

THE CONTROVERSIAL COMMERCIAL
RELATIONSHIPS BETWEEN THE DOMINICAN
REPUBLIC AND HAITI

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I. INTRODUCTION

La Hispaniola has a history as a divided island. Even before Christopher Columbus arrived at the island it was divided into chiefdoms by the indigenous population that inhabited the area. This division tradition has remained, with a simple line between what eventually became two independent countries: Haiti and the Dominican Republic (DR), making them neighbors. However, how separate and oblivious can one really be with their neighbor? At the end of the day neighbors reside right next to each other and it can become a difficult task to ignore them. Neighbors communicate, help, criticize, and fight with each other through their picket fences. This is what has happened with Haiti and the DR. Not only has their relationship involved conflict, but it has also been a relationship of collaboration, especially commercially. One side has what the other side may need.

These commercial relationships surpass sovereign borders, languages, and cultural barriers. Commerce between these two nations is one of their most important interactions;

it helps sustain the lives of each community and it mobilizes each state's economy. This comment discusses the series of events that has molded the commercial relationships between the DR and Haiti today. Furthermore, this comment evaluates the current situation of both governments in order to consider whether the commercial relationship between the two countries can strengthen and flourish. Nevertheless, the recent political climate and changes in administration, which will be further explained, introduce an alternative possibility that there will be no change anytime soon.

II. A HISTORY OF THE COMMERCIAL RELATIONSHIP AND TRADE BETWEEN THE DOMINICAN REPUBLIC AND HAITI

A. *The Agreements and Successions Related to Binational Commerce and Cooperation*

During the Colonial Period, one treaty that began the concept of regulated binational trade was the Treaty of Nimega, through which Spain and France agreed to have friendly commercial relationships between their colonies.¹ As time passed, in parallel with the frontier treaties, revolutions, and independence of the states, commerce continued to grow. These early commercial agreements have not been well registered, and seem to be secondarily addressed in treaties, with the earliest registered treaty dated in 1875.² This comment will focus on four important past agreements from 1876, 1979, 1998, and 2000.

The Treaty of 1876 had a very open-minded perspective on commerce between the two states. It established in Article 8 that there is complete liberty and security for the nationals of each country to enter ports of the other for foreign commerce

1. Consejo de Estado, Paz o tratados de Nimega firmados entre el 10 de agosto de 1678 y el 5 de febrero de 1679 [Peace or Treaties of Nijmegen Signed Between August 10, 1678 and February 5, 1679], National Historic Archive, (1521-1834) <http://pares.mcu.es/ParesBusquedas20/catalogo/description/5650545>.

2. Juan del Rosario Santana, La dinámica comercial entre República Dominicana y Haití en la Frontera Norte-Dajabón y Nordeste-Wanamant [The Commercial Dynamics between the Dominican Republic and Haiti on the North-Dajabón and Northeast-Wanamant Border], *Revista Estudios Sociales* XXXIX, 57, 60 (July-Sept. 2008), <http://estudiossociales.bono.edu.do/index.php/es/article/view/96/89>.

and that they would be treated like nationals of the most favored nation.³

The Agreement of Cooperation of 1979 established that both states were to cooperate in areas of science, technology, culture, economy, and commerce.⁴ The parties agreed to create, as soon as possible, a commercial agreement in order to foment the economic activities of the states, the creation of jobs, the rational use of resources, and the progressive elimination of custom tariffs. It also created the Mixed Commission of Dominican-Haitian Cooperation. A distinguished accomplishment was the cooperation and mutual assistance between the Chambers of Commerce of both parties. They decided to have open and constant communication about the market and economy, collaborate in commercial fairs to promote each other's products, and organize industrial missions to promote joint ventures and investment opportunities.⁵

Lastly, there is the Agreement of Mutual Cooperation of 2000, in which both countries agreed to develop industrial activity and free trade zones.⁶ Throughout the years, the two states made other similar agreements and efforts. There are also international organizations in which both countries participate: the General Agreement on Tariffs and Trade (GATT), now the World Trade Organization (WTO); the Economic Partnership Agreement (EPA), which establishes free movement and trade area between the European Union and African, Caribbean and Pacific countries; the Caribbean Community (CARICOM), a community in which Haiti is a member, and with which the DR has a commercial treaty (though the DR is not a member); and the Cotonou Agreement, which is a cooperation agreement for development between the European Union, African, Pacific and Caribbean countries.⁷

3. Ana E. Martínez, *Convenios Bilaterales entre la República Dominicana y Haití* [Bilateral Agreements between the Dominican Republic and Haiti], Secretaría de Estado de Relaciones Exteriores, 15 (Aug. 2020), <https://en.calameo.com/read/0058158043d05d41611fc>.

4. *Id.*, at 75.

5. *Id.*, at 109.

6. *Id.*, at 123.

7. Christian Steffano González, *Comercio Bilateral entre República Dominicana y Haití. Análisis sobre barreras no arancelarias y los obstáculos técnicos al comercio en torno a la veda de transporte terrestre de veintitrés productos dominicanos* [Bilateral trade between the Dominican Republic

These international organizations provide security, given the political difficulty of negotiating the terms of bilateral treaties, ensuring their execution, and reaping any benefits. Each of these treaties attempt to regulate and create a balance of powers between the two countries. However, it is not only the treaty language that is significant, but also how the each treaty is executed in practice.

There are three categories of trade: illegal, informal, and formal.⁸ Regarding illegal trade in products and services, it is common to see the payment of bribes by nationals of each country in order to cross into the other without correct documentation. Informal commerce, which Haiti engages in the most, is unregistered activity done at the border provinces of each country. Formal commerce, which the DR seems to engage in the most, is registered and includes the exportation of products from the DR to Haiti (which makes up most of the trading interaction) and the imports of Haiti to the DR, this is done under the principles and agreements of binational treaties as well as through the celebration of the aforementioned commercial fairs.⁹

There is inequality in commercial structure between the two states, favoring the DR. This raises the question of who is responsible for this inequality, if anyone at all. The DR's constant conflicts over Haiti's socioeconomic policies and politics is a well-studied topic, but it is important to note that Haiti was (1) the wealthier colony and (2) one of the first independent countries in the region.¹⁰ Both states possessed corrupt governments that resulted in similar situations, at least up until the 1960s. Commerce in the DR grew, having a constant flow

and Haiti. Analysis of non-tariff barriers and technical obstacles to trade around the closure of land transport of twenty-three Dominican products], *Universidad Autónoma de Santo Domingo*, 7, 47 (Sept. 2020).

8. Haroldo Dilla, Philip Oxhorn, Sobeida de Jesús & Johnse Días, *Oportunidades y obstáculos para el desarrollo local en la frontera haitiano-dominicana: el caso de Dajabón* [Opportunities and obstacles for local development on the Haitian-Dominican border: the case of Dajabón], *Facultad Latinoamericana de Ciencias Sociales and McGill University*, 1, 27 (2004), <https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/26818/119591.pdf>.

9. Santana, *supra* note 2, at 62.

10. Anthony Oliver-Smith, *Haiti and the Historical Construction of Disasters*, *NACLA Report on the Americas*, 32, 34 (June 1, 2016), <https://www.tandfonline.com/doi/pdf/10.1080/10714839.2010.11725505>.

of binational commerce through the 80s and 90s with Haiti. By 2005, the DR had tripled its GDP and Haiti's had been cut in half.¹¹ Although both governments suffered bankruptcy, dictatorships, and corrupt government, the DR government had greater stability and pushed a business-friendly political agenda.¹² Meanwhile, the Haitian state continued to have corrupt governments, foreign interventions, as well as multiple natural and medical disasters, including the 2010 earthquake.¹³

B. *What do the DR and Haiti Trade?*

The frontier or border of any two countries tends to be a busy place, and the border between Haiti and the DR is no exception. The DR's major export product group is unprocessed and/or industrialized food products. One of the largest industries in the DR is agriculture and it is understandable that Haiti imports these products, due to their environmental degradation.¹⁴ Alternatively, Haiti's exports to the DR usually include textiles and re-exported products from Haiti, like clothing and food.¹⁵ These products are not usually registered and tend to fall under the radar as an informal type of trade. In reality, one of Haiti's major exports to the DR is their people, which provide cheap labor for industries in the DR, such as construction.¹⁶

Why is it important to know what these states trade? First, trade provides insight into the economic standing of each country, as a state's exports are a reflection of its economic

11. Michael Matera, Mary Speck, Linnea Sandin & Mark Schneider, *Cross-Border Trade and Corruption along the Haiti-Dominican Republic Border*, Washington Int'l Trade Ass'n, 1, 8 (Mar. 20, 2019), <https://www.wita.org/atp-research/cross-border-trade-and-corruption-along-the-haiti-dominican-republic-border/>.

12. Matera, *supra* note 11.

13. Alexandra Silver, *Haiti and the Dominican Republic: A tale of Two Countries*, Newspaper Time (January 19, 2010), <http://content.time.com/time/world/article/0,8599,1953959,00.html>.

14. Teresa Cerón Salcedo, *Perspectivas de un Acuerdo Comercial entre la República Dominicana y Haití* [Prospects for a Trade Agreement between the Dominican Republic and Haiti], Universidad Andina Simón Bolívar Sub-sede Ecuador, (1997) <https://repositorio.uasb.edu.ec/bitstream/10644/2565/1/T0050-MDE-Cer%c3%b3n-Perspectivas.pdf>.

15. Salcedo, *supra* note 14.

16. Dilla, *supra* note 8, at 31.

conditions. Second, the products and services traded can reveal whether there is a situation of dependency between two countries. How has Haiti reacted to this trading relationship? On multiple occasions, Haiti has placed bans on specific products and redirected how those products can and cannot enter their nation.¹⁷

From the perspective of the DR, Haiti's treatment is unfair, goes against past bilateral commercial treaties, and restrains the DR from proper business, including losing business to other competing countries. From the perspective of Haiti, these bans are regulatory actions for sanitation and contraband purposes, which ensure that the products go through proper customs.¹⁸ Where do we draw the line between sovereign state actions and hostile behavior? Given that past treaties between Haiti and the DR are relatively simple and offer only statements, not solutions, a detailed commercial bilateral treaty is needed. As will be described in the next segment, there needs to be a real discussion about plans and timeframes in order to properly regulate bans and other commercial activities. This would avoid having to base our answers in assumptions and interpretations of limited agreements.

III. HOW ARE THESE RELATIONSHIPS NOW AND WHERE ARE THE RELATIONSHIPS HEADED IN THE FUTURE?

A. *The Dominican Republic's New Government Perspective*

The ongoing tense communications between the two countries and the controversial decisions surrounding their commercial relationship has not changed. Since the establishment of autonomous and sovereign governments in each country, the governments have had close contact with each other, communicating on a regular basis because one country's problem often affects the other country.

As both countries have gone through their fair share of dictatorships, tyrannical leaders, and turmoil, the relationships between presidents has also not always been positive. Haitian

17. Michael A. Matera, Report Roll-Out: Illicit trade and the Haiti-Dominican Republic Border, *Ctr. Strategic & Int'l Stud.* (Mar. 22, 2019), <https://www.csis.org/analysis/report-roll-out-illicit-trade-and-haiti-dominican-republic-border>.

18. Matera, *supra* note 17.

politicians wanted to unify the island, which fueled the Haitian control of the island until the DR gained its independence.¹⁹ Post-independence, there are still ongoing campaigns towards unification.²⁰ The dictator of the DR from the 1930s until the 1960s was as much interested in making trading connections with Haiti as he was with blatantly opposing the nation's population.²¹ Other immigration controversies have arisen through the years, like the debate over the birthright of children born in the DR from Haitian parents.²² Likewise, there seems to be a narrative of hostility from both sides based on historic events, territorial conflicts, and also around resentments over historic events and violent actions between nationals of both countries.²³ The governments have had to deal with all of these considerations in their constant trade negotiations. Nevertheless, this narrative has been changing and the more democratic governments have led to a more democratic relationship.

The DR has 'freed' themselves from a one-party government that had control of the administration for what seemed like a lifetime (some young voters in 2020 only knew this political party because it maintained power for so many years). Now, the DR has a new government from a different political

19. Plutarco Medina Gratereaux, *La tesis de la unificación, propósito de todas las invasiones* [The thesis of unification, purpose of all invasions], Newspaper *Acento* (June 12, 2017), <https://acento.com.do/opinion/la-tesis-la-unificacion-proposito-todas-las-invasiones-8465260.html>.

20. *El Nacional*, *Rechazan campaña unificar RD-Haití* [Campaign to Unify DR-Haiti Rejected], Newspaper *El Nacional*, (Aug. 31, 2014), <https://elnacional.com.do/rechazan-campana-unificar-rd-haiti/>.

21. Ernesto Sagas, *An Apparent Contradiction? Popular perceptions of Haiti and the foreign policy of the Dominican Republic*, Sixth Annual Conference of the Haitian Studies Association (Oct. 14-15, 1994), <http://faculty.webster.edu/corbetre/haiti/miscopic/dominican/conception.htm>.

22. Shaina Aber & Mary Small, *Citizen or Subordinate: Permutations of belonging in the United States and the Dominican Republic*, 1 *J. Migration & Hum. Sec.*, 76, 77 (Aug. 8, 2018), <https://journals.sagepub.com/doi/10.1177/233150241300100301>.

23. *Violencia entre haitianos y dominicanos en la frontera, un muerto, alto mando militar RD reunido* [Violence between Haitians and Dominicans on the border, one dead, high military command of the DR gathered], Newspaper *Acento* (Mar. 15, 2019), <https://acento.com.do/actualidad/violencia-haitianos-dominicanos-la-frontera-muerto-alto-mando-militar-rd-reunido-8661081.html>.

party with many expectations not only from Dominican nationals, but also from Haiti.

First and foremost, Luis Abinader and his political party, PRM (along with their other political alliances), are in a politically tight spot. With Dominicans demand for transparency in the 2020 elections, in concurrence with the ongoing corruption trials of the past government,²⁴ the bar was high for Abinader when he arrived in office. The population is watching and protesting everything the new government does in order to avoid the past government's mistakes. The new government has also been scrutinized by the international community (including Haiti and the United States), who expect the new administration to be reputable and transparent.²⁵

The new president and its government started off well. In January 2021, the leaders of both states and their respective cabinet members signed nine new agreements covering health, immigration, security, technology, and commerce.²⁶ The commercial aspects of these agreements were very positive, creating new and modern general commercial agreements between the two states with a sense of priority and urgency. The two states agreed that the terms should not only be clear, but stable and equal for both contracting parties.

The two states also talked about that other issues that will certainly affect the commercial relationship, specifically maritime and environmental issues.²⁷ Delimiting the maritime

24. Sandra Garcia & Aimee Ortiz, Democracy is in play: What to know about protests in the Dominican Republic, N.Y. Times (Feb. 26, 2020), <https://www.nytimes.com/2020/02/26/world/americas/dominican-republic-protests-elections.html>.

25. Morgan Ortaguz, Secretary Pompeo's Travel to the Dominican Republic, Office of Spokesperson of the U.S. State Department (Aug. 12, 2020), <https://2017-2021.state.gov/secretary-pompeos-travel-to-the-dominican-republic/index.html>.

26. Adriana Peguero, RD dará amplia ayuda a Haití [DR will give extensive aid to Haiti], Newspaper Listín Diario (Jan. 13, 2021), <https://listindiario.com/la-republica/2021/01/13/652197/rd-dara-amplia-ayuda-a-haiti>.

27. Declaración conjunta de la reunión entre el Presidente de República Dominicana, Luis Abinader y el Presidente de la República de Haití, Jovenel Moïse [Joint Declaration of the meeting between the President of the Dominican Republic, Luis Abinader and the President of the Republic of Haiti, Jovenel Moïse], Instituto Nacional de Migración de la República Dominicana (Jan. 14, 2021), <http://www.inm.gob.do/index.php/noticias/item/530-declaracion-conjunta-de-la-reunion-entre-el-presidente-de-republica->

frontier is of extreme importance because it could affect the exportation of Dominican products and importation of Haitian products. This issue also presents the opportunity for establishing a binational port with freedoms and joint regulations. Additionally, in the area of renewable energy, the inclination toward green commerce has never been more important, especially in a nation like Haiti, which has suffered from deforestation for decades. The states agreed to make an interconnected renewable energy system to mobilize both states and make excess energy transferable between countries. Furthermore, both states are bolstering eco-friendly commerce by promoting the use of biodegradable products in order to eliminate unnecessary damage to the environment.²⁸ The two countries also spoke about creating sustainable cooperation for the energy, agriculture, and fuel industries, as well as potentially ending the deforestation crisis.

In one of his earliest meetings, the new president discussed each of these topics. Abinader aims to set a high standard for the two states to put aside their past and finally learn how to properly collaborate. However, it is still early on in Abinader's presidency. Can he keep his promises to the Dominican and Haitian population? The fiery gaze that citizens have over this presidency, in combination with the constant watch of the international community, helps ensure that these promises will be executed. These advances can have a positive impact on the much-disputed relationships between the two states. Nevertheless, Dominican citizens have never been this ready to reclaim any of the promises made in the political campaign and throughout the presidency.

B. *The Current Situation in Haiti's Government*

From Haiti's perspective, there seems to be hope and assurance that the new agreements will be kept. The Minister of Foreign Affairs of Haiti asserted that migration and commerce were of the utmost priorities for the state, projecting an optimistic perspective regarding what the two governments may bring to the bilateral table. He indicated that one of the key issues on the bilateral agenda was the rebalancing of commer-

dominicana-luis-abinader-y-el-presidente-de-la-republica-de-haiti-jovenel-moise.

28. *Id.*

cial affairs by creating more access for the DR to Haitian products and services, and by allowing Haitian products to impact the Dominican market as Dominican products have impacted Haitian markets.²⁹

The problem lies not with the chancellor, but rather with the current government of Haiti, more specifically, President Jovenel Moïse. He has been president since February 7, 2017 (elected in 2016) and claims his presidency ends on that same date in 2022. However, the rest of the country, the opposition, and Haiti's judiciary believe that February 7, 2021 was Moïse's last day as president.³⁰ He declined, stating that "he is not a dictator," a phrase that has become notoriously controversial due to the leaders who have historically invoked it.³¹ The United States has supported Moïse's presidency until 2022, but has reminded him that a president is elected by the people through a democratic process.³² This, of course, is a problem because since he gained power, the situation in Haiti has been critical. For example, it is reported that there have been multiple coup attempts against him, and that the president has eliminated almost all public government official positions and the possibility of elections in recent years.³³ These actions can be interpreted as an ongoing political crisis in Haiti.

Why does this matter for the DR and for Dominican-Haitian relations? It is of great significance to know whether your

29. Canciller de Haiti afirma migración y comercio son temas primordiales en las relaciones con República Dominicana [Haitian Foreign Minister affirms that migration and trade are key issues in relations with Dominican Republic], Newspaper Listín Diario (Jan. 31, 2021), <https://listindia.rio.com/economia/2021/01/31/654971/canciller-de-haiti-afirma-migracion-y-comercio-son-temas-primordiales-en-las-relaciones-con-republica-dominicana>.

30. Etant Dupain & Caitlin Hu, Haiti's government claims it stopped coup amid dispute over presidential term limit, CNN (Feb. 8, 2021), <https://edition.cnn.com/2021/02/07/americas/haiti-president-jovenel-moise-term-protests-intl/index.html>.

31. Haitians are fleeing their country, Their president is the source of the problem, Washington Post (Feb. 10, 2021), https://www.washingtonpost.com/opinions/global-opinions/haiti-jovenel-moise-dictator-immigration/2021/02/10/67fb4b06-6a53-11eb-9ead-673168d5b874_story.html.

32. Dupain & Hu, *supra* note 30.

33. Haitians are fleeing, *supra* note 31.

neighbor and commercial partner is politically stable enough to (1) enter into an agreement, (2) actually comply and execute that agreement, (3) not suddenly disregard the agreement, and (4) ensure that the next government will continue to honor the agreement. Jovenel M \ddot{o} ise and the current government cannot ensure any of these things. Although the DR does not want to negotiate with potential dictators, due to the negative effects on international reputation, the DR also wants to fulfill its promises to Haiti.

It is a regrettable situation, given the fact that the meetings with the new Dominican government seemed to be fruitful and serious. The DR can only hope that Haiti becomes politically stable soon in order to keep their promises to the citizens of both communities. With the involvement of United States and other international organizations, it is not clear whether this constitutional crisis will end anytime soon, weakening any prospect for commercial advances by Haiti.

IV. CONCLUSION

So, what makes the commercial relationship between the DR and Haiti so controversial? These countries have a long, historical relationship, with an immense number of ups and downs. Each have faced difficult colonial periods, revolutions for independence, corrupt governments and political leaders, which resulted in stubborn negotiations and complex rules for formal trade between the two countries.

It is not the responsibility of one country to manage the other in order to promote bilateral commerce. Each party has equally participated in their failure to find actual solutions to the same problems that have existed since the island was 'discovered.' The motivation to create a functioning commercial pact currently exists, unlike never before seen. However, the ongoing political turmoil in Haiti and the constant criticism of the new Dominican government do not create a helpful environment to fix these relations anytime soon.