

1. Why did the Dominican Republic decide to challenge the Australian plain packaging law before the World Trade Organization?

How is the D.R. affected by the Australian law? In what ways do you think it may harm the D.R. economy?

The Dominican Republic is participating in this dispute because plain packaging will have a significant impact on our economy, affecting one hundred thousand Dominican jobs and jeopardizing an important part of our cultural heritage.

Our country has around 5,500 tobacco producers, employing approximately 45,000 agricultural workers; combined with the tobacco production chain, the industry generates around 118,000 direct jobs, which in turn support approximately 350,000 people (source: the Tobacco Institute of the Dominican Republic). The Dominican Republic is also the largest exporter of cigars in the world, in particular premium cigars. The Dominican Republic's producers have invested considerable resources over many years to achieve this favourable position.

By encumbering the use of trademarks and geographical indications, Dominican tobacco products, in particular premium cigars, will be affected by plain packaging. With the introduction of plain packaging, the Dominican Republic fears that the tobacco market will be driven towards commoditization, with declining prices for premium products, and an increase – rather than a decrease – in consumption and illicit trade.

As a result, the plain packaging measures will be counterproductive in achieving Australia's health objectives and it will undermine the competitive opportunities of our cigar producers.

The Dominican Republic shares Australia's interest in the protection of human health. However, this objective should be achieved by measures that are truly effective in reducing tobacco prevalence.

2. Did Philip Morris International or other members of the tobacco industry bring this issue to the attention of the government of Dominican Republic? What role did the industry play in convincing the government that it should challenge the Australian law?

The Dominican Republic learnt of this issue when Australia notified its plain packaging proposal to the WTO in 2011. The Dominican Republic has since consistently raised concerns over this measure in various WTO bodies, including the TBT Committee and the TRIPS Council, and, given the negative effects that the measure will have on our economic interests, the Dominican Republic has decided to challenge the Australian law. Many other WTO Members have voiced similar concerns in the WTO regarding these unprecedented measures, and so far two other countries (Honduras, and Ukraine) have launched a challenge before the WTO. Given that the WTO involves trade agreements, it is common for governments to work closely with those stakeholders that are affected by trade-restrictive policies. It is hence customary for governments to co-operate with industry.

Philip Morris has told us that it is providing legal assistance to the Dominican Republic through the law firm of Sidley Austin. Is this correct? Was the availability of legal assistance a factor in the decision by the D.R. to pursue the trade case with Australia? Would Dominican Republic have been able to bring the complaint without this help?

The Dominican Republic is working with a group of interested parties in the tobacco sector. It will be represented in the dispute by Sidley Austin LLP and is working to receive legal assistance from the Advisory Centre on WTO Law (“ACWL”). The Dominican Republic was represented by Sidley Austin LLP in a previous WTO dispute brought by Honduras (WT/DS302), in which the Government was supported by the Dominican industry; the Dominican Republic has also been assisted by the ACWL on WTO matters.

3. Do you consider Australia to be an important market for tobacco products from the D.R.?

We have some figures on tobacco product exports from the D.R. to Australia. We got these numbers from the Australian government. According to the figures, D.R. tobacco product sales to Australia were \$753,000 in fiscal year 2010; \$1,231,000 in 2011; and \$349,000 in 2012 (all figures in Australian dollars). Do these numbers appear to be correct?

The Australian market is important for us. According to the Australia Bureau of Statistics, the Dominican Republic is the 8th largest direct cigar exporter to Australia. For cigars, the Dominican Republic’s share in Australian imports was 15% in recent years, while for premium cigars our market share was 25% (by value).

In addition, there are likely to be substantial indirect exports: some of the top export destinations for Dominican Republic cigars are the United States, the Netherlands, Belgium and Switzerland. Some companies use these countries act as export hubs, where imported cigars, including from the Dominican Republic, are repackaged and re-exported.

The Dominican Republic is also aware that plain packaging is being considered by countries other than Australia and for products other than tobacco.