duty free.

[1] The share of duty free imports is calculated by the (Total value - Dutiable value) / Total value.

[2] The Ad Valorem Equivalent is the average duty rate, expressed as the percentage of duties collected over the total value of all imports entering the U.S.

However, a closer look at the tariffs by product reveals that even though average ad valorem tariffs are very low, a few very sensitive products face high tariffs. For instance, in 2001, 73.6% of all U.S. imports from Central America entered the market duty free, but the AVE on dutiable goods[3] from the CACM countries was 16.18%, the highest among all Latin American regions. The countries with the highest Ad Valorem duty rates, each above 16%, were El Salvador, Guatemala, Honduras and Nicaragua, mostly due to textile and apparel imports.

Peaks in tariff barriers tend to be concentrated in a small number of sensitive industries (Table 2), such as agricultural, food and tobacco products, as well as textiles and footwear. For example, tariff peaks reach 350% for tobacco, 164% for peanuts and 132% for peanut butter.

Table 1
AD VALOREM DUTY RATES FOR U.S. IMPORTS 2001
(Thousands of dollars, Customs Value)

	Total Value	Dutiable Value	Duties Collected	% Duty Free	A.V.E Dutiable %	A.V.E Total %
World	1,132,635,340	375,225,346	18,618,806	70.0	4.9	1.64
Western Hemisphere	281,726,557	31,623,691	1,215,582	90.0	3.84	0.43
NAFTA	347,345,127	23,098,273	315,700	93.3	1.37	0.09
Canada	216,836,196	5,865,960	80,345	97.2	1.37	0.04
Mexico	130,508,931	17,232,313	235,355	86.8	1.37	0.18
LAC(including Mexico)	191,325,711	40,937,187	1,154,597	78.6	2.82	0.60
Andean Community	23,746,926	12,627,746	191,836	46.8	1.51	0.81
Bolivia	165,130	27,522	3,345	83.3	1.22	2.03
Colombia	5,622,631	2,255,445	58,847	59.9	2.6	1.05
Ecuador	1,975,377	931,363	12,422	52.9	1.33	0.63
Peru	1,805,523	584,518	69,484	67.6	1.19	3.85
Venezuela	14,178,266	8,828,898	47,738	37.7	0.54	0.34
MERCOSUR	17,635,751	6,885,228	348,512	30.8	5.06	1.98
Argentina	2,962,591	1,803,528	49,428	39.1	2.74	1.67
Brazil	14,415,091	5,018,662	287,965	65.2	5.73	2.00
Paraguay	32,953	1,754	87	94.7	4.97	0.26
Uruguay	225,116	61,284	11,032	72.8	18	4.90
Chile	3,279,027	957,979	19,256	70.8	2.01	0.59
CACM	11,117,231	2,937,334	475,304	73.6	16.18	4.28
Costa Rica	2,912,106	232,233	19,545	92.0	8.41	0.67
El Salvador	1,881,921	554,235	92,165	70.5	16.63	4.90
Guatemala	2,589,243	1,241,221	210,864	52.1	16.99	8.14
Honduras	3,131,004	625,305	104,287	80.0	16.68	3.33
Nicaragua	602,956	284,340	48,444	52.8	17.03	8.03

[3] The AVE dutiable is the average duty rate, expressed as a percentage of duties collected over the amount of the dutiable value of imports.

Table 1 (continued)

AD VALOREM DUTY RATES FOR U.S. IMPORTS 2001

(Thousands of dollars, Customs Value

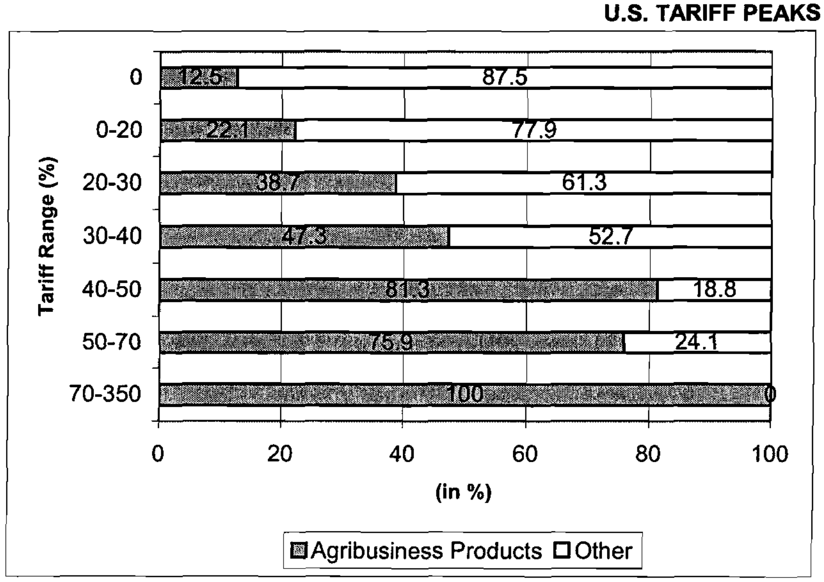
	Total Value	Dutiable Value	Duties Collected	% Duty Free	A.V.E Dutiable %	A.V.E Total %
CARICOM	3,898,911	1,065,293	15,078	72.7	1.41	0.39
Antigua & Barbuda	3,741	230	5	93.9	2.17	0.13
Bahamas	311,887	113,227	384	63.7	0.33	0.12
Barbados	39,526	2,905	223	92.7	7.68	0.56
Belize	98,459	13,553	429	86.2	3.16	0.44
Dominica	5,245	1,658	19	68.4	1.15	0.36
Grenada	21,807	2,676	6	87.7	0.22	0.03
Guyana	125,165	2,678	247	97.9	9.22	0.20
Haiti	263,103	42,583	6,391	83.8	15	2.43
Jamaica	441,997	64,810	3,413	85.3	5.27	0.77
St. Kitts	41,096	1,886	101	95.4	5.35	0.25
St. Lucia	30,730	7,606	1,065	75.2	14	3.47
St. Vin. & Grenadines	22,510	537	12	97.6	2.23	0.05
Suriname	142,705	473	17	99.7	3.6	0.01
Trinidad & Tobago	2,350,942	810,473	2,767	65.5	0.35	0.12
Other Countries	4,472,580	606,387	82,198	86.4	13.5	1.84
Dominican Republic	4,187,143	567,036	80,484	86.5	14.19	1.92
Panama	285,437	39,351	1,714	86.2	4.35	0.60
Other West. Hem. (a)	1,436,957	990,006	5,208	31.1	0.52	0.36

Source: U.S. Department of Commerce, International Trade Administration.

(a) Anguilla, Aruba, Bermuda, British Virgin Islands, Cayman Is., Falkland Is., French Guyana, Guadeloupe, Martinique, Monserrat, Netherlands Antilles St. Pierre & Miquelon, Turks & Caicos, and Cuba.

Figure 1

U.S. TARIFF PEAKS



Source: Marcos Jank & Andre Meloni Nassar, "The FTAA & Agriculture, The Brazil vs. U.S. Perspective".

2. Trade Remedy Legislation

Anti-dumping and Countervailing Duties by outcome

In 2001-2002, the U.S. filed petitions for eight anti-dumping (AD) investigations and four countervailing duty (CVD) investigations on products from Latin American and Caribbean countries. The U.S. Department of Commerce (USDOC) and the International Trade Commission (ITC) announced ten Administrative Reviews. Four positive final AD/CVD determinations were reached and one negative final CVD determination was established.

Box 1
ANTIDUMPING LAW

Under the anti-dumping (AD) law, duties are imposed on U.S. imported products when the U.S. Department of Commerce (USDOC) determines merchandise is being sold at a price that is below what the producers sell it for in the country of origin (home market), or at a price that is lower than the cost of production. The difference between the price in the foreign market and the price in the U.S. market is called the "dumping" margin.

Domestic producers that believe imports are sold at less than fair value or are subsidized by a foreign government can file an anti-dumping (AD) or countervailing duty (CVD) petition with both the USDOC and the International Trade Commission (ITC) file. The domestic industry may claim that it is being materially injured, that it is in threat of such injury, or that the establishment of a domestic industry is prevented by the above actions.

After an initial review, a preliminary determination is made either rejecting the petition and dropping the case, or agreeing that either dumping or subsidization has occurred and has or will cause harm to the domestic industry. Then a preliminary duty is established.

For the AD case, the duty amount should equal the difference between the good's price in its home market and the price of the import in the U.S. For CVD cases, the duty should equal the amount of the subsidy per unit produced. A final review is then issued and final duties are determined in the same manner as above if the preliminary duty is upheld. If the decision dismisses the case, all bonds posted to the U.S. Customs office during the temporary duty period are returned.

Source: U.S. Department of Commerce

From 2001-2002, four AD duty orders were imposed on carbon quality steel from Brazil, individually quick frozen raspberries from Chile, welded large diameter line pipe from Mexico, and Silicomanganese from Venezuela. During 2002, two AD investigations were initiated on products from Brazil and Venezuela, both involved oil country tubular goods. In addition, on June 2002 the ITA published its decision to resume AD investigations on fresh tomatoes from Mexico.

(a) Positive AD and CVD Determination

The USDOC issued six preliminary duty margins and four final determinations of reasonable indication of injury or threat of material injury to a domestic industry. The ITC announced three final AD duty orders and two final CVD duty orders.

i. Honey from Argentina: On December 10, 2001 the USDOC published its notices of AD and CVD duties against natural honey, artificial honey containing more than 50% natural honey by weight, preparations of natural honey containing more than 50%natural honey by weight, and flavored honey. CVD duties were assessed on all unliquidated entries starting March 13, 2001 through July 2001 and reinstated with this notice. The estimated countervailable subsidy rate is 4.53% ad-valorem. However a 5.85% ad-valorem cash deposit rate was established. All the AD duties were assessed on all unliquidated entries starting May 11, 2001.

Asociación Cooperativas Argentinas (ACA)	31.92
Radix S.R.L.	27.04
ConAgra Argentina	55.15
All Others	30.24

ii. Certain Cold-Rolled Carbon Steel Flat Products from Argentina: On October 26, 2001 the USDOC initiated CVD and AD investigations as requested by 8 U.S. steel companies, over Certain Cold-Rolled Carbon Steel Flat products from Argentina and Brazil among other countries. On June 12, 2002 the USDOC determined that some dumping margins apply with the weighted-average percentage margins as follows:

Sidercar	43.46
All Others	43.46

iii. Carbon and Certain Alloy Steel Wire Rod from Brazil: On August 31, 2001 U.S. producers of wire rod filed petitions with the USDOC for AD and CVD investigations for products coming from Brazil. On August 30, 2002 the USDOC announced the following final AD weighted average margin.

Companhia Siderurgica Belgo Mineira & Belgo Mineira Participacao Industria e Comercio S. A. (BMP)	94.73
All others	74.45

On August 30, 2002, the USDOC announced its final determination that countervailable subsidies were being provided to certain producers and exporters of above-mentioned product. The total estimated net subsidy rate for each company is as follows;

Companhia Siderurgica Belgo Mineira & Belgo Mineira	6.74
Gerdau S.A.	4.44
All Others	6.11

iv. Certain Cold-Rolled Carbon Steel Flat Products from Brazil: On October 26, 2001 the USDOC initiated CVD and AD investigations as requested by 8 U.S. steel companies on May 9, 2002 it published a preliminary determination about the product mentioned above as being sold at less than fair value, establishing weighted-average dumping margins as follows:

USIMINAS / COSIPA	43.34
All Others	43.34

On March 4, 2002 the USDOC published their preliminary results determining that countervailing subsidies have been provided to producers and exporters of certain cold rolled carbon steel flat products from Brazil.

v. Individually Quick Frozen Red Raspberries from Chile: On June 6, 2001 the USDOC announced publicly the opening of AD investigations of the above-mentioned product. As a result, on June 12, 2002, the USDOC amended the final determination reached on May 15, 2002 and determined that IQF red raspberries are sold at less than fair value in the U.S. and imposed weighted average margins of:

Exportadora Fruticola	0.50
Exportadora Frucol	0.00
Fruticola Olmue	5.98
All Others	5.98

vi. Welded Large Diameter Line-Pipe from Mexico: The USDOC initiated AD investigations on February 23, 2001. On January 4, 2002, the USDOC issued its final determination in the AD investigation ordering the assessment of all unliquidated entries of welded large diameter line pipe from Mexico entered, or withdrawn from warehouse, on or after August 15, 2001. The weighted-average dumping margins are as follows:

Productora Mexican de Tuberia S.A. de C.V	49.86
Tubacero S.A. de C.V.	49.86
All Others	49.86

vii. Carbon and Certain Alloy Steel Wire Rod from Mexico: On August 31, 2001, U.S. producers of wire rod filed petitions with the USDOC for AD and CVD investigations for products coming from Mexico. The USDOC announced the final determination on August 30, 2002 that this product from Mexico was being sold at less than fair value at the following weighted-average dumping margins for the manufacturer/exporter:

SICARTSA	20.11
All Others	20.11

viii. Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago: On August 31, 2001, U.S. producers of wire rod filed petitions with the USDOC for AD and CVD investigations for the mentioned product coming from Trinidad and Tobago, among other countries. The period of investigation was the calendar year 2000. On August 30, 2002, the USDOC made the following final AD determination:

Caribbean Ispat Limited	11.40
All others	11.40

ix. Silicomanganese from Venezuela: On April 26, 2001, the USDOC initiated AD investigations of Silicomanganese. The period of investigation was from April 1, 2000 through March 31, 2001. On November 9, 2001, the USDOC published its preliminary determination of sales at less than fair value of Silicomanganese. On April 2, 2002, the USDOC made certain changes to the margin calculations and recalculated imputed credit expenses for the sale of such a product. As a result, the new margins are:

Hornos Electricos de Venezuela	24.62
All Others	24.62

The USDOC issued AD duties on May 23, 2002 that will be assessed on all unliquidated entries of Silicomanganese entered or withdrawn from warehouse on or after November 9, 2001.

x. Certain Cold-Rolled Carbon Steel Flat Products from Venezuela: On April 26, 2002, the USDOC released the notice of preliminary determination of sales at less than fair values and postponement of final determination. Hence, the weighted-average dumping margins are as follows:

SIDOR	72.81
All Others	72.81

(b) Administrative Review

Upon requests of interested parties, the DOC conducted ten Administrative Reviews of dumping margins and subsidy rates. The DOC and the ITC are authorized under Section 751 of the Tariff Act to review certain outstanding determinations that show "changed circumstances" that warrant review or revocation.

i. Frozen Concentrated Orange Juice from Brazil: On May 31, 2001, the USDOC conducted an administrative review of AD orders on concentrated orange juice for one manufacturer/exporter of such merchandise: Branco Peres Citrus S.A. for the period May 1, 2000 through April 30, 2001. On May 31, 2001, other American petitioners requested an administrative review on four other producers/exporters of FCOJ. On April 17, 2002, the USDOC have determined that Branco Peres Citrus S.A. has made no sales below the normal value. In addition, it rescinded the review for the following 3 companies: Citrovita Agro-Industrial Ltda, and with respect to CTM Citrus S.A. and Sucorrico S.A. because they had no shipments of the product during the period of review and established a margin for Branco Peres Citrus of 0.0.

ii. Oil Country Tubular Goods, Other than Drill Pipe from Argentina: On October 1, 2001, the USDOC initiated an administrative review of oil country tubular goods imports. On August 31, 2001, petitions were filed by the United Steel LLC against Acindar Industria Argentina de Aceros S.A. and by North Star Steel Ohio against Siderca S.A.I.C. for a review of the import. The USDOC is extending preliminary results until August 31, 2002.

iii. Silicon Metal from Brazil: On July 31, 1991, the USDOC published the AD order on silicon metal. On August 19, 1994, the USDOC published its final results of the first administrative review of silicon metal. As a result, the United States Court of International Trade has affirmed the USDOC's final remand results affecting final assessment rates for the administrative review of the AD order establishing weighted-average percentage of :

CBCC	0.42
Electrosilex	53.63

iv. Hot Rolled Flat-Rolled Carbon Quality Steel Products from Brazil: On February 11, 2002, the USDOC published its final results of the administrative review and termination of the suspension agreement on hot-rolled steel. The USDOC assessed AD orders equal to the amount by which the normal value of the subject merchandise exceeds the U.S. price starting on November 13, 2001:

Companhia Siderurgica Nacional	41.27
Usinas Siderurgicas de Minas Gerais	43.40
Companhia Siderurgica Paulista	43.40
All Others	42.12

v. Certain Preserved Mushrooms from Chile: On December 3, 2001, the USDOC announced publicly that a group of U.S. companies joined in the Coalition for Fair Preserved Mushroom Trade, requested an administrative review of the AD orders for the product mentioned above coming from Chile, for the period December 1, 2000, through November 30, 2001. The USDOC rescinded the review of the product because on February 27, 2002 the petitioner withdrew its request. On May 10, 2002, the USDOC published a resolution announcing that there were no changes in the margin calculations.

vi. Fresh Atlantic Salmon from Chile: On August 20, 2001, the USDOC published the initiation of administrative review of the AD order on fresh Atlantic salmon from Chile covering the period July 1, 2000 through June 30, 2001. The USDOC will issue the final results no later than July 31, 2003.

vii. Stainless Steel Sheet and Strip in Coils from Mexico: On February 12, 2002, the USDOC published final results of AD administrative review about the product mentioned above for the period January 4, 1999 through June 30, 2000. On March 15, 2002, the USDOC amended its final results, establishing the following weighted-average percentage margin:

Mexinox	2.28

viii. Gray Portland Cement and Clinker from Mexico: The USDOC received a request to conduct an administrative review of the AD order on gray Portland cement and clinker from Mexico between August 1, 2000 through July 31, 2001. The USDOC extended the time limit for the preliminary results to August 31, 2003 (the first due date was May 3, 2003) .

ix. Porcelain-on-Steel Cookware from Mexico: On January 2002, the petitioner, Columbian Home Products, LLC, requested that the USDOC revoke the AD order for the product. The USDOC initiated a change of circumstances review and ended revoking the order and rescinding the ongoing administrative reviews of this order for the periods December 1, 1999 through November 30, 2000, and December 1, 2000 through November 30, 2001.

x. Cut-to-length Carbon Steel Plate from Mexico: On October 26, 2001, the USDOC announced the administrative review of the AD order on cut-to-length carbon steel plate for the period between August 1, 2000, through July 31, 2001 for the producer/exporter Altos Hornos de Mexico S.A. de C.V. On April 12, 2002, the USDOC decided to extend the time limit for the preliminary results until August 31, 2002 .

(c) Negative AD and CVD Determinations

For the period 2001-2002 the USDOC announced two negative preliminary CVD determinations and two final determinations were reached that established countervailable subsidies were not provided by the foreign government to producers and exporters.

i. Certain Cold-Rolled Carbon Steel Flat Products from Argentina: On October 26, 2001, the USDOC initiated CVD and AD investigations as requested by eight U.S. steel companies. On March 4, 2002, the USDOC announced a preliminary negative CVD determination and alignment of the final CVD determination with final AD duty determination.

ii. Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago: On August 30, 2002, the USDOC announced the final determination that countervailable subsidies were not being provided to producers and exporters of above mentioned product.

iii. Carbon and Certain Alloy Steel Wire Rod from Brazil: On August 31, 2001, U.S. producers of wire rod filed petitions with the USDOC for AD and CVD investigations for products coming from Brazil. On February 4, 2002, the USDOC announced preliminary determinations in the CVD investigations that Brazilian producers/exporters did not benefit from CVD subsidies .

iv. Individually Quick Frozen Red Raspberries from Chile: On June 28, 2001, the USDOC announced the opening of a CVD investigation of this product. As a result, on October 16, 2001, the USDOC preliminarily established that countervailable subsidies were not being provided to producer/exporters of the product. On May 22, 2002, the USDOC adopted its final negative countervailing duty determination.

(d) Sunset Reviews

The Uruguay Round Agreements Act amended the Tariff Act of 1930, requiring the USDOC to conduct reviews of existing antidumping and countervailing duty orders no later than five years after the order was issued. The USDOC and the ITC must determine whether revoking the order or terminating a suspended investigation is likely to lead to a recurrence of dumping or subsidies (USDOC) and of material injuries (ITC).

i. Fresh Tomatoes from Mexico: On October 1, 2001, the USDOC initiated a five-year review of the suspended AD investigation on fresh tomatoes from Mexico. The USDOC preliminarily determined that termination of the suspended AD investigation on fresh tomatoes would lead to continuation of dumping at following weighted-average margins:

Camalu	4.16
Echavarria	11.89
Lomeli	26.97
Eco-Cultivos	188.45
RLP	10.26
Tamazula	28.30
Yory	11.95
All Others	17.56

On August 6, 2002, the USDOC announced its decision to terminate the suspension agreement and the sunset review, and to resume the AD investigation with final results by December 12, 2002.

(e) AD and CVD orders in effect

There are 30 antidumping orders in effect as of July 2002 against Latin America and the Caribbean countries, Argentina (6), Brazil (13), Chile (3), Mexico (7) and Venezuela (1).

From the 30 AD duty orders, 19 correspond to products related to steel. These orders are classified into 3 product categories: iron and steel mill products (7 orders), iron and steel pipe products (10 orders) and other iron and steel products (2 orders). The remaining orders correspond to 5 orders against the agricultural, forest, and processed food product sector, 5 orders from the minerals and metal sector, and 1 order from the chemicals and pharmaceutical area.

As of July 2002 three Latin American countries had CVD orders in effect: Brazil (3), Argentina (2) and Mexico (1) (Table 4). Few CVD orders issued in the 1980's are still in effect. This decline is caused by CVD orders subject to sunset reviews, the opportunity for affected countries by CVD orders to present evidence for the revoking of this order.

Table 2

ANTIDUMPING DUTY ORDERS FOR LATIN AMERICA AND THE CARIBBEAN IN EFFECT AS OF JULY 2002

Countries	Item	Date Begun
Argentina	Barbed Wire and Barbless Wire Strand	11/13/85
	Welded Carbon Steel Pipe and Tube	5/26/89
	Seamless Line and Pressure Pipe	8/3/95
	Oil Country Tubular Goods	8/11/95
	Hot Rolled Carbon Steel Flat Products	9/19/01

Table 2 (continued)

ANTI-DUMPING DUTY ORDERS FOR LATIN AMERICA AND THE CARIBBEAN IN EFFECT AS OF JULY 2002

Countries	Item	Date Begun
	Honey	12/10/01

Brazil	Iron Construction Castings	5/9/86
	Carbon Steel Butt-Weld Pipe Fittings	12/17/86
	Brass Sheet and Strip	1/12/87
	Frozen Concentrated Orange Juice	5/5/87
	Industrial Nitrocellulose	7/10/90
	Silicon Metal	7/31/91
	Circular Welded Non-Alloy Steel Pipe	11/2/92
	Cut-To-Length Carbon Steel Plate	8/19/93
	Stainless Steel Wire Rod	1/28/94
	Silicomanganese	12/22/94
	Stainless Steel Bar	2/21/95
	Line and Pressure Pipe	8/3/95
	Hot-Rolled, Flat-rolled, Carbon Quality Steel Prd.	3/12/02
Chile	Fresh Atlantic Salmon	7/30/98
	Preserved Mushrooms	12/2/98
	Individually Quick Frozen Raspberries	7/9/02
Mexico	Porcelain-On-Steel Cooking Ware	12/2/86
	Gray Portland Cement and Cement Clinker	8/30/90
	Circular Welded Non-Alloy Steel Pipe	11/2/92
	Cut-To-Length Carbon Steel Plate	8/19/93
	Oil Country Tubular Goods	8/11/95
	Stainless Steel Sheet and Strip in Coils	7/27/99
	Carbon & Alloy Seamless Std. Line/Pressure Pipe	8/11/00
	Welded Large Diameter Line Pipe	2/27/02

Source: ECLAC, based on U.S. Department of Commerce data, www.ita.doc.gov

Table 3

COUNTERVAILING DUTY ORDERS FOR LATIN AMERICA AND THE CARIBBEAN IN EFFECT AS OF JULY 2002

Countries	Item	Date Begun
Argentina	Honey	12/10/01
	Hot-Rolled Carbon Steel Flat Products	9/11/01
Brazil	Iron Construction Castings	5/15/86
	Brass Sheet and Strip	1/8/87
	Carbon Steel Flat Products	8/17/93
Mexico	Carbon Steel Flat Products	8/17/93

Source: ECLAC, based on U.S. Department of Commerce data, www.ita.doc.gov

Box 2

SPECIAL SECTION: ANTI-DUMPING INVESTIGATIONS: 1980 - 2001

Anti-dumping investigations increased between the 1980s and 1990s from 59 to 82—i.e. from 6 per year to 7 per year.

The increase accompanied the general trend, as investigations of products coming from Latin American and Caribbean countries as a percentage of total investigation were 15.4% in the 1980s and 15.5% in the 1990s. However, they became more concentrated among countries– in the 1980s they involved products from 11 countries while in the 1990s they involved products from 9 countries.

There is also a significant change in the products against which AD investigations in Latin American and Caribbean countries are filed: while in the 1980s petitions were mostly filed against agriculture, food and processed food, chemicals and pharmaceuticals, minerals and metals and iron and steel products, in the 1990s most of the petitions were filed against steel products.

Following the general trend, the percentage of AD investigations that ended up with final duty orders decreased –from 37% in 1980s to 32% in the 1990s. This reduction in the number of positive AD determinations is in part due to the efficient settlement procedure and dispute mechanism promoted by the WTO.

Source: U.S. Department of Commerce

Table 4

ANTI-DUMPING INVESTIGATIONS INITIATED BY THE U.S.

1980 – 2001

Country	Anti-Dumping Investigations Initiated			Anti-Dumping Orders Issued			Percent Restrictive		
	1980-1989	1990-2001	*Total*	1980-1989	1990-2001	*Total*	1980-1989	1990-2001	Total
All Countries	383	527	910	174	225	399	45	43	44
Latin America & The Caribbean	59	82	141	22	26	48	37	32	34
Argentina	6	11	17	3	5	8	50	45	47
Brazil	24	22	46	10	10	20	42	45	43
Chile	2	5	7	2	2	4	100	40	57
Colombia	4	1	5	1	0	1	25	0	20
Costa Rica	1	4	5	0	0	0	0	0	0
Ecuador	1	1	2	1	0	1	100	0	50
El Salvador	1	0	1	0	0	0	0	0	0
México	8	23	31	2	7	9	25	30	29
Peru	1	0	1	0	0	0	0	0	0
Trinidad & Tobago	1	3	4	1	0	1	100	0	25
Venezuela	10	12	22	2	2	4	20	17	18

Source: ECLAC based on U.S. Dept of Commerce, International Trade Administration, July 2002.

Table 5

COUNTERVAILING DUTY INVESTIGATIONS INITIATED BY THE U.S. 1980-2001

Country	Countervailing Duty Investigations Initiated			Countervailing Duty Orders Issued			Percent Restrictive		
	1980-1989	1990-2001	Total	1980-1989	1990-2001	Total	1980-1989	1990-2001	Total
All Countries	233	107	340	105	48	153	45	45	45
Latin America & The Caribbean	86	25	111	44	8	52	51	32	47
Argentina	11	4	15	10	3	13	91	75	87
Brazil	22	9	31	8	2	10	36	22	32
Chile	1	2	3	1	0	1	100	0	33
Colombia	4	0	4	1	0	1	25	0	25
Costa Rica	2	0	2	0	0	0	0	0	0
Ecuador	1	0	1	1	0	1	100	0	100
El Salvador	1	0	1	0	0	0	0	0	0
Mexico	27	2	29	14	1	15	52	50	52
Panama	1	0	1	0	0	0	0	0	0
Peru	7	0	7	5	0	5	71	0	71
Trinidad & Tobago	1	2	3	1	0	1	100	0	33
Uruguay	1	0	1	1	0	1	100	0	100
Venezuela	7	6	13	2	2	4	29	33	31

Source: ECLAC based on U.S. Dept of Commerce, International Trade Administration, July 2002.

3. Sugar Tariff-Rate Quota

The Secretary of Agriculture establishes for each fiscal year the quantity of sugars and syrups that may enter at the in-quota tariff rate and the USTR allocates this quantity, at its discretion, among eligible countries. The amount of sugar imports allowed into the U.S. is capped at 1,117,195[4] metric tons for FY 2003. If a country's designated limit is exceeded, the tariff per pound of sugar increases from .63 cents to $15.82. Because of the significant rate increase once the limit is surpassed, the system works very much like a quota. Furthermore, the USTR operates the sugar program to keep the domestic price of sugar almost double that of the world price. The program offers U.S. sugar processors non-recourse loans at a rate of 18 cents per pound for raw cane sugar and 22.9 cents per pound for refined beet sugar.

The individual limits for each country from which the U.S. imports sugar may be modified if the Secretary of Agriculture "believes that domestic supplies of sugar may be inadequate to meet domestic demand at a reasonable price"[5]. If this adjustment occurs, the countries paying tariffs are granted most favored nation status and the lower of the two tariff rates is reduced to .625 cents per pound in order to increase supply.

Most countries in Latin America and the Caribbean are exempt from the tariff-rate quota because they are beneficiaries under the Generalized System of Preferences (GSP). Brazil has a competitive advantage in sugar production; therefore it does not qualify for duty-exemption under the GSP.

The tariff-rate quota on sugar imports that may enter the U.S. at the lower duty rate during FY 2003 is 1,117,195 metric tons, unchanged from the previous year. The distribution of this tariff rate quota is

[4] Federal Register Vol. 67, No. 153, August 8, 2002.
[5] USDA, Sugar Program Fact Sheet, www.fas.usda.gov

shown in Table 5. Latin America and the Caribbean will supply 64.04% of sugar allowed into the United States. This remains virtually unchanged from FY 2001, which was only a tenth of a percentage higher.

Table 6
SUGAR TARIFF-RATE QUOTAS FOR LATIN AMERICA AND THE CARIBBEAN FISCAL YEAR 2003 ALLOCATION

Countries	% of Total U.S. Imports	Metric Tons
Argentina	4.05	45,281
Barbados	0.66	7,371
Belize	1.04	11,583
Bolivia	0.75	8,424
Brazil	13.67	152,691
Colombia	2.26	25,273
Costa Rica	1.41	15,796
Dominican Republic	16.59	185,335
Ecuador	1.04	11,583
El Salvador	2.45	27,379
Guatemala	4.52	50,546
Guyana	1.13	12,636
Haiti	0.65	7,258
Honduras	0.94	10,530
Jamaica	1.04	11,583
Mexico	0.65	7,258
Nicaragua	1.98	22,114
Panama	2.73	30,538
Paraguay	0.65	7,258
Peru	3.86	43,175
St. Kitts & Nevis	0.65	7,258
Trinidad & Tobago	0.66	7,371
Uruguay	0.65	7,258
Total	64.04	715,499
Total U.S. Imports		1,117,195

Source: ECLAC, based on USTR data, www.ustr.gov

4. Steel Safeguards

On June 5, 2001, President Bush announced a three-part initiative to respond to the challenges facing the domestic steel industry. First he called on the USTR, in cooperation with the Secretary of Commerce and Secretary of the Treasury, to initiate negotiations with U.S. trading partners seeking, the near-term elimination of inefficient excess capacity in the steel industry worldwide. Second, he directed the USTR to initiate negotiations on the rules that would govern steel trade in the future and eliminate the underlying market-distorting subsidies. Third, the President directed the USTR to request the initiation of an investigation of injury to the United States steel industry by the ITC under section 201 of the Trade Act of 1974.

Table 7

STEEL SAFEGUARD'S UNDERLYING TARIFFS

(Percentages)

	Year 1	Year 2	Year 3
Slab*	30	24	18
Finished flat products	30	24	18
Hot-rolled bar	30	24	18
Cold-finished bar	30	24	18
Rebar	15	12	9
Certain welded tubular products	15	12	9
Carbon and alloy fittings and flanges	13	10	7
Stainless steel bar	15	12	9
Stainless steel rod	15	12	9
Stainless steel wire	8	7	6
Tin mill products	30	24	18

*The slabs' tariff figures above are applicable only as an over-quota tariff. The quota schedule for the next three years is respectively 5.4, 5.9, and 6.4 million short tons.

Source: United States Trade Representative

On December 19, 2001, the ITC presented the results of its report, concluding that under Section 202 of the 1974 Trade Act, 16 of the 33 products reviewed were being imported into the United States in such "increased quantities as to be a cause of serious injury, or a substantial threat to the domestic market". With this, on March 5, 2002, the United States imposed a broad array of safeguard tariffs ranging from 8 to 30 percent on steel imports. Due to be phased out in three years, the tariffs are meant to be a temporary protective measure for the U.S. steel industry.

In doing so the President also cited the need for the US steel industry to take this opportunity to "restructure or otherwise adjust to increased competition". In noting the impact of imports on the US market, Hufbauer and Goodrich (2002) found the industry was already in a heightened phase of restructuring. They note that previous periods of severe import controls, primarily from the late 1960s through the mid-1980's, had brought about dramatic increased in wages due to the decrease in foreign competition, but not a parallel increase in productivity. However, in the last twenty years when employment levels dropped significantly, particularly between 1997 and 2001, overall labor productivity and total compensation rose 9 percent.

The President also announced a range of exemptions based on recommendations from the ITC, existing trade agreements, and inline with the provisions for temporary safeguards set forth by the World Trade Organization (WTO). In stating the exclusion policy, the President noted that no exclusions would be allowed to undermine the integrity of the temporary safeguards he was putting into place. Though he retained ultimate responsibility to determine the exact exclusions to be put into place, the President called on an interagency taskforce chaired by the USTR, with representatives from the Departments of Commerce, Labor, State, and Treasury, as well as the Office of Management and the Budget and the Council of Economic Adviser to recommend what products would require specific exclusion. While not mandated under U.S. law or specific WTO obligations, exclusions are being determined based on a case by case analysis in order to ensure the satisfaction of consumer demand.

Box 3

EMPLOYMENT IN THE U.S. STEEL INDUSTRY

Source: U.S. Department of Labor

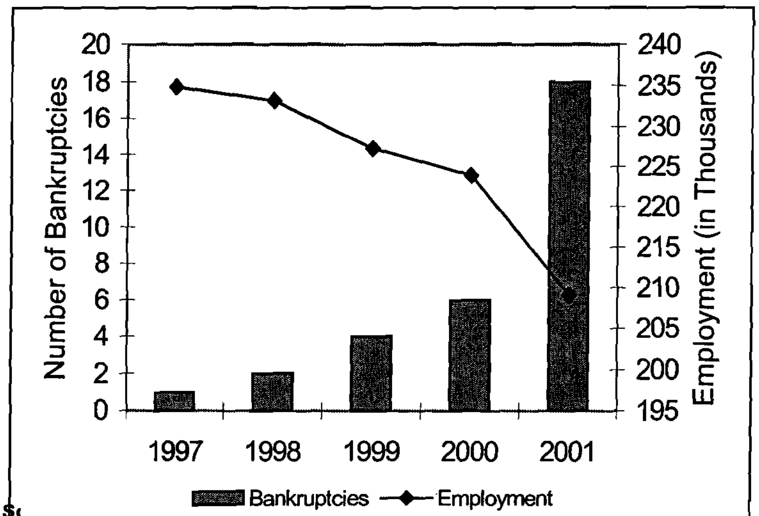
The steel industry in the U.S. has been in decline for decades. According to the U.S. Department of Labor, employment levels reached their maximum in 1953, reaching an industry high of 726,100 and have been falling ever since.

As noted in the chart, in the last 5 years, data compiled by the U.S. Department of Labor reveals a significant decrease in employment levels within this job sector. This is highlighted by bankruptcy data made available by the Association of Iron and Steel Engineers (AISE) showing a dramatic rise in bankruptcies within the industry.

Between 1997 and 2001, employment within the industry fell over 10% and in 2001 alone, 18 U.S. firms declared bankruptcy. The industry is both shrinking and loosing its diversity. Significant changes between the years 2000 and 2001 suggest that problems within the steel industry are intensifying as both job cuts and bankruptcies reach higher levels

Figure 2

EMPLOYMENT AND BANKRUPTCIES IN THE U.S. STEEL INDUSTRY



S(EEU31331001; Association of Iron and Steel Engineers (AISE).

The basic criteria used accounted for the following: domestic production, feasibility of product substitution, current domestic inventories, domestic development for future market demand, and other relevant factors. As of August 22, 2002, 727 products had been excluded from the new tariff regulations.

In line with current trade agreements and WTO safeguard policies, the President also announced special exclusions for countries with which it established free-trade agreements and developing countries that ship relatively small quantities of imports. Examples include, Mexico and Canada, which are exempt from any duty or quota based on the North American Free Trade Agreement. Others like Argentina, Chile, Colombia, Peru, all of the countries of Central America and the Caribbean that are members of the WTO and considered developing countries, are exempt from the trade barriers because they collectively account for not more than 9 percent of the total imports of the these products. In only two instances, Brazil and Venezuela, did the U.S. not exclude certain products from the new tariff structure.[6]

It is precisely under the terms of the WTO provisions for temporary safeguards that some U.S. trading partners have raised specific challenges, claiming note only a lack of consistency in application, but also that the actions put in place where not proportionate to the claimed injury.[7] Few question the right of WTO member states to impose temporary trade barriers when import surges cause or threaten injury to a domestic industry. Regardless, by July of 2002, eight countries, including Brazil, had petitioned action by the WTO contending that the United States has taken this action without showing that harm has been done and that the actions go against U.S. obligations under the *GATT 1994,* the *Agreement on Safeguards* and other international trade rules.[8]

5. Section 301

Section 301 of the Trade Act of 1974 is the principle authority used by the United States to impose trade sanctions against other countries practicing unfair trade policies. Section 301 gives the USTR the authority to respond when a U.S. firm, industry, or sector believes another country practices unfair trade policies or violates trade agreements. Once a petition has been filed with the USTR, or in cases where the USTR itself initiates an action, an immediate investigation is undertaken. Consultations are held with the foreign government involved and public comments are presented. If the USTR determines that a violation has occurred, retaliation is required, unless a specific exception applies.

Retaliation may include imposed duties or other import restrictions, a suspension or withdrawal of trade concessions, or a limit on the benefits received by the country under the GSP or the Caribbean Basin Recovery Act (CBERA). The retaliation must be implemented within 30 days unless the defending government has made significant progress. On this issue, the effect of the retaliation must be equal to the value the policy in question has had upon the U.S. retaliation may be taken against any good or sector, regardless of its relevance, and automatically terminates four years after implementation.

(a) Mexico: High Fructose Corn Syrup (HFCS)

Ongoing dispute settlement negotiations were under way in 2002 in regards to market access to High Fructose Corn Syrup (HFCS) between the United States and Mexico. On April 2, 1998, the U.S. Corn Refiners Association, Inc. filed a petition with the USTR against the Mexican government stating unfair restrictions had been placed on the importation of HFCS into Mexico. Upon reaching its findings, the United States referred the complaint to the WTO in October 1998. In 2001, the WTO ruled in favor of the United States in the case, finding Mexico's imposition of anti-dumping duties on imports of HFCS from the U.S. were inconsistent with WTO anti-dumping agreements.

On January 2002, the Mexican government initiated a 20% tax on beverages sweetened with HFCS. This tax was temporarily revoked in March 2002, but was unanimously reinstated by Mexico's Supreme Court on July 12, 2002. To date the two countries have not been able to reach final agreement on the issue. The U.S. is currently trying to secure a consistent amount of high fructose corn syrup allowed into Mexico by arranging an exchange of sugar for HFCS. Differences pertain to net amount to be allowed into each country and level of production. In the case of Mexico, the United States is calling for a ceiling of 275,000 tons, divided between 80% raw sugar

[6] Based on information from the USTR – Products not excluded: slabs & flat (Brazil) and rebar (Venezuela).
[7] Communication dated 18 July, 2002, from the Permanent Mission of Brazil to the Chairman of the Dispute Settlement Body, WTO.
[8] WTO, Dispute Settlement Body, 29 July, 2002, "Single Panel on steel will consider complaints of 8 countries".

and 20% refined, whereas Mexico is calling for a ceiling of 300,000 and a more even distribution of products. Further, Mexico has noted that if the distribution of products is not more equitable, then it will impose a more refined restriction on the HFCS products imported, calling on a split between products used in foodstuff and for soft drinks.

6. Special 301

Under Special 301, the USTR must identify countries that deny adequate and effective protection for intellectual property rights (IPR). While a country can have a Section 301 investigation and retaliatory measures taken without previous action by the USTR, three levels of consideration are commonly applied prior to the imposition of new tariffs or duties. Countries that raise concerns in regards to lax laws or limited enforcement in an area can initially be placed on the "Watch List". Lack of action by the country or a worsening of the situation as noted by the USTR, can lead to placement on the "Priority Watch List". Barring further action while at this level can result in categorization as a "Priority Foreign Country". Reserved for countries that are thought to have trade policies that severely impact the importation of U.S. products, and thus requiring a Section 301 investigation, currently no country in Latin America is listed as a "Priority Foreign Country".

This year's Special 301 report particularly focuses on internet piracy and unauthorized copying of entertainment media like CDs, VCDs, DVDs, and CD ROMs combined with a focus on the application of the TRIPS (Trade Related Aspects of Intellectual Property Rights) agreement. The two WIPO Internet treaties developed during 1996 became active on May 20, 2002. The WIPO Internet treaties are the WCT (WIPO Copyright Treaty) and the WPPT (WIPO Performances and Phonograms Treaty).

(a) Priority Watch List

From the most previous report, two countries from Latin America have been added to the Priority Watch List, Brazil and Colombia. As noted before, failure to act on U.S. requests can lead to placement on the Priority Country List and resulting action under Section 301.

Brazil

In the last year, the USTR estimates Brazil's piracy markets have cost the U.S. copyright industry upwards of US$ 700 million. The USTR acknowledges that Brazil's legislation is consistent with TRIPS, but argues that a lack of enforcement is to blame for the increasing rates of piracy. The U.S. continues to urge Brazil to develop and action plan against piracy and to improve enforcement measures.

The U.S. is also concerned about a growing backlog of patent applications in Brazil. While fees are being collected for patent applications, there are 15,000 pending cases. Citing the need to expedite the process of resolving trade disputes, in particular in the sensitive area of HIV/AIDS drug production, Brazil and the United States agree to move the dispute from the WTO to a newly created US-Brazil Bilateral Consultative Mechanism.

Colombia

The pirating of pharmaceuticals is a chief concern to the U.S. Government. The USTR claims U.S. pharmaceutical firms experience losses as a result of poor data protection and an unavailability of "second use" patents.

The USTR also calls for stronger enforcement of copyright and trademark laws. The U.S. encourages the shut down of illegal cable networks that make it difficult for licensed networks to find a market.

(b) Watch List

From our last report, the Bahamas and Costa Rica have been added to the "Watch List".

Bahamas

In placing the Bahamas on the "Watch List", the USTR cites the continued shortfalls in copyright law and enforcement of existing legislation. The USTR noted with concern that previous commitments to amend sections of the intellectual property law had not been amended. Along with Bahamian law provisions allowing for compulsory licensing to Bahamian cable operators of retransmission of premium cable television programming, the continued lack of enforcement against cable-pirating are major points of contention.

Costa Rica

In our most recent report, we noted that Costa Rica was on the "Priority Watch List". Due to effective responses to the USTR requests, Costa Rica has now been moved to the "Watch List". The USTR cited, improvements in training of enforcement officials, the appointment of specialized prosecutors, and efforts to legitimize software used by government agencies. The USTR nonetheless noted further action was needed in enforcement, in particular the closing down of retail outlets that rent or sell pirated products, and in the further expansion of legal mechanism to prevent piracy.

(c) Special 301 Out of Cycle Reviews

An "out-of-cycle" review takes place when the USTR believes a country's Intellectual Property Rights status needs further monitoring. Only two countries from the region were scheduled for "out-of-cycle" reviews in 2002, Bahamas and Costa Rica. The USTR plans on conducting these reviews in order to ensure progress has been sustained in the areas of concern.

7. Textiles and Clothing

The U.S. is the world's leading importer of textiles and clothing and U.S. trade policy has a significant effect on world trade in those products. U.S. trade policy instruments in textiles and clothing consist mainly of quantitative limits on imports, relatively high MFN tariffs, and preferential tariffs on imports of clothing assembled in certain countries from U.S. fabric under the production-sharing provisions (9802) of chapter 98 of the Harmonized Tariff Schedule. Duty-free and quota-free trade takes place under a number of preferential trade agreements.

Most exports of textiles and clothing products to the U.S. are subject to quotas or to import duties, with the latter ranging to 33%. The U.S. has maintained textile and clothing import quotas on a product and country specific basis since 1957.

Since October 2000, Special Access Program imports agreements, (requires the use of U.S. cut and formed fabric, assembled into clothing in one of these countries to qualify for special tariff treatment on the finished product upon re-entry into the U.S.), have been made entirely duty free under CBPTA. This regional fabric benefit for knit apparel is subject to an overall yearly limit, with a separate limit provided for T-shirts.

Under the Trade Act of 2002 signed into law on August 6, 2002, the existing duty-free quotas from apparel made from regional fabric in the Caribbean where significantly expanded in several ways: a) increased cap for apparel made in the region of regional knit fabric made of U.S. yarn; b) increased cap for T-shirts made in region of regional knit fabric made of U.S. yarn; c) requires dyeing and finishing of fabric made in region of U.S. yarn, including hybrid cutting.

Furthermore, the Trade Act approved a five-year Andean Trade Preference Act that now has fewer restrictions regarding the types of clothing that can enter the U.S. duty-free from ATPA countries. For example, the use of U.S. yarn is no longer required and both knit and woven material qualify under the regional fabric limit. However, there is a cap for duty-free access to apparel made from regional fabric up to two percent by volume of all U.S. apparel imports in 2001. The limit would be gradually increased in equal increments to a total of five percent in 2006.

Table 8

U.S. IMPORTS OF TEXTILES AND CLOTHING FROM LATIN AMERICA AND THE CARIBBEAN

Country	2000 Imports (Million Meters Squared)	2001 Imports (Million Meters Squared)	Growth Rate (Percentages)
Argentina	17.8	9.2	-48
Belize	12.2	13.6	11
Brazil	184.2	121.9	-34
Colombia	117.3	96.5	-18
Costa Rica	373.4	376.1	1
Dominican Republic	858.9	772.8	-10
Ecuador	16.4	18.0	10
El Salvador	757.2	767.8	1
Guatemala	389.7	425.8	9
Guyana	4.4	6.8	55
Haiti	125	109.1	-13
Honduras	1045.6	1032.3	-1
Jamaica	126.3	102.6	-19
Mexico	4746.5	4289.9	-10
Nicaragua	87.5	97.7	12
Peru	70.5	58.3	-17
Venezuela	11	11.3	3

Source: U.S. Department of Commerce

III. Standards and Regulations

As indicated in previous reports, exporting to the U.S. can be a difficult task due to the complex system of standards and regulations at the federal, state, and local level. Although unintentionally, standards and regulations sometimes create major barriers for foreign firms attempting to enter the U.S. market. Technical regulations in the U.S. are applied for health or safety purposes to a large number of products. These include food, beverages, tobacco, cosmetics, drugs, biologics, medical devices, radiological products, as well as motor vehicles. It is primarily the responsibility of manufacturers to meet these requirements including pre-market approval requirements. The responsible U.S. agencies take enforcement action when requirements are violated.

The types of U.S. standards that have the greatest impact on Latin America and Caribbean exports are discussed below. Increasingly, these barriers have taken the form of consumer or environmental protection. The cases below only touch on a handful of the thousands of technical and regulatory requirements that hinder access to the U.S. market.

1. Phytosanitary Regulations

Gaining access to the U.S. market can be a cumbersome and costly process that may take years. Exporters must finance all USDA expenses in researching their products and getting them approved. Still despite the money and effort, many of those products never quite escape the restrictions placed on them.

Box 4
PHYTOSANITARY RULES

Once a phytosanitary rule is proposed by the USDA and published in the Federal Register, it is subject to a 90-day comment period, after which the final rule may be issued and assigned a legally effective date.

All shipments of fruits and vegetables are subject to an inspection process in both the originating country and the allowed ports of entry.

Source: U.S. Department of Agriculture

Phytosanitary barriers affect a large portion of the fruits and vegetables entering the U.S. market. For example, grapes and apples require a special cold treatment, while yams and other vegetables require a methyl bromide treatment. Mangos require a hot water dip and need certification stating they have received this treatment. All these products also need specific documentation certified by the (APHIS) representative in their respective country. For the most part, an additional obstacle and/or obligatory prerequisite is the acquiring of an import license for the given product. If the product does not pose a threat to the market, then it is allowed entry without an import license. Otherwise, they must have a license in order to enter the country. The products that are admitted are usually submitted to various tests and treatments before they are even shipped off.

The United States has made the most sanitary and phytosanitary notifications to the WTO, with over 500 notifications in 2001. The number of annual notifications has been increasing in recent years from about 80 in 1999. The increase largely reflects the notifications relating to tolerance levels for residues of chemicals in food products notified by the Environmental Protection Agency (EPA). There has also been an increase due to risks of animal disease, notably Bovine Spongiform Encephalopathy and Foot and Mouth disease, as well as screw-worm, hog cholera and tuberculosis.

The USDA's Food Safety and Inspection Service (FSIS) has developed and published a process for evaluating whether a foreign country's meat and poultry regulatory system and individual sanitary measures are equivalent to the system and measures of the U.S. According to the USTR, there are 33 countries recognized as having meat and poultry inspections systems equivalent to the U.S.

However, the U.S. has implemented import prohibitions on meat and products, as well as live ruminants and swine, because of risk of Foot and Mouth Disease (FMD) in the following Latin American countries: Argentina and Uruguay.

In addition, the USDA proposed new national standards for organic products, as well as rules for the labeling of imported meat. Tuna labeling, tobacco and several other agri-food products were also the subject of notifications to the WTO Committee on Technical Barriers to Trade. The USDA has also notified the WTO of modifications to size and ripeness requirements for grapefruit and kiwi fruit under the Agricultural Marketing Agreement Act (AMAA). This Act regulates, that imports of specified commodities must meet the same grade, size, quality and maturity requirements as those in effect for the domestically produced commodity.

2. Marine Mammal Protection Act

U.S. law also authorizes the enforcement of environmental regulations in relation to imports. In particular, under the Marine Mammal Protection Act (MMPA) the U.S. bans tuna imports from countries that fail to protect dolphins when fishing in the eastern tropical Pacific Ocean, extending from Mexico and Venezuela to northern Chile and 700 miles out to sea. In 1997, it was amended to include yellow fin tuna imports from countries that submit evidence that they participate in the International Dolphin Conservation Program (IDCP), as well as evidence that dolphin mortality limits have not been exceeded by the exporting country. Exporting countries are also required to have taken steps to become a member of the Inter-American Tropical Tuna Commission. Producers meeting these requirements may label their products as dolphin safe tuna. The import ban currently applies to the following Latin American and Caribbean Countries: Belize, Bolivia, Colombia, El Salvador, Guatemala, Honduras, Nicaragua, Panama, and Venezuela.

3. Shrimp Embargo

Public Law 101-162 (Section 609) prohibits the imports of shrimp harvested in ways that are harmful to sea turtles, unless the U.S. Department of State (USDOS) certifies that the harvesting nation either has a sea turtle protection program similar to that of the U.S., or has a fishing environment in which there is no threat to sea turtles. U.S. sea turtle conservation programs include commercial ship boats required to use sea turtle excluder devices, or TEDs, to prevent their drowning in shrimp trawls. All shipments of shrimp and shrimp products into the United States must be accompanied by a declaration attesting that they have been harvested either under conditions that do not adversely affect sea turtles or in waters subject to the jurisdiction of a nation currently certified pursuant to Section 609.

As of April 30, 2002, fourteen Latin American countries were certified as meeting the U.S. Sea Turtle Conservation program that requires commercial shrimp boats use sea turtle excluder devices. Countries meeting the standards are Belize, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Mexico, Nicaragua, Panama, Suriname, Trinidad and Tobago, and Venezuela.

In addition, twenty-four countries were certified as having fishing environments that do not pose a danger to sea turtles and are harvesting shrimp using manual rather than mechanical means to retrieve nets or use of other fishing methods. Among these nations are the Bahamas, the Dominican Republic, Jamaica, and Peru. Furthermore, three Latin American countries have shrimp fisheries in cold water where the risk of harming sea turtles is negligible. These countries are Argentina, Chile, and Uruguay. Imports of shrimp from all other nations will be prohibited unless harvested by aquaculture, in cold water, or by a specialized technique that does not threaten sea turtles.

IV. Export Subsidies

Products from Latin America and Caribbean countries regularly encounter competition from subsidized U.S. goods in their domestic markets as well as in other export markets. U.S. export support programs facilitate export transactions overseas by creating more incentives for exports, credit opportunities for potential buyers, and overseas infrastructures that facilitate the storage of U.S. agricultural products. The comprehensive Farm Security and Rural Investment Act (2002 Farm Bill), approved in May 2002, maintains almost all U.S. export support programs, and added some new ones.

1. Export Assistance Programs

(a) Export Enhancement Program (EEP)

Box 5
EEP BACKGROUND

The EEP, approved in 1985 and created during a period of large grain stocks and low prices, was created to make U.S. commodities more competitive in the world marketplace and to offset the adverse effects of unfair trade practices or subsidies. Under this program, the U.S. Department of Agriculture (USDA) pays cash to exporters as bonuses, allowing them to sell U.S. agricultural products in targeted countries at prices below the exporter's cost of acquiring them. These targeted countries are defined as those where U.S. sales have been nonexistent, displaced, reduced, or threatened, due to competition from other subsidized exports. Every three months, the USDA allocates quantities and destinations for U.S. agricultural products.

Source: USDA

With the implementation of the new Farm Act annual funding is extended through 2007, at the current funding levels established for FY 2001 and 2002 of $478 million for both fiscal years .

Originally, commodities eligible for EEP subsidies were wheat, wheat flour, semolina, frozen poultry, frozen pork, barley, barley malt, and vegetable oil. The program has eliminated semolina and frozen pork and has since added rice, table eggs and sorghum. The Uruguay Round Agreement on Agriculture would allow the export of all products mentioned above. However, EEP was made operational only for frozen poultry.

(b) Dairy Export Incentive Program (DEIP)

Box 6
DEIP BACKGROUND

The DEIP is intended to develop export markets for dairy producers and enhance competition, allowing them to sell certain U.S. dairy products at prices below cost.

The DEIP was announced by the USDA on May 1985 and was reauthorized by the Food, Agriculture, Conservation and Trade Act of 1990, as well as the Uruguay Round Agreement Act of 1995 and the Federal Agriculture Improvement and Reform Act (FAIR) of 1996. Section 148 of the FAIR extended the DEIP through 2002 while the Farm Security and Rural Investment Act extended the program even further until 2007. The program will focus on market development, providing full authority and funding to the maximum level allowed by the WTO.

Commodities eligible under the DEIP initiatives are milk powder, butterfat, cheddar, mozzarella, Gouda, feta, cream and processed American cheeses.

The major markets for the DEIP in FY 2001 included the Caribbean, Central and South America with awards totaling $41.8 million as of June 21, 2002.

Source: USDA

Under the new farm law, DEIP helps exporters of U.S. dairy products meet prevailing world prices and develop foreign markets for targeted products. The DEIP operates on a bid bonus system with cash bonus payments that allow dairy product exporters to buy U.S. products and sell them abroad when international prices are below domestic prices. DEIP removes products from the domestic market, helps develop export markets, and plays an important role in milk price support. The DEIP quantities and dollar amounts are subject to World Trade Organization restrictions under the Uruguay Round Agreement on Agriculture.

(c) Dairy Market Loss Payments (DMLP)

The 2002 Farm Act establishes a national Dairy Market Loss Payments (DMLP) Program to provide a price safety net for dairy producers. A monthly direct payment is to be made to dairy farm operators if the monthly Class I price in Boston (Federal Order 1) is less than $16.94 per cwt. Payments are to be made on up to 2.4 million pounds of milk per year per organization (based on 2001 U.S. average data, which is the production from about 132 cows). The number of producers per operation does not affect its limit.

The DMLP will stabilize and generally enhance producer revenue and it will tend to increase production. However, increased marginal production incentives will only be for those producers selling less than the 2.4-million-pound limit.

(d) The Market Access Program (MAP)

Since 1985, the MAP and its predecessors, the Targeted Export Assistance Program (TEAP) and the Market Promotion Program (MPP), have helped U.S. agriculture exports. The MAP began in 1990 and was designed to finance promotional activities, market research, technical assistance and trade servicing for U.S. agricultural products. It also formed a partnership among small businesses, cooperatives, trade associations, and the Foreign Agricultural Service (FAS) to use the experience of specialists deployed around the world and share the costs of eligible overseas marketing and promotional activities. Eligible activities include consumer promotion, in-store demonstrations, trade shows, and seminars.

With funds from the Commodity Credit Corporation (CCC), the MAP works by partially reimbursing program participants who conduct these foreign market development projects for eligible products in specified countries. Expenditures were capped at $90 million per year until the year 2002, when the new Farm Act significantly increased funding until the year 2007. Expenditures have been capped at $100 million in FY 2002, $110 million in FY 2003, $125 million in FY 2004, $140 million in FY 2005, and $200 million in FY 2006 and 2007. Reforms have been implemented to restrict participation to non-profit agricultural trade organizations, regional trade groups and private companies. Equal consideration is given to organizations that have or have not participated in the program in the past, and to activities in emerging markets.

Some of the commodities covered by the MAP include apples, asparagus, canned peaches and fruit cocktail, catfish, cherries, citrus, cotton, dairy products, dry beans, eggs, feed grains, frozen potatoes, grapes, honey, hops, kiwi fruit, meat, peanuts, pears, pet food, pistachios, poultry meat, prunes, raisins, rice, salmon, soybeans, strawberries, sunflower seeds, surimi, tallow, tomato products, walnuts and wheat.

(e) Foreign Market Development Program (FMD)

Also known as the Cooperator Program, the goal of FDM is to develop, maintain, and expand long-term export markets for U.S. agricultural products, primarily through trade associations, by using the funds from the USDA Commodity Credit Corporation (CCC). The program facilitates partnerships between the USDA and nonprofit cooperators who pool their financial and technical resources to build overseas market development. The program places a continued emphasis on exporting value-added products to emerging markets.

The Cooperator program benefits U.S. farmers, processors and exporters by assisting their organizations in developing new foreign markets and increasing market share in existing markets. Overseas promotions focus on generic U.S. commodities, rather than individual brand-name products and are targeted toward long-term development.

The Cooperator program has helped support growth in U.S. agricultural exports by enlisting private sector involvement and resources in coordinated efforts to promote U.S. products to foreign importers and consumers around the world. In 2002, Cooperators and U.S. industry resource contributions totaled 121 percent of the funds provided by FAS. USDA contributions to this program have been leveled at $27.5 million per year until 2002, year in which the CCC funds to support the program have increased to $34.5 million per year, until 2007.

(f) Emerging Market Program (EMP)

The EMP, originally authorized by the Food, Agriculture and Trade Act of 1990 amended by the FAIR Act of 1996, and extended by the 2002 Farm Act, promotes U.S. agricultural exports to emerging markets by providing technical assistance and agricultural expertise. The FAIR Act describes an emerging market as any country that "is taking steps toward a market-oriented economy through the food, agriculture, or rural business sectors of the economy of the country", and "has the potential to provide a viable and significant market for United States commodities or products of the U.S. agricultural commodities."

It seeks low-income markets with dynamic economies and high potential for U.S. export growth. The legislation authorizes $10 million annually for seven years, using funds from the CCC to support the program, which requires that the CCC make available no less than $1 billion of direct credit or credit guarantees to emerging markets. Overall, the main goal is to develop, maintain, and expand markets for U.S. agricultural exports in emerging markets.

The activities in the program include; agricultural sector and joint-venture assessments, market information systems, commodity exchange development, resident policy advisors, training in importing, handling improvements, marketing, process storage, distribution of imported agricultural products, agriculture banking and credit, business planning, farm and agribusiness management, sanitary and phytosanitary training.

(g) Quality Samples Program

The Quality Samples Program (QSP) helps U.S. agricultural trade organizations provide small samples of their agricultural products to potential importers in emerging markets overseas. USDA's CCC funds the program, which is authorized under the CCC Charter Act. Focusing on industry and manufacturing, as opposed to end-use consumers, it permits potential customers to discover U.S. quality. It also allows manufacturers overseas to do test runs to assess how U.S. food and fiber products can best meet their production needs. In 2002, USDA is providing initial allocations totaling $1.34 million to trade associations and state agricultural organizations under this program.

QSP applications undergo a competitive review process based on criteria specified in the Federal Register announcement, where participants who are approved for QSP funding obtain commodity samples, export them and provide the importer the technical assistance necessary to use the sample properly. When a project is finished, USDA reimburses the participants for the costs of procuring and exporting the samples. The program does not cover the technical assistance component.

Priority is given to projects targeting developing nations or regions with a per capita income of less than $9,360 and a population greater than one million. Priority is also given to projects designed to expand exports where a U.S. commodity's market share is 10 percent or less.

QSP stimulates interest and demand for U.S. agricultural products. In 2002, agricultural exports are forecast to reach $53.5 billion, generating approximately 765,000 American jobs, including many off-farm activities like transportation, food processing, packaging, storing, and financing.

2. The Export Credit Guarantee Programs

The GSM-102 and GSM-103 are designed to support and encourage U.S. agricultural exports in eligible countries. In addition to facilitating U.S. exports, these programs also help developing countries and other countries with credit problems to finance purchases of needed food and other agricultural products. These two programs guarantee U.S. banks will finance such transactions for exporters shipping U.S. product on credit to foreign importers in eligible countries. The CCC usually insures up to 98% of the principal plus a portion of the interest.

(a) GSM-102 Export Credit Guarantee Program

The GSM-102 export credit guarantee program is by far the largest of the four programs. It guarantees repayments of short-term credit (90 days to 3 years) and allows foreign buyers to purchase U.S. agricultural products from private U.S. exporters. As of June 2002, GSM-102 allocations of about $4.1 billion have been announced to 22 countries and 11 regions, including the Caribbean, Central America, South America, Mexico, and the Dominican Republic. Under this availability, GSM-102 registrations totaled $1.9 billion for exports to nine countries and six regions.

Table 9

GSM-102 ALLOCATIONS AND APPLICATIONS FOR COVERAGE FISCAL YEAR 2001

(Millions of Dollars)

Countries	Announced Allocations	Exporter Applications Received	Balance
Caribbean	220	214.4	5.6
Central America	250	245.4	4.6
Dominican Republic	25	0.0	25.0
Mexico	500	195.8	304.2
South America	600	325.4	274.6
TOTAL	**1,595**	**981**	**614**

Source: United States Department of Agriculture, June 7, 2002.

(b) GSM-103 Intermediate Export Credit Guarantee Program

Guarantees issued under the GSM-103 program can cover financing periods of more than 3 and up to 10 years. This program is designed to help developing nations make the transition from concessional financing to cash purchases. As of May 17, $165 million in intermediate credit guarantees have been made available for sales to eight countries and three regions, including the Central America, South America, and Southern Africa. No sales have been registered under this program in FY 2002.

Table 10

GSM-103 ALLOCATIONS AND APPLICATION FOR COVERAGE FISCAL YEAR 2002

(Millions of Dollars)

Countries	Announced Allocations	Exporter Applications Received	Balance
Central America	10.0	0.0	10.0
Mexico	35.0	0.0	35.0
South America	5.00	0.00	5.00
TOTAL	**50.00**	**0.0**	**50.00**

Source: United States Department of Agriculture, June 7, 2002.

A minimum annual program level of $5.7 billion is available for the Export Credit Guarantee Program and the Intermediate Export Credit Guarantee Program. The FAIR Act mandates a minimum annual program level of $5.5 billion for GSM-102 and GSM-103, but it allows flexibility in how much is made available for each program. Provisions of the Food, Agriculture, Conservation, and Trade (FACT) Act of 1990 mandate that a minimum of $1.0 billion be made available for direct credits or export credit guarantees to emerging markets during fiscal years 1996-2002. Under this mandate, $200 million is made available annually, increasing the minimum annual program level for GSM-102 and GSM-103 from $5.5 billion to $5.7 billion.

The FAIR Act of 1996 states minimum shares of credit guarantees were required to be available for processed and high-value products. These levels were set at 25% in 1996 and 1997; 30% in 1998 and 1999; and 35% thereafter. The Farm Security and Rural Investment Act of 2002 continues to enforce these requirements, mandating that no less than 35% of export credit guarantees issued be used to promote high value or processed agricultural products.

The Farm Act also require the U.S. Secretary of Agriculture and the U.S. Trade Representative regularly consult with relevant House and Senate committees on multilateral negotiations at the World Trade Organization for Economic Development regarding agricultural export credit guarantee programs.

Some eligible commodities within these programs are, barley, malt, cotton, dairy products, feed grains, fresh fruits, oilseeds, vegetable oil, vegetable oil soap stocks, meat (chilled or frozen), planting seeds, potatoes, peanuts, poultry, rice, livestock, wheat, wood products, almonds, and corn products. However, the USDA will consider any agricultural commodity of 100 percent U.S. origin, or if the market for U.S. exports will be expanded or maintained as a result. Furthermore, the GSM-103 program is focused on a more limited number of products, such as wheat and breeder livestock.

(c) Supplier Credit Guarantee Program (SCGP)

The SCGP became effective in late FY 1996 and amended again in 2002. This program is intended to encourage U.S. exporters to expand, maintain and develop markets for U.S. agricultural commodities and products in areas where commercial financing may not be available without a CCC payment guarantee.

This program also helps U.S. exporters who wish to provide short-term credit directly to their foreign buyer. Short-term credit has under the new Farm Bill been designated to include loan periods up to 360 days, replacing the 180 day bench mark previously set forth by the FAIR. The SCGP is similar to the export credit guarantee program GSM-102, but the CCC guarantees a substantially smaller portion of the value of exports than with the GSM-102 (currently 65%) . In June 2000, the U.S. Department of Agriculture amended the CCC's supplier credit guarantee program (SCGP) for the Central America region. This amendment increases the program allocation from $10 million to $15 million. The countries included are Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama.

Table 11

SCGP ALLOCATION AND APPLICATIONS FOR COVERAGE UNDER ALLOCATIONS FISCAL YEAR 2002

(Millions of Dollars)

Countries	Announced Allocations	Exporter applications Received	Balance
Central America	50	29.05	20.95
Caribbean	10.0	1.59	8.41
Mexico	200	169.33	30.67
South America	20.0	1.33	18.67
TOTAL	**280.00**	**201.30**	**78.7**

Source: United States Department of Agriculture, June 7, 2002.

(d) Facility Guarantee Program (FGP)

The FGP was implemented in December 1997 as a division of the CCC and is intended to provide payment guarantees to assist in the financing of manufactured goods and services exported from the U.S. to improve or establish agriculture-related facilities in emerging markets. By supporting such facilities, the FGP is designed to enhance sales of U.S. agricultural commodities and products to emerging markets where the demand for such commodities and products may be constricted due to inadequate storage, processing, or handling capabilities for such products. It is administrated by the Foreign Agricultural Service (FAS) of the USDA and is a new subpart of the GSM-102 as well as of the GSM-103.

3. Farm Service Agency Loan

The Farm Service Agency (FSA) supports farmers through commodity programs, farmer operating and emergency loans, conservation, domestic and overseas food assistance, and disaster programs that improve the economic stability of agriculture and the environment. Furthermore, the FSA offers direct and guaranteed farm ownership and operating loans to farmers who are temporarily unable to obtain private, commercial credit. Often, FSA borrowers are beginning farmers who can not qualify for conventional loans because they have insufficient financial resources. The Agency also helps established farmers who have suffered financial setbacks from natural disasters, or whose resources are too limited to maintain profitable farming operations. All FSA loans provide some subsidy value or credit enhancement to the borrower.

Under the guaranteed loan program, FSA guarantees loans made by conventional agricultural lenders for up to 95 percent of the principal loan amount. The lender is responsible for servicing the borrower's account for the life of the loan. All loans must meet certain qualifying criteria to be eligible for guarantees, and FSA has the right and responsibility to monitor the lender's servicing activities.

Applicants unable to qualify for a guaranteed loan may be eligible for a direct loan from FSA. Direct loans are made and serviced by FSA officials, who also provide borrowers with supervision and credit counseling. Funding for direct loans is limited, and applicants sometimes have to wait for funds to become available. To qualify for a direct farm ownership or operating loan, the applicant must be able to show sufficient repayment ability and pledge enough collateral to fully secure the loan.

Farm Ownership (FO) Loans may be made to purchase farmland, construct or repair buildings and other fixtures, develop farmland to promote soil and water conservation, or to refinance debt.

Operating Loans (OL) may be used to purchase items needed for a successful farm operation. These items include livestock, farm equipment, feed, seed, fuel, farm chemicals, repairs, insurance, and other operating expenses. Also, Operating Loans can be used to pay for minor improvements to buildings, costs associated with land and water development, family living expenses, and to refinance debts under certain conditions. FSA can guarantee OLs or FO loans up to $759,000 (amount adjusted annually based on inflation).

The interest rates on loans made directly by the FSA are lower than the rates on loans from commercial lenders. These low-interest rate programs were originally authorized to stem acute cash flow or profitability problems, but have now become permanent features of Federal Farm Credit Programs. However, because of lower interest rates and reduced lending activity in the late 1990's, FSA has become a less important source of credit for many direct borrowers. Nevertheless, special low interest rates for direct lending programs have been used extensively.

FSA is required by law to lend at least 25% of its direct loans each year at the limited-resource rate. Limited-resource rates are set at half the rate on 5-year U.S. Treasury notes, but not below 5%. Other FSA loan rates include the "Emergency Disaster Rate", which is fixed at 3.75% for the life of the loan. The "Beginning Farmer Down Payment Rate" is available for qualified farmers at 4%, 10-year, fixed-rate loans to finance the down payment on farm real estate purchases. Others may be able to obtain 4% loans under joint financing arrangements with commercial lenders.

For refinancing assistance, the FSA reduces the rate on guaranteed operating loans by four percentage points from the loan rate negotiated between the borrower and the lender. There is no minimum rate and eligibility is reviewed annually.