



DR-CAFTA Part I: Are we there yet?

By John Hyatt

It was expected that the Dominican Republic-Central America Free Trade Agreement would be sent by the administration to the House for hearings as early as this month, with a vote coming in April or May. It is a small window of opportunity, after which social security and tax proposals will take center stage.



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However, an event has occurred in Guatemala, causing serious heartburn in the U.S. Passed by the Guatemalan Congress and signed by the Berger government, Guatemala's new Intellectual Property law is at variance with its CAFTA obligations, which particularly upsets pharmaceutical companies.

Now things are on hold. Similarly, several months

ago the Congress of the Dominican Republic passed a 25 percent tax on fructose corn syrup in violation of its DR-CAFTA agreement. After some pressure, the legislation was quickly rescinded. Added to the Guatemalan concern was word that El Salvador had imposed a 20 percent business transaction tax, particularly onerous to international shipping interests, as it amounted to a 20 percent increase in ocean-freight costs. El Salvador has traditionally been pro-business and in fact was the first Central American country whose Congress approved DR-CAFTA.

So it was with a troubled heart that I was invited in mid-January to Guatemala City to participate in a stakeholders panel at a USAID Regional Conference. It had the rather involved theme: "CAFTA: From Challenge to Opportunity, Strategies for Improving the Efficiency of Trade Flows and Strengthening the Business Climate." It was tough to squeeze all that copy on name badges for the some 150 representatives from the region and a few "gringos" such as myself.

In a series of intensely focused groups, some concrete recommendations came forward. (The transportation infrastructure challenges discussed will be covered in this column in the Feb. 21 issue of *Gulf Shipper*.)

The Guatemala issue turns out to be more involved than at first blush. Legislators had sought to provide reasonable-cost, life-saving medicine to the poor by authorizing the production of generics. Certainly a noble motive, but ill-conceived at this time. India, Brazil and

South Africa had taken similar steps in the recent past and compromise was achieved. Further clarifications of the law were already being enunciated while I was in Guatemala City. But whether that will be enough remains to be seen.

On the Salvador issue, the government apparently botched an effort to catch scofflaws. What the 20 percent transaction fee covered was services only performed within the country up to the frontier. In the case of ocean transportation, this would be the inland freight to or from the factory to the frontier, which amounts to a small portion of the ocean transport cost.

However, the charge has been variously interpreted to include the entire ocean transportation cost. Also, the requirement does not apply to non-resident entities. In many cases, especially in the apparel sector, contractors are selling freight on board, but may be paying the ocean freight on behalf of an offshore client.

As a result of this confusion — even with external auditors verifying the charges were not due — ocean carriers have begun to refuse to accept collect shipments in El Salvador. Dole Ocean Cargo Express so informed clients, and was quickly copied by Maersk Sealand. It is expected that other carriers will follow suit. This has caused many shippers to scramble, resulting in disruptions throughout the trade and transportation chain. The Salvadoran government is going to have to go back to the drawing board and try again if it wants to preserve its pro-business image.

These little blips we trust will not derail the DR-CAFTA process, the last best chance for the region to integrate into the global economy. Should it fail, the region would once more become a backwater controlled by oligarchs who prefer the status quo of a closed market, with no chance for enlarging the middle class and giving more people a piece of the pie. We could then count on a resurgence of economic and political turmoil as more people are disenfranchised and marginalized, not having the tools offered by DR-CAFTA to compete in a global market.

*This is Part I of a two-part opinion series on CAFTA. Part II will run in the Feb. 21 issue of *Gulf Shipper*.*

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