INVERSOR'S GUIDE DOMINICAN REPUBLIC

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The Legal Committee of the American Chamber of Commerce of the Dominican Republic (AMCHAMDR) is pleased to present this fourth edition of the Investor Guide, which purpose is to guide and facilitate the taking of strategic decisions aimed at achieving business goals of all those interested in investing in the Dominican Republic.

To AMCHAMDR, the development of investments in the Dominican Republic, both of local and foreign capital, is an essential element to ensure the development of democracy and improving the quality of life of all inhabitants of the country. With a view in contributing to the achievement of these objectives, our institution constantly seeks to develop initiatives and collaborate on processes to ensure their suitable implementation.

This fourth edition of the Investor Guide takes as its central axis the recent legislation on the restructuring and liquidation of business of the Dominican Republic, called Law No. 141-16 on Restructuring and Liquidation of Companies and Individuals Traders. It will enter into force in February 2017, but its importance and urgent need motivates us to facilitate its understanding and to contribute to its awareness.

This new effort by the Dominican government to improve the conditions necessary to ensure the development of private investment in the country, is partly an accomplishment achieved due to the efforts of AMCHAMDR and its members, who for years led to its approval by the relevant public bodies. This edition has been made possible thanks to the contributions of those members who enable us to meet our goals.

We hope that this effort aimed at improving the conditions for developing business in the Dominican Republic is quickly complemented by the adoption of other important legislative and regulatory parts such as the Law on Secured Transactions and the new Law on Securities Market and their corresponding implementing regulations.

Maria Esther Fernández
President of AMCHAMRD Legal Committee
SPECIAL THANKS

The completion of the third edition of the AMCHAMDR Investor’s Guide has been made possible through the collaboration of many people and institutions. The Board of Directors of the American Chamber of Commerce of the Dominican Republic (AMCHAMDR) would like to give special thanks to:

The Legal Committee of AMCHAMDR, to whom we owe the conception of this important initiative and whose members, representatives of the best law firms in the country, selflessly gave of their vast knowledge and experience to ensure the quality of this project.

Mary Fernández, past president of the Legal Committee of AMCHAMDR, a tireless collaborator of this institution, who took on this task for herself and is responsible for the end result being a true instrument for anyone who wants to invest in the country and Maria Esther Fernández who has assume the presidency of the committee with the same eagerness, making sure the finale result of this guide will preserve the same objective.

The Board of Directors also thanks our sponsors for their support:

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Founded in March 1994 by Eduardo Díaz, Jose María Cabral and Claudia Cabral. Since its inception, Cabral & Díaz has been dedicated to building an alternative legal service with a dedication to excellence for local and international clients. The firm is committed to meeting customer needs, for which it maintains a personalized rapport, interacting continuously with clients to ensure that they are aware of all their legal options and able to determine in an informed manner, the best strategy to meet their needs. Cabral & Díaz is organized by departments and specialty groups, and invests in the continuing education of its professional staff.

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CENTER OF EXPORTS AND INVESTMENTS OF THE DOMINICAN REPUBLIC
The Center pursues to be a leader institution providing customers satisfaction, continuously improving its services in the areas of Exports and Investments, Technical Assistance, Promotion, Incentives, Commercial information, legal assistance, and logistics, achieving the highest standards of quality, according the law and regulations. Through its Department of Commercial Policies and Investment, it is pursued the development of initiatives with the aim to improve and guarantee the sustainability of the business environment in Dominican Republic. The Center also participates in topics related to investment and markets Access.


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GUZMÁN ARIZA
GuzmánAriza, founded in 1927, is the first and only national law firm in the Dominican Republic, with seven fully-staffed offices in Santo Domingo, Bavaro (Punta Cana), Las Terrenas, Samaná, Sosúa, Cabrera and San Francisco de Macorís. Our multilingual staff attends to the business needs of international and national clients in multiple practice areas including: Business and Corporate Law, Foreign Investment, Tourism Law, International Tax Law, Securities Law, Government Relations, Public Procurement Law, Contracts, Litigation, Real Estate and Condominium Law, Labor Law, Trademark and Intellectual Property, Corporate Immigration and Renewable Energy.

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J. J. ROCA & ASSOCIATES is a renowned law firm in the Dominican Republic, endowed with a team of highly trained professionals that offers personalized legal services. The firm takes a team approach to meeting client needs, drawing from a broad set of skills and experience. The firm's culture instills a passion for excellence, efficiency and accountability, allowing them to anticipate risks and deal with problems in a practical and creative fashion. J.J. Roca & Associates’ values are characterized by a strict adherence to professional excellence and integrity in all aspects of its legal prac- tice, and has allowed them to earn the trust of their clients. The practice has grown primarily through client references, which is a testament to the firm's integrity.

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A consulting firm with a global presence through a network of relationships with leading firms worldwide. Jiménez Cruz Peña was founded in 2003 by three partners with 20 years of combined experience, and has quickly established itself as one of the country’s top firms, recognized for the quality, timeliness and sophistication of its consulting and legal services. Jiménez Cruz Peña provides counseling and legal assistance in: structured financing, foreign investment, real estate development, corporate, arbitration, new technologies, economic regulation, and more. The exposure of these lawyers to various legal cultures enables them to quickly assimilate new legal structures that interrelate both businesses and individuals around the world. The firm is recognized for the quality and efficiency of its services by offering creative solutions and high value-added.

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MEDINA & GARRIGO, LAWYERS
MRA can be summed up in a single word: trustworth. The firm is committed to its customers, and dedicated to building lasting relationships with strategic partners, providing a fair and honest defense of their interests. Core values are reliability, a passion for excellence, dedication to service, and genuine respect for the interests of the client. MRA specializes in all aspects of corporate law and has a keen business sense. By providing strategic advice and ongoing planning, the firm helps its clients anticipate and manage potential legal risks, obstacles, contentious negotiations, allowing its clients to focus their efforts on strengthening and growing their business. Practice Areas include: Mergers and Acquisitions, TAXATION, Arbitration and Litigation, Administrative and Regulatory Law, Banking and Capital Markets, Telecommunications, and New Technologies, Competition, Tourism and Real Estate Investment, Consumer Protection, and Environmental Law.

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AMIAMA NIELSEN understands that its success depends on the success of its clients, which can best be accomplished by providing them with ongoing project support, staying focused on business objectives, and providing them with the best legal protections available under the law.


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OMG is one of the leading consulting firms in the Dominican Republic, offering a full range of services in the areas of legal, strategic, managerial and financial consulting. A general practice firm, OMG specializes in strategic business planning and is known for its involvement in high profile projects with a great degree of sophistication.

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PEREYRA & ASSOCIATES
Founded in October 1990 in Santo Domingo, Pereyra & Associates is a firm that provides all types of legal services with extensive experience in assisting corporations and individuals, domestic and foreign, with a well-earned reputation for providing efficient services to its clients. The firm has seventeen highly qualified lawyers that provide personalized service across a wide range of specialties. It also has excellent relationships with a variety of law firms around the world, allowing them to provide clients with local expertise worldwide. Areas of practice include Civil and Commercial Law, International Trade, Business, Foreign Investment, Free Zone Law, Banking Law, Trademark and Copyright Law, Telecommunications, Administrative Law, Regulatory Law, Environmental Law, Real Estate Law, Labor Law, Litigation, and Arbitration, among others.

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RUSSIN VECCHI & HEREDIA BONETTI
(RV&HB)

Founded in 1969, RV&HB is the Dominican affiliate of Russin&Vecchi, an international law firm with offices in Asia, Europe, North America and the Caribbean. RV&HB is comprised of a specialized team of multilingual professionals, prepared to meet the legal needs of both local and international clients, and is organized into 5 major areas: Commercial and Corporate; Real Estate and Construction; Litigation and Alternative Dispute Resolution; Administrative Law and Government Contracts; and Intellectual Property. Founded on March 2nd, 1915 by Manuel de Jesús Troncoso de la Concha under the name of Oficina Troncoso. Since then it has become one of the leading law firms offering the full range of legal services in the Dominican Republic, including the largest and oldest intellectual property department in the country (since 1917). Currently the firm maintains a successful leadership in this area. In 1983, it changed his name to TRONCOSO AND CACERES.

SQUIRE, SANDERS & DEMPSPEY PEÑA PRIETO GAMUNDI
Squire Sanders & Dempsey Peña Prieto Gamundi is the local office of Squire Sanders & Dempsey LLP a global law firm that has about 1,400 professionals, spread over 36 offices located in 16 countries around the world. The Dominican team of Squire Sanders is composed of a group of lawyers licensed to practice in the country, fully bilingual in English and Spanish, with extensive experience in the energy sector, the management of international Transactions, and foreign investment, among other practice areas. www.ssd.com

Contribution: Drafted sections on the energy and hydrocarbon sector, the mining sector and Law on international financial zones. Reviewed sections on legislation on environment and natural resources.

TRONCOSO & CACERES
Troncoso y Caceres provides the full spectrum of legal services. The firm serves a broad base of local and international clients, and is organized into 5 major areas: Commercial and Corporate; Real Estate and Construction; Litigation and Alternative Dispute Resolution; Administrative Law and Government Contracts; and Intellectual Property. Founded on March 2nd, 1915 by Manuel de Jesús Troncoso de la Concha under the name of Oficina Troncoso. Since then it has become one of the leading law firms offering the full range of legal services in the Dominican Republic, including the largest and oldest intellectual property department in the country (since 1917). Currently the firm maintains a successful leadership in this area. In 1983, it changed his name to TRONCOSO AND CACERES.

Contribution: Drafted section on enforcement of creditors’ rights.

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Contribution: Drafted sections on construction sector, Real Estate Law and land disputes. Reviewed the tourism sector.

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CHAPTER I. About AMCHAMDR

The American Chamber of Commeros of the Dominican Republic (AMCHAMDR) is a non-profit organization incorporated in the Dominican Republic, accredited by the US Chamber of Commerce, and affiliated with the Association of American Chambers of Commerce of Latin America (AACCLA).

Our membership is comprised of more than 2,000 firms operating in the Dominican Republic from the United States, the Dominican Republic, and other countries. Our main office is located in the nation’s capital, Santo Domingo, and there are 9 branch offices located in the country’s major commercial centers: Santiago, Puerto Plata, La Vega, Moca, San Francisco de Macoris, San Pedro de Macoris, La Romana, Higuey and Bani. AMCHAMDR is the only business organization in the country with such a national presence, representing companies from virtually all sectors of the economy.

Our members share a common vision for the Dominican Republic, and that is the consolidation of sustainable economic development based on open and transparent markets, respect for the rule of law, and socially responsible corporate behavior.

Our mission is to enable our members to achieve their maximum economic, professional and civic potential by providing access to knowledge, opportunities and best practices, and creating a culture of corporate social responsibility.

AMCHAMDR is able to advance its institutional agenda in large part thanks to the work of a number standing committees including:

- Legal Committee
- Economic Committee
- Energy Committee
- Trade Facilitation Committee
- Corporate Social Responsibility Committee, and
- Information and Communications Technologies Committee
AMCHAMDR has an active work plan, organizing and carrying out more than 100 events and activities each year, including:

- Monthly lunches with leading national and international opinion leaders
- Seminars and Workshops
- Briefings on current events of interest to the business community
- Trade Missions to and from the United States and other regional trading partners
- Trade Shows and Expositions
- Golf Tournaments and Gala Fund Raisers in support of our Corporate Social Responsibility programs

AMCHAMDR provides a variety of services to our membership, as well as potential investors, including:

- Leading bi-monthly Business Magazine with national circulation
- Business Facilitation (targeted appointments with business or government officials)
- Customized briefings on Economic and Key Business Indicators
- Discount plans with select providers
- Market research

Membership Requirements

We welcome applications for full active membership from companies legally incorporated in the Dominican Republic, and that are aligned with our institutional vision and mission.

For companies that are not yet incorporated in the Dominican Republic, but interested in staying informed on current events and accessing leaders in business and government, we have a special Overseas Member category. For more information on how to join, please visit our website at www.amcham.org.do

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El Griffin representa nuestra visión, claramente definida, de crear la mejor empresa de hospitalidad del mundo, con perspectiva equilibrada, vigor y fuerza.
AN INTRODUCTION TO
THE DOMINICAN REPUBLIC

CHAPTER 2

a. History of the Dominican Republic
b. Economic structure of the Dominican Republic
1. Brief history

The territory of what is now the Dominican Republic forms a part of an island discovered by Christopher Columbus in 1492 that was given the name of "Hispaniola." In 1493, Columbus established the first European settlement in the New World and named it "La Isabela." The city of Santo Domingo was founded in 1496, becoming the first Vice-Kingdom of America in 1509 and the seat of the first Royal Court in 1511. In 1538 was established the first University (named University of St. Tomas). There were also established the first Bishopric and the first cathedral of the American continent, named Metropolitan Cathedral Basilica St. Mary of the Incarnation. The cathedral was finished in 1546.

The city of Santo Domingo became the center from which the Spanish colonization spread over large portions of the Continent. Less than a century later, attacks by corsairs made it necessary for the Spanish population to concentrate in the Eastern part of the Island. French corsairs settled in the Western part (in what today is Haiti), which Spain was compelled to cede to France in the Treaty of Ryswick of 1697.

The Spanish colony prospered during the rule in Spain of the Bourbon monarchs, but in the island, the events of the French Revolution and the war between France and Spain had repercussions. The uprising of the slaves and the triumph of Toussaint l'Overture led to the cession of several territories to France and, finally, of the whole island. The Spanish colonists seized their part of the Island between 1808 and 1809 and nominally returned the territory to Spanish sovereignty until 1821, when the revolt led by José Núñez de Cáreres proclaimed the so called Ephemeral Independence, which lasted only from December 1st, 1821 until February 9, 1822.

On February 9, 1822, the Haitians invaded Santo Domingo and occupied the country until February 27, 1844, when overthrown by the independence group called La Trinitaria (The Trinity) led by the three so-called Fathers of the Fatherland (Juan Pablo Duarte, Ramón Matías Mella and Francisco del Rosario Sánchez) who proclaimed the independence of the territory they named the Dominican Republic.

The United States has played an important role in the history of the Dominican Republic. During the 1860’s there was talk of annexation. In 1905, to ensure collection of the country’s very large foreign debt with the United States, it took control of the Dominican Customs. In 1916, U.S. forces invaded the country for several reasons and maintained their presence until 1924. During the last 40 years, the Dominican Republic has enjoyed a stable democracy with universal suffrage, separation of powers and a constitution that bears some resemblance to the United States Constitution.

2. Convenient location

With an area of 48,442 square kilometers, the Dominican Republic is the second largest country in the Caribbean. It has 1,575 kilometers of coastline, four mountain ranges and numerous fertile valleys.

Thanks to its location between Cuba and Puerto Rico, the Dominican Republic is a convenient point of access to markets in the United States, Canada, South and Central America and also Europe.

3. Pleasant climate

The country enjoys a pleasant climate, with a mean temperature of 26 degrees Celsius (77° F). There are two short rainy seasons, from May to July and again in October and November. As a part of the Caribbean Basin, the country is exposed to tropical hurricanes. However, its topography and location frequently tends to reduce the intensity of these phenomena and in some instances to deviate their course.

4. The Dominican population

According to the census of 2010, the Dominican population amounted to 9,445,281 inhabitants, of which 965,040 live in the urban area of the National District. Also, the most recent statistics indicate that by the year 2019, the Dominican population could increase by 913,039 inhabitants. The life expectancy is of 72.55 years for both males and females.
5. The Dominican Government: democracy in action

The Dominican Republic has a civil, republican, democratic and representative form of government divided into three independent branches: the Legislative, the Executive, and the Judicial. The President of the Republic, elected every four years, is the head of the Executive Branch.

The President must be elected by an absolute majority of the eligible voters. If no candidate were to achieve an absolute majority, there would be a run-off election with the participation of only the two candidates who reached the highest number of votes. According to the last constitutional reform, in the Dominican Republic it has been recognized the presidential reelection, allowing the President in office to run for a second presidential term.

The Legislative Branch is composed of a bicameral congress consisting of a Senate and a Chamber of Deputies. There are 32 Senators, one from each one of the 31 Provinces and one from the National District (the capital city of the Dominican Republic), and 190 Deputies, of which, 5 Deputies represent the Dominican population residing abroad. Senators and Deputies are elected by direct election for a period of four years.

The Dominican Judiciary is similar to the French system. It consists of the following courts:

- **Justices of the Peace**, who decide claims involving small amounts and other matters considered to be of lesser importance.
- **Courts of First Instance**, which are common law courts; this is, they know about all matters not specially attributed to another court.
- **Appellate Courts**, which know of appeals to sentences rendered by the Courts of First Instance, both on the law and on the facts.
- **The Supreme Court of Justice**, composed of 16 Magistrates, whose main function is to hear appeals against judgments rendered in last or sole instances by other national courts.
- **The Constitutional Tribunal**, composed of 13 Magistrates, recently created by the Constitution of 2010 to ensure the supremacy of the Constitution, defend the constitutional order and to enforce protection of fundamental rights.

There are also specialized courts, which know about administrative, labor, real estate, children and juvenile, municipality matters, amongst others.

The Magistrates of the Supreme Court and of the Constitutional Tribunal are appointed by the National Council of the Magistracy, institution composed by representatives of the three branches of the State, based on the French judicial system, with the main purpose of guaranteeing the independence of the Judiciary Power from the other State Powers. The Magistrates of the other courts are appointed by the Supreme Court from lists of candidates proposed by the Council of the Judicial Power, composed the latter by members of the various courts.

6. The Dominican legal system: origin and evolution

The Dominican legislation has as its main source the French codes of early nineteenth century, which were adopted in their original language during the Haitian occupation (1822-1844) and then translated into Spanish and formally adopted in 1884.

Presently, the Dominican legal system is in a process of evolution due to the adoption of a new constitution, proclaimed on 26 January 2010, which has already been subject to a reform on June 13, 2015, to allow consecutive presidential re-election for an additional term. Also, the Dominican Republic has been experiencing regulatory developments as a result of various international trade agreements that have been signed, and as well as of trade obligations under the World Trade Organization.

Upon signature of the DR-CAFTA, the Dominican Republic was committed to enact laws of economic character, guaranteeing markets regulation, and that in turn categorize violations and promote condemnatory actions to criminal and restrictive trade practices, both within the national market and international trade agents who intend to affect any domestic production sector.
1. Gross Domestic Product

Between 2011 and 2015, the Dominican economy experienced an average annual growth rate of 5.0%. In 2015, the economy experienced a growth rate of 7%, after a 7.3% in 2014, being these growth rates the highest for the Latin America and the Caribbean region in both years.

By 2015, the fastest growing economic activities were Construction (19.1%), No Market Education, Financial Intermediation, Insurance and Related Activities (9.3%) and Trade 8.6%. The activities that recorded the worst growth rates were Mining and Quarrying (-10%), Manufacture of Petroleum Refining Products and Chemicals (-4.6%), Market Education (0.6%) and Agriculture (0.8%)

The size of the Dominican economy, as measured by the Gross Domestic Product (GDP) is US $ 67.200 million (2015). It is estimated that by 2016, GDP will amount to US $ 79.800 million, representing a growth of 5.4%. By 2015, the per capita GDP closed at US $ 6,732 , with an estimated 10 million inhabitants.

2. Inflation

The domestic inflation rate has averaged an annual 3.9% for the past 5 years (2011-2015). The inflation rate of 2015, influenced by the fall in the price of oil on the global market, was 2.3%, the second lowest in the last 30 years and only surpassed by 1.6% of the previous year.

According to the Consumer Price Index (CPI) of 2015, the groups which experienced the largest declines in prices were Transportation (-3.6%) and Clothing and Footwear (-3%). The group Food and Non-Alcoholic Beverages accounted for the largest increase (+ 7.9%) due to the increment in price of some goods in the basic food basket.

3. The Exchange Rate

The Dominican Peso is freely convertible into foreign currencies and in the last 5 years has accumulated an average annual devaluation of 4.5%. The Central Bank of the Dominican Republic maintains a policy of a managed float, which intervenes in the exchange market to maintain a relative stability and minimize currency volatility.

In 2015, the Dominican peso depreciated 2.7% against the US dollar, reaching an average rate of $ 45.47 pesos per dollar at year-end.

4. Balance of Payments

The current account of the balance of payments closed with a deficit of US $ 1.307 billion in 2015, an amount 3 times less than in 2010. From 2014 to 2015 the deficit was reduced by 39% (US $ 934 million).

From 2011 to 2015, total Dominican exports increased by 14%. In 2015, exports totaled US $ 9.500 million (3.8% compared to 2014). Of this total 58% it was generated by the free zones sector and the rest by domestic exports. Imports in 2015 amounted to US $ 16,900 million (-2.4% Compared to 2014). In the last 5 years, on average, imports have grown by 2.3% annually.

Family remittances are also an important source of foreign exchange for the country. In 2015 these generated US $ 5.000 million to the Dominican Republic for this concept, a growth of 9%. From 2011 to 2015 remittances have increased 24%.

5. Foreign Debt

In 2015 the debt of the Non-Financial Public Sector closed at US $ 24.200 million (35.9% of GDP), composed by 34% of domestic debt and 66% by foreign debt.

In early 2015 a transaction with Petróleos de Venezuela, SA (PDVSA) for an early debt purchase, at a discount of 52% thereof, was carried out. With this transaction, the amount of debt of the Non-Financial Public Sector (NFPS) was reduced by US $ 2.094 million (3.3% of GDP).
6. International Reserves

Net International Reserves (NIR) in 2015 increased its balance to US $ 45 million, accumulating about $ 5.200 million (+12% to 2014). From 2011 to 2015, net international reserves have increased 43%. By 2015, the NIR represent 3.7 months of imports.

7. Tourist flow and Foreign Investment

From 2011 to 2015 the tourist flow in Dominican Republic has grown 30%. In 2015, almost 5.6 million tourists entered the country (-9% compared to 2014), the country issuing the United States. The flow of foreign direct investment in 2015 was US $ 2.222 million, an increase of 1% over the previous year. From 2014 to 2015, investment in the tourism sector increased by 123% and in real estate increased by 35%.
The new political Constitution of the Dominican Republic was proclaimed on January 26, 2010 and published in Official Gazette No. 10561. It was again reformed in 2015 in regards to the presidential term and once again proclaimed on June 13 of that year. These two constitute the modifications 38 and 39 in 167 years.

Although the present Constitution preserves a large part of the contents of earlier constitutions, it also contains numerous changes, some of which are of great importance in the organization of the nation and of the Dominican State. Of special interest for this publication are those provisions which have a direct bearing on the economy, on business and on investment so as to serve as general guidance to recipients of this business guide.

1. Fundamental Principles and Supremacy of the Constitution

The underlying principles of the new Constitution are aimed at achieving a government by the people, a respect for human dignity and the submission of all acts of the State to the precepts of the Constitution.

2. A Social and Democratic State of Law. The National Territory

The Constitution also envisions that the Dominican Republic a Social and Democratic State of Law, organized in the form of a unitary republic founded on the respect of human dignity, fundamental rights, labor, popular sovereignty and the separation and independence public powers.

The territory of the Dominican Republic is defined in the same way as it has been in earlier constitutions, except that the territorial sea and the electromagnetic field of the upper atmosphere are expressly limited and subjected to regulation in a manner consistent with the Law of the Sea and International Law.

3. Natural Resources

Articles 14 and 17 of the Constitution rule on the subject of natural resources with substantive regulations previously not provisioned. Water resources are given the character of natural strategic resources and free access is given to rivers, beaches, lakes, among others, without interfering with the rights of private property owners. The legal regime of the right of way in compliance with this constitutional provision must be subject to a legislation to ensure respect and constitutional primacy of the rule, without ignoring acquired rights.

The Constitution recognizes the existence and importance of protected natural areas in a declarative manner and reinforces the legal security of said regime providing that any reduction of their limits must be approved by a special qualified majority of two thirds of both Houses of the National Congress.

It also provides certain basic rules for the preservation of the environment. These rules are already embodied in Law No. 64-00, therefore, although recognition of these rights with constitutional status can be considered an important novelty, the fact remains that the Dominican positive law had integrated these principles into the legislation.

4. Dominican Nationals

The Constitution establish that are Dominican nationals: a) the children of a Dominican mother or father; b) those who enjoyed Dominican nationality prior to the entry into force of the present Constitution; c) those born in the national territory, with the exception of the children of foreign diplomats and consuls, the children of foreign individuals in transit or residing illegally in the country; d) those born abroad of a Dominican father or mother, notwithstanding that such persons may also have acquired another nationality through their place of birth; e) persons who are married to a Dominican
5. Equal treatment of foreign nationals

According to Article 25, foreign persons enjoy the same rights and have the same obligations as Dominicans with certain exceptions set forth in the Constitution and in the laws. Article 221 declares that foreign investments shall receive the same treatment as domestic investments, subject to those restrictions set forth in the Constitution and the legislation.

6. International Community and State submission to arbitration

Of marked significance it is that the Constitution recognizes the possibility of the State and other persons of public law to submit disputes arising from a contractual relationship to jurisdictions constituted under an enforceable international treaties, including the possibility of subjecting them to national and international arbitration.

Article 26 introduces novel representations on the acceptance by the Dominican State of the existence of an international legal system, committing to act consistently and to apply the rules of general and American international laws to the extent that these have been adopted by its public powers.

It is also expressly declared that the Dominican Republic shall promote regional integration, which in fact it has been decisively performing.

7. Fundamental rights, guarantees and duties

Title II of the new Constitution, which relates to fundamental rights, guarantees and duties, contains in a clear and defined manner the declaration of rights domestic and internationally recognized and binding on the Dominican Republic, adopting in many instances norms that were already a progress in adjectival or sectarian legislations, in order to grant them a constitutional character.

The Constitution of 2010 is not limited to enumerate fundamental rights, guarantees and duties, but expands in their scope and explanation. For information purposes, we following enumerate some of the fundamental rights: the right to life, human dignity, equality, freedom, personal safety, express prohibition of slavery, personal integrity, free development of personality, privacy and personal honor, freedom of conscience and worship, freedom of movement, freedom of association, gathering and movement, freedom of speech and information.

The right to protection of one's personal data and the need of a procedural mechanism to make such protection effective is another one of the innovations of the present Constitution.

The acceptance of the concept of due process in all judicial and administrative matters, including the constitutionalization of habeas corpus;

A writ of habeas data, aimed at protecting the right of privacy and personal data;

The statement that all acts which subvert the constitutional order are null and void, including the seizure of property through military force.

9. Constitutional rights

Four new groups of provisions are worthy of mention:

- The constitutional recognition of the availability of resources to refute the decisions of the authorities as a right of citizens, including the possibility of a writ of protection;

- The acceptance of the concept of due process in all judicial and administrative matters, including the constitutionalization of habeas corpus;

- A writ of habeas data, aimed at protecting the right of privacy and personal data;

- The statement that all acts which subvert the constitutional order are null and void, including the seizure of property through military force.

10. The Legislative Power

Title III of the Constitution deals with the Legislative Power, which is exercised by a National Congress composed of two chambers, the Senate and the Chamber of Deputies. The new Constitution strengthens Congress' powers of supervision and control over the Administration, which already existed in the previous constitution.

The National Congress has the power to levy taxes, duties and contributions and to grant exemptions from the payment thereof; to approve or reject loan and credit agreements made by the Government; also to approve or reject contracts submitted to it by the President of the Republic; to ratify international treaties and conventions signed by the Government and to approve or reject the disposition of assets of the private domain of the Nation, among others.

The new Constitution also reiterates a cardinal aspect of the Rule of Law, which establishes that:

The laws can be only applied for the future. They have no retroactive effect, except when they are favorable to a person involved in a criminal proceeding or serving a sentence.

The Constitution introduces for the first time the concept of an “organic law” for which a majority of 2/3 of the members present in both Chambers is required, with the purpose of compelling the achievement of a consensus of the political parties on these matters, which are deemed of special importance. They include those relating to fundamental rights, to the structure and organization of the Government, to the public functions; to the electoral system; to the economic and financial system; to the national budget; to the planning and public investments; to the territorial organization; to the procedures for the assertion of constitutional rights, and to national defense and security.

11. The Executive Power

The Executive Power is exercised by the President of the Republic, who is elected every 4 years by direct suffrage. The Constitution proclaimed in 2010 prohibited the consecutive presidential reelection, but in 2015, this was modified to allow the President to run for a second consecutive period, but once concluded his second mandate, may never again run for President or Vice-President of the Republic. It was also approved a transitional provision for if in the event plant for the period 2016-2020, cannot run for the next period or any other one.
Another novel provision is found in Article 146, which expressly condemns corruption and sets the guidelines for the Legislative Power to criminalize the administrative corruption.

The new Constitution seeks to protect the civil service and at the same time to render it responsible, not only criminally in cases of corruption, but also civilly vis-à-vis persons who have been injured by the illegal acts or omissions of public officials. The civil liability can be asserted against the person who committed the wrong as well as against the agency which employed him.

12. The Judicial Power

Beginning with Article 149, the Constitution sets forth in a broader and more explicit manner the principles which had already been established in the Constitution of 1994 and revised in 2002. The members of the Judiciary are independent, impartial, responsible and not removable. Nonetheless, every 7 years the Justices of the Supreme Court are evaluated by the National Council of Magistrates, which has the power to remove and replace them as a result of its evaluation.

The Constitution also created a new institution, the Council of the Judiciary, whose function is to decentralize administrative matters which formerly were concentrated in the hands of the President Judge of the Supreme Court, thus taking one step further in the direction of reform of the Judiciary, carried out up to this date. The Council of the Judiciary is composed of judges of the various courts who, with the exception of the President Judge of the Supreme Court, shall exclusively exercise the functions of the Council and deal in matters of judicial administration and discipline of judges.

It introduces, as of Article 164, all matters relating to the Administrative Jurisdiction. This is the jurisdiction that deals with the judicial review of the acts of the public administration, reinforcing the aforementioned constitutional provisions that establish the norms and guarantees inherent to acts of public administration and its officers.

13. The National Council of Magistrates (NCM)

The National Council of Magistrates is responsible for the appointment of the members of the Supreme Court, of the Constitutional Tribunal and of the Superior Electoral Tribunal, and shall be in charge of evaluating the performance of the Judges of the Supreme Court.

The composition of the Council is modified, as to that hereafter it is composed of eight members, namely: the President of the Republic, the President of the Senate, a Senator of the party with the second largest representation, the President of the Chamber of Deputies and a Deputy of the party with the second largest representation, the President Judge of the Supreme Court, another Judge of the Supreme Court and the Attorney General of the Republic.

14. The Constitutional Tribunal

An issue to highlight is the creation of the new Constitutional Court. The Constitutional Tribunal is an independent body of the State, not tied to any one of its three Branches. Its main function is to safeguard the supremacy of the Constitution, the defense of constitutional order and the protection of fundamental rights. Its decisions are final and irrevocable and constitute binding precedent for public powers and all bodies of the State. It shall be composed by 13 judges and a majority of at least 9 is required for a decision.

The Constitutional Tribunal takes cognizance of direct actions in which an allegation of unconstitutionality is presented relative to a statute, decree, regulations, or ordinance. Such actions can be brought by the President of the Republic, by one third of the members of the Senate or of the Chamber of Deputies, or by any person with a legitimate and legally protected interest, what is called the “concentrated control” of constitutionality.

The Constitutional Tribunal also has the following powers: a) to exercise preventive control over the constit...
tutionality of international treaties before they are submitted to the National Congress for ratification, b) to resolve conflicts that may arise between the Branches of the state, c) to resolve complaints of human rights violations, d) to review any final decisions which the Supreme Court may render on questions of constitutionality after the proclamation of the Constitution on January 26, 2010.

Regardless of the above, there remains the possibility of an ordinary court deciding that a particular statute, decree, regulations, resolution or ordinance is unconstitutional, by reason of knowing a specific case, maintaining what is called a “diffuse control” of constitutionality.

15. Economic Affairs

The economic and financial system envisioned by the Constitution is of special interest to investors. It seeks to achieve human development as well as economic growth, redistribution of wealth, social justice, fair treatment, social cohesion and protection of the environment within a framework of free competition and equality of opportunity.

The State is called upon to promote private economic initiative and the Constitution proclaims that business activity, both public and private, shall receive the same legal treatment, but it also recognizes the possibility of granting special treatment to investments in less developed areas of the country, such as the border provinces.

The national currency is the Dominican peso. The regulation of the monetary and financial system is in the hands of the Monetary Board, which is the governing body of the Central Bank. The Central Bank is the sole issuer of coins and bills denominated in national currency and its purpose is to stabilize prices. Laws aimed at modifying the present monetary and financial system require a special majority of two thirds of the members of both Houses.

16. Constitutional amendments

The present Constitution shall only be amended by a bill sponsored by one third of the members of either Houses or by a proposal by the President. The need for a reform must be stated in a law which orders the convening of a National Reviewing Assembly; it must state the purpose of the reform and the Articles to be amended. A vote in favor of an amendment requires a quorum of more than one half of the members of either Houses and a favorable vote of two thirds of the members present.

A referendum is also required when the change in the Constitution relates to human rights, the territorial and municipal organization of the country, the rules on nationality, citizenship and the rights of foreigners, the monetary system, and the procedures for the amendment of the Constitution.

It is also proclaimed that no amendment can alter the civil, republican, democratic and representative form of the Government.

The words of this section are not an exhaustive treatment of the contents of the Constitution, but merely a summary aimed at giving potential investors a general idea of the form of the Dominican Government, regardless of their nationality.
1. Laws Governing Foreign Investment

a. Law No. 16-95 on Foreign Investment in the Dominican Republic

The Dominican Republic grants special incentives to foreign nationals and entities, and to Dominican nationals residing abroad, who invest capital in a business operating in the Dominican Republic under the terms of Law No. 16-95 on Foreign Investment, dated November 20, 1995. This law governs the various types of foreign investment and the rights and duties of investors under the guiding principle of equal treatment between foreign and local investment, subject to certain exceptions.

b. Law No. 98-03, which creates the Centro de Exportación e Inversión de la República Dominicana (CEI-RD).

The Centro de Exportación e Inversión de la República Dominicana (CEI-RD) was created by Law No. 98-03 to promote foreign investment in the country and to assist exporters by improving the system of foreign trade and promoting trade between the different countries.

c. Regulation No. 214-04 on the Registration of Foreign Investments in the Dominican Republic

The Regulation No. 214-04 on the Registration of Foreign Investments in the Dominican Republic, dated March 11, 2004, establishes the requirements for the registration of foreign investments, the remittance of profits, the repatriation of capital, and the requirements for the sale of foreign currency, amongst other issues related with investments. These regulations complement the provisions of Law No. 16-95 and of Law No. 98-03.

2. Sectors of the Economy Open to Foreign Investment

As a general rule, Dominican Law does not establish restrictions on the participation of foreign investment in local business activity. However, according to Law No. 16-95, foreign investment is not allowed in the following areas: (i) disposal of toxic waste or of dangerous or radioactive substances not produced in the country; (ii) activities which endanger public health or are detrimental to the environment; and (iii) the production of materials or equipment directly related to national defense or security, except with the authorization of the Executive Power.

According to a report entitled “Foreign Direct Investment (FDI) per Target Industry” published by the Central Bank of the Dominican Republic (www.bancentral.gov.do/estadisticas_economicas/externo/) the main sectors open to foreign investment during the year 2015 were: tourism, real estate, commerce and, telecommunications, free zones and financing, in a descending order.

3. Types and Forms of Foreign Investment

Law No. 16-95 differentiates three types of foreign investment:

- **Direct Foreign Investment.** Made with contributions from abroad made by individuals or corporations (foreign or residing abroad) to the capital of a company operating in the national territory.

- **Foreign Reinvestment.** Is the investment of all or a part of the earnings generated by a registered foreign investment in the same enterprise in which such earnings were generated.

- **New Foreign Investment.** Is the investment of all or a part of the earnings of a registered foreign investment in an enterprise different from the one in which such earnings were generated.
Foreign investments can be achieved in various forms, including:

- **In cash.** Contributions made in freely convertible foreign currency exchanged at a bank or with a foreign exchange broker licensed by the Monetary Board.
- **In kind.** Such as industrial plants, new and refurbished machinery, spare parts, raw materials, intermediate or finished goods, as well as intangible technological contributions.
- **Financial Instruments.** Those financial instruments to which the Monetary Board grants the category of foreign investment, except such securities derived from the repurchase of Dominican foreign debt.
- **Intangible technological contributions.** Those resources derived from technology, such as trademarks, production models, industrial processes or service models, technical assistance and know-how, managerial assistance and franchises.

### 5. Procedure for the Registration of Foreign Investment

According to Law No. 98-03 and Regulation 214-04, an interested foreign investor must file an application form at the offices of the CEI-RD together with the necessary attachments within 180 calendar days from the date on which the foreign investment took place. CEI-RD shall then evaluate the application and issue the corresponding Certificate of Registration within a 15 working days term.

### 6. Foreign Investment under DR-CAFTA

The Dominican Republic is signatory of the Free Trade Agreement between the United States of America and the countries of Central America (DR-CAFTA), which in its Chapter X sets forth rules for the protection of current or potential investors of any one of the Parties to the Agreement against unfair or discriminatory Governmental action.

In this sense, according to the DR-CAFTA the investors are covered by six additional protections to those granted under the Dominican legislation: (i) Non-discriminatory treatment in comparison with local investors or investors of countries not parties to the Agreement; (ii) Limits on “performance requirements”; (iii) Free transferability of funds generated by the investment; (iv) Protection against expropriations which are in conflict with International Law; (v) A “minimal level of treatment” in accordance with International Law; (vi) The possibility of contracting managerial personnel regardless of nationality; (vii) A procedure for the resolution of investment disputes, under which the investor of one of the Contracting Parties can submit a claim for damages against another Contracting Party to compulsory international arbitration.

We commit to the success of our clients by providing them with the most valuable solutions for their projects. OMG turns complex situations into simple solutions, devising effective actions and delivering assertive strategies.
1. General Outlines

The Investment Single Window (VUI), created through Decree No. 626-12 dated 10 November 2012, is a centralized point providing the services, management and processes required for investment projects in the Dominican Republic. It operates in the facilities of the Center for Export and Investment of the Dominican Republic (CEI-RD) and is supervised by the Ministry for the Presidency.

The VUI centralizes the government procedures of various institutions, essential for developing any investment related to sectors the counter is concerned with. Certificates, permits and licenses are among the documentation handled.

2. Aims and advantages of the VUI

Among other things the VUI is aimed at integrating and interconnecting the various public institutions in order to provide investors with a centralized point to apply for the various permits and certificates required to crystallize their investment plans in the country.

The VUI provides a single point of submission for the documents required to make an investment. It also monitors the processing flow set forth for such investment, in order to achieve better coordination between acting institutions. This dual role translates into time and money saved, not only for investors but also for the public entities involved.

One of the main advantages to using the VUI is that it facilitates the execution of investment projects in a transparent, reliable and comprehensive manner for both local and foreign investors while allowing them to install and start operating quickly, ensuring a high level of legal certainty and transparency.

The VUI is aimed at providing effective service, saving the investor’s time and travel costs and saving on running costs for the institutions concerned.

3. Investment sectors included in VUI

Initially, the VUI will cater to the tourism and real estate industries in projects with high impact for the national development. As work progresses, within less than a year, other sectors such as the mining, telecommunications, agriculture, agro-industry, film and media and information and technology industries, as well as the incorporation of companies, will gradually be added.

4. Development Stages of the VUI

The VUI was conceived as a two phase development. The first phase and current phase, called Personal Attendance Counter, seeks to provide information on services, procedures and formalities in a personalized manner through representatives qualified in customer service, investment and government processes. This stage foresees a digital monitoring system that allows the various procedures and permits to be tracked, guaranteeing investors a high level of security and transparency when registering with the institutions.

The second phase, to come about within less than a year of the first phase, will be called the Virtual Attention Counter, and will operate through a web page, providing the investor with a tool for electronically downloading the information and documents required by the various government agencies, as well as for the electronic payment of taxes and other fees associated with the services.

At the moment during this first phase the applicant or his representative must present himself personally at the CEI-RD facilities to use the VUI. During the second phase, applications may be virtually processed, without having to personally go to CEI-RD to submit physical documents.

5. Virtual and physical location of the VUI

To verify the requirements to start the necessary procedures or to follow up on applications the applicant may visit the website http://www.vuird.gob.do, which contains all the requirements and administrative fees that must be deposited in order to initiate processing and certification of the various investment projects.

The physical facilities for submission purposes and in-person monitoring at the VUI are in the Center for Export and Investment of the Dominican Republic (CEI-RD), located on the corner of Avenida 27 de Febrero and Avenida Gregorio Luperón, Plaza de la Bandera, in the city of Santo Domingo, phone number 809.530.5505.

In short, the VUI has provided the Dominican Republic with one of the most advanced tools relating to investment, placing the country into a more competitive position both regionally and globally.
1. General Outlines

The Dominican Republic inaugurated its film industry in 1923, when the first film, "The Legend of Our Lady of High Grace (La leyenda de Nuestra Señora de la Altagracia)," was shot. However, since then and until recently it lacked a legal basis that would launch the industry and persuade investors to invest their capital. This is why on July 29th 2010, Law No. 108-10 for the Promotion of the film industry in the Dominican Republic was enacted, and later amended by Law No. 257-10, to insert a set of incentives and economic support into this legal framework.

This piece of legislation promotes not only big screen, but also other audiovisual productions such as TV shows and music videos, while at the same time promoting the industry’s development in terms of infrastructure, since it promotes the building of filmmaking studios and movie theaters.

2. Legal Framework

Law No. 108-10 for the Promotion of Film Activity in the Dominican Republic, enacted on July 29, 2010, amended by Law No. 257-10, enacted on November 18, 2010, sets up the incentive schemes applicable to the film industry. In addition to the aforementioned laws, the Application Regulations (Law No. 370-11 of June 13, 2011) sets out the required provisions for its application.

Law 108-10, as amended, is aimed at all individuals or legal entities involved in cinematic creation, production, distribution and exhibition and cinematography and audiovisual training. It also aims to encourage related technical industries. However, it should be noted that more than a regulatory law, it is an incentive law.

3. Financial Support And Incentives

Law 108-10 establishes two types of incentives: financial support and tax incentives.

a. Financial support

b. Tax Incentives

In addition to financial support, the Dominican Republic offers a number of tax incentives for the film industry:

i. Investment Incentive. This incentive is aimed at investors from entities whose sole purpose is the production of Dominican full-length films. Under this incentive, the investor may deduct 100% of the actual amount invested from income tax. This deduction is limited to 25% of the payable tax.

ii. Donation Incentive. Donations to Dominican full-length films are deductible up to 5% of the taxable net income of the donor.

iii. Sector Reinvestment Incentives. Producers, distributors and presenters of Dominican full-length films benefit from a 100% income tax exemption when reserving or capitalizing their income to invest in the film industry.

iv. Transferable Tax Credit. Producers of Dominican or foreign audiovisual works may avail of a transferable tax credit equal to 25% of all qualifying expenditures made in the Dominican Republic. This credit may be applied against income tax. Also, this tax credit can be entirely or partially transferred, but only once.

To avail of the transferable tax credit, the applicant must meet certain specific requirements:
• The budget of the work must be authorized in advance by DGCINE.
• For foreign productions only, must have a minimal staff participation in accordance to the percentages set out in Article 39, paragraph III of the Law 108-10, as amended.
• Expenses must be properly supported.
• That a minimum amount of US$500,000.00 be spent in the Dominican Republic by a taxpayer in the Dominican Republic.

Regarding this last item, foreign entities engaged in production activities in the Dominican Republic and who intend to apply for transferable tax credit shall establish a domicile in the country. However, Regulation 370-11 provides foreign entities the option of using executive production services rendered by a taxpaying legal entity in the Dominican Republic.

On the other hand, if the minimum amount to be spent in the Dominican Republic is reached before concluding the work, the law allows that the transferable tax credit is requested on the amount reached. Similarly, a person may accumulate several projects, and therefore the total spent may amount to the minimum required by law.

Finally, in addition to the full length cinematographic films or movies, the Law provides that the following audiovisual works are eligible for tax incentives:
• TV movies
• Soap operas
• Documentaries
• Series and miniseries
• Music videos

It is important to highlight that transferable tax credit was amended by Article 34 of Law 253-12 for Strengthening State Revenue Capacity for Fiscal Sustainability and Sustainable Development (the “Tax Reform Law”), abolishing the possibility to transfer this tax. However, Article 51 of Law No. 311-12 approving the state budget for 2013 restored the transferability of the tax credit during the 2013 tax year.

v. Incentives for technical service providers.
Technical service providers are exempt from paying income tax. The regulation requires that all income generated by applicant providers should come from technical services rendered to legal entities whose sole purpose is film production. Similarly, the aforementioned regulation establishes incompatibility between services exclusive to film production and other services.

vi. Exemption from Tax on the Transfer of Industrialized Goods and Services (ITBIS).
All goods, services and / or leases directly related to the preproduction, production and postproduction of films and audiovisual works are exempt from ITBIS. However, the law provides a list specifying these goods and services, as well as those which are excluded.

vii. Incentives for movie theaters.
The construction of movie theaters in the National District and Santiago de los Caballeros enjoys a 50% exemption on income tax. The exemption is 100% for other provinces and municipalities. The Law also grants a tax exemption applicable to building permits and property purchase during the construction phase. It also provides an exemption from import duties and other taxes on equipment and furniture required for the original outfitting and initial operation of movie theaters.

viii. Incentives for film or recording studios.
The construction of film or recording studios is favored by a 100% tax exemption on the income obtained by its exploitation. Likewise, studios also benefit from a tax exemption when importing goods to fit them out.

4. Institutional Framework
The ruling body for the film industry is the Interagency Council for the Promotion of Film Activity in the Dominican Republic (CIPAC), which is constituted by twelve members from the public and private sectors.

CIPAC’s duties include the approval of programs and projects submitted by the General Directorate of Films (DGCINE) and the approval of applications for financial support from the Film Promotion Fund (FONPROCINE) to produce Dominican films. In turn, the CIPAC is advised by a counseling body called Film Advisory Committee (CCCINE).

The DGCINE is a decentralized body attached to the Ministry for Culture. The powers of the DGCINE include:
• Receiving applications from audiovisual and infrastructure projects seeking to avail of the incentives of Law 108-10.
• Issuing exclusive permits for films.
• Issuing Dominican certificates of origin.
• Serving as a single counter for processing environmental authorizations, authorization to hazardous materials or for the closure and use of public roads for filming.
Free Zones are restricted geographic areas in which both local and foreign enterprises can establish themselves, if their purpose is primarily to engage in the export of goods or services. The Free Zones have become one of the pillars of the Dominican economy by generating foreign exchange and creating a large number of jobs.

Thanks to special tax and import duty treatment, which provide a broad range of incentives, there are presently more than five hundred Free Zone enterprises in the Dominican Republic, located in more than fifty different parks.

Law No. 8-90 on Free Zones in the Dominican Republic governs the establishment and operation of the Free Zone enterprises and the Free Zone parks and creates the National Council of Free Zones, which oversees the free zone sector and supervises the correct application and implementation of Law 8-90.

Types of Free Zones

Free Zones are classified as follows:

- **Industrial or Service Free Zones**, engaged in manufacturing goods (manufacture, assembly, refining) or rendering of services (telemarketing, telecommunications, imprinting, etc.). It may be established in all parts of the national territory when and if are established within a free zone park.

- **Free Zones along the Haitian Border**. These Free Zones, which originated in Article 6 of Law No. 8-90, have received considerable development through the passage of Law No. 28-01. This law creates a Special Free Zone for the Development of the Border Provinces of Pedernales, Independencia, Elias Piña, Dajabón, Montecristi, Santiago Rodríguez and Bahoruco. This law grants broader and longer-lasting import duty and tax incentives than those existing for businesses in the other free zones, though subject to certain restrictions. To benefit from these incentives, the enterprise must be located not less than 3, nor more than 25 kilometers from the Haitian border.

- **Special Free Zones** are those which, by the nature of its production process, require the use of immobile resources whose transformation is difficult if companies were not established next to natural sources of production or when the nature of the production process or geographical or economic situations or infrastructure of the country so require. They will also be classified as such existing companies using domestic raw material in their production process. They may operate in a temporarily or permanently basis.

Investment in the Free Zone Sector. Free Zone Enterprises and Free Zone Parks.

The area has several free zones investment opportunities, among which we have identified the following: (i) establish an export processing company; (ii) establish as free zones operator whose principal activities are to acquire or lease land, develop their infrastructure, sell or rent buildings and facilities to companies established or to be established; (iii) invest in a company or operator or free zone, either in capital or financing or securities.

Special Regime and Benefits

a. Incentives and Exemptions

Free Zone Operators and the enterprises located therein enjoy special tax and Customs duties treatment, including a 100% exemption from the following taxes:

- Income tax;
- Building tax, loan tax and taxes on the registration and transfer of real estate;
- Taxes on the formation of companies and on the increases in corporate capital;
- Tax on Business Assets and value-added tax on processed goods and services known as the
ITBIS;

- Consular invoice fees on all imports destined for Free Zone Operators and Enterprises;
- Import duties and related taxes on raw materials, equipment and construction materials to be used by Free Zone Operators and Enterprises;
- Municipal taxes;
- Export and re-export taxes, subject to the exceptions provided in Law No. 8-90;
- Import duties on kitchen equipment and utensils necessary for the operation of employee cafeterias, infirmaries, child care facilities, and any other items which contribute to the well-being of the workers;
- Import duties on motor vehicles used for garbage collection, busses and minibuses for the transportation of employees, subject to the prior approval of the National Free Zone Council.

Additionally, any raw materials or semi-finished goods imported by companies located outside of the free zones, but destined for shipment into a free zone, are exempt from import duties and related fees, subject to the prior approval of the National Free Zone Council.

b. Special Import Duty Treatment

The sale of goods or equipment from one Free Zone enterprise to another Free Zone enterprise, and the rendering of a service from one to another, whether or not located in the same Park, is permitted subject to the prior approval of the National Free Zone Council.

The sale of goods or equipment to third parties outside of the free zones is subject to the payment of import duties.

Law No. 56-07 declares certain sectors of the economy to be of national priority, these being textiles, leather goods and furs, and the manufacture of shoes, which are subject to special regulations. Additionally, DR-CAFTA establishes favorable rules for the production of textiles in the Dominican Republic.

As for the footwear sector, the DR-CAFTA consolidates the duty-free access for 98 items of footwear and establishes rules of origin more suitable for their manufacture, as it allows the use of non-originating raw materials at competitive costs. The United States maintained duties restrictions for seventeen footwear items, with a more restrictive rule of origin, which are subject to duties elimination over a period of ten years.

Manufacturers in the Priorities Sector under Law No. 56-07, which renounce whatever special import duty treatment they may be enjoying, can opt for Priority Sector treatment and become entitled to an income tax holiday for their production process, provided they are current in the payment of their tax obligations and obtain the approval of the National Free Zone Council.

Such enterprises can sell up to 100% of their production on the local market without payment of import duties for finished textile goods, furs, shoes and other leather goods. They are also exempt from the value-added tax (ITBIS) on such items.

c. Sectors of National Priority

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d. Special Rules of Labor Law

Free zone parks and firms establish therein fall within the scope of the Labour Code of the Dominican Republic. They must comply with all laws, regulations and existing labor provisions in the Dominican legal system.

Notwithstanding the foregoing, generally the minimum wage in the free zone sector is lower than in the rest of the labor market. In addition, free zone companies are exempt from paying workers the corresponding company profit sharing bonus established as a special benefit in the Labor Code.

5. Requirements to set up a business in a Free Zone

In principle, it may be established as a company or free zone operator any natural or legal person interested in settling as such that meets the established requirements.

For such purpose, they must deposit a formal request to the National Council of Free Zones, the entity responsible for issuing the operating licenses needed to establish themselves as a free zone company or operator. The Council shall assess the application and project and shall determine its feasibility.

For more information on the procedure and the steps to be taken in order to apply for an operating license, visit the website of the National Council of Free Zones at http://www.cnzfe.gov.do.
Globally, telecommunications were, for many years, one of the traditional state monopolies, being practically irrelevant rules existed. However, to date telecommunications are considered as a fully liberalized sector operating in a competitive environment where the regulatory framework is of vital importance to the constant and permanent development thereof and to maintain a climate of free and fair competition.

In the Dominican Republic the opening and liberalization of telecommunications occurs in the early 90s, but it was not until 1998 that is approved the General Telecommunications Law (Law No. 153-98), endowing the country with a legal frame according to the competence regime required for the sector.

1. Legal Framework for Telecommunications

At present, Law No. 153-98 is the basic regulatory framework applicable throughout the national territory to regulate the installation, maintenance and operation of networks, service rendering and the provision of telecommunications equipments.

In addition to the General Telecommunications Law, there are different regulations governing specific areas or streams of this sector. Among those of most importance and significance we highlight:

- Regulation of concessions, filings in special registers and licenses to render telecommunications services in the Dominican Republic.
- Regulation for the settlement of disputes between users and providers of public telecommunications services.
- Regulation for the free and fair competence for the telecommunications sector.
- Regulation for general usage of Radio-electric Spectrum
- Regulation for the settlement of disputes between providers of telecommunications services.
- General Interconnection Regulation
- National Frequency Allocation Plan (NFAP/PNAF)

Although the Constitution is not directly part of the regulatory framework for telecommunications are considered by the General Telecommunications Law “as utilities’ own, it is then that telecommunications must comply with the constitutional principles of Universality, Accessibility, Efficiency, Transparency, Responsibility, Continuity, Quality, Reasonableness and Tariff Fairness established by Article 147 of the Constitution.

2. Governing Body

The General Telecommunications Law created the Dominican Institute of Telecommunications (INDOTEL) as a regulatory body for telecommunications, as a decentralized state institution, with functional, jurisdictional and financial autonomy, own patrimony and legal personality.

Its mission is to regulate and promote the provision of telecommunications services to the benefit of society, in a framework of free, fair and effective competition.

Among the objectives of the regulatory body are to promote the implementation of the principle of universal service, to ensure free competition in providing services, uphold and enforce the rights of users and providers and to ensure the efficient use of the radio electric public domain.

The regulator is composed by a collegiate body called the Board of Directors, which is its highest authority and by a single body called the Executive Directorate.

It pertains to the Executive Directorate exercise the legal representation of INDOTEL, conduct the internal administration of the agency in compliance with the mandates of the Board and exercise the power to impose penalties for minor infractions. All other powers are vested on the Board, amongst which we can highlight:
• Exercise regulatory and normative powers in accordance with the law
• Exercise the power to impose penalties for serious and very serious infringements
• Grant, extend and / or revoke concessions and licenses to provide telecommunications services.
• Preventing or correcting anticompetitive or discriminatory practices
• Manage and administer the proper use of the radio electric spectrum


Such as for any regulated sector, for the provision or operation of the various telecommunications services it is required an administrative authorization. Authorizations are granted directly by INDOTEL.

Our regime allows the transfer, assignment, lease or granting of right of use as well as the constitution of lien on the administrative authorizations, provided they are duly authorized by the regulatory body.

The different administrative, technical and economic requirements needed for acquisition, expansion, assign and / or transfer of an administrative authorization are set out in the Regulation on Concessions, Special Registrations Fillings and Licensing.

There are three types of authorizations granted by our regulatory framework, namely: concessions, licenses and filing in special registers.

a. Concessions

The concession is the legal act by which INDOTEL grants an entity the right to provide public telecommunications services, which terms and conditions shall be contained in a formal written contract.

Concessions will have the duration requested by the applicant, without periods being of under 5 years or more than 20. They are renewable at the request of the beneficiary, for equal periods. It will only be cause of non-renewal, the reasons provided for its revocation.

b. Licenses

The license is the legal act by which, in formal written form, INDOTEL awards an individual the right to use the radio spectrum that has been allocated and start the operation of the respective radio communication equipment.

Obtaining a license does not exempt the holder from obtaining any other necessary authorizations to provide the service and for the effective implementation of the approved authorizations systems.

Article 24 of the General Telecommunications Law provides that when the license is for the rendering of radio communication services, same shall be obtained through public contest.

The licenses granted linked to a concession of public telecommunications service shall have the same
duration as the concession and its renewals.

c. Filings in Special Registries

For the provision of certain public telecommunications services and operations of stations amateur radio services, aeronautical mobile, maritime mobile service, resale services and private telecommunications services, it is required the filing in a special registry managed by INDOTEL.

4. Radio-electric Spectrum

The radio electric spectrum is considered a public good, natural, scarce, and inalienable part of the Dominican State. INDOTEL has the power of management, administration and control of the radio electric spectrum. It is its obligation to ensure the efficient use thereof.

The regulatory body is responsible for preparing the National Frequency Allocation Plan (NFAP) with the terms of use of each frequency or frequency band. This plan is approved by Decree of the President of the Republic.

Once a person is assigned a license to use frequencies in the radio electric spectrum, must pay an annual fee for this right of use in accordance with the provisions of the General Rules for Use of Radio-Electric Spectrum.

5. Taxation on Telecommunications

Telecommunications services in the Dominican Republic are subject to 30% of indirect taxes which are detailed as follows:

- 18% Tax on Transference of Industrialized Goods and Services (ITBIS) (Value Added Tax)
- 10% Excise Tax (Selective Tax on Telecommunications)
- 2% Contribution to the Development of Telecommunications (CDT)

18% for the ITBIS and 10% to the Selective Telecommunications are intended for the general account of the State while for 2% of CDT, part of it corresponds to the regulatory body and the other part to the financing of development projects that promote the principle of universal service.
Civil aviation in the Dominican Republic is an important activity. It is one of the principal tools for the development of tourism in the country, and it has a significant impact on commercial activity in general; it is also an important source of jobs and a contributor to the gross national product. Law No. 491-06 of 22 December 2006, and the regulations issued thereunder govern the subject-matter in the Dominican Republic.

1. Jurisdiction
The Dominican Nation exercises sovereignty over its territory, the adjacent waters and the surrounding airspace. Dominican law governs all acts carried out and torts and crimes (i) committed on board Dominican aircraft within the territorial limits of the country and above international waters; (ii) committed on board a Dominican aircraft while flying over the territory of a foreign nation, except in cases affecting the security or public order of such nation; (iii) committed on board foreign aircraft flying over the national territory or stationed there when such acts, torts or crimes have an effect on the security or the public order of the Dominican Republic or when they are carried out with the intent of affecting persons or property in the national territory; and (iv) committed on board a foreign aircraft if its first landing after the commission of the act is in the Dominican Republic.

2. Overview
The provisions of the Civil Aviation Act govern the inspection, supervision and control of all domestic and foreign aircraft, their owners, operators, crew, passengers and baggage or cargo, as well as any person who takes part in aeronautical activities in the national territory, departs therefrom, lands or flies or is engaged in any other activity in the airspace over which the Nation has jurisdiction.

3. General Requirements for flying
Aircraft registered in the Dominican Republic have the right to engage in domestic and international flights. All aircraft must possess a certificate of airworthiness issued by the State in which it is registered and be operated by a flight crew whose members must be also certified by the State. Foreign non-military aircraft desiring to enter the national airspace must obtain clearance from the Dominican Institute of Civil Aviation or from the Civil Aeronautics Board, as the case may be.

4. Agencies Governing Civil Aviation
There are basically two such agencies:

a. The Dominican Institute of Civil Aviation
This agency, known by its acronym IDAC (Instituto Dominicano de Aviación Civil), is a specialized technical institution, endowed with its own legal personality and owning its assets, with authority to regulate and supervise all aspects of civil aviation, including the issuance of licenses and certificates for aircraft, flight crews and airports, with the purpose of ensuring security on land and safety in the air.

b. The Civil Aeronautics Board
This agency, known by its acronym JAC (Junta de Aeronáutica Civil) is a part of the Executive Branch which, together with the IDAC, regulates all civil aviation in the Dominican Republic. Its primary responsibility is to establish policy guidelines, to regulate economic matters relating to air transportation and to carry out the other functions assigned to it by the Civil Aeronautics Act, including the following: (i) to propose to the Chief Executive the adoption of regulations and rates for carriage by air, (ii) to regulate the amount of air traffic and the radio frequencies assigned to the air operators, (iii) to study and negotiate executive agreements and international treaties governing the subject, and (iv) to decide appeals from decisions of the IDAC.

5. Regulation Of Aircraft
a. Registration
Any civil aircraft wishing to acquire Dominican nationality must be registered at the National Aircraft Registry and bear the letters HI. To be eligible for this right the aircraft must owned (i) by Dominican nationals or (ii) by foreign persons or corporations which have obtained a permit to establish their domicile in the Dominican Republic, and (iii) the Dominican Government or any of its instrumentalities. A certificate of Registration is then issued. An aircraft registered in another State can obtain Dominican registration after cancelling its registration of origin. No aircraft may be registered in two different countries.

b. The National Aircraft Registry
To obtain Dominican nationality, all aircraft must be regis-
The following elements are recordable in the registry:

i. The name and nationality of the manufacturer and the aircraft's identification number;

ii. The title or document by means of which the rights over the aircraft, its motors, propellers and other accessories can be transferred or assigned;

iii. Any judicial decision affecting the ownership or rights in the aircraft;

iv. Any mortgages covering the aircraft or its motors. (Such mortgages are required to be notarized as "authentic acts.");

v. Judicial lien against the aircraft;

vi. Leases of the aircraft;

vii. The corporate documents of the owners of the aircraft;

viii. The cessation of activity or the loss of the aircraft or its substantial modification;

ix. Insurance policies covering the aircraft and its motors;

x. In general, any legal act or situation in relation to the aircraft.

It is important to note that under the Civil Aviation Act any legal document by means of which an aircraft or any part or accessory thereof is transferred or assigned to be valid as against third parties, must be inscribed in the National Aircraft Registry.

In order to extend the means whereby an operator can obtain the right to use an aircraft, the Civil Aeronautics Act mentions the principal types of contracts available in the Dominican Republic. These are: (i) Lease Agreements, which can be dry leases without the crew or wet leases with the crew; (ii) charter parties; (iii) Exchange of Aircraft; (iv) Financial Leases and (v) Sharing Agreements. These are the traditional types of agreements internationally known and understood.

6. Licences, Certificates and Permits

a. Licenses, Certificates and Permits issued by the Dominican Institute of Civil Aviation (IDAC)

The IDAC has the power to register aircraft and to issue certificates of aircraft registration, certificates of airworthiness, flight crew permits and Air Operator’s Certificates (AOC).

The AOC is issued to domestic air operators. It describes, among other things, the types of operations to which the operator is authorized, the types of aircraft and the permitted uses and the zones of operation or routes authorized.

National air operators are companies organized under Dominican law (i) whose capital or share ownership belongs to Dominicans to the extent of at least 35% and whose board of directors is composed of Dominicans in the same proportion, (ii) that a majority of the managing personnel, not including members of the board, are Dominicans and (iii) whose main business office is located in the Dominican Republic.

The IDAC, acting through its Director General or the person whom he designates, has the right to investigate and direct the operations of any air operator, his aircraft and the maintenance received by the aircraft. He does this for the purpose of enforcing the law and ensuring compliance with any restrictions established in the permits, certificates or licenses granted to the operator.

Applications for licenses, certificates and permits issued by the IDAC must be made on forms supplied by that agency.

b. Licenses, Certificates and Permits issued by the Civil Aeronautics Board (JAC)

The Civil Aeronautics Board is empowered to issue Certificates of Economic Authorization, special permits and permits to foreign Air Operators.

(i) Certificate of Economic Authorization: Any national air operator who wishes to engage in public (commercial) air transportation must obtain a Certificate of Economic Authorization issued by the Civil Aeronautics Board. This type of certificate is personal and non-transferable, can be issued for a period of up to ten years, and is renewable.

Each certificate issued by the Board specifies the routes and terminals in which the operator is authorized to offer the service of commercial air transportation, as well as any conditions or restrictions which may be applicable.

(ii) Special Permits: Any national or foreign operator who enjoys a Certificate of Economic Authorization or a permit for scheduled services may make special flights between points on its regular routes or to other destinations, subject to a special permit which in each case must be obtained from the Board.
7. Classification Of Air Services

a. Commercial Aviation

Following generally accepted concepts, the Civil Aeronautics Act classifies air transportation services as (i) scheduled or unscheduled and (ii) domestic or international. Domestic air transportation of cargo or passengers is reserved to Dominican enterprises.

b. Non-Commercial Aviation

This type of aviation is meant for instruction, recreation or sport. An operator classified as non-commercial is prohibited from carrying passengers or cargo for profit.

8. Civil Aviation under DR-CAFTA

The following reservations have been made to the accession of the Dominican Republic to DR-CAFTA and are in effect notwithstanding they may be in conflict with the Treaty.

“Air transportation within the country of passengers, cargo or mail is reserved to aircraft belonging to Dominican nationals or companies. A company shall be considered Dominican when its capital belongs to the extent of at least 51% to Dominicans and if at least 51% of its managers are Dominicans. Any company acting as operator, agent or consignee of charter flights must also be owned to the extent of at least 51% by Dominicans and must employ Dominican managerial personnel.” (Civil Aeronautics Act No.505 of November 10, 1969, and the Regulations governing Charter Operators, Agents, and Consignees).

“Advertising, agricultural fumigation, fishing exploration, air taxis, filming, photography and surveillance are also reserved to Dominican persons or companies. The Civil Aeronautics Board may issue provisional permits to foreign pilots who enter the country for the purpose of performing temporary services, provided that Dominican personnel is not available to render the service. Foreign nationals may receive compensation only if they are licensed or have certificates of competency issued by the Dominican Republic or by a country in which Dominican nations holding such licenses or certificates are authorized to engage in remunerated aeronautical activities.” (Law No. 505 of November 10, 1969)
1. The Dominican Port Authority

Law No. 70, promulgated on 17 December 1970, created the Dominican Port Authority, known by its acronym APORDOM (Autoridad Portuaria Dominicana), which is an autonomous Government agency endowed with legal personality and ownership of its assets. Its actions are governed by this law and by the regulations issued thereunder.

The various functions performed by APORDOM include:
(i) to manage, operate and improve the commercial maritime ports under its control, with the exception of military ports or of the ports under military jurisdiction; (ii) to supervise the operations and maintenance of private commercial ports existing pursuant to concessions or under leases granted by the State; (iii) to control the entry and departure and the mooring of ships, the loading and unloading of cargo, and the debarkation and embarkation of passengers. It is the responsibility of APORDOM to ensure that such operations take place with the participation of Customs officials.

APORDOM has authority over a wide range of services rendered in the ports. It has the power to grant concessions or licenses to private parties to render these services, which include towing, mooring, providing equipment for loading and unloading, warehousing, sale of fuel, etc. APORDOM charges a fee of 5% of the cost of all services rendered in the ports, as well as 5% of the cost of fuel supplied to the vessels.

2. Ship mortgages. Registration

Ship mortgages must be recorded at the Ministry for Industry and Commerce under Laws No. 603 and 688 of 1977. Such mortgages are possible only with respect to vessels of 3 tons or more. Recordation requires detailed specification of the characteristics of the ship, its certificate of registration, the title or bill of sale, and the payment of any applicable import duties. The recordation fees are listed in Resolution No. 55-2010 of 22 March 2010, issued by the Ministry.

If the vessel has Dominican registry, the Merchant Marine Department of the Ministry undertakes the recordation of the mortgage. It can also record liens placed on such vessels. If the vessel is of foreign registry, an annotation is made in a book kept especially for this purpose.
Will discuss the laws that apply to the electricity subsector, and then discuss those that apply to the hydrocarbons subsector, legislation which regulates the electricity subsector on the import and use of fossil fuels and petroleum products.

1. The Electrical Subsector

Regulatory Framework

The Electrical subsector is mainly governed by two legislations, namely:

- The General Electricity Law No. 125-01 dated 26 July 2001, amended by Law No. 186-07, and their respective implementing regulations (collectively the “General Electricity Law”); and
- The Law No. 57-07 on Incentives for Development of Renewable Sources of Energy and its Special Regimes No. 57-07 dated May 7, 2007 (hereinafter, the “Renewable Energy Law”), and their respective implementing regulations.

Secondarily, the power subsector is governed by the following legislations:

- Law No. 64-00 which establishes standards for the conservation, protection, enhancement and restoration of the environment and natural resources, ensuring their sustainable use.
- Hydrocarbons Law No. 112-00
- Sectorial Protected Areas Law No. 202-04.
- Law No. 1-12 which establishes the National Development Strategy 2030
- Law No. 100-13, which creates the Ministry of Energy and Mines dated 30 July 2013,
- Law on incentive to imports of non-conventional energy vehicles No. 103-13.1

The regulatory framework set out above, reflects the institutional commitment to regulate the electricity subsector, in the interest of establishing clear rules and provide legal guarantees for all stakeholders involved in the electricity subsector (i.e. generators, self-producers, co-generators, distributors, investors, consumers, etc.).

a. The General Electricity Law

This law governs the generation, transmission, distribution and sale of electricity, as well as the powers of the various agencies having jurisdiction over the matter. The basic objective of the law is to create an adequate supply of electricity to fulfill the needs of the country subject to the optimal use of resources and in consideration of the environmental aspects of the activity. It also aims at promoting the participation of private parties on the development of the Sector under rules of fair competition to the greatest extent possible. The General Electricity Law also calls for the supply and marketing of electricity to be performed with criteria of neutrality and non-discrimination, ensuring the protection of user rights and the fulfilling of their obligations.

The Institutional Framework

The activities of the Subsector are under the jurisdiction of the National Energy Commission, the Office of the Superintendent of Electricity (OSE), and the Coordinating Organization of the Interconnected Electrical System.

(a) The National Energy Commission. The National Energy Commission is a legal entity existing under Public Law endowed with its own assets, consisting of a council presided by the Minister of Industry and Commerce with the participation of the Minister of Economic Planning and Development, the Minister of the Treasury, the Minister of Agriculture, the Minister of the Environment and Natural Resources, the Governor of the Central Bank and the Director of the Dominican Institute of Telecommunications. The Commission is headed by an Executive Director appointed by the Chief Executive.

1 Laws of the Energy Sector (Source CNE August 2016)
The Commission has jurisdiction over all activities related to the production of energy, including the exploration, construction, import and export, production, transmission, storage, distribution and sale of all elements related to electricity, such as coal, oil and other petroleum products, gas, hydraulic power, nuclear power, geothermal power, solar power and any other non-conventional form of energy, present or future.

The responsibilities of the Commission include analyzing and supervising the electrical sector, adopting policies and making decisions for the proper functioning of the system and ensuring that appropriate measures are taken to satisfy the demand for electricity with the most efficient use of available resources and the participation of private parties.

The Office of the Electricity Superintendent (OSE). The OSE is a Public Sector entity endowed with title to its assets. It is administered by a board of three members appointed by the Chief Executive and approved by the National Congress. The chairman of the board has the title of the Electricity Superintendent.

The functions of the Office of the Electricity Superintendent include the power of setting the price of electricity at various levels; setting the rates for transmission of power, to supervise the implementation of legal and technical provisions relative to the generation, transmission, distribution and sale of electricity. The OSE is also empowered to analyze applications for permits or concessions for the installation of electrical works.

ii. Concessions and Permits

According to the General Electricity Law, any domestic or foreign company wishing to engage in the business of generation or distribution of electricity must apply for a concession.

The generation of hydraulic power and the transmission of electricity may not be granted to private parties by means of concessions, but must remain under the ownership and control of the State. That’s why, the law has created the Dominican Hydroelectric Generation Enterprise (DHGE) and the Dominican Electrical Transmission Enterprise (DOTE) to hold and operate the hydraulic power generating stations and the transmission lines.

It is required a concession for the purpose of establishing and operating the public service of electricity generation in interconnected power whose maximum demand is equal to or greater than 2 megawatts (MW) and include supplies to distributors systems.

In a generation company decides to settle in a geographical area where there are no facilities for interconnection with the national electrical system, it may be obtained a special concession to install the interconnection line. In this case, it will be agreed how the transmission company will reimburse the costs incurred by the generation company.

However, a concession is not required for the generation of electricity in isolation or as a part of the interconnected system if its maximum power production is of less than two megawatts (MW), and this includes the sale to the distribution companies. In such cases, the interested party only requires a permit from the OSE for the installation and operation of its power plant.

Concessions can be permanent or temporary. Provisional concessions are issued by order of the SIE and give the beneficiary the right to enter public or private land to conduct studies and surveys related to electrical works. The term of the provisional concession is established by the parties, and may not exceed 18 months if the lot belongs to the Dominican State or municipalities.

Definitive concessions are granted by the Executive Power after the no objection from the Ministry of Environment and Natural Resources, and grant the beneficiary the right to build and operate a power plant. This type of concession is granted for a period not exceeding 40 years. However, the license may apply for renewal of same, request to be performed in a period not less than 1 year before the expiry of the contract and not more than 5 years.

iii. Independence of Each Sector

For those large consumers whose demand for electricity exceeds the limit set by the OSE, only one of the activities of generation, transmission or distribution can be undertaken. These companies may nevertheless install the trunk lines needed to deliver power to the interconnected electrical system. These lines must be operated by the State-owned transmission enterprise, which can purchase them under an agreement with the companies which constructs them. As exceptions to the principle of separation of functions, the three distribution companies which came out of the reform of the electrical sector (namely the Electricity Distribution Company of the East, the Electricity Distribution Company of the South, and the Electricity Distribution Company of the North) may own, directly or indirectly, generating units whose capacity does not exceed 15% of the total demand of the interconnected electrical system.

iv. Determination of the Price of Electricity

The General Law of Electricity sets forth as a general principle that so long as the transactions in the electrical sector are carried out under a system of free competition, the price of electricity to the final users may be set freely. The only prices subject to regulation are the following:

(a) The rates applicable to the sale of electricity and of other services furnished by the Distribution Companies to consumers within their areas. The law then exempts from these rates certain users whose large demand leads to their classification as Unregulated
Users. These users may freely negotiate their demand for electric power directly with the generating companies.

(b) The rates applicable to the use of transmission lines and to the distribution of electricity.

v. Competence

The electricity companies, auto-producers and co-generators are governed by the provisions of the General Electricity Law; they can import directly from any external supplier the fuels and additives required by its generation plants with previous authorization of the NEC.

The General Electricity Law punishes monopolistic practices and prohibits any action which has as purpose or effects the prevention, restriction or distortion of competition within the subsector.

b. The Renewable Energy Law

On May 7, 2007, the Renewable Energy Law was passed to complement the General Electricity Law. Its strategic objective is to enhance the offer of renewable energy in the country and to reduce reliance on imported fossil fuels. The law seeks to stimulate private investment in renewable sources of energy.

i. Scope of Application

To achieve its objectives, the Renewable Energy Law contemplates a series of incentives for public, private and mixed corporations and cooperatives for the production of energy or of bio-fuels arising out of any one of the following sources:

a) Wind parks or isolated windmills with a total initial installed capacity not exceeding 50 megawatts;

b) Micro hydroelectric plants with an output not exceeding 5 megawatts;

c) Solar panels (photovoltaic) of any type and of any power level;

d) Thermo-solar installations (concentrated solar energy) of up to 120 megawatts per production unit;

e) Electrical stations which use biomass as their principal source of power, which can be used directly or after processing, with a capacity not exceeding 80 megawatts per thermodynamic unit or station;

f) Plants for the production of bio-combustibles (distilleries or bio-refineries) of any size or capacity;

g) Energy farms or plantations engaging in livestock or agricultural production of any size devoted exclusively to the production of biomass destined for the production of energy, vegetable oils or pressed oils for the manufacture of bio-diesel, as well as hydrolyzing factories engaged in the production of by-products of sugar (glucose, xylosis and others) for the manufacture of ethanol and/or energy and/or biofuels;

h) Installations for the exploitation of ocean energy, as by the use of waves or ocean currents or thermal differences within the oceans, etc., of any magnitude; and

i) Thermal solar panels of median temperature for heating water for sanitary use or for use in connection with air conditioning equipment.

The Renewable Energy Law also contains special rules for the production of electric energy from the types of sources mentioned therein, as well as special rules for the use of biofuels.

ii. General Incentives for the Production and Use of Renewable Energy

The Renewable Energy Law establishes a set of tax exemptions and incentives in favor of businesses engaged in the production or use of renewable sources of energy. However, some of the original incentives were modified by Law No. 253-12, dated November 9, 2012 (Law for the Strengthening of the State’s Collecting Capacity, for Tax Sustainability and Sustainable Development). Here is the list of existing concessions and incentives:

a) Import duty exemption on the importation of equipment necessary for the production of sources of renewable energy;

b) Exemption from the value-added tax ("T-BIS") for certain types of equipment mentioned in the statute;

c) As a function of the renewable energy technology associated with each project, an income tax credit of 40% of the cost of equipment, to the owners or lessees of residences, businesses or industries which change to or expand their use of renewable sources of energy for their private consumption, upon approval of the project by the agency;

d) A reduction of 5% of the interest paid to obtain foreign financing;

e) Social institutions (community organizations, associations of producers, registered cooperatives) wishing to develop sources of renewable energy on a small scale (up to 500 Kw) for community use shall have access to financing at the lowest market cost for up to 75% of the total cost of the project.

An interesting aspect of the Renewable Energy Law is the issuance of certificates or bonds for reducing exchangeable emissions, which may result from renewable energy projects for the commercial benefit from thereof.

In that order, the Renewable Energy Law mandates electric distribution companies to buy the surplus produced by projects of renewable energy of regulated or unregulated users installing systems to harness renewable resources to produce electricity at prices regulated by the OSE, prior study and recommendation of the ENC.

A party interested in benefiting from the incentives for the production or use of renewable sources of energy must follow the applicable procedures in accordance with the provisions of the Regulations for the application of the law.
iii. Law No. 100-13, which creates the Ministry of Energy and Mines

It is established the Ministry of Energy and Mines in accordance with Article 134 of the Constitution of the Republic, as an organ of Public Administration under the Executive Power, responsible for the development and management of energy policy and metal and nonmetallic national mining.

Any reference to the Ministry of Industry and Trade, nowadays the Ministry of Industry and Commerce, in energy powers, in accordance with Law No. 290, of June 30, 1966 and its implementing regulations; and in mining powers in accordance with the Mining Law of the Dominican Republic, No. 146, of June 4, 1971, and its Implementing Regulations No. 207-98, hereinafter they shall be understood as references and competences of the Ministry of Energy and Mines, as established by law. The activities of marketing of petroleum derivatives will remain managed by the Ministry of Industry and Trade. The Ministry of Energy and Mines shall perform the following functions in the design and implementation of public policies:

- It pertains to the Ministry of Energy and Mines, as the governing body of the system, the formulation, adoption, monitoring, evaluation and control of policies, strategies, general plans, programs, projects and services related to the energy sector and its subsectors of electricity, renewable energy, nuclear energy, natural gas and mining, assuming all the powers that the Law No.290 of June 30, 1966, and its implementing regulations granted the Ministry of Industry and Trade on mining and energy, and exercising administrative supervision of all assigned to their sector autonomous and decentralized agencies.

- The protection and surveillance implies ensuring that the functioning of the decentralized institutions shall conform to the legal requirements that originated them; ensure that they comply with policies and regulations; and operate in a framework of efficiency, in science and quality.

(a) Objectives of the Ministry

a) Adopt, manage and coordinate national policy on exploration, exploitation, processing and beneficiation of minerals, metallic and nonmetallic;

b) Ensuring the protection, preservation and proper exploitation of mineral substances present in the national soil and subsoil and underwater of the Dominican Republic;

c) Declare as expired the exploration or mining concessions, on the grounds detained in the General Mining Law No.146;

d) Coordinate with the Ministry of Environment the assessment procedures of the proposed exploration and exploitation of mining and quarrying;

e) Formulate, adopt, direct and coordinate the policy of rational use of energy and development of alternative energy sources and to promote, organize and ensure the development of programs for rational and efficient energy use;

f) Promote policies to ensure coverage, supply and accessibility of energy in harmony with the environment;

g) Ensure national security in energy terms from the policy of supply storage, and distribution infrastructure for efficient transmission thereof, design of ideal composition of the energy matrix and plans for their achievement and all related issues;

h) Ensure compliance with safety standards and maintenance of energy infrastructure;

i) Design plans and projects for the construction of new strategic energy infrastructure related to fuel transportation, storage, refining and gas pipelines, oil pipelines and transmission and distribution networks;

j) Permanently conduct the study and evaluation of the interaction of energy and transport and formulating plans and projects for efficiency;

k) In coordination with the Ministry of Industry and Trade, promote savings and rational consumption of hydrocarbons;

l) Streamline prospecting, exploration and exploitation of energy resources of both oil as well as coal and natural gas;

m) Order and / or conduct the necessary studies to evaluate the potential of fossil fuels in the Dominican Republic;

n) Granting exploration permits and concessions for the exploitation of hydrocarbons in accordance with the regulations issued on the subject;

o) Coordinate with the Ministry of Environment the assessment procedures of the proposed exploration and exploitation of hydrocarbons;

h) Ensure compliance with safety standards and maintenance of energy infrastructure;

i) Design plans and projects for the construction of new strategic energy infrastructure related to fuel transportation, storage, refining and gas pipelines, oil pipelines and transmission and distribution networks;

j) Permanently conduct the study and evaluation of the interaction of energy and transport and formulating plans and projects for efficiency;

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m) Order and / or conduct the necessary studies to evaluate the potential of fossil fuels in the Dominican Republic;

n) Granting exploration permits and concessions for the exploitation of hydrocarbons in accordance with the regulations issued on the subject;

o) Coordinate with the Ministry of Environment the assessment procedures of the proposed exploration and exploitation of hydrocarbons;

2. The Hydrocarbon Subsector

Regulatory Framework

The hydrocarbon subsector is governed by a series of norms, among which the following can be considered important: (i) Law No. 112-00, dated November 29, 2000, (‘The Hydrocarbon Tax Law’) which establishes a tax on the consumption of fossil fuels and other petroleum products; (ii) Decree No. 9701 of March 2, 2001, which contains the regulations for the application of the Hydrocarbon Tax Law; (iii) Law No. 520 of March 23, 1973, and its Regulations No. 2119 dated 29 March 1972, which govern the importation and distribution of liquid petroleum gas (‘LPG’); and (iv) Decree No. 2209 of June 30, 1976, which regulates the transportation of fuels.

Other aspects not regulated by the above-mentioned provisions are found in the Resolutions of the Ministry for Industry and Commerce. Among these resolutions the following are worth noting: (i) Resolution No. 123 of 10 August 1994, which regulates the sale and distribution of fossil fuels and other petroleum products, as amended by Resolution No. 168 of 30 October 2000; (ii) Resolution No. 271 on 14 August 2002 which contains a National Regulatory Plan for the location of service stations and LPG bottling plants, as amended by Resolution No. 207 of 1 October 2003 and by Resolution No. 212 of 10 October 2003.

The Hydrocarbon Tax law imposes a tax of DOP 0.00 per gallon for domestic, industrial and commercial use of Liquefied Petroleum Gas (‘LPG’) and other liquefied petroleum gases that are used for the same purposes; and other fuels such as lignite, coal and petroleum coke. In that order, it provides a tax exemption for natural gas (liquid, tablet or other transportable form).
the Tax Hydrocarbons Law and Regulation No. 307-01, instituting funds and special programs for economic compensation for poor households through a subsidy on liquefied petroleum gas (LPG), and programs promoting alternative, renewable or clean energy, and energy conservation.

a. Institutional Framework

According to the General Electricity Law and Regulations No. 307-01, the National Energy Commission and the Department of Fuels of the Ministry for Industry and Commerce determine the application of the policies and norms related to fuels.

Any person interested in importing, storing or transporting fuels or in operating a service station, whether for his own private use or for sale to the public, must obtain a license from the Ministry for Industry and Commerce under the terms of Regulations No. 307-01.

It is the responsibility of the General Customs Director to verify the volumes and types of imported petroleum derivatives products into the country by legal or official systems, not interconnected to the interconnected national electricity system, by the lack of transmission networks in the area. It provides that any company that decides to allocate 50% or more of its generation to the interconnected networks in the area. It provides that any company that chooses to allocate 50% or more of its generation to the interconnected networks in the area shall be entitled to make available to the distributors, with the aim of securing a steady and reliable flow of the product and to avoid periods of crisis in satisfying the demand.

b. Licenses for the Importation, Storage, Transportation, and Distribution of Fuels, for the Operation of Service Stations and for the Sale of LPG

Regulation No. 307-01 provides that the importing companies that have facilities for processing oil in its virgin state or any other state, keep current records on the volumes and types of products to be processed, as well as volumes and products obtained as a result of such processing.

In addition, Regulation No. 307-01 provides that importing entities shall become withholding agents for the payment of excise tax on all dispatched fuel, any company operating in the country import, processing, mixing and / or fuel storage facilities for the purpose of supplying the domestic market or for its own use through the dispatch of tankers or pipelines to interconnect with facilities of consuming companies. Paying taxes corresponds to weekly periods (Saturday to Friday) and according to the billings for the sale of every American gallon of fuel.

In addition, Regulation No. 307-01 states that importing companies, if they choose so, may request to be classified as private generators (EGP) and become benefited from the exemption from excise tax or zero tax on fuel imports, as indicated in the Tax Hydrocarbons Law, it shall be needed an installed effective generation capacity of 15 megawatts or more, for own consumption without using at any time the electric power supplied by the concessionaires of generation and / or distribution having been disconnected from the SENI.

There’s an exception of the requirement of the effective minimum generation capacity of 15 megawatts for those companies that sell electricity produced in isolated systems, not interconnected to the interconnected national electricity system, by the lack of transmission networks in the area. It provides that any company that decides to allocate 50% or more of its generation to the national distribution network and contracts the sale of its energy with any of the concessionaires of generation or distribution may request the benefits established in the Regulation for the fuel used for the production of megawatts sold, but subject to previously sign a sales agreement with concessionaires companies in which the price is established taking into account the tax exemption.

The requirements for obtaining such licenses are set forth in the Regulations. After the application is filed, the Ministry undertakes a technical analysis of the information and documentation submitted by the applicant. In some cases and depending on the nature of the activity to be undertaken, MIC require the applicant to obtain the approvals required by current regulations, including corresponding measures of environmental and industrial safety, before the various official bodies, such as City Halls, the Dominican Institute for Quality (INDOCAL), which replaces the Directorate General of Standards and Quality Systems (DIGENOR), the Ministry of Public Works and Communications, Fire Departments, Land Registry, the Port Authority, the Navy, and the Civil Defense.

If the evaluation is positive, the Ministry issues the license, under which the applicant may commence activities. If the application is rejected, the applicant must be informed of the reasons for the rejection.

c. Import Quotas

According to existing regulations, LPG is the only hydrocarbon subject to import quotas. Each quarter, under Regulation No. 307-01, the Ministry establishes import quotas. It determines the minimum amount that each importer is required to make available to the distributors, with the aim of securing a steady and reliable flow of the product and to avoid periods of crisis in satisfying the demand.

The minimum monthly quotas assigned to the enterprises which, at the time the Regulations were issued, were active in the local market, amounted to 80% of the existing demand, equivalent to 17.6 million gallons per month. The remaining 20% was left to be imported by the importers on the basis of free competition. Repealed failure on the part of any importer to import his quota can lead to a revocation of his license and to the re-assignment of his quota to other importers.

d. Quality of Fuels

According to Chapter VII of Regulations No. 307-01, fuels sold in the Dominican Republic must meet certain quality standards set by national and international norms.

e. Regulation of Prices and Resale Margins

The Hydrocarbon Tax Law presupposes the existence of fixed prices for petroleum products sold to the public. It sets forth the resale margins of the various participants in the chain of distribution. Each week, the Ministry issues a resolution setting forth the elements that go into the final price to the public, including the excise tax on fuels.

According to Article 8 of the Law, the prices of the following fuels are subject to regulation: LPG for home or commercial use; regular and premium gasoline; kerosene, A-1 jet fuel; premium diesel fuel (FO No. 2, 3% sulfur) for general use and for use by power generating plants; premium EGP-C diesel; premium EGP-T diesel; regular diesel for general use and for use by power generating plants; regular EGP-C diesel; regular EGP-T diesel; fuel oil No. 6 for general use and for use by power generating plants; EGP-C fuel oil; EGP-T fuel oil and Bunker-C fuel.

Under existing rules, the price of each one of these fuels is made up of the following variables: (i) the import parity price; (ii) the tax imposed by the Fuels Tax Law; (iii) the tax imposed by Law No. 557-05; (iv) the tax set forth in the Tax Adjustment Act (Ley de Rectifi- caciónTributaria) No. 495-06 of 28 December 2006; (v) the distributor’s margin, (vi) the retailer’s margin, and (vii) the transportation fee. The various elements of the final price to the public will now be analyzed, with the exception of the various taxes.
f. The Import Parity Price (the “IPP”)  

The IPP is the reference cost to importers of petroleum products at the terminal. This price is determined according to the parameters established in Regulations No. 307-01. The formula for the IPP is the maximum at which importers are allowed to sell fuel at their terminals (except for LPG, which has the same price at all terminals). In this way, competition is encouraged among the importing companies, not only with respect to the quality of their products, but also with respect to the price.

h. Transportation Fee for Fossil Fuels  

According to Decree No. 2209 of 30 July 1976, the Ministry is responsible for establishing the fees applicable to the transportation of fuels. This fee becomes a part of the final price to the consumers.

i. The Fuel Sector and DR-CAFTA  

The Dominican Republic has made the following reservation in its ratification of DR-CAFTA:

“Foreign sovereign Governments will not be permitted to obtain rights for the exploration or exploitation of petroleum and other fuels, nor shall they be admitted as partners or shareholders in any joint venture or corporation which enjoys such rights.” (Law on Exploration, Exploitation and Benefits for Private Parties in Oil and its By-products and other similar Fuels, No. 4532 dated 30 August 1956)

i. Final price for fossil fuels and its components  

In the next page, the announcement of the Official Prices for Fossil Fuels and its Components is presented. It establishes the applicable prices during the week of September 12-18, 2013, and includes the abovementioned margins and transportation commissions.
1. Regulation of establishments and tourist services. Tourism sector.

The Organic Tourism Law No. 541 dated December 31, 1969, as amended, designates the National Tourism Bureau (now the Ministry of Tourism) as the official body responsible for establishing and directing the State public policies in relation to the planning and development of the tourism industry in the Dominican Republic. This government agency is responsible for carrying out and publishing records of the various agencies, individuals and companies offering tourism services in the country, and also exercises control functions, monitoring and supervising of the sector, through the application of appropriate administrative sanctions, in order to ensure the correct application of the law.

This law created the Ministry of Tourism as a direct dependence of the Executive Power, with power to establish regional or provincial agencies. The Ministry is responsible for carrying out the objectives set out in the law with the advice of delegates of a commission comprising representatives of public sector bodies that perform tourism functions and private sector representatives linked to tourism, as well as representatives of workers’ organizations providing services to tourists. This commission is designated as National Tourism Commission and its members are appointed by the Minister of Tourism.

This law establishes the following duties of the National Director of Tourism (now Minister of Tourism): i) managing the organization of the departments and offices of the Ministry of Tourism, overseeing their operation, and hold its representation in all public and private acts; ii) prepare a draft of the annual budget of the Ministry of Tourism to be submitted for approval by the Executive Power; iii) attend the meetings of the National Tourism Commission and preside them; iv) to authorize the expenditures provided for in the annual budget of the Ministry of Tourism; v) develop projects and other documents which under the Act must be submitted to the consideration of the Executive Power; vi) submit to the Executive Power an annual report of its activities; and vii) resolve, along with the National Tourism Commission, any matter related to tourism development not provisioned by the law.

The Ministry of Tourism is responsible for authorizing the registration and exercise control over the activities and tourist business, such as the terrestrial tourist transportation, air, maritime or fluvial tourist transportation, which are governed by the regulations detailed below.

a. Hotel Establishments.

The regulation on registration, opening, classification of hotels and lodging establishments is governed by Regulation No. 2115 on Classification and Standards for Hotel Establishments, dated 13 July 1984 and Decree No. 618-03, which establishes the Regulatory Operation Normative for Hotel establishments. For the purposes of this Regulation, “exert tourism lodging activities, all companies that provide accommodation service at an establishment open to the public and for a certain price”.

To begin operations, lodging establishments are required, on a mandatory basis, to obtain a permit or operating license by the Ministry of Tourism, prior submission of all necessary documents and payment of the pertaining fees. Such authorizations shall be valid for one year and shall be subject to periodically adjustable rates by the authorities, which may be annually renewed according to the qualification criteria of the hotel, its infrastructure and the services offered.

The Ministry of Tourism has the power to require all hotels regulatory compliance and minimum requirements for their infrastructure, installation and operation, such as: a) fix the rate to be printed on the most visible place of each room, indicating if the room price does or does not include meals; b) provide the Ministry of Tourism data on the movement of passengers, the number and type of rooms available and any other data relevant to tourism; c) strictly honor accepted reservations; d) keep a record of guests with the data that identify them, signature, date and time of check-in and check-out.

In order to classify the hotels and lodging establishments, the entities must deposit with the Ministry of Tourism, along with the documentation required for obtaining an operating license, a self-assessment detailing compliance with the conditions required for these purposes by the regulations. This self-assessment will
be reviewed and evaluated by the Joint Classification Commission, mainly comprised by the Minister of Tourism, who serves as chairman, two members appointed by the Ministry of Tourism and two members appointed by the National Association of Hotels and Tourism (ASONAHORES).

The classification is granted by resolution, which is considered as a unique, official and binding, and that obeys criteria that take into account both the quality of the establishment as well as a series of requirements and conditions laid down by Regulation 2115 on Classification and Standards for Hotel Establishments of 13 July 1984. For an establishment to be classified must meet the following characteristics: 1) constitute a homogeneous whole, with entrances, elevators and stairs for exclusive use; and 2) provide the public with both the lodging service as well as meals, subject or not to the all inclusive plan, at customer’s choice.

b. Gift Shops

According to the Tourism Law No. 541, dated December 31, 1969, it pertains to the Ministry of Tourism to authorize, regulate and control individuals and tourism entities operating gift shops. Regulation No. 2123 for gift shops of July 13, 1984, regulates the effective registration of ‘commercial establishments engaged in the sale of typical or craft genre souvenirs and all those business entities which sales are mainly intended for the tourist, provided that they meet all the requirements for these purposes’. Additionally, Decree No. 813-03, which establishes the Gift Shops Classification Regulation and Normative, provides that the Minister of Tourism is responsible for creating shopping areas, throughout the national territory, for foreign tourists visiting the country on organized tours, either by sea or land.

The creation or installation of new gift shops must be authorized by the Ministry of Tourism, after stakeholders meet and comply with requirements for installation and operation of stores set in Regulation No. 2123 for Gift Shops and of the Classification Regulations and Normative of Gift Shops. Subsequently, the Ministry of Tourism shall appoint inspectors to monitor health conditions, personal health, prices, facility category, origin and authenticity of the products, where service is to be provided.

Since the gift shops are part of the National Tourism Organization, the Tourism Ministry is required to establish and maintain an updated record of these, for which the applicant must submit a communication indicating facility name, address, designation of physical or moral person who owns the store, etc. The Ministry of Tourism, through a resolution, shall notify the members participating in these activities the acceptance or rejection of the registration, as appropriate. The operating license authorization will be valid for one year, annually renewable.

c. Restaurants

Regulation No. 2116 on Standards of Classification and Normative for Restaurants, of July 13, 1984, which is complemented by Resolution 816-03, which establishes the Regulation of Classification and Standards for Restaurants constitutes the legal framework that organizes, coordinates and regulates tourism services that promote activities related to restaurants and sites where food and drinks are served. In this regards, the Regulation consider as restaurants those service establishments that regularly or professionally serve the general public food and drinks for consumption on the premises for a fixed price.

The Classification Committee established by Regulation No. 2116 on Standards of Classification and Normative for Restaurants of July 13, 1984, is the body that has the authority and competence to classify and regulate hotel establishments. The Classification Committee shall review the opening and classification application and shall grant by resolution, the provisional authorization and category of the establishment, according to its facilities and services. In compliance with this resolution, the restaurants are classified taking into account their characteristics, facilities, furniture, equipment and the quality and quantity of services. The classification criterion follows a quality range identified by forks. It pertains to the Classification Committee to ensure that the conditions required for granting the operating authorization of these restaurants are maintained.

d. Travel Agencies

In order to provide an appropriate framework for the operation of tour operators, the Ministry of Tourism issued the Regulations on Travel Agencies No. 2122 of July 13, 1984, as amended by Resolution No. 815-03, which establishes the Rules for Travel Agencies and Tour Operators, dated August 20, 2003, which vest upon him the functions of authorization, registration, control and supervision of individuals and companies that provide or operate tourist services as travel agencies.

Organic Law No. 541 of 1969 defines travel agencies as “commercial entities created by individuals and organized with the aim of providing services to tourists or travelers for remuneration”.

The regulation classifies travel agencies as: (i) wholesale travel agencies; (ii) reservations and ticketing travel agencies; and (iii) agencies as tour operators, which in turn can be for receptive and emissive local or domestic tourism.

In addition, the regulation provides that agencies engaged in receptive tourism are required to deposit with the Ministry of Tourism, the contract evidencing that the provision of tourist services is conducted jointly with the company represented. As for the form of contracts, travel agents, in their capacity as organizers of emissive group travel are required to sign an individual contract with each tourist, containing general information about the contracting parties, travel itinerary, complete services programmed and duration, the total price of the tour and form of payment under the provisions of the Organic Law of Tourism of the Dominican Republic No. 541 dated 1969.

Finally, the provisions related to obtaining authorization to operate as a “travel agency” contain the obligation to subscribe a liability insurance policy to cover the risk of conducting business, personal injuries and damage, as well as those risks arising from contract cancellations or non performance.

e. Tourist Transportation

Regulation No. 2118 of July 13, 1984 on Classification and Standards for Passenger Tourist Transportation, as amended by Decree No. 817-03, establishes certain requirements in order to ensure proper condition and operation of vehicles and terminals that serve the tourist transportation. This regulation sets out the requirements that offer the service of terrestrial tourist transport of passengers at airports, terminals and hotels, which are: a) to maintain their mechanical operation, hygiene, internal and external appearance in optimal conditions, b) maintain security measures and speed, fuel and temperature indicators operating in perfect condition; c) comfort, identification and capacity of each unit; and d) to have a set of tires in perfect condition, including the spare one.

The Ministry of Tourism establishes and approves the terrestrial passenger transportation service fees in accordance with the provisions of Article 20 of Law No. 541, of December 31, 1969. The operating license of tour bus companies must be renewed annually. The regulation authorizes the National Terrestrial Transportation Office to review and authorize tourist transportation vehicles in order to confirm their mechanical safety conditions, according to the established requirements.

f. Casinos and Gambling

Law No. 351 on Gambling Sites of August 8, 1964 and its amendments, regulate the implementation, regulation and operation of casinos and gambling sites, considering them as an integral complement to the strengthening and diversification of the national tourism, as well as a way to contribute to the inflow of income to the State.

Law No. 351 provides: (i) the procedures and requirements necessary to grant licenses; (ii) the tax legislation relating to casinos; Law No. 24-98, amending Article 14 of Law No. 351 of 1964, as further amended by Law 405 of 8 March 1969, and subsequently by Laws Nos. 29-08 and 139-11, impose a single tax on the operation of the
legally established casinos based on their geographical location and the number of operating tables; (iii) commisions the Ministry of Tourism with the supervision of these sites, and (iv) subject the casinos collections to a single tax based on their geographical location and the number of tables in operation.

Applications for licenses for the establishment of casinos in first class hotels is submitted to the Ministry of Finance, which shall contain at least the following information: (relevant information concerning the nature of gambling pursued to be installed and their operation; (ii) ii) Management conditions the gambling site (iii) the maximum bets permitted; (iv) the opening and closing hours, on the attractions and amenities that tourists will be offered, among others. It corresponds to the National Commission of Casinos the assessment of applications, which must render a report with the result of their analysis and recommendations to the Executive Power. It pertains to the National Commission of Casinos the assessment of applications, which must render to the Executive Power a report with the result of their analysis and recommendations

The casino gambling capacity was extended by Law No. 96 of 1988, which allows the installation of slot machines. Under Decree No. 3502 of 1978, bets made in casinos must be made and settled in dollars of the United States of America, and the resulting revenue should be exchanged through the Central Bank.

2. Law No. 158-01 on Promotion of Tourism Development

Regardless of the natural attractions of the Dominican Republic, the development of the tourism industry has been largely promoted by legislative initiatives aiming to internationally promote tourism and to grant attractive tax benefits to investors in the sector. In its original version, the Law No. 158-01 for the Promotion of Tourism Development for the poles of scarce development and new poles in provinces and localities of great potential, dated October 9, 2001 and its amendments, constituted the legislative instrument adopted by the Dominican State to promote the tax incentives granted for conducting tourism activities, mainly focused on certain areas of the country with great still undeveloped tourism potential.

On December 20, 2013 Law No. 195-13 radically amended Law No. 158-01, extending its benefits to “the tourist resorts located throughout the national territory, which had been or not benefited from incentives on hotel facilities”

Another achievement of this modification was the extension of the tax exemption period granted to companies engaged in tourism activities to 15 years “as of the date of completion of construction work and equipment of the project under these incentives”

At The same time and aiming to encourage those resorts and hotel chains operating in the country for more than fifteen (15) years, the amended law provides that “hotel facilities, resorts and / or hotel complexes in existing structures with a minimum of 15 years of built that undergo a process of reconstruction or remodeling exceeding 50% of its facilities and whose final purpose is hotel facilities will benefit from a 100% exemption scheme established by law”.

a. Purpose of the Law

Law No. 158-01 on Promotion of Tourism Development, as amended, and its Implementing Regulations, contained in Executive Decree No. 374-12, constitute the legal framework governing the development of projects and tourism initiatives throughout the country. The Law introduces protection values and respect for the environment in order to achieve rational and sustainable development of the Dominican tourism industry.

b. Tourism Activities

Law No. 158-01 and its amendments establish specific tourist activities whose implementation, by nationals or companies domiciled in national territory, is of special interest to the Dominican State, namely:

- **Hoteles**: Hotels, resorts or hotel complexes;
- **Convention Centers**: facilities for conventions, fairs, international congresses, festivals, shows and concerts;
- **Cruise Promotions**: entities engaged in the promotion of cruise activities which establish, as mother port for origin and final destination of their ships, any of the ports specified in the law;
- **Parks**: construction and operation of amusement, ecological or theme parks;
- **Maritime Infrastructure**: construction and operation of port and marine infrastructures to serve tourism activities, such as sport and marine ports;
- **Tourist Infrastructure**: construction and operation of tourist infrastructures, such as aquariums, restaurants, golf courts, sports facilities, among others;
- **Entities depending of tourism**: small and medium entities which market basically depends on tourism (handicrafts, ornamental plants, tropical fish, breeding farms of small endemic reptiles and other of similar nature).
- **Basic Services Infrastructure**: entities of basic services infrastructure for the tourism industry, such as aqueducts, treatment plants, environmental sanitation, garbage and solid waste collection.

(c) Incentives and benefits granted by law

Law No. 158-01 as amended grants tax exemptions and tax deductions that guarantee strategic advantages for those who submit to it, stimulating sustainable development and diversifying tourism offer in the different tourist poles of the country. These benefits are 100% tax exemptions on:

- **Income Tax**
- **Tax on incorporation of companies and capital increments.**
- **Taxes on transfer of property rights, such as sales, swaps or contributions in kind.**
- **Property Tax (IPI)**
- **Taxes, fees and quotas for preparation of blueprints, studies, consulting, supervision and construction works to be executed on a project approved, in favor of the contractors responsible for execution of the Works.**
- **Tax on the Transfer of Industrialized Goods and Services (ITBIS) and other taxes that are applicable on machinery, equipment, materials, and movable property necessary for the modernization, improvement and renovation of such facilities, provided they have a minimum five (5) years of being built.**
The resorts, hotel facilities, and/or hotels complex existing structures with a minimum of fifteen (15) years of construction that undergo a process of reconstruction or remodeling that exceed fifty percent (50%) of its facilities and which final destination is hotel facilities, will also benefit from one hundred percent (100%) of the exemption regime established by Art. 4 of Law 158-01.

d. Classification of Tourist Projects

The classification of a tourism project supposes compliance with all environmental, technical, of economic feasibility requirements, this is, all the regulations established in the Dominican Republic in order to be in satisfactory conditions to begin construction and operations. Each project must have the approval of the main pertinent authorities in the development process thereof, such as municipal City Hall, Technical Department of the Ministry of Tourism (DPP), Ministry of Environment and Natural Resources (MINARENA) and Ministry of Finance, in order to be evaluated by the Tourist Development Council CONFOTUR.

As for the technical approvals, these are granted by the Ministry of Tourism (MITUR) and requested through the Technical Office of Planning and Projects (DPP), which evaluates the architectural projects, whether tourist or not, provided that they are located in any of the established tourist areas and on the basis of the rules laid out in the Spatial Plan of tourism (POTT) and those regulations concerning environmental protection.

By reason that the authorizations granted above are part of individual processes, and often project promoters obtain them as the project is being conceptualized and developed, Decree No. 372-11 vests to the Ministry of Finance the power to conduct a cost/benefit analysis for projects through motivated resolutions, with the technical and economic characteristics that led to its acceptance, as well as the conditions in each case.

As for the final classification requirements to submit are:
1) Environmental Authorization approved by the Ministry of Environment and Natural Resources;
2) No objection from the Ministry of Tourism, by the Department of Planning and Projects (DPP);
3) No Municipal objection
4) Description of the promoter or investor;
5) Analysis of economic and financial feasibility;
6) Bank and commercial references of the promoter or investor, in addition to other requirements expressly provided for in Article 12 of the Implementing Regulation (1125-1101) of said Law.

Law No. 253-12 for Strengthening State tax collection capacity for fiscal sustainability and sustainable development (Fiscal Reform) determines that the institution must issue a no objection for the classification of these projects. That process must be fulfilled after the request of the final classification of the project and before receiving approval from CONFOTUR. This analysis has the dual purpose of guiding the conferral of tax incentives without permitting abuses thereof.

Finally, exhausted this process and having obtained the report from the Ministry of Finance as a result of a cost/benefit analysis allowing the final classification, CONFOTUR meets and decides on the relevance or irrelevance of the classification of a project under the tax exemptions regime for tourism projects. It shall communicate its decision on requests for classification of projects through motivated resolutions, with the technical and economic characteristics that led to its acceptance, as well as the conditions in each case.

3. Resolution No. 9-2001, which regulates the establishments dedicated to time sharing regime

The traditional model formulas of tourism exploitation through the “all inclusive” package have been the mainstay that has supported the national tourism sector. In this sense, the timeshare regime can complement the “traditional” tourist exploitations in the same hotel facilities, allowing taking advantage of their lodging surplus, the advanced income at initial time and customer loyalty in the long term.

The timeshare basis is the figure or contract whereby the buyer or holder of this right can enjoy, exclusively, for a specific period of time during the year, a tourist accommodation (set of apartments, villas, chalets, bungalows and the like) equipped with furniture, facilities, services and equipment for its occupancy for holiday or tourist purposes, as well as ancillary services of the pertaining complex. This market is experiencing numerous benefits, such as: i) higher profit margins; ii) increased employment rate; iii) customer loyalty in the long term; and iv) cash flow generation, among others.

In this order, Resolution No. 09/2001, which regulates lodging establishments engaged in the practice of timeshare basis, issued by the Ministry of Tourism on August 10, 2001, is the legal instrument governing the establishment, exercise, transmission and extinction of lodging establishments engaged in timesharing in the Dominican Republic. This resolution also regulates all matters concerning relations between consumers and service provider companies, rights and obligations of the parties and terms of the timesharing, among others.

The timesharing regime begins with the statement made by the owner of the establishment before a public notary to be subject to such regime, his/her will to establish, irrevocably, such regime on the establishment in question. To that effect, the owner must submit the following documents:

- Title Deed of the establishment or documents evidencing the right to legitimately dispose of it;
- Licenses, permits and authorizations necessary for the construction of the establishment;
- General blueprints of the establishment with a description of the land, constructions, common areas and each type of vacation unit subject to timesharing regime;
- Quantity, description and identification of the vacation units and common areas of the establishment affected by the timesharing regimen.
- Services and quality to be rendered at the establishment;
- Term to which the establishment shall be subject to the timesharing regime;
- The internal regime.

Incorporation documentation, the timesharing internal rules of procedures and adherence contract to this regime, must be approved by the Ministry of Tourism. A copy of the internal rules of procedures shall be delivered to the user when contracting the service.
1. Applicable Legislation

Building construction is governed by Law No. 675 of 1944 on Urban Planning and Public Ornaments, as amended, and by Law No. 687 of 1982 on Engineering, Architecture and Related Professions.

a. Lots

The owners of lots or properties adjoining a public right of way must keep them fenced in and in a clean condition according to sanitary regulations.

b. Removal of Pavement

When it becomes necessary to remove the pavement of a street, sidewalk or drainage ditch in order to carry out a public or private work, the person in charge or owner of the work must seek the permission of the town or city, subject to the payment of the required fees. Upon the conclusion of the work, the interested party must replace the pavement.

c. Housing Developments

The word “urbanization” is used to describe a piece of land devoted to the construction of streets and buildings under a development plan. Prior Municipal approval, as requested by the owner of the land, is required for any development plan. The application to the Municipality must include the following specifications: (i) purpose of the plan and division of the land into sectors; (ii) density of the buildings; (iii) public routes through or adjoining the project; (iv) layout and arrangement of avenues, streets, public squares and similar places; (v) location of railroad crossings, bridges, canals and similar structures; (vi) formation of blocks and subdivision of each block into lots; (vii) location of any local marketplace; (viii) conservation of woods or isolated trees; (ix) parks, playgrounds and similar areas; (x) development plan for the construction of future buildings, (xi) recommendations for the names of streets, for the installation of water and sewer lines, telephone lines, street lights and other public utilities, and (xii) plan for the maintenance of streets, parks and other features of the urbanization.

d. Construction of Sidewalks

Private parties can obtain permission, at their own expense, to build sidewalks and roadside ditches, so long as they comply with the legal requirements and the orders of the authorities. Once such works have been carried out, they belong to the public domain.

e. Safety Measures in Construction

The following measures must be taken in any construction job: (i) Except during working hours, construction materials and rubbish resulting from demolition are not allowed on public streets and sidewalks; (ii) It is prohibited to plant trees whose roots could cause damage to avenues or streets, water mains or sewer lines; (iii) It is prohibited to erect billboards, advertising streams, cables, tracks, transformers, condensers or other mechanical or electrical equipment in public places. A Municipal authorization is required for the pruning of trees in public places.

f. Governing Bodies

i. Buildings Department

This agency, which is a part of the Ministry for Public Works and Communications created by Law No. 5150 of 13 June 1959, is primarily in charge of the construction of buildings. Among its functions are the following: (i) to review the construction plans for buildings and prescribe the location of service stations and stations for the filling of gas cylinders; (ii) to issue construction permits; (iii) to take charge of the design, supervision, structural calculations and payments for the construction of public works; (iv) to approve the plans for the creation of housing projects; and (v) to ensure compliance with all laws, regulations, ordinances and orders for the construction of buildings and to investigate complaints about violations of building norms.

ii. Department of Regulations and Systems

This agency is also a part of the Ministry for Public Works and Communications. It is in charge of producing technical regulations for the preparation and implementation of projects in the areas of engineering, architecture, and related professions. It was created by Law No. 687 of 27 July 1982, to satisfy the need for a mechanism to establish up-to-date techniques for the preparation of projects in the areas of engineering, architecture, and related professions, to facilitate their periodic review and to incorporate new methods of modern technology.

iii. Office of Processing of Construction Plans

This agency is also a part of the Ministry for Public Works and Communications. Its function is to establish the re-
requirements to be observed in relation to the various types of buildings to be constructed.

g. Urban Planning Department

This is a technical agency created under Law No. 6232 to regulate urban growth and to advise other agencies in the Executive Branch and the Municipalities. Among its principal sections are the following:

- **Zoning.** It controls the use of urban land, determines the distances between buildings, their habitability, aesthetic and other aspects of urban life. It grants land use permits, permits for changes in land use, construction plans and projects, reconstruction and expansion plans, remodeling and demolition of buildings.
- **Processing of Plans.** It is in charge of processing all documents involving approvals for the use of land and must see to it that the files are complete.
- **Control and Inspection.** It is responsible for maintaining quality control and to this end it carries out regular inspections aimed at detecting possible inadequate uses of public places, illegal constructions, unauthorized alterations of buildings, etc.
- **Cadaster.** It prepares and updates a cadastral register in coordination with the National Cadaster covering municipal properties and open spaces.

h. Permits and licenses

i. Land use Permit

This permit can be applied for by the builder, by the owner or by an agent. The most important requirements to obtain such a permit are: A letter addressed to the Director of Urban Planning; a copy of the certificate of title (and, if the land is mortgaged, a letter from the mortgagee, stating that he has no objection); and an architectural plans. An inspection must be requested at the time of filing this documentation.

ii. Construction License

This permit can be applied for by the builder, by the owner or by an agent. To obtain the permit, in practice it is necessary to submit the construction plans to the Ministry for Public Works, to the Dominican College of Engineers and Architects (CODIA) and to the pertinent Municipality. Each one of these agencies charges a proportional fee.

The most important requirements to process the application are: (i) to prove ownership of the land on which the building is to be constructed and the quality of the construction; (ii) to prove the legality of the construction, (iii) to provide evidence of the payment of the relevant fees; (iv) to provide three copies of the plans stamped by the Municipality or by the Dominican Municipal League (in the case of a Municipality which does not have an Urban Planning Office), (v) a letter of no-objection from the Municipality; (vi) an outline of the structural calculations; and (vii) an outline of the hydraulic calculations.

In the case of tourism projects, a Land Use Permit is also required, in which the Municipality evaluates whether the building is appropriate for the area and is in accord with the provisions of Law No. 675 of 1944.

iii. Processing Applications for Projects

To this end, the following requirements exist: (i) A letter addressed to the Director of Urban Planning; (ii) original and copy of the certificate of title (if the land is mortgaged, a letter from the mortgagee is also required, stating that he has no objection); (iii) a copy of the area plan approved by the National Center of Cadastral Measurements; (iv) a receipt for the payment of the land use fee; (v) a no-objection receipt; and (vi) architectural plans. An inspection must be requested at the time of submitting the project.

iv. Demolitions

The following requirements must be met: (i) A letter addressed to the Director of Urban Planning, signed by the owner or his agent; (ii) the plan of the existing structure and a certificate of its approval by the Ministry for Public Works and Communications; (iii) original and copy of the certificate of title (if the land is mortgaged, a letter from the mortgagee is also required, stating that he has no objection); (iv) a copy of the area plan approved by the National Center of Cadastral Measurements; (v) a photograph of the building to be demolished; (vi) a plan of the location of the project; (vii) a receipt for the payment of the demolition fee; (viii) Internal Revenue stamps. An inspection must be requested at the time of filing this documentation.

j. Remodeling and Annexes

The following requirements exist, among others: (i) A letter addressed to the Director of Urban Planning, signed by the owner or his agent; (ii) the plan of the existing structure and a certificate of its approval by the Ministry for Public Works and Communications; (iii) original and copy of the certificate of title (and if the land is mortgaged, a letter from the mortgagee, stating that he has no objection); (iv) a copy of the area plan approved by the National Center of Cadastral Measurements; (v) a receipt of no objection; and (vi) architectural plans. An inspection must be requested at the time of filing this documentation.
The real estate sector is mainly regulated by Law No. 108-05 on Real Estate Registration of March 23, 2005 (as amended by Law No. 51-07 of April 23, 2007), which regulates the registration of real estate rights in the territory of the Dominican Republic and implements the system of real estate disclosure in the country.

Under the Law, it is considered as registered property any plot or area of land, with everything built, nailed, planted and attached to the ground, individualized by a survey layout with a cadastral designation, on which exists a property right registered in the Registers of Deeds.

1. Real Estate Structure

It consists of the High Courts of Lands, Original Jurisdiction Courts, the National Registry of Deeds and the National Directorate of Cadastral Surveys. It also forms part of the Property Jurisdiction the State Attorney.

Property Jurisdiction has exclusive jurisdiction over the property rights and their registration in the Dominican Republic, since the authorization for the survey is requested and throughout the legal life of the property, unless otherwise provided by law.

a. High Courts of Lands

They know in second instance of all appeals filed against the decisions of the Courts of Land of Original Jurisdiction under its territorial jurisdiction and the jurisdictional or hierarchical appeals against administrative actions, resources reviewed due to clerical error against events generated by them, and the resources under review due to fraud. Their performance is regulated by Resolution no. 1737-2007, which establishes the Rules of the Superior Courts of Lands and of Original Jurisdiction of the Real Estate Jurisdiction.

b. Original Jurisdiction Courts

They constitute the first level of the real estate jurisdiction. The know in first instance of the actions that are within the competence of real estate jurisdiction, this is, of administrative or contentious matters of the competence of the courts of real estate jurisdiction.

c. National Registry of Deeds

It is responsible for coordinating, directing and regulating the performance of the Registry of Deeds offices. The Deeds Registry offices are hierarchically subject to this Directorate. Their main function is to register property rights. Its performance is regulated by Resolution no. 2669-2009, which establishes the General Rules of Registry of Deeds. There are currently a total of 27 Title Deeds Registration offices nationwide, namely:

1. Title Deed Registry of Azua: Based in the city of Azua de Compostela and jurisdiction over the province of Azua.
2. Title Deed Registry of Bani: Based in the city of Bani and jurisdiction over the provinces of Azua, San José de Ocoa and Peravia.
3. Title Deed Registry of Barahona: Based in the city of Santa Cruz de Barahona and jurisdiction over the provinces of Bahoruco, Barahona, Independencia and Pedernales.
4. Title Deed Registry of Bonao: Based in the city of Bonao and jurisdiction over the province of Monsenor Nouel.
5. Title Deed Registry of Cotuí: Based in the city of Cotuí and jurisdiction over the province of Sánchez Ramírez.
6. Title Deed Registry of the National District: Based in and jurisdiction over the National District.
7. Title Deed Registry of El Seibo: Based in the city of Santa Cruz del Seibo and jurisdiction over the provinces of El Seibo and Hato Mayor.
8. Title Deed Registry of Higüey: Based in the city of Salvaleón de Higüey and jurisdiction over the province of La Altagracia.
9. Title Deed Registry of La Romana: Based in the city of La Romana and jurisdiction over the province of La Romana.
10. Title Deed Registry of La Vega: Based in the city of La Concepción de La Vega and jurisdiction over the province of La Vega.
11. Title Deed Registry of Mao: Based in the city of Mao and jurisdiction over the province of Valverde.
12. Title Deed Registry of Moca: Based in the city of Moca and jurisdiction over the province of Espaillat.
13. Title Deed Registry of Montecristi: Based in the city of San Fernando de Montecristi and jurisdiction over the provinces of Dajabón and Montecristi.
14. Title Deed Registry of Monte Plata: Based in the city of Monte Plata and jurisdiction over the province of Monte Plata.
15. Title Deed Registry of Nagua: Based in the city of Nagua and jurisdiction over the province of María Trinidad Sánchez.
16. Title Deed Registry of Neyba: Based in the city of Neyba and jurisdiction over the provinces of Bani and Independencia.
17. Title Deed Registry of Puerto Plata: Based in the city of San Felipe de Puerto Plata and jurisdiction over the province of Puerto Plata.
18. Title Deed Registry of Salcedo: Based in the city of Salcedo and jurisdiction over the province of Salcedo.
19. Title Deed Registry of Samaná: Based in the city of Santa Bárbara de Samaná and jurisdiction over the province of Samaná.
20. Title Deed Registry of San Cristóbal: Based in the city of San Cristóbal and jurisdiction over the province of San Cristóbal.
21. Title Deed Registry of San Francisco de Macorís: Based in the city of San Francisco de Macorís and jurisdiction over the province Duarte.
22. Title Deed Registry of San Juan de la Maguana: Based in the city of San Juan de la Maguana and jurisdiction over the provinces of Elías Píña y San Juan.
23. Title Deed Registry of San Pedro de Macorís: Based in the city of San Pedro de Macorís and jurisdiction over the provinces of San Pedro de Macorís and La Romana.
24. Title Deed Registry of Santiago de los Caballeros: Based in the city of Santiago de los Caballeros and jurisdiction over the province of Santiago.
25. Title Deed Registry of Santiago Rodríguez: Based in the city of San Ignacio de Sabaneta and jurisdiction over the province Santiago Rodríguez.
26. Title Deed Registry of Santo Domingo: Based in the province of Santo Domingo de Guzmán and jurisdiction over the province of Santo Domingo.
27. Title Deed Registry of Santo Domingo: Based in the city of Santo Domingo de Guzmán and jurisdiction over the province of Santo Domingo.

On May 16, 2013 is issued Resolution No. 1419-2013 on Diverse Proceedings before Registrar’s Office of Title Deeds and Cadastral Mensuras Directorate which establishes mandatory requirements to be met by users, bailiffs and employees of the different organs of the Real Estate Jurisdiction, to conduct a business or legal act before the Registry of Title Deeds and Cadastral Surveys. This Resolution also considers the requirements for performing various operations and applications, among which are the following:

- Registration and cancellation of provisional or definitive judicial mortgage, mortgage by virtue of notarized promissory note, legal mortgage of married women,
- Registration, modification and cancellation of conventional mortgage,
- Replacement of real estate surety
- Credit Cession
- Contributions in kind to entities, companies or corporations,
- Change of Name or corporate transformation,
- Preventive Annotation or cancellation thereof,
- Constitution of condominium regime and condominiums in phases or stages, privilege of condominiums registration, condominium regime modification or dissolution
- Certification with priority reserve,
- Certification of ancillary real estate rights, existing property rights, for reparceling update and registration,
- Loss, damage or destruction of title deed duplicate certificate,
- Annotated record or creditor registration certificate, among others.

d. Cadastral Surveys National Directorate

It is responsible for coordinating, directing and regulating the performance of the Regional Directorate of Cadastral Surveys. It offers support to the real estate jurisdiction for the technical operations of surveying and cadastre. Its performance is regulated by Resolution no. 628-2009, which establishes the General Rules of Cadastral Surveys.
Presently, there are three Regional Offices of Cadastral Surveys:

1. Regional Directorate of Cadastral Surveys of the Central Department, based in the National District and jurisdiction on the National District, Santo Domingo, Monte Plata, San Cristóbal, El Seibo, Hato Mayor, San Pedro de Macorís, La Romana, La Altagracia, Peravia, Azua, San Juan de la Maguana, Barahona, Bahoruco, Independencia, San José de Ocoa, Pedernales and Elías Piña.

2. Regional Directorate of Cadastral Surveys of the Northern Department, Based in the city of Santiago de los Caballeros, and jurisdiction on the provinces of Santiago, La Vega, Monsenor Nueva, Santiago Rodríguez, Espaillat, Valverde, Puerto Plata, Monte Cristi and Dajabón.

3. Regional Directorate of Cadastral Surveys of the Northeastern Department based in the city of San Francisco de Macorís, and jurisdiction on the provinces of Samaná, María Trinidad Sánchez, Duarte, Sánchez Ramírez and Salcedo.

e. State Attorney

It has the functions of representation and defense of the Dominican State in all procedures that so require it before the real estate jurisdiction and exercises the functions of public prosecutor in the jurisdiction. It empowered to bring the perpetrators of offenses punishable by law to be imposed, when appropriate, those established sanctions.

4. Proceedings before the Real Estate Jurisdiction

a. Demarcation

It is the act of the appraisal performed to establish the status of a registered parcel of land and supported by an Recorded Evidence, so that the holder can separate his/her property from the rest of the original plot. For the application of the law it is considered the demarcation as a contradictorily proceeding known by the Court of Original Jurisdiction territorially competent.

The Supreme Court adopted Resolution No. 355-2009, dated March 5, 2009, establishing rules for Parceling and Demarcation Regularization, to make more efficient and safe the procedures for registration of property rights. Under the regulation, holders of a Recorded Evidence may, through an administrative procedure, substitute it for titles deeds, whenever there is an agreement of wills regarding the location of those property rights. Through the act for land regularization, it is performed the plot survey by which all holders of recorded annotations, by mutual agreement, can determine their portions of parcels through administrative channels. The technical work must be approved by the corresponding Regional Directorate of Cadastral Surveys, and then submitted to the competent Titles Deeds Registry.

The parcelling and registration actualization of complex property makes possible to administratively normalize the situation of complex properties. The procedure allows to identify and determine the property with the registration of the blueprints in the Regional Directorate of Cadastral Mensuras, as well as to update the status of property rights registered in the Register of Deeds.

Subsequently, the Supreme Court issued Resolution No. 628-2009 amending the General Regulations of Cadastral Surveys, which regulates the operation of the National Directorate of Cadastral Surveys and its dependencies, as well as the procedure and the manner in which recorded the survey works, of parcel modifications and divisions for the constitution of condominium.

b. Restructuring

It is the process of public order by which is determined and individualized a land, its rights are cleared, which are registered for the first time. The restructuring process does not require the ministry of a lawyer (unless litigious) and can be initiated by the Dominican State or by any person or entity claiming or having a right on an unregistered property.

i. Restructuring Stages

1) Surveys

It is the technical process by which it is individualized, located and determined the land on which is claimed the property right to be registered. It is performed by surveyors, who when conducting the survey or perform a parcel modifications turn into public and auxiliary officers of justice, subject to compliance with the law.

Subsequently, the Supreme Court issued Resolution No. 355-2009, establishing rules for Parceling and Demarcation Regularization, to make more efficient and safe the procedures for registration of property rights. Under the regulation, holders of a Recorded Evidence may, through an administrative procedure, substitute it for titles deeds, whenever there is an agreement of wills regarding the location of those property rights. Through the act for land regularization, it is performed the plot survey by which all holders of recorded annotations, by mutual agreement, can determine their portions of parcels through administrative channels. The technical work must be approved by the corresponding Regional Directorate of Cadastral Surveys, and then submitted to the competent Titles Deeds Registry.

2) Judicial Proceeding

It is the proceeding before the courts of real estate jurisdiction that refines the right to register. The restructuring process ends with a statement of award of the property. The irrevocable sentence of restructure, accompanied by the approved final survey blueprint and additional documents, must be submitted to the Registry of Deeds to be recorded according to the law and the corresponding title deed certificate is issued.

3) Registries

It involves the issuance of a title deed evidencing the existence of the right and enabling the complementary registry records. The registration has been made when the right, charge or encumbrance are recorded in the corresponding Register of Titles.

The documents to be recorded in the Registers of Deeds are: (i) those that constitute, transmit, declare, modify or extinguish real interests on immovable properties; (ii) those which impose on them charges, encumbrances or provisional measures; (iii) which impose administrative and legal constraints of particular character on properties (eg easements, statement of cultural heritage or others that somehow limit or restrict freedom of disposal of the property); (iv) the rights of the owners over its exclusive unit as well as on the proportional part in the common areas.
The registration process is primarily regulated by Resolution No. 2669-2009 issued by the Supreme Court on 10 September 2009 which establishes the General Rules of Registry of Deeds, which regulates the functioning of the National Registry of Titles and Titles Deed Registries, as well as the procedure and the way in which the immovable property rights are recorded in accordance with the Law of Land Registration.

5. Recorded Evidence (Constancias Anotadadas)

As of the Property Registration Law it was prohibited any new transcripts, Recorded Evidence and/or Recorded Letters of registered property, except for certificates issued on property subject to condominium regime. It can be applied to properties registered the characteristics and principles of the Restructure process to debug the rights under Recorded Evidence.

6. Title Deed

Is the official document issued and guaranteed by the Dominican State, proving the existence of a right and title of same. It shall state how the property has been individualized, its cadastral designation, surface area, improvements if applicable, the cause of right, date of purchase, date of registration and its owner. The original of a certificate of title is filed by the real estate jurisdiction. The certificate of title is issued in Spanish, without using abbreviations or interlineations, scratch- es, erasures, or blank spaces. It shall have a unique number that will identify it.


On the original of a certificate of title is not recorded, in principle, any registration or entry and all ancillary rights, charges and encumbrances must be included in a supplementary registration, which accredits the legal status of the property. The supplemental register is the compilation of all ancillary rights, encumbrances affecting a registered property; there will be a supplementary record for each registered property.

b. Issuance of certificates. Duplicates

A duplicate certificate of title which shall be a true copy thereof will be issued. A certificate of title is issued for each property regardless of the number of co-owners it may have. However, when a certificate of title is co- jointly owned, each co-owner shall be issued an excerpt of the original certificate.

c. Certificate Loss

In case of loss or destruction of duplicate certificate of title, the owner of the right must submit a request to the Registry of Deeds requesting the issuance of a new duplicate. The request must be accompanied by an affidavit and a publication in a national newspaper stating the loss or destruction of the duplicate, as well as evidence of payment of pertaining taxes and fees and other formalities required by the National Registration of Titles.

d. Certifications

The legal status of a property and the validity of the duplicate certificate of title shall be supported by an official certificate issued by the corresponding Title Registry. The Registry of Deeds can issue, among others, the following types of certifications: certification of the legal status of the property; the property registration certification, certification of registration of ancillary real rights, certification with priority reserve and certification on registry of creditors. Certificates are issued only at the request of a property owner or his agent, or at the request of judges, public prosecutors or beneficial owners of ancillary real rights, encumbrance and provisional measures.

7. Improvements

All that is built, nailed, planted and attached to the land, permanently or temporarily, increases its value. On registered properties only permanent improvements shall be recorded. Permanent improvements in favor of third parties will only be recorded on the supplemental register of the property, provided that a decision of a court of real jurisdiction so orders it, or the owner of the property consents through an authentic act or authenticated by a public notary.

8. Condominium

It is right by which different parts of a building are established as of the exclusive property of one or more individuals, which in turn are undivided co-owners of the common parts. It is applicable to divide buildings constructed in vertical, horizontal or mixed form, or any other system of real property in which it is intended to establish an inseparable relationship between areas of exclusive property and common areas.

The condo is constituted once recorded in the corresponding Registry of Titles. Each condominium owner will be issued a certificate of title that will identify the unique unit, the share of the common areas and the land, and the number of votes to be allocated to each holder in the meetings of condominiums. Work on the realization of the blueprints for constitution of a condominium can be made by surveyors or architects legally authorized to practice. Under the Technical Disposition 003-2008 dated July 23, 2008, issued by the National Directorate of Cadastral Surveys, individual blueprints and blueprints for constitution of condominium must be submitted for approval to the Regional Directorate of Cadastral Surveys in triplicate.

a. Regulation of Condominium Regime

It should mainly contain: (i) specification of the common areas and terrain of the condominium; (ii) specification of proprietary units in which is divided the property; (iii) percentage of ownership of each owner of the common areas and terrain; (iv) number of votes corresponding to each condominium owner in the Meetings of Co-owners; and (v) the percentage by which each owner must contribute to the costs and common charges and condominium management system.

9. Registered Properties Guarantee Fund

It is the guarantee established to compensate those who, without negligence on their part and acting in good faith, have been aggrieved with the enforcement of the law.

To create the Fund and for the operation and sustainability of the real estate jurisdiction, has been contemplated to implement a special contribution whose sources will come from the property register for the first time and from new issues of certificates of title resulting of a transfer of real rights, with the scope, tax bases, proportions, form of payment, exemptions and distributions ruled by law and the regulation.
There shall be exempt from the special contribution of the property to be awarded in favor of the Dominican State, charities and religious organizations, and properties whose individual values do not exceed the equivalent of 300 minimum wages for public sector staff, or the urban sites built for housing which are exempt under Law No. 18-88 February 5, 1988.

10. Public Domain Properties

All those buildings for public use, enshrined as of public domain by the Civil Code, laws and administrative regulations. In the housing developments and subdivisions, streets, parks and other spaces intended for public domain with the registration of the blueprints. There is no need to issue certificates of title on the properties of public domain.

The public domain is imprescriptible, inalienable, indefeasible and it is not applicable the restructure on public domain property in favor of any person or entity. The State is in charge of the guardianship, administration, conservation and protection of the public domain.

11. Services Fees

The Supreme Court fixes the fees for services provided by the real estate jurisdiction. In this regard, Resolution No. 11-2011 dated December 14, 2011, establish the collection of fees for services which were instituted with the purpose of creating mechanisms to ensure the sustainability of programs and improvement plans carried out during the process of modernization of the real estate jurisdiction.

All requests for services must be submitted with corresponding evidence of payment, to which purpose end users must complete the Services Detail Form TSF001 (available in all Register of Titles in the country or by accessing the website of the Supreme Court Justice www.suprema.gov.do) and issue a deposit in the amount to be paid on the account indicated by the Supreme Court. The Services Detail Form (TSF001) and its copies, as well as the original deposit slip must be presented as evidence of payment, jointly with the required services.

The revenue obtained shall be used solely for the maintenance and sustainability of the property jurisdiction.
The Trusteeship in the Dominican Republic.

In July 2016, became five (5) years of the enactment of Law No. 189-11 on Development of the Mortgage Market and Trust in the Dominican Republic (hereinafter the “Law”) by which it was promoted the development of Trust and it was established a general framework which regulations and standards have been gradually evolving in terms of knowledge on Trusts and of the experience of the actors related thereof.

1. Overview

The Law established the Trust figure, as it is known in most Latin American legislation as an act by which one or more persons (grantors) transfer property rights or other real or personal rights to one or more legal entities (Trust), for the establishment of separate assets (Trust property), whose administration shall be exercised by the Trust, according to the instructions of the grantors in favor of one or more persons called trustees, with the obligation to return them at the extinction of the obligations, to the person or persons designated in the said instructions or in accordance with the law.

The Trust can be used for any purpose, provided that this is legal, and can be established on property and rights of any nature, whether movable or immovable, tangible or intangible, determined or determinable as to its species, except those rights that, under the law, are strictly personal to the holder.

The Trust modalities are not limited by law, but are cited by their popularity: public offering of securities, investment Trusts, collateral Trusts, cultural Trusts, philanthropic and educational Trusts, estate planning and investment Trusts and real estate development Trusts.

The latter constitute the vehicle by which to be fostered projects called low-cost housing (PVBC), which are dwelling solutions developed by the private sector or with additional contributions from the Dominican State (mixed PVBC). The units of PVBC have a sale price equal to or less than two million Dominican pesos (RD $).

In mixed PVBC it is mandatory for state participation and equality of opportunity conducting the public tender for the design and construction of the project, a process that is in charge of the trustee, who also is empowered to communicate to the public all details concerning the application process for acquiring as well as for the assignment to individuals for whom these units constitute their first dwelling.

The PBVC, meanwhile, require, according to the Law, the establishment of a programmed savings account (CAP). The CAP is a contract with an EFI selected by any individual contributor to the pension system (worker) to save or complete payment of the initial or monthly installments for the purchase of a home in either of the two types of PBVC. On that account the contributions will be received during the period agreed in the convened saving program with the account holder employee, plus any amount that they wish to deposit in excess, for in a lesser time have available or exceed the projected saving amount. The agreed quotas will be automatically deducted by the employer from the worker’s salary, according to the instructions, and credited directly to the CAP. The discount may not exceed 30% of their wages. These saving amounts are unseizable and exempt from tax on bank transfers, as well as from fees or commissions by the EFI for the administration of the CAP.

Also, PBVC enjoy special incentives, such as the total exemption of incorporation taxes or tributes, tax exemption on contributions or income to equity of the property on which its development will take place, as well as for transfer from the Trust to individual purchasers.

There is now awareness of the need and interest of including informal or self-employed workers, providing them with the benefits nowadays reserved by law to employees.
ers or beneficiaries of the promoted housing units, among others.

The approval process for all housing projects was benefited by an express processing, denominated the single window Law, in order to facilitate the marketing of such projects, essential requirement to achieve directing the focus of the law to its original objective, as well as to benefit the lowest and most numerous social stratum of the population.

The Trust property is also referred to in Law as separate patrimony for the purposes of securitization process. This is defined in the Securities Markets Law as follows:

The process by which a patrimony is constituted, which sole purpose is to support the settlement of the rights conferred on the holders of securities issued under this patrimony. It also includes the transfer of assets to the aforementioned patrimony and the issuance of the respective securities.\(^3\)

The process of securitization, as is established by the legislation of the security market, allows the securitization of loans of all kinds, financial leases, future credit and obtain financing for various sectors such as construction. This process has been regulated and largely made viable by law for the process of securitization of mortgage loan portfolio, for which authorization schemes have been established, in which are determined the deadlines for the granting of the necessary authorizations, is introduced the figure of positive administrative silence, while a simplified system of land registration is established and is granted a tax exemption for transfers of loans and mortgage securities of the securitized portfolio and to the returns generated by fixed or variable income instruments issued, which has denominated securitized values. So, notwithstanding that its holder is a national natural person or a natural person or foreign or non-resident company in the Dominican Republic. Finally, the Law allows further investment by pension funds, by transparently establishing the essential regulatory process, that subject such investment to an authorization by the Risk Classification Commission and Investment Limits.\(^3\)

The separate patrimony constituted in securitization processes is considered, for all tax purposes, a neutral vehicle, isolated from the rest of the assets of the other participants in the process. This separate estate is indefeasible, and non transferable by effect of specific obligations of the securitization entity, and shall not be subject to the effects of its bankruptcy. On the other hand, as essential input for the EFI, the Law incorporates certain financial instruments, while updates others, while authorizing EFI to issue public offer securities, which constitute the mechanisms for raising funds at medium and long term, positively directing them towards the housing mortgage financing and the construction sector in general. These instruments and securities are:

\(^{[3]}\)Commission created by art. 99 of Law No. 87-01 to determine the risks of financial instruments in which the Pension Fund Administrators (AFP) invest the resources of the pension funds.
More confidence investors EIF will have the obligation to make payment under the conditions and within the time provided, regardless of whether the mortgagor pay or not at the agreed time. In case of dissolution or liquidation of the issuing EFI, housing and constructions financing securities in circulation shall be regarded as privileged liabilities and their mortgage - backing loans and their respective mortgage guarantees will be excluded from the mass settlement and jointly transferred to another normally operating EFI.

As an interesting novelty for the market, the Law incorporates the collateral agent, as the legal entity authorized to act as agent or representative of creditors or beneficiaries of a credit secured by pledge, mortgage or any other security, including the transfer of profits on insurance policies and any other ancillary right, before all inherent efforts in the process of creation, perfection, maintenance, and enforcement of the guarantees for the security of the credit in question. Warranty rights and assets that have been awarded on behalf of the collateral agent shall be understood as segregated from his common estate. Income derived from the operation or disposal of the segregated estate of the collateral agent, including income derived from the subsequent sale of real estate, previously awarded, are tax exempt, excluding the tax on real estate property and unbuilt urban lot (IPI), which shall be applied without deductions.

The collateral agent was a figure of scarce use in the market. It was used only at the request of major investors or multilateral organization, but the prerogatives assigned to it and because its incorporation coincided with the remnant of the contributions of the structure which promotes the law, we assume the increased use and easy insertion as a facilitator component of the implementation of various investment structures. With its incorporation, was avoided the application of the rule of “proxy disclosure litigation” that jeopardized the financial structuring for investments under the mortgage market in the Dominican Republic.

Finally, the Law provides for the possibility of creditors to adhere to a special procedure of property execution, which promises to be more abbreviated and speedier results, provided that the mortgage has been granted in a conventional manner. This is so regardless of whether it is a local or foreign EFI, collateral agent, securitization or fiduciary entities.

2. Standards on the Compliance with Duties and Tax Liabilities of the Trusts

The fiscal opportunities granted to the market are the main aspects that promote the evolution of the trust and of any other legal figure or financial instrument.

These opportunities are a strong driving force behind the creation of businesses, as they generate an expectation based on a simple financial costing from the scenario previous of the generation thereof. At present, and after adoption by the Directorate General of Internal Taxes (DGII) (hereinafter “DGII”) of the General Standard number 01-2015 of 22 April 2015 on the Compliance of Duties and Tax Liabilities of the Trusts (hereinafter the “Standard”) provides in a more specific manner the tax regime and information of trusts and fiduciaries.

In this regard, the specifications and innovations established by the DGII, are in summary the following:

I. The definition of fiduciary duty was formally incorporated as a set of intangible rights acquired by a trustee or beneficiary, representing the value of the trust property and granting the right to the trustee for transferring assets or the result of its administration in accordance with the provisions of the legal instrument establishing the trust.
Expressly it states that the fiduciary duty must be recorded in the accounts of the trustee or beneficiary.

That Standard prohibits that the registration of the fiduciary duty be associated with particular properties within the trust estate, while requiring that such right should represent the value of the contractual right in said estate.

In cases of multiple trustees or beneficiaries, the Standard indicates that each trustee or beneficiary will annually receive information about the value of their fiduciary duty after the valuation of the estate that, according to the internationally accepted accounting rules must perform the fiduciary to which the obligation of provision of such information is mandated.

In this first postulate, beyond the necessary details, it is revealed an opportunity as it is stated that the fiduciary duties shall be recorded as an investment in the tax return (hereinafter the “Return”) and will not be accountable for the calculation of tax on assets.

II. It is ratified the exemption of payment on transfer taxes the contributions of public offering of trust, of guarantee of a public offering and of the investment funds constituted in trust, as established by Articles 46, 57 and 61 of the Law.

III. Is ratified the exemption from real estate transfer tax that benefits low-cost housing trust in accordance with Article 131 of the Law.

IV. Is stated a general rule that covers three (3) of the major taxes of the practical operation of the different trusts when decides to not apply the payment of transfer tax with respect to the transfer of the trust property, in the following cases:

a) For the substitution of property held in trust to the principal;

b) For the transfer of the assets transferred in favor of the trustee or beneficiary in compliance with the provisions of the legal instrument of the trust;

c) By the replacing of the fiduciary.

V. Regarding the collateral trusts, the Standard states that the tax on the transfer of properties for their constitution may be deferred until the time of execution, if any.

To achieve the benefit of the fiduciary on behalf of the trust shall make payment corresponding to two percent (2%) ad valorem established in Article 8 of Law No. 173-07 on Tax Collection Efficiency, on the value of each one of the collateral certificates issued.

VI. Regarding the income Tax Return and on capital gains, it is reiterated that the income earned by the trust is not subject to income tax but this does not waive the trust of the obligation of submitting its annual tax return. However, the benefits obtained by the trustees and/or beneficiaries will be subject to income tax, placing the obligation to withhold some on behalf of the fiduciary but establishing a single, final payment equal to ten percent (10%) of the benefits paid or credited, equating this tax on the equity that applies to profits or dividends generated by an investment in the capital of a company.

As for the capital gain a clear precision of in which cases applies and which does not, while it is established the method of calculating the payment of capital gain, which is summarized as follows:

a) it is not subject to payment the transfer assets from the principal to the trust;

b) it is subject to the payment of transfer of capital assets to a third party, this tax must be calculated as follows:

1) The taxable amount is the difference in the value of the transfer to the third party less the cost of acquisition for the principal for inflation when the asset object of the transfer was contributed to the trust by the principal; And

2) When the capital asset to be transferred to a third party was acquired by the trust, the taxable amount is the difference in the value of the transfer minus acquisition cost adjusted for inflation.

c) Trusts of public offering, public offering collateral and low-cost housing are exempt from tax on capital gains.

VII. As far as to the tax on real estate assets refers (hereinafter “IP”). The Standard confirms the provisions of the law declaring...
them subject to the payment without possibility of applying deductions established by law consigning this tax, but immediately declares exempt from payment of tax the indicated trusts of public offering, public offering collateral and low-cost housing.

In what concerns to the rest of trusts of real estate development, the Standard equates their fiscal treatment to that of construction performing a healthy exercise of equity by providing that they may request the exclusion for properties in construction processes of the IPI tax base for up to three (3) years.

Finally, the last but not least postulate enshrined in the Standard refers to bond for low-cost housing (hereinafter the “Bonus”), standing out as a novelty the possibility that the fiduciaries obtain a qualification certification in which the DGII certifies that the acquirer qualifies for obtaining the Bonus, which practically makes it a beneficiary subordinating the Standard disbursement of the Bond, to:

a) the deposit of the tripartite purchase agreement and financing; or

b) to the deposit of the fiduciary certification indicating that the property is developed in an eighty percent (80%).

The above summarizes the contents of the last fiscal rule on Trusts and explains in some extent the gradual growth that has experienced the use of this figure, what excites the investors. However, these are reminded that for the purposes of use and interpretation will always be advisable the use of same based on expert advice.

The best reflection of the level of credibility of the Trusts is noted in the statistics presented below, which clearly shows the trend in the use of different types of trusts, which we share as a matter of conclusion.

<table>
<thead>
<tr>
<th>Trust Type</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fideicomiso de Vivienda de Bajo Costo</td>
<td>19</td>
</tr>
<tr>
<td>Fideicomiso de Desarrollo Inmobiliario</td>
<td>2</td>
</tr>
<tr>
<td>Fideicomiso de Administración</td>
<td>1</td>
</tr>
<tr>
<td>Fideicomiso de Garantía</td>
<td>1</td>
</tr>
<tr>
<td>Fideicomiso de Planificación Patrimonial</td>
<td>2</td>
</tr>
<tr>
<td>Fideicomiso Filantrópico</td>
<td>2</td>
</tr>
</tbody>
</table>

Source: Association of Dominican Fiduciaries, Inc. (ASOFIDOM)
The mining sector has been the subject of special attention by the Dominican Government during recent years. In 1999, by means of Decree No. 262-99 of June 10th, 1999, a Commission was created for the reform and modernization of the mining sector. Afterwards, in August 2000, by means of Decree No. 613-00 of August 25th, 2000, the National Council for Mining Development was created, to be chaired by the President of the Republic, as well as a Unit for the Promotion and Development of the Mining Activity was established within the Organization Chart of the General Mining Direction, created by Decree No. 666-03, of July 9th, 2003, which eliminated the Corporate Mining Unit created by Decree No. 613-00 and created the Mining Commission for Bauxite.

By means of Decree No. 839-00, the mining activity was declared to be a high priority activity for the national economy and a commission was formed to prepare and direct the bidding processes of the Government’s own investments in connection with various mineral deposits. Afterwards, Law No. 123, of May 10th, 1971, which prohibits the removal of materials found on the surface of the ground, such as sand, gravel and stone (“Law 123”);

• The environmental norm approved by Decree No. 504-02 for Non-Metallic Mining Operations and Procedures to Authorize the Extraction of Materials found on the Surface of the Ground (the “Environmental Norm for the Mining Operations”);

• The Administrative Decision No. 12-13, rendered by the Ministry of Industry and Commerce, of January 11th, 2013, related to the charges for services of the General Mining Direction; and,

• Law on Environment and Natural Resources No. 64-00, of August 18th, 2000.

Next, we will briefly analyze the various laws, regulations and decisions that govern the exploitation and exploration of mineral deposits in the Dominican territory and the territorial waters.

1. **The Legal Framework**

The exploitation and exploration of mineral deposits in the Dominican Republic is governed, essentially, by:

- The Constitution of the Dominican Republic, enacted on January 26th, 2010;
- Law No. 146, enacted on June 4th, 1971 ("the Mining Law"), amended by Law No. 79-03, that adds two paragraphs to Article 19 of the Mining Law of the Dominican Republic;
- Regulation No. 207-98, of June 3rd, 1998, for the application of the Mining Law (the “Ruling”);
- Law No. 123, of May 10th, 1971, which prohibits the removal of materials found on the surface of the ground, such as sand, gravel and stone (“Law 123”);
- The environmental norm approved by Decree No. 504-02 for Non-Metallic Mining Operations and Procedures to Authorize the Extraction of Materials found on the Surface of the Ground (the “Environmental Norm for the Mining Operations”);
- The Administrative Decision No. 12-13, rendered by the Ministry of Industry and Commerce, of January 11th, 2013, related to the charges for services of the General Mining Direction; and,
- Law on Environment and Natural Resources No. 64-00, of August 18th, 2000.

a. **Constitution of the Dominican Republic**

Article 17 of the Constitution of the Dominican Republic, named “Use of the natural resources”, foresees that: “The mining and hydrocarbon deposits and, in general, the non-renewable natural resources, can only be explored and exploited by private individuals, under sustainable environmental criteria, by virtue of the concessions,
agreements, licenses, permits or fees, under the terms and conditions foreseen by law. The private individuals can take advantage of the renewable natural resources in a rational manner under the conditions, obligations and limitations foreseen by law.”

b. The mining law and its regulation

According to Article 1 of the Mining Law, mineral substances of every sort found on the surface and in the subsoil of the national territory, as well as on the bottom of the territorial sea and beneath its surface are owned exclusively by the State. Therefore, the right to explore, exploit and take advantage of mineral substances must be directly acquired from the Dominican State, by means of concessions or agreements governed by the provisions of the Mining Law.

It is important to note that, according to Article 6 of the Mining Law, “the mining concession grants a right distinct from the ownership of the land on which such concession is established, even though the concession and the land belong to the same person”. The foregoing, without prejudice to the provisions of Articles 181 and 182 of the Mining Law, in connection with the necessary compensation for foreseeable and unforeseeable damages.

c. Law No. 123

Law No. 123 prohibits the excavation, removal or dredging of materials from the surface of the ground, such as sand, gravel, and stone for commercial or industrial use, in lands of public domain or private property, belonging to the State or to private individuals, without the obtaining of a permit from the Executive Power upon recommendation of the Commission created by said Law, excepting the case when the excavations, removals and dredging are necessary for works whose construction has been legally authorized to be undertaken in the same location as the excavation, removal or dredging.

d. The Environmental Norm for Mining Operations

This Norm governs the non-metallic mining activities in the phases of exploration, development, exploitation, processing and closing. These operations require the issuance of a permit or concession from the Executive Power, to be granted upon recommendation of the Ministry for the Environment and Natural Resources.

According to this Norm, non-metallic mining operations can be carried out anywhere within the national territory, excepting the places where there is an express restriction or prohibition foreseen by current laws and their regulations. In such cases, the Ministry for the Environment and Natural Resources can establish additional limitations with respect to the location of such operations.

e. Law No. 100-13, which creates the Ministry of Energy and Mines.

The Ministry of Energy and Mines is created pursuant to Article 134 of the Constitution of the Dominican Republic, as an authority depending from the Executive Branch, and which is in charge of preparing and managing the energy, metallic and non-metallic mining policies in the Dominican Republic.

All reference to the Secretary of State of Industry and Commerce, nowadays, the Ministry of Industry and Commerce, regarding energy attributions, according to Law No. 290, of June 30th, 1966 and its ruling; and, with respect to the mining attributions, according to the Mining Law of the Dominican Republic, No. 146, of June 4th, 1971 and its Ruling No.207-98, shall be hereinafter considered as a reference to and attribution of the Ministry of Energy and Mines, as per the Law. The commercialization activities of any substance derived from petroleum shall continue to be administered by the Ministry of Industry and Commerce. The Ministry of Energy and Mines shall have the following attributions in designing and enforcing the public policies:

- The formulation, implementation, monitoring, assessment and control of the policies, strategies, general plans, programs, projects and services related to the energy sector and its sub-sectors of electricity, renewable energy, nuclear energy, natural gas and mining, and will have all attributions that Law No. 290, of June 30th, 1966 and its ruling granted to the Ministry of Industry and Commerce in all matters related to mining and energy, and exercising the administrative protection of all autonomous organizations of such sector.

- The protection and surveillance implies to assure that the functioning of the autonomous organizations is in accordance with the legal provisions that created them; to look after the compliance of the current policies and norms; and that they operate
within an effective framework, with science and quality.

i. Objectives of the Ministry

a) To formulate, implement, direct and coordinate the national policy in connection with the exploration, exploitation, transformation and benefit of metallic and non-metallic minerals;

b) To look after the protection, preservation and appropriate exploitation of the mineral substances that are on the national ground and beneath thereof, as well as on the sea floor of the Dominican Republic;

c) To declare the expiration of the exploration and exploitation mining concessions, for the reasons foreseen in the Mining Law No.146;

d) To coordinate with the Ministry of the Environment the assessment proceedings of the exploration and exploitation proposals on mines and quarries;

e) To formulate, implement, direct and coordinate the policy on the rational use of energy and the development of alternate energy sources, as well as to promote, organize and assure the development of the programs on the rational and efficient use of energy;

f) To promote policies that guarantee the coverage, provision and access to energy, respecting the environment;

h) To look after the compliance with the security and maintenance norms of the energy facilities;

i) To design plans and projects for the construction of new and strategic energy facilities related to fuel transportation, storage, refinement and gas pipelines, oil pipelines and distribution and transmission grids;

j) To conduct the permanent study and assessment of the interaction between energy and transportation, and to formulate plans and projects for their efficiency;

k) Together with the Ministry of Industry and Commerce, to promote savings and rational use of hydrocarbons;

l) To invigorate the prospecting, exploration and exploitation of energy resources, included hydrocarbons, as well as mineral charcoal and natural gas;

m) To order and/or to conduct the necessary studies to assess the potential of the fossil hydrocarbons in the Dominican Republic;

n) To grant exploration permits and concessions for the exploitation of hydrocarbons, according to the norms to be enacted on this matter;

o) To coordinate with the Ministry of the Environment the assessment procedures for the exploration and exploitation proposals on hydrocarbons.

These provisions are not restrictive, since any other provision foreseen by law is applicable, through the vice-ministries set forth by the law, as they are assigned to each vice-ministry by means of a regulation (sic) of the Executive Power.

2. The Institutional Framework

a. The General Mining Direction

Applications for exploration and exploitation concessions and for authorizations to install mineral treatment plants must be addressed to the General Mining Direction ("the General Direction"), once the proceedings requested by law have been fulfilled. Applications shall be submitted to the Ministry of Energy and Mines, in order to be granted in case they comply with all requirements foreseen by the Mining Law.

Once mining rights have been recorded in the Public Registry of Mining Rights, they become valid against third parties; the unrecorded concessions and agreements are not valid against third parties, according to the provisions of Article 166 of the Mining Law.

b. The Unit for the Promotion and Development of the Mining Activity

The mission of the Unit for the Promotion and Development of the Mining Activity is to follow up and take part in the activities of mining corporations and projects in which the State has an interest as investor.
3. Foreign Investment

The Foreign Investment Law No. 16-95 does not mention, in Article 5, mining as one of the restricted areas for foreign investment. However, Article 9 of the Mining Law foresees certain limitations with respect to foreign investors that want to apply for a mining concession and, in this sense, it prohibits granting mining concessions to foreign Governments (whether directly or through individuals or companies). By way of exception, it also provides that in special cases and subject to approval by the National Congress, the Executive Power may enter into special agreements with foreign mining companies whose stock is totally or partially held by a foreign government.

Likewise, Article 8 of the Mining Law also provides that “all mining licensees are subject to the jurisdiction of the Dominican laws and the Dominican courts, and in the case of foreign citizens, it shall be considered that they have waived any diplomatic claim on any matter related to the concession”.

4. Procedures prior to operating in the Mining Sector

In order to operate in the mining sector in the Dominican Republic, it is necessary to comply with certain requisites established in the Mining Law and its Regulation No. 207-98. Any proceeding shall be conducted before the General Mining Direction.

The proceedings set forth in the Mining Law are basically three: (i) prospecting; (ii) exploration concessions; (iii) exploitation concessions; and, (iv) the installation of benefit plants.

a. Prospecting

Prospecting is the search for indicia of the existence of mineral substances. In principle, persons listed in Article 13 of the Mining Law cannot conduct any prospecting.

b. Exploration Concessions

Exploration involves carrying out work in the soil and subsoil with the aim of discovering, delineating and defining zones containing mineral deposits, through technical and scientific investigations, as well as geological, geophysical, geochemical and other investigations.

The Ministry of Industry and Commerce is responsible for granting or denying exploration concessions. A concession gives the licensee an exclusive right for three (3) years to carry out exploration work within the perimeter outlined by the Ministry, which cannot exceed 30,000 mining hectares. However, Article 41 of the Mining Law foresees that extensions can be granted: “When, even though there is a continuity in work and appropriate tasks have been carried out, areas containing deposits of mineral substances have not been defined, the licensee can request an extension to the General Mining Direction, which, subject to a previous study of the case, will grant the extension for up to one year at a time and in any case, for more than two additional years of the exploration period foreseen in Article 31”. It is not necessary to have undertaken prospecting activities as a prerequisite for the obtaining of an exploration concession.

c. Exploitation Concessions

Exploitation is the extraction and preparation of mineral substances. No individual or company, directly or through its subsidiaries or affiliates, may benefit from an exploitation concession of more than 20,000 mining hectares, even though they have been granted separately as concessions. The exploitation concession grants the licensee the exclusive right for the exploitation, benefit, melting, refinement and economic benefit of the deposits of mineral substances for a term of seventy five (75) years. The Minister of Industry and Commerce authorizes the granting of exploitation concessions, once they have been approved by the Executive Power and once all requisites foreseen by the Mining Law have been fulfilled.

5. Taxation of the Mining Sector

The mining sector has a special tax regime set forth in the Mining Law, as follows:

a) The annual business tax (“Patente Minera”), which is payable twice a year on the basis of the amount of hectares granted under concession;

b) The export royalty, which amounts to 5% of the FOB price in Dominican ports. This royalty can be deducted from the income tax; and,

c) The income tax, which is a flat 40% of the annual net profits and is calculated according to the Income Tax Law in force on the date of the concession.

Likewise, it is also important to point out that the licensees of exploration and exploitation concessions, as well as the owners of the benefit plants, enjoy import duty reductions or exemptions, which are indicated in their respective concessions. These reductions or exemptions can only relate to the importation of machinery and mining or metallurgical equipment of any kind, vehicles required to undertake the project, chemicals and laboratory instruments, explosives, fuels (except gasoline), lubricants, and any other substance or product which is not produced in the country at reasonable price and quality. These exemptions or reductions can remain in force for up to 25 years for the licensees of an exploitation concession and owners of a benefit plant.

6. The Mining Industry and DR-CAFTA

The following provisions are excerpts from DR-CAFTA and remain in force notwithstanding other provisions in the Treaty:

Mining concessions cannot be granted to foreign governments, either directly or through a government-owned corporation. By way of exception, it is hereby provided that in special cases and subject to approval by the National Congress, the Executive Branch may enter into mining contracts with companies whose stock is totally or partially held by a foreign government.” (Mining Law)

In granting concessions to render services incidental to the mining industry, the Dominican Republic reserves the right to impose limitations on the number of suppliers of such services, either in the form of numerical quotas, granting monopolies or allowing exclusive suppliers of certain services; or to request that such services be rendered by joint ventures. Any other condition imposed on a concession shall be consistent with the Treaty and suppliers of services of the Parties shall be permitted to obtain such concessions. (Mining Law)

According to Article 1 of the Mining Law, mineral substances of any kind found on the surface and in the subsoil of the national territory and those found on the bottom of the territorial sea and beneath its surface are owned exclusively by the State. The right to explore and exploit mineral substances must be acquired from the State by means of a concession or agreement governed by the provisions of the Mining Law.
The Ministry of Agriculture is responsible for creating the regulatory conditions, techniques and policies to facilitate agricultural development in the Dominican Republic. The key sector laws are Law No. 532 on Agricultural and Livestock Promotion of December 12, 1969 and Law No. 6186 on Agricultural Development, of February 12, 1963.

1. Agricultural and Livestock Development

Law No. 532 of Agricultural and Livestock Development was enacted to promote agricultural development with the specific purpose of (i) increasing private capital in the sector; (ii) improve the management of agricultural and livestock farms; (iii) optimize the use of land, water, capital, and peasant labor in agricultural production; and (iv) allows adequate organization of production in the sector. The application regime of Law No. 532 is vested upon the National Committee of Agricultural and Livestock Development, which is chaired by the Minister of Agriculture.

The incentives of Law No. 532 are mainly directed to (i) provide services on agricultural education and technical assistance; (ii) increase the construction and maintenance of roads; (iii) increase irrigation; (iv) promote electrification; and (v) improve credit services for the agricultural sector nationwide.

The tax regime provided by Law No. 532 for this sector, was repealed by Law No. 150-97, which amends Art. 15 of Law No. 14-93 which approves the Customs Duties of the Dominican Republic. A list of supplies, equipment and agricultural machinery beneficiaries of a single duty of 0% rate in the Duty Code is included in this law. Within these goods are: (i) breeders of bovine, swine, sheep, poultry; (ii) bulbs, onions, tuberous roots, dormant crowns and rhizomes; (iii) trees, shrubs, and bushes with edible fruit, included grafted ones; (iv) seeds of various kinds; (v) fertilizers of animal or vegetable origin, mineral or chemical; (vi) irrigation systems; (vii) seeder, planters and transplanters; (viii) machines for harvesting root or crops; (ix) threshers and degrading; (X) milkers; (Xi) agricultural tractors, among others.

Also, within the tax incentives provided for the agricultural sector, it is pertinent to note that the Directorate General of Internal Revenue (DGII) issued General Rule No. 003-2014, dated May 13, 2014, through which grants an extension for the fiscal year 2014, to the provisions contained in the General Rules Nos. 01-2008, 02-2009, 03-2010, 01-2012 and 01-2013, which granted the following tax exemptions for companies in the agricultural sector: (i) exemption to income tax advanced payments, (ii) exemption from tax on assets, and (iii) are exempt from withholding tax of a 5% provisioned in Article 309, paragraph d) of Tax Code (on payments made by the State) to the goods of the agricultural sector.

Furthermore, Law No. 6186 on Agricultural Development, dated 12 February 1963, aims to obtain optimum production through the use of agricultural resources (crops, livestock, forestry, fisheries and related activities) in a comprehensive and accelerated manner, in order to improve the living standard of all sectors of the population. This Law organized by the Agricultural Bank of the Dominican Republic, which is the autonomous state institution responsible for agricultural policy. The Agricultural Bank has among its main objectives granting credit facilities through financial mechanisms and guarantees provided by law, for the promotion and diversification of agricultural production nationwide, as well as the creation of new agricultural enterprises.

Law No. 6186 authorizes the establishment in the Dominican territory, of auxiliary credit institutions which are called bonded warehouses, for the deposit of fruits, products and goods appreciable by weight, by number or by volume, made by people who produce them or negotiate with them and having their free disposal. These bonded warehouses are responsible for the custody of goods received in deposit, of the sale thereof on behalf of their owners and the issuance of certificates of deposit. General stores must, before
starting their operations, comply with the requirements of the law and buy insurance against fire, theft and other risks.

2. Agricultural insurance

Agricultural producers in the Dominican Republic have a basic guarantee to deal with the damages suffered in their operations by reasons of natural disasters generators of uninsurable risks. This is the Agricultural Insurance, established by Law No. 157-09 of April 7, 2009, as amended in several respects by Law No. 197-11. This law provides two instruments of great interest for the safeguard of investments in the sector:

1. The Agricultural Insurance Plan, which purpose is to establish annual and progressive yields, risks and insurable areas, as well as the percentages of coverage and premium paid by the State. This plan is prepared by the Directorate General of Agricultural Risks (DIGERA), insurance sector, producers' organizations, reinsurers, the Superintendent of Insurance and the Ministry of Finance. When obtaining insurance policies are taken as a statement of the estimated value of crops and livestock assigned to each unit of agricultural production. The percentages of coverage and franchise pursue to offset at least the costs borne by the producer and the financing needs of production. Similarly, the state prime is governed by the guidelines of the Ministry of Agriculture with respect to strategic productive activities and the level of risk they are exposed.

2. The Dominican Support Fund to Agricultural Insurance, created by Law No. 157-09, under the dependence of the Ministry of Agriculture and managed by the General Directorate of Agricultural Risks (DIGERA) pursues to guarantee the state resources that will support producers. In its first year, Article 32 of the Law ordered an allocation of One Hundred Fifty Million Dominican Pesos (RD $150,000,000.00) from the State General Budget.

3. Other relevant rules in agriculture.

In addition to these laws there is Law No. 8 which determines the functions of the Ministry of Agriculture, Law No. 211 impose taxes on imported timber, Law 199 of September 4, 1975, which establishes a tiered income tax on surplus export of raw cocoa and coffee beans, washed, threshed, ground, roasted, powdered or prepared in any other way, to be borne by exporters. Also Law No. 231 of 22 November 1971, which creates a system of production, processing and trade of seeds, and establishes the requirements to be fulfilled by companies dedicated to these businesses.

Other important legal provisions are the 409 of January 12, 1982, on Promotion, Incentive and Agroindustrial Protection, the 4990 on Plant Protection; International Standard for Sanitary Measures No.15 (ISPM no. 15-Revision 2000) for wood packaging, and Decree 111-10, which creates the CONAVEX (National Council of Plant Export) as the entity responsible to “Advise and participate jointly with the Ministry of Agriculture in the definition and implementation of policies that will regulate all matters relating to the production, processing, marketing and export of vegetables and others “.

Likewise, the resolution 19-2009 which creates the PROVFEX (Export Program of Oriental Vegetables, Fresh Fruit and Similar Products) under the Department of Plant Protection, and establishes and fix the rate for local technical services of pre-inspection, and fixes a rate of RD $ 50 for the issuance of transfers forms from the packaging rooms.

Finally, the main legal instruments for the meat sector in the country are Regulation No. 329-11 on the sanitary inspection of meat and meat products in the Dominican Republic along with the new national programs on pathogens control for meat and meat products and residues thereof. With the promulgation of this regulation it was repealed the previous Regulation No. 2430 on Sanitary Inspection of Meat and Meat Products for Export, dated 13 October 1984, which was amended by Regulation No. 119 of April 20 1992 on the rules and controls for the production of sausages and other preparations, having meat as its raw material.

4. Agriculture and the DR-CAFTA

The following provisions have been reserved by the Dominican Republic at the time of its adherence to the DR-CAFTA and apply regardless of any contrary provision in the Treaty: “Only companies incorporated under the laws of the Dominican Republic may own and operate General Warehouses. Coffee for export shall be packed in bags of domestic manufacturing. Only the Price Stabilization Institute (INESPRE) may distribute sugar produced in the country. Only the Board of Directors of the Salt may distribute grain sea salt produced in the country. Only the Board of Directors of the Salt may distribute grain sea salt produced in the country”. Law No. 832 on Agricultural and Livestock Promotion of December 12, 1969, Regulations for the preparation, sorting and transportation of Coffee, No. 7107 of September 18, 1961, Law No. 80 of 28 November 1974, which states that the Price Stabilization Institute (INESPRE) will be the exclusive distributor of local pro-sugar produced for domestic consumption, Law No. 286-98 of July 29 1998 on creation of the Board of Salt as the exclusive distributor of all marine salt produced in the country and its regulations No. 1294-1200 of 13 December 2000.
1. Characteristics of the Sector

a. Brief Description

The pharmaceutical sector in the Dominican Republic is characterized by a significant penetration of international industries, much of which is represented by local distributors who are engaged in the importation and marketing of finished products. In the last ten years the production of drugs by local laboratories has increased, concentrating its activities in the formulation of pharmaceutical specialties. There are also state owned drugstores called *popular drugstores* distributed nationwide.

b. Social and Economical Relevance

Everyone has the right to comprehensive health care. Nonresident aliens in the Dominican Republic are guaranteed this right in the manner prescribed by the laws, international conventions and bilateral agreements on the subject.


The Ministry of Public Health and Social Assistance (MISPAS), through its Directorate General of Drugs, Food and Medical Products (DIGEMAPS), is responsible for the implementation of the regulations in force in the sector. The MISPAS is the rector of the National Health System (SNS), with political capacity to regulate, oversee and coordinate the actions of the various public and private sectors institutions in the compliance with national health policies. International agencies with legal representation in the Dominican Republic and related to the SNS are considered entities of technical and economic assistance.

2. Legal Framework

a. Dominican Constitution

The Constitution of the Republic grants category of fundamental right the right to health, and establishes in its Article 61 that every individual has the right to comprehensive health and that the State must provide the means for the prevention and treatment of all diseases, ensuring access to quality drugs and providing access to those who require medical assistance. It also provides that every individual has the right to social security, the Dominican, having the State to encourage the progressive development of social security to ensure universal access to adequate protection in illness, disability, unemployment and old age.

b. General Health Law No. 42-01 and Supplementary Regulations

i. Object and Scope of Application

The General Health Law No. 42-01, dated March 8, 2001, regulate all actions allowing the Dominican State to implement the right of health of the population. Its provisions are of public order and social interest. This law sanctions with criminal penalties the manufacture, import, export, distribution, storage and / or marketing in any form, of counterfeit, adulterated, expired, relabeled, smuggled without enforcing sanitary registrations drugs, as well as drugs chemically or physically altered.

ii. Relevant Supplementary Regulations

The MISPAS, in coordination with other institutions of the SNS, develops, revises and adapts the regulations necessary for the correct application of Law No. 42-01. These regulations must be submitted to the Executive Power for its knowledge and approval. Decree No. 246-06, dated June 9, 2006, as amended by Decree No. 82-15, dated April 6, 2015, which constitute the Drug Regulation governs the manufacture, processing, quality control, supply, circulation, distribution, marketing, information, import, storage, dispensing, evaluation, registration and donation of drugs and their rational use. The regulation also extends to raw materials and materials used for the preparation, manufacture and packaging of drugs and to all necessary actions to develop the sanitary surveillance of all drugs.

Decree No. 246-06 also regulates pharmaceutical es-
tablishments and their specifications and functions as well as the principles, standards, criteria, requirements and basic exigencies related to safety, efficacy and quality of drugs.

This decree regulates natural and legal persons as to their involvement in industrial, commercial of drugs circulation or their consumption, and that for their professional qualifications and / or job function may manufacture, distribute, handle, guarantee, prescribe, control, dispense or manage them.

Similarly, Decree No. 246-06 grants exclusive competence to the MISPAS if the DIGEMAPS to exercise customs controls on sanitary inspection and sampling at all points of entry of drugs nationwide, to ensure the sanitary and customs entry and exit control of these products.

Meanwhile, the Standard that regulates drug advertising dated June 6, 2012 2 is to regulate the sanitary control of advertising of drugs qualified as promotional during the sanitary control process. Its application covers the activities of advertising to be broadcast nationwide regardless of their origin and the media to be used, and all persons and entities involved in the process.

The abovementioned standard provides that may only be advertised to the general public, medicines whose active ingredients are listed in the in force List of Non-prescription Drugs issued by the MISPAS. It prohibits all types of public advertising of drugs requiring medical or odontology prescriptions.

Furthermore, Decree No. 344-09, dated April 30, 2009, created and integrated the Interagency Commission for the Prevention and Combat of Illegal Drugs, being one of its main functions the development and coordination of agency policies to fight against drug counterfeiting and other illegal practices associated with drugs as well as to know about any complaint by members of the Commission or by third parties, and provide for the investigation and monitoring necessaries to determine what actions to be taken.

Currently, there is a bill to regulate the marketing of generic drugs for the purpose of Effective Access, Active Promotion of Rational Use of Drugs and Consumer Protection in the Dominican Republic, which is under evaluation of the National Congress.

This bill aims at regulating the marketing of generic drugs in order to promote effective access, rational drug use and consumer protection. Designates MISPAS, as the entity responsible for implementing same, which, in addition to defining the list of generic pharmaceuti-
cal specialties, should ensure the manufacture, quality control, registration, labeling, prescribing and dispensing and sanitary surveillance thereof.

iii. Regulation of Activities and Establishments

The MISPAS, through its DIGEMAPS authorizes or rejects the installation of public and private health care facilities nationwide, regulates and periodically supervises their operation. It pertains to the MISPAS the sanitary control of the process, import and export, evaluation and registration, control of the promotion and advertising of drugs.

Only drugs previously registered with the DIGEMAPS may be imported, exported, developed, produced, assembled, packaged, preserved, stored, transported, distributed, sold and marketed nationwide.

Law No. 50-88 on Drugs and Controlled Substances and its amendments

The production of raw materials, import, processing, handling, transport, trade in any manner, the prescription, supply, possession and use, as well as any other act or activity related to controlled substances, are subject to the provisions of the 1961 Single Convention on Controlled Substances, ratified by Resolution No. 294 of the National Congress of April 4, 1972, as amended, and Law No. 50-88 on Drugs and Controlled Substances of the Dominican Republic, of May 30, 1988, as amended.

Production, manufacturing, refining, processing, extraction and preparation or any other handling operations of the substances referred to in Law No. 50-88 are subject to authorization and supervision by MISPAS and the National Drug Control Directorate (DNCD).

d. Free Trade Agreement between Dominican Republic, Central America and the United States (DR-CAFTA)

Law No. 424-06, on Implementation of the DR-CAFTA, introduced some amendments to Law No. 20-00 on Industrial Property, dated May 8, 2000, that have an impact on the approval process of drugs marketing. It is established a five years for the protection of data on safety and efficacy of a new pharmaceutical product, and provisions for the entailment between inventions patents and sanitary records.

In accordance with Article 181 of Law No. 20-00 on Industrial Property, as amended by Law No. 424-06, when DIGEMAPS as a condition for approving the marketing of a new pharmaceutical product requires or allows the submission of non disclosed information on its safety and efficacy, will not allow third parties not having the consent of the person providing the information to market a product based on (i) the information or (ii) the approval granted to the person who submitted the information, for a period of 5 years as from the date of approval of the product in the country.

The MISPAS also has an obligation to implement measures to prevent others from marketing a pharmaceutical product protected by patent, except with the consent of the titular of the patent. The MISPAS shall inform the owner of the patent on the application and the identity of any third party requesting approval to enter into the Dominican market during the term of the patent.

A la fecha no han sido dictados los reglamentos o normativas tendentes a regular los procedimientos para la protección de los datos de prueba o la vinculación de patentes. Asimismo, hasta finales del año 2014 han sido aprobadas y están siendo procesadas las solicitudes de datos de prueba sometidas, así como también está siendo registrada la vinculación de patentes.

3. Approval Procedure of Activities of Pharmaceutical Establishments

Are considered as pharmaceutical establishments the pharmaceuticals and pharmaceutical chemicals industrial laboratories, drug stores or distributors and pharmacies. They shall have the status of health facilities and shall be characterized by their manufacture, distribution or sale of pharmaceutical products. Pharmaceutical establishments must meet the minimum conditions laid down in Decree No. 1138-1103, dated December 23, 2003, which constitutes the Enabling Regulations for Establishments and Health Services.

Pharmaceutical establishments, once approved and registered, will obtain the “Certificate of Sanitary Registration” of the property with its code, which is equivalent to an authorization for opening and operation. This authorization is granted for a period of five years, renewable.

4 Approval Procedure for Product Marketing

a. Requirements for Obtaining Sanitary Registration

The marketing authorization or sanitary registration of drugs shall be made through the evaluation and registration conferred by the DIGEMAPS, in accordance with in force legal and administrative requirements and procedures.

As provisioned in Decree No. 246-06, applications for Sanitary Registration of Products must be submitted to the DIGEMAPS in Spanish and with data in decimal metric system, both in written and electronic format. They must have the endorsement of the titular of an approved pharmaceutical establishment for the proce-
dure and of the technical director of said establishment. Every application shall be accompanied by the documents, samples and information required by the in force regulations.

Medications may be appointed by the name or brand issued by the National Office of Industrial Property (ONAPI) or its international nonproprietary name in the Spanish language. The DIGEMAPS does not admit brands that allude to the therapeutic activity of the product, which can mislead as to their properties and uses or be confused with previously registered products.

In all cases must be indicated the pharmaceutical establishment to be responsible for the distribution and marketing of drugs nationwide.

Currently there is a bill for regulating the Register of Biologics, Biotechnologist and Biosimilar Drugs for human use in the Dominican Republic, re-introduced to Congress last April 22, 2015, through legislative initiative No. 07788-2010-2016-CD, which is under evaluation by the Chamber of Deputies.

It establishes a regulatory framework for the registration and licensing of biological, biotechnological and biosimilar products. Designates the MISPAS, through the DIGEMAPS, as the entity responsible for evaluating and approving applications for marketing approval or sanitary registration of such drugs. This does not preclude the application of existing rules and regulations for drug registration, provided by Decree No. 246-06, registration of biological, biotechnological and biosimilar medicines. Instead, it establishes additional requirements to those already provided for by said Decree.

b. Process of obtaining Sanitary Registrations

The DIGEMAPS receives applications and provides proof of receipt. During the evaluation procedure, the DIGEMAPS reviews the file and submits it to the Technical Evaluation Committee (CTE) and the Advisory Committee for Medicinal Products. Also, product samples are sent to the Department of National Drug Analysis of the National Laboratory to perform the chemical, physical and microbiological analyzes applicable to each pharmaceutical product. The authorization of a sanitary registration of a drug is subject to that the application meets the conditions set by Law No. 42-01, Decree No. 246-06 and other applicable regulations. Upon approval of the application for registration, the DIGEMAPS assigns to each pharmaceutical specialty a registration code, contained in its database, and a national code to each pharmaceutical presentation. The sanitary registration authorizing the marketing of a drug is effective for a period of five years, renewable.

3 MISPAS Certification of October 14, 2014
1. Investment Insurance Agencies

The Dominican Republic has entered into agreements with international agencies which offer coverage for foreign investments against political and/or commercial risks, namely with the Multilateral Investment Guarantee Agency (MIGA) and with the Overseas Private Investment Corporation (OPIC).

a. The Multilateral Investment Guarantee Agency (MIGA)

MIGA is a legally and financially independent institution for cooperation formed by the World Bank in 1988. The Dominican Republic became an official member of MIGA in 1996. This agency is charged with:

- Issuing guarantees to investors against losses arising out of political risks;
- Providing technical assistance to countries to publicize information about investment opportunities;
- Carrying on complementary activities to promote investments in and among developing countries which are members of the organization;
- Taking whatever other measures within the scope of its functions as are pertinent to achieve these goals.

MIGA makes available two guaranty programs: (i) its principal program described as "Ordinary"; and (ii) its Small Investments Program.

i. The Ordinary Program

The Ordinary Guaranty Program has as its objective to facilitate the flow of private capital into developing countries for productive purposes, and to this end it offers insurance policies to qualifying investors.

(1) Risks Covered under the Policies

MIGA insures investors in member countries which it classifies as "developing" against the following risks:

- Inconvertibility of Currency and Restrictions on Money Transfers. This coverage is against losses occasioned by the impossibility of converting local currency in the form of capital or arising from interest, loan principal, profits, royalties and other assets, into foreign currency for the purpose of transfer out of the country.
- Expropriation: This coverage is against losses arising from measures taken by the local Government, the effect of which is to deprive the beneficiary of the insurance policy of ownership or control of his investment or in any way to limit his right to use or enjoy it. There is also coverage for partial expropriation, such as the confiscation of funds or of tangible assets.
- War and Civil Strife: This coverage protects against losses arising from the destruction or disappearance of tangible structures or damage caused to such structures through war or civil strife in the local country resulting from revolution, insurrection, coup d’etat, sabotage or terrorism.
- Breach of Contract: This coverage protects against losses resulting from the breach by the local government of an agreement with the investor.
- Non-Payment of Sovereign Financial Obligations: This coverage is against losses resulting from the failure on the part of the local Government to pay when due an unconditional debt or guaranty given in favor of a project which qualifies under the normal MIGA guidelines.

(2) Insurable Investments

Within the Ordinary Guaranty Program, investments, including but not limited to those listed below, are susceptible of being insured ("Insurable Investments"): New investments into the developing countries; Investments in the expansion, modernization or financial restructuring of existing projects; Asset acquisitions involving privatization of State enterprises; Foreign Investments; Loans by commercial banks; Technical assistance agreements, management agreements, concessions or licensing contracts; Investments in the financial sector of the developing country, which are aimed at providing funds for small and medium-size enterprises.
(3) Insurable Investors
To be insurable, investors must:
- Be nationals of a country which is a member of MIGA.
- Be nationals of the country receiving the investment, under certain conditions.
- Be companies formed in, or whose main offices are located in, a member country or the majority of whose stock is held by nationals of such countries.
- Be State-owned enterprises, provided they operate along commercial lines.

(4) Terms and Conditions
MIGA normally imposes the following terms and conditions:
- It sets the premiums for its guaranties depending on the country receiving the investment and the risks of the project.
- It covers a period of up to 15 years and possibly up to 20, if the project requires such a long period.
- MIGA cannot terminate the guaranty policy so long as the beneficiary complies with his obligations toward MIGA, but the beneficiary can reduce or cancel the coverage at the expiration of any one of the installments beginning after the third year.
- Investors can select any combination of the risks covered by MIGA.
- MIGA covers up to 90% of an equity investment and up to 95% of a financing project.
- It can insure up to US$180 million. In case a particular project exceeds MIGA's capacity, it can reinsure a part of the risk under certain conditions.

(2) Insurable Investments under the PSI
The insurable investments under the PSI are the same as those for new small and medium-size investments and for small or medium-size enterprises already existing in the developing country. To be considered a small or medium-size enterprise, the project enterprise (i) must employ not more than three hundred workers; (ii) its total asset value must not exceed US$15 million; and (iii) its total annual sales must not exceed US$15 million.

Furthermore, in order to satisfy the objective of MIGA to promote economic development, the investment project (i) must be financially and economically viable; (ii) must be environmentally friendly; and (iii) must be consistent with the labor laws and the development objectives of the developing country.

(3) Insurable Investors in Small or Medium-Size Enterprises
To be insurable, a small or medium-size investor (i) must be a national of a member country of MIGA or (ii) must be a company formed or having its head office in a member country or be majority owed by nationals of a member country.

There are no restrictions on the amount of investment in a small or medium-size enterprise, but to be considered as such, the investor must (i) have no more than 375 employees; (ii) have either a) assets valued at no more than US$50 million, or b) annual sales not exceeding US$100 million.

(4) Terms and Conditions
Under the Program for small or medium-size investments, MIGA offers the following terms and conditions:
- The guaranties must have a maximum duration of ten years and a minimum of three years, with the possibility of an extension at the discretion of MIGA for an additional five years.
- The maximum amount of the guaranty is of US$5.0 million, although the investment may in fact be larger.
- There is no requirement of a minimum amount of guaranty.
- The guaranty covers up to 90% of equity capital and up to 95% of financing in the project.
- Investors who require greater coverage can apply for a policy in MIGA's Ordinary Guaranty Program.

iii. Resolution of Disputes
As an agency of the World Bank, MIGA routinely offers protection against Governmental action which could be prejudicial to insured investments and helps to resolve potential disputes to the satisfaction of both parties, thereby increasing the investor's confidence and promoting direct foreign investment in the developing country.

b. Overseas Private Investment Corporation (OPIC)
OPIC is an agency of the United States Government to which the Dominican Republic has been affiliated since 1962.

ii. Investment Insurance
OPIC assists United States companies in their competition for emerging markets and prepares them for the challenges faced by foreign investors who cannot obtain investment guaranty insurance from a private company.

c. Agreements for the Reciprocal Promotion and Protection of Investments
These are international treaties relating to foreign investments on the basis of reciprocity, which offer legal protections to investors and at the same time promote the economic development of the Dominican Republic by defining the treatment which the foreign investor will receive when placing his capital in the country.

OPIC assists United States companies in their competition for emerging markets and prepares them for the challenges faced by foreign investors who cannot obtain investment guaranty insurance from a private company.

The Dominican Republic has signed such agreements with Spain, France, the Republic of China, Chile, Argentina, Switzerland, Panama, Finland, the Netherlands, Italy, South Korea and Morocco.

d. Agreements for the Avoidance of Double TAXATION
These are bilateral agreements to avoid the investor being submitted to income taxes both in his home country and in the country in which he carries on his activities. Canada is the only country with which the Dominican Republic has signed a treaty for the avoidance of double TAXATION.

The PSI Investment Guarantee Agreement covers three of the five types of risks covered under the Ordinary Guaranty Agreement: (i) Non-convertibility of currency and restrictions on the transfer of funds, (ii) Expropriation, and (iii) War and Civil Strife.
2. International Organizations Providing Project Financing

The Dominican Republic qualifies for investment financing programs offered by international agencies to developing countries, such as the World Bank, the Inter-American Development Bank and the European Investment Bank.

a. International Entities and agencies

i. The World Bank

The World Bank is a specialized agency of the United Nations whose main objectives are the following:

• To contribute to the reconstruction and development of member countries by facilitating the flow of capital into these countries for productive purposes.

• To promote foreign investment and, when the invested amounts are deemed insufficient, to complement them by means of loans or capital investments made with the bank’s own assets.

• To stimulate international commerce and to improve the balance of payments of member countries by channeling international investments toward the development of productive resources in these countries.

ii. The Inter-American Development Bank (IDB)

The IDB is the largest and oldest of the regional development agencies. According to its Charter, its principal functions are:

• To devote its own capital, which it raises in the financial markets and through member contributions, to the financing of developmental projects in member countries.

• To complement private investment when private capital is not available under reasonable terms and conditions.

• To provide technical assistance for the preparation, financing and execution of development programs.

At present, its financing priorities are aimed at social projects which reduce poverty, which modernize the infrastructure or have a favorable effect on the environment.

iii. The European Investment Bank (EIB)

The EIB is an institution of the European Union charged with the task of channeling resources to the Atlantic, Pacific and Caribbean (APC) countries signatories to the Cotonou Agreement.

The EIB grants loans, both to the public sector and to the private sector, for the execution of projects by small and medium-size enterprises in the APC countries. In extending loans, the EIB gives preference to sectors such as tourism, industry, agriculture and power generation. To receive such a loan, the investor-applicant must offer first-rate guarantees or have the guaranty of the State in which the project will be carried out.

The financing usually covers 50% of the total cost of the project and is generally subject to the following conditions:

• The loans are granted for a medium term from 7 to 13 years for industrial projects and for a long term (20 years or more) for infrastructure projects.

• The repayment of principal must commence at the conclusion of construction of the project.

• Financing conditions and interest terms vary depending on the type of project, the nationality of the investor and the economic sector in which the investment will be made.

• Interest rates vary between 3% and 6% per annum.

iv. Overseas Private Investment Corporation (OPIC)

OPIC provides financing through direct loans and loan guarantees for private medium-term and long-term investments. The loans vary in size between US$100,000 and US$250 million and can be granted for a specific project or as a corporate loan.

(a) Investment Funds

OPIC has sponsored the establishment of private investment funds to facilitate the flow of capital and other resources to new enterprises. These funds are focused on a region or a certain economic activity and provide long-term capital aimed at stimulating private economic activity in developing countries, to open new markets for American exports and opportunities for American companies.
LEGAL FRAMEWORK FOR INVESTMENTS

CAPÍTULO IV

A. Types of business organization
   *Novelty*
B. Taxation
C. Labor law
D. Social security
E. Special benefits for pensioned or retired
F. Persons receiving income from abroad
G. Industrial property
H. Copyright and related rights
I. Legislation on electronic commerce, documents and digital signatures
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CORPORATE SOCIAL RESPONSIBILITY IS PART OF OUR ORGANIZATIONAL CULTURE
In the Dominican Republic, company law has undergone recent and important changes. Under Law No. 479-08, as amended by Law No. 31-11, business organizations can take various forms, among which an interested business person can make a selection depending on the kind of business he wishes to undertake. There are three types of companies: Corporations (“sociedadanónima or S.A.”), Simplified corporations (“sociedadanónimasimplificada or S.A.S.”) and Limited Liability Companies (“sociedad de responsabilidad limitada or S.R.L.”); and there are also three types of partnerships: ordinary partnerships (“sociedad en nombrecolectivo”), limited partnerships (“sociedad en comandita”) and limited partnerships with the power to issue negotiable shares (“sociedad en comanditaporacciones”). In practice, ordinary partnerships are seldom encountered, and the other types of partnerships are practically non-existent. Partnerships will be omitted in this translation.

In addition to these two laws, Decree No. 408-10 of 12 August 2010 provides rules for consortiums and groups with a common economic interest and gives guidance for consolidations, mergers and spin-offs in light of the new company law. All companies (in Spanish “sociedades”), must have a minimum of two shareholders, but a company is not automatically void if, through transfer or inheritance, all of its shares end up in the hands of one person. Law 479-08 establishes the procedures applicable in such cases for the company to be normalized, which vary depending on the type of company involved.

The new law also opens up the possibility for a businessperson to enjoy limited liability without forming a company. To that end, he must form a Limited Proprietorship (“empresa individual de responsabilidadlimitada or EIRL”).

The Law also mentions informal joint ventures (“sociedadesaccidentales o en participación”) which lack legal personality.

All business entities, including EIRL’s, are required to provide full identification in all contracts, invoices, checks, letterheads, etc., by mentioning their name, address, Mercantile Registration number and Taxpayer Registration number.

1. The Company Law and its Amendment

Law No. 479-08 of 11 December 2008 constituted a complete revision of the rules on companies and partnerships contained in the Code of Commerce. In light of comments to the law by members of the business and legal community, that law was extensively amended by Law No. 31-11 of 10 February 2011.

Law No. 479-09, amended by Law 31-11, established a deadline for August 9, 2011 for corporations or limited liability companies established before its enactment to adjust their status to the new requirements. After this deadline, the Chambers of Commerce and Production in charge of the Mercantile Registry may not accept any documentation for registration purposes from companies constituted before Law 479-09 and have failed to adapt to the new requisites.

The Federation of Chambers of Commerce of the Dominican Republic (“FEDOCAMARAS”) issued a uniform instruction (the “Instruction for Adaptation and Transformation”) with the criteria and parameters for the process of adaptation and transformation under Law No. 479 – 08.

a. Introductory Rules Relating to companies

The Law, as amended, contains general principles applicable to all types of companies.

i. Articles

The rules governing the operations of a company are contained in one document, called “estatutos” (here translated as “articles”). By-laws separate from the articles and which can be easily amended by a resolution of the Board of Directors are not contemplated in the law.

ii. Registration

Companies must register in two places: at the Mercantile Registry kept by the Chamber of Commerce and Production and at the National Tax Registry. At the time of formation, a fee must be paid to the Mercantile Registry, as well as a tax to the Tax Department based on the amount of capital, both of which vary depending on the amount of authorized capital. Thereafter, there is no annual maintenance or franchise fee but the Mercantile Registry Certificate must be renewed every two (2) years, and the applicable fee paid.

iii. Capital

Limited liability companies have a capital which is equal
to the sum of the par values of the outstanding shares. In the case of regular corporations and simplified corporations, there are two types of capital: (i) the paid-in capital is the sum of the par values of the outstanding shares; and (ii) the authorized capital is the upper limit that the paid-in capital can reach through the issuance of shares. Increasing the authorized capital is an amendment of the articles and requires the holding of an extraordinary shareholders’ meeting and the payment of tax based on the amount of the increase.

The law prescribes a minimum amount of capital or, in the case of a corporation and simplified corporation, of authorized capital, and adds that at least 10% of the authorized capital must be paid in. The minimum of authorized capital set forth in the Law is subject to indexation every 3 years by decision of the Minister of Industry and Commerce, provided that during that time there has been an increase in the consumer price index of more than 50%. This indexation is not applicable to existing companies, except in the case of voluntary increase in the capital. An important innovation is the possibility of stating the capital of a company and the par value of its shares in a foreign currency. For a foreign currency company to qualify for formation, its authorized and paid-in capital must be such that, if converted into Pesos, they would be equal to or exceed the minimum amount required by law at the exchange rate published by the Central Bank.

It is not possible to issue no-par-value shares. The capital is a reflection of the amount actually invested in the company and the par value of its shares in a foreign currency. It is not possible to issue no-par-value shares. The capital is a reflection of the amount actually invested in the company and the par value of its shares in a foreign currency. It is not possible to issue no-par-value shares. The capital is a reflection of the amount actually invested in the company and the par value of its shares in a foreign currency.

iv. Shares

All companies, including limited liability companies, can issue common shares and preferred shares, except that the shares or membership interests (“cuotas”) of a limited liability company are non-negotiable. Preferred shares can: (i) give the right to a fixed dividend, (ii) give a right to a fixed percentage of profits, (iii) in addition to a fixed dividend, give the right to a fixed share in profits, and (iv) others. Any one of these types of preferred shares can also give the right to priority in respect of capital in case of liquidation. In case of corporations and simplified corporations, preferred shares can be non-voting, except that, in cases involving a change in their rights, transformation, issuing of debentures or dissolution, the preferred shareholders must hold a separate or “special” meeting to approve the measure.

b. Adaptations and Transformations

Companies existing under the Code of Commerce are required to adapt their articles (“estatutos”) to the new rules. The deadline for that adjustment was extended to 9 August 2011. Entities that were in the form of ordinary corporations can choose among the three company types now available. To assist in this endeavor and by the powers vested upon them in accordance to Law 479-08, the Federation of Chambers of Commerce has published a pamphlet outlining the steps required to be taken. From a tax perspective, the Internal Tax Department (DGI) has also provided guidelines for the adaptation of old-type corporations into one of the new-type companies and the increases in capital which are required in some cases, as well as the penalties for the failure to abide by the provisions of such guidelines.

Transformation from one type of company to another will be possible without need for a dissolution followed by a new formation. A transformation requires the preparation of a special balance sheet and a report prepared by the Comptroller or “comisario” (for companies having an officer), the calling of an extraordinary shareholders’ meeting in which shareholders representing more than 50% of the capital must vote in favor of the resolution, and the publication of an excerpt and notice of the transformation at a national newspaper at least 15 days prior to such meeting. At the same meeting, new articles must be approved, following the guidelines of the type of company to be adopted.

Dissenting shareholders to the transformation of the company into another legal type of business organization, or that are absent in the shareholders meeting that decides on the transformation, and do not adhere to the same within fifteen days, would be automatically separated from the company, and their shares in the capital would be bought back, at the price and in accordance to the rules set forth by Law 479-08. The remaining shareholders retain their rights in the new company, including their rights as preferred shareholders. Although the law only provides for transformation of a Limited Proprietorship into a company, but not vice versa, and thus is unclear on the point, the prevailing view, shared by the Mercantile Registry and tax authorities as of this date, is that a businessman who beneficially owned and controlled an old-type corporation with the use of nominee stockholders, can now adopt the form of a Limited Proprietorship (“empresa individual de responsabilidad limitada”).

c. Formation of a Company

Business organizations, with the exception of informal joint ventures, come into existence through a written document, which may or may not be notarized, and which must be recorded at the Mercantile Registry. All shares issued to shareholders at the time of formation must be paid in full at that time.

All business entities, including Limited Proprietorships, but with the exception of informal joint ventures, enjoy legal personality from the moment they are registered at the Mercantile Registry. The application for registration must be addressed to the Chamber of Commerce of the domicile of the entity within the month following the signing of the articles or of the holding of the organizational meeting or of the document evidencing the creation of the Limited Proprietorship, as the case may be.

Once the registration process has been completed, the Department of Internal TAXATION must be informed of the intention to commence operations and a taxpayer registration number (RNC) must be requested.

Although registration of the business name as a trade name is not legally required, it is customary and advisable to complete this process under the Industrial Property Law No. 20-00 before applying for registration at the Mercantile Registry and at the Tax Department, to avoid a conflict with the name of another entity.

Informal joint ventures ("sociiedades accidentales o en participación") are not subject to registration at the Mercantile Registry and their existence can be proved by written or oral evidence.

d. Issuance of Shares

Before shares can be issued, they must be fully paid-in. Share subscriptions, i.e. promises to make a capital contribution in the future, are useful as the company grows and requires added capital after its formation. Failure of a shareholder to live up to his subscription at its due date or when called upon by the company renders him liable in damages and exposes him to having his existing share holdings reduced or to being entirely excluded from the company.

When assets are contributed in kind, an appraisal is required. A qualified professional must be appointed for this purpose.

Corporations and simplified corporations are allowed to repurchase or redeem their shares, so long as they do not impair their capital. Redeemed shares can be cancelled, in which case the capital must be reduced. They can also be kept dormant in the company treasury, in which case they are excluded in the computation of dividends and the company cannot vote them at shareholders meetings.

The law provides that shares representing no more than 10% of the company’s paid in capital can be kept in the company’s treasury.

e. Issuance of Debentures or Bonds

Corporations and simplified corporations can issue debentures (unsecured debt obligations) or bonds (obligations secured by mortgages) in a private transaction. Only ordinary corporations (S.A.) can issue debentures or bonds to the public if they are registered at the Stock Market. Convertible debentures, which give the right to the holder to exchange their debentures for a given number of shares of common stock, if he sees that the company is profitable and secure, and are not expressly contemplated in the law, but also appear possible, provided certain conditions are met.

f. Conduct of Shareholders’ Meetings

The call to a shareholders’ meeting must be made 15 days in advance by a publication in a leading newspaper, written notice delivered to the shareholder’s registered address or by e-mail, which contains the agenda of points to be discussed. A call can always be waived if all shareholders are present at the meeting. Presence need not be physical, but if there is no physical meeting, all shareholders must join in a conference call, video conference or other form of simultaneous remote communication and can give their vote by e-mail or by fax. Also, shareholders may adopt unanimous written resolutions. In the case of limited
liability companies and simplified stock corporations, the law contemplates the possibility for a dissolution to also be adopted without a meeting, if a draft of the same is sent to each shareholder and returned with his approval within 15 days (“written consultation”).

In case of corporations, there are two types of shareholder’s meetings: (i) Regular meetings ("asamblea ordinaria"), in which decisions are taken by simple majority of shareholders present or represented by proxy. Regular annual meetings approve the financial statements, decide upon the payment of a dividend and appoint the officers of the company for the succeeding year or years. And (ii) there are extraordinary meetings, where a 2/3 majority of the shareholders present or represented is required for resolutions and where decisions are made to amend the articles, including increasing the authorized capital, transforming the company or dissolving it. In all types of companies, regular meetings must be held at least once a year, within the next 120 days from the closing of the corporate year.

g. Management

Corporations are managed by one or more directors, who may or may not receive a salary, and who need not be shareholders. The appointment of the directors of a corporation or (in the case of a Limited Liability Company) its Manager must be recorded at the Mercantile Registry. The President is the chief executive officer and has unrestricted powers of management, even in cases where he acts ultra vires, unless the third party with whom he is dealing is aware of that fact. Registration of his powers at the Mercantile Registry does not give constructive notice of the limits of his powers to third parties with whom he is dealing. If he exceeds his powers or if, through lack of proper care or good business judgment, he causes damage to the company, he is liable to the company in a direct action brought on behalf of the company or in a derivative action brought by a shareholder. He is also liable to third parties for damage he may have caused them in the conduct of the business.

i. Avoiding Conflicts of Interest

According to Law No. 479-08, persons in managerial positions are required to keep business records confidential. They have a duty of loyalty toward shareholders, and must act like reasonable men in the conduct of the business. They are prohibited from engaging in activities which involve competition with the business of the company and from having any sort of dealings with the company except with the approval of competent corporate body. Such approval is also required, on pain of nullity of the transaction, for the executive to borrow money or other assets from the company, to use the company’s name to secure a loan, to use the services of the company for his own benefit or for that of members of his family or for the benefit of another business in which he has an interest, or personally to take advantage of a business opportunity which he discovers through his position in the company.

ii. Records of Operations, Financial Statements and Supporting Documents

Company activities must be registered in accounting records according to generally accepted accounting principles as applied in the Dominican Republic. These records and their supporting documents must be kept for a period of ten years.

Any company which borrows from an accredited lending institution or which issues debentures or bonds or which has annual gross income equivalent to more than 100 minimum wages of the Public Sector, must have its financial statements audited at least once a year.

In addition to their accounting records, business companies must also keep a register of shareholders containing their names and addresses and the number of shares held by each one, in certificate or electronic form, as well as a minute book in which the minutes of shareholders’ meetings or board meetings are kept in chronological order.

iii. Access to Financial Information and Supervision

Each shareholder or debentureholder who holds 5% or more of the company’s capital has the right to be informed at all times of the economic condition and accounts of the company, in addition to any other rights the articles may prescribe on the subject.

Regular corporations (S.A.) are required to have one or more Comptrollers of Accounts ("comisario de cuentas") appointed by the shareholders’ meeting. For limited liability companies the appointment of a Comptroller is optional, unless demanded by shareholders holding 10% or more of the outstanding shares. Likewise, for simplified corporations the appointment of a Comptroller is optional, unless the company issues bonds or debentures, in which case appointment is mandatory.

iv. Annual Report on Management, Distribution of Dividends and Legal Reserve

At the closing of each fiscal year the manager or directors must approve the financial statements and prepare a report on the business undertaken by the company during the preceding year. In the case of corporations, the President or chief executive officer and the chief financial officer, and in the case of a limited liability company, the manager or managers, as the case may be, must sign a sworn statement in which he assumes responsibility for the accuracy of the financial statements and the business report.

After the approval of the accounts of the fiscal year, the Regular Annual Shareholders’ Meeting can decide upon the distribution of a dividend. The law allows for advance distributions of dividends to be made, provided certain conditions set forth in the law are met.

Corporations and limited liability companies must set aside a reserve of 5% of their annual profits, as reflected in their financial statements, until this so-called legal reserve becomes equal to 10% of the capital. The legal reserve is in addition to any reserve the company may decide to create to guard against contingencies or to make room for expansion.

v. Removing the Corporate Veil

The Law opens up the possibility of removing the corporate veil if the company is used for fraudulent purposes, and is silent on the effects of mingling company assets with private property. Disregarding the corporate veil, i.e. the separate legal existence of the company, allows corporate creditors to reach the personal assets of the shareholder(s).

As stated above, the concentration of all shares of a company in the hands of one shareholder is not a ground for setting aside the corporate veil.

2. Types of Companies

a. Limited Liability Companies ("Sociedades de Responsabilidad Limitada" or S.R.L.)

This type of company is characterized in three respects: minimum capital, transfer of shares and management.

i. Minimum Capital

At the time of formation, an S.R.L. must have a minimum capital of RD$100,000 and the shares must have a par value of at least RD$100. The full amount of the minimum capital must be paid in at the time of formation.

ii. Transfer of Shares ("cuotas")

The shares of an S.R.L. are not negotiable. Unless the articles contain restrictions to that effect, shares can be freely transferred (i) to one’s children or parents, (ii) to one’s former spouse as a part of the liquidation of the community property, and (iii) by way of succession to one’s heirs and presumably also to one’s legatees; (iv) to another shareholder. To transfer shares to an outsider, the consent of the holders of 3/4 of the other shares is required. If the other holders refuse to consent, they are required to purchase the shares at a price mutually agreed upon or determined by an expert appointed by the parties or by the court. Alternatively, the company can redeem the shares.

An S.R.L. can have no more than 50 shareholders. If the number of shareholders exceeds 50, the company has 2 years in which to reduce the number of shareholders or transform into another type of company. Non compliance gives grounds to dissolution of the company.

iii. Management

The person in charge of running the company has the title of Manager. When there are several managers, the articles or the shareholders’ meeting can assign a specific function to each one. The law also provides for the possibility of appointing a board of managers if the articles so provide.

b. Corporations ("Sociedades Anónimas or S.A.")

Under Law No. 479-08, corporations are conceived as vehicles for large business enterprises and their management, internal supervision and general dealings are more complex and regulated in more detail than those of other business entities.

Only regular corporations can issue shares to the public. Those that take advantage of this possibility are subject to...
the rules of the Stock Market and to the regulations of the Superintendency of Securities.

i. Minimum Capital
At the time of formation, corporations are required to have an authorized capital of not less than RD$30,000,000, of which 10% must be fully paid in.

ii. Transfer of Shares
There is no upper limit to the number of shares that can be issued by a corporation. The shares of a corporation are negotiable. Shares can be either in certificate form or in electronic form. Shares in certificate form can be either (i) registered at the office of the Company in the name of the holder (hence their designation in Spanish as “acciones nominativas”) or (ii) be issued to the order of the first holder, who can transfer them by means of an endorsement, or (iii) be issued to bearer, in which case they can be transferred by delivery. Order shares and bearer shares are seldom encountered and the articles of the corporation can prohibit their issuance.

iii. Management
The management of a corporation is in the hands of a board of directors consisting of at least 3 members. The chairman of the board is also the President of the Corporation. He is presumed also to be its chief executive officer with full powers to bind the corporation. The members of the board and the President are usually elected annually by the regular annual shareholders’ meeting, but the articles can provide that their term can last up to 6 years. The call for a meeting can be made by the President or by half of the members, in accordance with the requirements established by Law 479-08 and its amendments as well as the articles. Unless the articles provide for a greater advance notice, the call must be given so that at least one full business day transpires before the meeting. The meeting can take place either by physical presence of the members or by conference call and the votes can be given by e-mail or by fax. Also, the members may adopt an unanimous written resolution.

iv. Supervision
Corporations are required to have one or more Comptrollers of Accounts, elected every two years by the regular annual shareholders’ meeting. Their function is to review the accounts of the company and to make a report to the shareholders on the conduct of the business and the accuracy of the financial statements. To qualify as a Comptroller, it is necessary to have a university degree in business, economics, accounting or finance with at least 3 years of experience in the profession. The function of a Comptroller overlaps with that of the outside auditors.

c. Simplified Corporations (“Sociedades Anónimas Simplificadas de S.A.S.”)
Simplified corporations created by Law 479-08, as amended by Law 31-11, are more flexible than regular corporations, namely because of lower capital requirements and because their organization is more flexible. Simplified corporations cannot make public securities offerings. They differ from regular corporations in various respects:

i. Capital
The minimum authorized capital of a simplified corporation is RD$3,000,000, of which at least 1/10th must be paid in at the time of formation.

ii. Shares
Simplified corporations are allowed to issue only registered shares. The shares are freely negotiable unless the articles impose restrictions, such as a right of first refusal in favor of the other shareholders or of the corporation. There is no minimum par value for each share, as is the case for corporations.

iii. Management
The company need not have a board of directors. Full management authority can be entrusted to the President or Managing Director.

iv. Supervision
The use of a Comptroller of Accounts is optional, unless the company issues bonds or debentures, placed privately, in which case appointment is mandatory.

v. Shareholders’ Meetings
There need be only one type of shareholders’ meeting, which has the power to handle not only the declaration of an annual dividend, but also to amend the articles, increase the authorized capital, transform or dissolve the company. The power to declare a dividend cannot be delegated to the President or Managing Director.

The law does not prescribe rules for the functioning of the shareholders’ meeting which must be set forth in the articles, but specifies that on a supplemenary fashion, and as applicable, the rules concerning shareholders meeting applicable to corporations, shall be applicable to simplified corporations. However, the law does prescribe that decisions concerning capital increase or reduction, transformation of the company, appointment of a comptroller (“comisario de cuentas”), approval of annual accounts and dividend distribution must always be adopted by the shareholders.

Resolutions may be passed either in a shareholders meeting, which may be physical or not, by written unanimous resolutions or by a draft of resolution circulated among the shareholders.

d. Silent Joint Ventures (“Sociedades Accidentales o en Participación”)
These are not organizations, but silent partnerships in which a businessman takes an interest in one or several business opportunities. His interest is shared by another person or persons who also invest funds, but the dealings are carried out by the active partner in his own name and using his own credit. At the conclusion of the venture, the active partner must render accounts to the others and share the resulting profits or losses with them in the agreed proportion. Toward third parties, the active partner is the owner of the business and solely liable on the resulting debts. However, in case there should be two or more businessmen taking an active part in the venture, they would be jointly and severally liable for the debts of the joint venture, following the rule applicable to ordinary partnerships.

e. Limited Proprietorships (“Empresas Individuales de Responsabilidad Limitada” EIRL)
The law allows a businessman to separate his business assets from his personal or household assets and to attribute legal personality to the former, which constitutes his Limited Proprietorship. The purpose of this form of doing business is to allow a businessman to insulate his home and other personal belongings from the risks of his business without having to form a company. There is no limit to the value of the assets that may be placed in a Limited Proprietorship. The assets of the Proprietorship form a legal entity, which can be sold as such or transformed into a company, if another businessman joins the owner of the Proprietorship. Creditors of the businessman prior to the formation of the Limited Proprietorship can reach his Proprietorship assets, but only on condition that they register their claim at the Mercantile Registry within 3 months of the registration of the Proprietorship. Thereafter, they are restricted to his personal assets.

A Limited Proprietorship is formed by means of a notification, which gives a name to the Proprietorship followed by the letters EIRL, and to which must be attached an inventory listing the assets being invested in the Proprietorship and indicating their value. The bank account of the business must be put in the name of the Proprietorship. The notification document must be filed at the Mercantile Registry within one month of its date. Important assets later invested in the Proprietorship must be added to the filing at the Mercantile Registry. Land acquired by the Proprietorship must also be registered in the name of the Proprietorship at the Office of the Registrar of Titles. Motor vehicles owned by the Proprietorship must be registered in its name and the insurance policy must be assigned to it.

A businessman must be careful in his dealings to specify that he is acting on behalf of his Proprietorship. This he must do by naming the Proprietorship as the party to the transaction, followed by the letters EIRL. If he wishes to shield his personal assets from liability for his business debts, he must avoid mixing the Proprietorship assets with his personal belongings. The law prescribes that he may withdraw profits only after completing his annual accounting. His personal creditors (home mortgagee, credit card issuer, public utility, etc.) cannot seize the assets of the Proprietorship, except for the existence of the separate Proprietorship has no effect on the businessman’s marital regime. Identifiable assets invested in the Proprietorship retain their character as community property or separate property.

While the Proprietorship is functioning, at home the spouse of the Proprietor can incur debts in her capacity as co-manager of the community property. Her creditors can reach her separate property and the personal assets of the community, but they are barred from levying on the assets invested in the Proprietorship. The same would be true of the husband when incurring debts outside the
The Proprietorship is not automatically dissolved at the death of the Proprietor. His heirs take over the business. Temporarily, they would hold the Proprietorship as owners in common. If the heirs wished to continue the business together, they would have to transform it into a company or partnership. Otherwise, they would have to liquidate it, sell it to a third party or one of them would have to buy out the others. For tax purposes, a Limited Proprietorship is treated as a legal entity as far as the Asset Tax and the Income Tax are concerned, but is exempt from the tax on the formation of companies and increases of capital.

3. Establishment of Branches of Foreign Companies

The branches of foreign companies are recognized in the Dominican Republic, assuming the legal existence of the company under the law of its place of formation can be shown. Foreign companies which find it necessary to institute legal proceedings in the Dominican Republic receive national treatment and are exempt from the requirement of posting security for the costs of litigation. A foreign company having a branch in the Dominican Republic, is subject to the requirement of registering at the Mercantile Registry and of obtaining a Taxpayer Number. On the other hand, a foreign company which, without establishing a presence in the country, has one dealing or occasional dealings with Dominican parties or purchases equity in a Dominican company, is exempt from registering at the Mercantile Registry.

For certain activities, such as banking, insurance and domestic air transportation, a foreign company requires a Decree by the Executive authorizing it to establish a domicile in the country. For other regulated activities, such as telecommunications, a foreign investor is required to form a Dominican corporation in order to qualify for a license or concession.

All branches of foreign companies established in the Dominican Republic are under the same obligations as local companies as far as labor matters, Social Security and TAXATION are concerned. They must maintain accounts separate from those of their head offices, so as to permit the determination of their Dominican-source income. This income is treated in the same manner as the income of local companies under Article 279 of the Tax Code (Law No. 11-92 of 16 May 1992, as amended).

4. Joint Ventures and Consortiums

The concept of “joint venture” is a term borrowed from English and not defined in any Dominican statute, although it is well known in practice. As used in the Dominican Republic, it is simply a contract in which two or more enterprises join forces to undertake a business without creating a legal partnership or corporation. The joint venture as such is not a legal person, but each participant retains his or its own personality. The term “joint venture” is also used in a different sense, when two enterprises form a company, in which each one usually holds 50% of the shares, to carry out a specific industrial or commercial activity.

The word “consortium” is defined in ample terms by fiscal regulations, specifically Decree No. 408-10 of 12 August 2010, as the oral or written agreement between two individuals or entities with the purpose of performing a work, rendering a service or supplying certain goods. It is often used in connection with Government contracts awarded by a process of competitive bidding, and usually involves major projects. For such purposes, Article 27 of the Regulations for the Enforcement of Law No. 340-06 on Public Works’ Contracting, as approved by Presidential Decree No. 490-07, defines a “consortium” as a temporary strategic alliance where two or more parties organize themselves, without incorporating a legal entity, for the purposes of participating in a bidding process, and, if awarded the same, undertaking the job. As per the provisions of Law No. 322 dated June 2nd, 1981, any foreign company that wishes to participate in a bidding process of government contracts must “associate itself” with a Dominican company in order to be able to take part in the bidding and undertake the job.

Law 322 of 1981 was incorporated to Law 340-06 of 18 August 2006 as per the provisions of article 79 of Law 340-06.
Novelty

Restructuring and Liquidation of Companies and Individual Traders

1. Introduction

Presently, the Dominican Republic is experiencing a time of great economic, institutional development and legislative renewal, especially aimed at improving commercial relations and encouraging foreign investment. In this heyday and economic turmoil, and after a long stretch of debates and discussions at various levels, has been enacted Law No. 141-15 on Restructuring and Liquidation of Companies and Individuals Traders (hereinafter ‘the Law’). This Law, dated August 19, 2015, shall enter into force eighteen (18) months after its promulgation, in the month of February 2017.

Both the legal community and the Dominican and foreign business sector with influence in the country have welcomed this new legislation. It seeks to renew the treatment system of businesses in situations of financial distress, trying to protect those who may be affected against possible closure of business, primarily, creditors and employees.

The situations of default and liquidation of companies and traders in the Dominican Republic are currently regulated by a bankruptcy proceeding that has fallen behind in its adaptation to modern times. This procedure dates back to the Commercial Code, in force in our country since 1884, and Law No. 4582 of 1956. The bankruptcy procedure laid down in that legislation seeks to liquidate the assets of the company to repay its debts, but does not motivate search for alternative mechanisms that allow the business remedying the situation and keep operating for the benefit of the company, its employees, creditors and the state as a whole.

2. Purpose of Law No. 141-15

Law No. 141-15 on Restructuring and Liquidation of Companies and Individuals Traders aims to protect creditors from the financial difficulties of their debtors, enabling the continuity of debtors businesses through the process of Restructuring. In particular, this legislation seeks that cyclical or temporary liquidity situations do not imply by necessity, the business closure and liquidation of its assets. It is a law of public order and therefore not subject to repeal by agreement or will of individuals.

It is important to highlight that, according to the text of the rule, foreign creditors have the same rights as local ones to participate in the processes established by the Law.

The entry into force of Law No. 141-15 is eagerly awaited by all productive sectors. The American Chamber of Commerce of the Dominican Republic (AMCHAM-DR) has played a leading role throughout the process of seeking consensus in order that the piece of legislation becomes a reality.

Following are indicated the processes introduced by the law and possible scenarios for a Restructuring of liabilities of the business, or otherwise effect the liquidation of its assets.

3. Processes of Law No. 141-15

a. Mandatory Participation of the Courts

One of the essential aspects of Law No. 141-15 is the provision that the judicial courts shall intervene in all processes established therein.
Indeed, Arts. 22 et seq of the Law create the “Restructuring and Liquidation Jurisdiction” which will be composed of Restructuring and Liquidation Courts of First Instance and Restructuring and Liquidation Courts of Appeals.

Particularly, Paragraph IV of Art. 23 provides for the establishment, for the time being, of Restructuring and Liquidation for the National District and the Province of Santiago, delimiting the territorial jurisdiction of each one of them.

Notwithstanding the foregoing, the paragraph of Art. 236 of the Law clarifies that until these courts are created, shall have jurisdiction of the processes of Restructuring and liquidation, the civil and commercial chambers of the Courts of First Instance and The Courts of Appels of the National District and of the Judicial District of Santiago. The Judicial Branch may designate the relevant halls to know about these processes within their respective jurisdictions.

b. Restructuring

It is a process by which is sought the recovery of a debtor company facing a situation of illiquidity or default, in order that it may continue in operation, protecting and facilitating the recovery of claims by creditors and preserving those jobs that the company generates.

Restructuring can be requested by the debtor himself or by one or more creditors, whether domestic or foreign, before the Judge of the Restructuring and Liquidation, provided they have a debt of at least fifty minimum wages and meet at least one of the following assumptions set forth in Article 29 of the Law:

1) When failure occurs for more than 90 days of at least one liquid and enforceable pay-

ment obligation, prior intimation or placing in default;

2) When the debtor’s current liabilities exceed its current assets for a continuous period of more than six months;

3) When there is nonpayment of six install-
ments to the Tax Administration;

4) When there is nonpayment of two con-
secutive salaries to employees (except in cases of authorized suspension);

5) When the administration of the company hides or becomes vacant for a reasonable period;

6) When the closure of the premises of the company is ordered;

7) When the debtor uses fraudulent, decept-
ive practices, among others;

8) When the debtor notifies creditors a stop payment or intention thereof;

9) When there is a process of restructuring, bankruptcy, insolvency or cessation of payments abroad;

10) When there are executory embargoes or foreclosures that affect the total patrimony or more than 50% of it; and

11) When there are judgments or judgment en-
forcement processes that could affect more than 50% of the total assets of the debtor.

After the application is filed with the Court, it must appoint a Verifier which will be responsible for preparing a report in which it shall express its opinion as to whether the restructuring proceeds or not, taking into account the conditions set out in law No. 141-15 and also the situation of the debtor at the time of the application.

If the Court accepts the application for Restructuring, it shall publish its decision on the page of the Judicial Branch and in a national newspaper for 3 consecutive days, and shall also appoint a conciliator, who will be in charge of preparing a Restructuring Plan. This plan will be submitted to the Tribunal for its approval or rejection.

It is important to highlight that, in accordance with Article 54 of the Law, from the time that the Restructuring application is accepted, are suspended: 1) all judicial, administrative and judicial actions against the debtor. 2) enforcement procedures against the debtor; and 3) conducting acts of disposition by the debtor.

During the restructuring process, the debtor remains with the administration of the property, unless the Tribunal decides otherwise at the request of the conciliator.

Similarly, it must be emphasized, in a first order, that the Restructuring Plan must be approved within 120 days from the appointment of the Conciliator. This plan must be approved by the debtor and the majority of creditors involved in the process prior to being submitted to the Tribunal.

If the Restructuring plan is accepted, the parties (creditor, debtor and conciliator) begin its implementation. If the Restructuring Plan is not approved, then the other important process of Law No. 141-15 is open: the liquidation.

The Judicial Liquidation process, therefore, may be initiated at the request of the Verifier, the Conciliator, the debtor itself, of a recognized creditor (except in cases of belated recognition), or by the decision of the majority of creditors (processed through the counsel of creditors).

i. Liquidation Process

To initiate the process, the qualifying parties to request the Judicial Liquidation must deposit their request with the competent court, annexing the relevant documentation, in order to allow the court to verify the existence of reasons that justify or substantiate the initiation of a process of this nature. In turn, the court must receive arguments from any interested party which may contribute to the process, before making its decision.
If proceeds the initiation of the Judicial Liquidation, the Court shall appoint a Liquidator within three (3) working days and shall order the corresponding publication. The compliance with publication and notification to the debtor and creditors constitute the formal initiation of the process. Art. 152 of the Law provides that the Court, in its judgment, may decide to maintain operations or the business activities of the debtor, in the public interest, by majority decision of the creditors or upon request of the Liquidator.

Once appointed, the Liquidator proceeds to the verification of the debts, perform the acts necessary to preserve the rights involved in the process, submit list of amounts due to the Court for approval and in the meantime, administers the property.

Subsequently, the Art. 160 of the Law empowers the Tribunal to make a publication of the list of debts submitted by the Liquidator. This list is followed by the inventory of the debtor’s assets made by the Liquidator and the subsequent preparation and submission to the Court of a proposed Liquidation Plan, which must respect the order established by the law 141-15 and the Common Law.

The Liquidation Plan should be notified to the debtor, the creditors (through the creditors Counselor) and to the employees Counselor in order for their deposit of their considerations thereof. Subsequently, the Court fixes the hearing in which it is discussed and decided on the Liquidation Plan. The resulting sentence can be appealed. Once the Liquidation Plan is final, the Liquidator proceeds to its execution with the sale, execution, sale of assets and subsequent distribution of Liquidation proceeds.

Finally, the Court pronounces the closing of the process when:

- There are no more liabilities;
- The Liquidator has sufficient sums to disinterest Creditors;
- It is impossible to continue the process due to insufficient assets. In this latter case, if it is subsequently verified the existence of additional assets that were not considered in the Liquidation, the process of liquidation may be resumed by a Court decision, at the request of any creditor, as provided in Art. 192 of the Law.

5. Effects regarding lease agreements:

Law 141-15 establishes the various effects of the Liquidation process:

1. **General Effects:** The judgment pronouncing the liquidation shall cancel the suspensions provided in Article 54 of the Law, in order to reinstate the processes suspended at the procedural level they might be, and become payable the undue receivables according to Art. 149 of said legislation.

2. **Effects on the Administration and disposal of properties:** The debtor is dispossessed of such prerogatives, which are assumed by the Liquidator, in accordance with Art. 151 of the Act.

3. **Effects regarding labor contracts:** The Court may decide to terminate them as part of the liquidation process, in which case the terminations are benefiting the provisions of the Labor Code, guaranteeing the privileges provisioned by the Code on labor claims.

4. **Effects regarding the contractual obligations of the debtor:** The law binds the termination of existing contracts with the provisions of Arts. 88 to 97, and 170 and 171 of the Law. These articles require the debtor to comply with the existing contracts except if the Court orders otherwise if it suits the interests of the mass and especially the provisions of Art. 94, reiterated in Art. 170, Paragraph III, commit the creditor to fulfill its obligations under the contract even if the debtor is unable to fulfill his. In the event of continuation of the company, the Liquidator must require compliance or execution of contracts in progress.

6. **Effects regarding cases of real estate execution:** As for cases where a property execution must be performed as part of the process of realization of assets, Art. 176 provide that will apply the simplified embargo procedure provided by Arts. 149 and subsequent of Law 189-11 on Mortgage Market Development and Trusteeship in the Dominican Republic.

7. **Effects on the ability exercise individual actions against the debtor:** In accordance with Art. 191, the judgment closing the process of liquidation due to insufficient assets does not recover creditors the right to exercise individual actions against the debtor for outstanding debts, except as otherwise provided with respect to (i) criminal conviction for tax fraud; (ii) rights regarding the person of the creditor; (iii) fraud against creditors; iv) guarantor or co-debtor who pays for the debtor.

Regardess of the existence of Restructuring and liquidation processes that have been previously described, Law No. 141-15 provides various special or particular procedures which due to their relevance should be mentioned.

Within these procedures or novelties of the law we find the following:

1. Possibility of previous agreement or pre pack;
2. Particular Procedure – most expeditious and faster - restructuring for cases in which the total debt of the debtor does not exceed RD $ 10,000,000.00;
3. Possibility of carrying out a restructuring process through the establishment of a Guarantee Trust; and
4. Possibility of Arbitration in order to resolve any dispute arising on the occasion of the restructuring process or during the execution of the Implementation Plan.

One of the novelties or special procedures that shall be of greater utility, is the possibility of the debtor to go forward and agree a deal with all or most of its creditors, which should be taken to the Court for approval. If the Court approves it, it shall have the same effect of a Restructuring process.

In that sense, the agreement would eliminate the need of appointment of a Verifier and the negotiation procedure shall be performed with the Conciliator, saving invaluable time that will be used to carry out the Restructuring process.
This procedure also has the advantage for the debtor that shall have thirty (30) working days as from his application to the court or until it rejects the application, during which no creditor may request the restructuring, therefore offers the opportunity for the debtor to negotiate with creditors on their own terms, preserving the right of creditors to object and explain their reasons to the court.

The Law provides that an implementing regulation of same must be approved, which will clarify and regulate a number of issues among which is who or whom fall into the category of trader. The regulation will establish the provisions by which new officials established by law, namely, verifiers, conciliators and liquidators, shall be governed, as well as any other matters that the law itself has delegated to the regulation.

Moreover, the Law provides that the National Securities Market should adopt a general rule to regulate the special conditions of entities issuers of publicly offered securities, in those cases in which they will be subject to this law. Equally, laws establishing specialized or sectoral regimes, such as those established by the Superintendency of Securities Law, No. 19-00 and the Insurance Law No. 146-02, must conform to the provisions of Law 141-15.

In addition, a transitory article establishes the obligation to the Monetary and Financial Administration for adopting regulatory measures to ensure that financial intermediaries have:

1. Appropriate rules in the regime of contingencies and provisions relating to the prudential rules applicable to the debtors and their loans and operations, so that their debts are not degraded or affected by new contingencies and provisions other than those provided at time of application of restructuring and until is completed the restructuring Plan, or the conciliation process is completed;

2. Treatment to grant loans and financial transactions during the process of conciliation and negotiation, and

3. The treatment with regard to the rules and regulations deriving from this law.

For regulating cross-border insolvencies, Law No. 141-15 follows the parameters of the model law of the United Nations Commission on International Trade Law (UNCITRAL) and specifically regulates four (4) cases in which applies:

1. When a court or Foreign Representative request assistance in the country in connection with a proceeding abroad;

2. When assistance is sought in a foreign court in relation to a process carried locally.

3. When parallel processes are held abroad and in the country; and

4. When foreign creditors wish to open a local process or participate in an existing one.

Finally, with the entry into force and proper implementation of this law, it is expected that the Dominican Republic shall improve its investment climate for both local and foreign investors and similarly it is increased and reduced the price of credit in the country.

ee. Auxiliaries in the processes governed by Law 141-15

In accordance with the content of the law, judicial proceedings subject to the application thereof shall be conducted by a court, which will be assisted in the development of its functions from the following individuals:

1. Verifier: Its role is to report to the Court in which is established whether the application submitted meets the requirements provided by Law for the initiation of the Restructuring process.

2. Conciliator: Should the court accept the favorable report of the Verifier, a conciliator shall be appointed, who will seek to achieve a restructuring plan between the debtor and creditors.

3. Liquidator: appointed by the court to make an inventory of the debtor’s assets, verify claims and establish the order of creditors.

In addition to the above, in accordance with the will of the actors of the process may also participate in it:

1. Auxiliary experts: Elected and appointed by the participants to assist in the development of the process.

2. Creditors Counselors: Appointed by most creditors, and will be paid by them.

3. Employees Counselors: Elected by the labor creditors of the debtor.

The three auxiliaries previously listed must be natural persons registered at the Chamber of Commerce and Production corresponding to the debtor’s domicile and will be paid from the process. The amount of the consideration for its services will be established pursuant to the efficiency and effectiveness of the process and the value of the assets involved in it.

To serve as such is not required to have a university degree and shall suffice to have a bachelor’s degree and at least five (5) years of professional experience in areas related to business, accounting, financial consulting or law.

Likewise, those who occupy these positions in a process must be persons not employed by the public administration, the judiciary, legislature or local government authority. They may not be related up to the fourth degree of consanguinity of the debtor or creditor of the process, or have any direct or indirect financial interest in it.
B. FISCAL SYSTEM

The base of the Dominican tax system is the Tax Code (Law No. 11-92), which in turn is complemented by the 3 Regulations for Application (Decrees Nos. 139-98, 213-11 and 79-03) and by the general rules issued by the Directorate General of Internal Revenue (DGII), under the regulatory power granted by the said Tax Code. The Tax Code organizes not only the substantive tax law and the functions of the Tax Administration, but regulates the income tax, the tax on the transfer of goods and services (ITBIS), the excise tax and the tax on assets.

However this apparent simplicity of the tax system, the reality is that over time has been developed in our country a highly branched tax system. Through the years it has been carried out a progressive reform of the tax system, both in institutional terms -reorganizing the Tax Administration, but above all, in structural terms, expanding, modifying, adapting and renewing the tax legislation by passing different tax laws which complement the Code.

All this has resulted that in general terms there is a proliferation of legal texts, sometimes fiscally regulate a particular sector, and sometimes regulating a specific tax.

Currently, the Tax Administration consists of the Directorate General of Internal Revenue (DGII) and the Customs Directorate General (DGA). The tax office has become, by Law No. 227-06, in a decentralized institution with legal personality and its own assets, subject to the supervision of the Ministry of Finance, which is responsible for formulating the fiscal policy, but maintaining its regulatory capacity in order to assist in the tax efficiency and administration.

It is important to highlight that since 2000 to this date there have been at least 8 major reforms to the Dominican tax system. The most recent occurred in November of 2012 (Law No. 253-12), entitled "Law for Strengthening the Capacity of the State Tax Collection for Fiscal Sustainability and Sustainable Development". This reform brought profound changes to the tax system. Seeks, among other things, raising the tax burden and improve efficiency, transparency and fairness of the tax structure.

As a consequence of this legislation were approved additional regulations that deserve being mentioned because of its importance. We refer to the Implementing Regulations of Law No. 253-12 (Decree No. 50-13) and the Regulation on Transfer Pricing (Decree No. 78-14).

1. Income Tax

Is applied to income from Dominican sources, regardless of nationality or domicile of recipient, as well as income derived by national taxpayers, residents or domiciled in the country for the proceeds of their investments and financial gains outside the national territory.

a. Physical Persons

i. **Tax base**: the sum of all taxable income. In the event that revenues are not obtained for wages or single owner businesses, the taxpayer is entitled to deduct from gross income the expenses proven necessary to obtain, maintain and retain taxable income, as established in the regulations.

ii. **Progressive Rate**: according to the following scale of income (the values that define the tax brackets are adjusted annually for inflation):
- Income up to RD$399,923.00, exempt
- The excess over RD$399,923.01 up to RD$599,884.00, 15%.
- The excess over RD$599,884.01 up to RD$833,171.00, 20%.
- The excess over RD$833,171.01, a 25%.

Interest paid by financial intermediaries, perceived by individuals, are taxed at a rate of ten percent (10%).

b. Legal Persons, Sole Owner Entities and Undivided Estates

i. Taxable income: Gross income less deductions specified by law, including, in addition to operating expenses, the interests, other taxes and fees (with some limitations), insurance premiums, extraordinary damages, depreciation (there are 3 categories of depreciable assets that carry a payback percentage ranging from 5 to 25%), uncollectible accounts, etc. In the case of losses recorded, these can be transferred as a deduction in the income tax return of future years without such compensation being extended beyond five years.

ii. Rate: a 27%

iii. Form of Payment: Tax Return is on an annual basis and payment is performed in several advanced payments:
- Legal persons and sole owner entities whose effective tax rate is less or equal to 1.5% of their gross income pay the tax by advances corresponding to twelve equal monthly installments resulting from applying 1.5% to the gross income declared in the previous fiscal year.
- Physical persons and undivided estates the advanced payments are calculated on the basis of the tax paid in the previous year, according to the following percentages: 6th month, 50%; 9th month, 30%; and 12th month, 20%.

iv. The tax reform of 2012 reduced from 25% to 10% the withholding tax on dividends paid or credited in the country. However, the same law eliminated the credit allowed to a moral person product of the withholdings made to dividends against their income tax. Distributions made by a permanent establishment to its parent company are regarded as dividends subject to withholding.

2. Tax on Assets

This tax is levied on assets, mainly real estate, of legal persons or single owner entities. This tax essentially seeks to raise compliance in the payment of income tax (ISR), since the corresponding tax amount on assets is deducted from the amount payable for income tax, thus operating as a minimum tax.

a. Taxable income: the tax base is the total value of assets, not adjusted for inflation, applied the deduction for depreciation, amortization and allowances for uncollectible accounts.

b. Rate: 1% per annum calculated on the total amount of taxable assets. It is paid along with income tax and can be paid in two installments, where appropriate, that is, when the net tax amount exceeds tax pertaining to income tax. The elimination of this tax is planned as of 2016 when and if the goal of the tax burden established by Law No. 12/01 on National Development Strategy (16% in relation to GDP) is reached.

Once tax on assets is eliminated, legal persons shall be applied the real estate property tax (IPI).

iii. Form of Payment: Tax Return is on an annual basis and payment is performed in several advanced payments:
- Legal persons and sole owner entities whose effective tax rate is less or equal to 1.5% of their gross income pay the tax by advances corresponding to twelve equal monthly installments resulting from applying 1.5% to the gross income declared in the previous fiscal year.
- Physical persons and undivided estates the advanced payments are calculated on the basis of the tax paid in the previous year, according to the following percentages: 6th month, 50%; 9th month, 30%; and 12th month, 20%.

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3. Tax on the Transfer of Industrialized Goods and Services (ITBIS)

It is the equivalent to the generally designated value-added tax (VAT). It applies to imports, internal transfers of goods or the provision and location of services, regardless of who performs same. The law provides some goods and services which are VAT exempted.

a. Taxable income: levied on the value added in each of the operations in the different stages of the business cycle of a good or service, since it is settled by calculating the tax on the value of sales less advanced tax on the purchase of supplies (goods or services).

b. Rate: 18% (0% for exports); it is paid on a monthly basis. The last tax reform established a reduced rate of 13% for dairy products, coffee, edible animal or vegetable fat, sugar, cocoa, and chocolate.

4. Tax on Capital Gains

It is the tax applied on profits from the sale, exchange or other disposition of a capital asset.

a. Taxable Income: the price or value of the respective asset disposition less the cost of acquisition or production adjusted for inflation. In the case of depreciable property, the cost of acquisition or production to consider is its residual value and over such shall be made the referred adjustment.

b. Rate: The same provided for Income Tax.

5. Tax on Real Estate Properties

a. Taxable Income: this tax is levied on the total property assets of individuals. Includes buildings for housing (urban or rural) and for commercial activities, when they are owned by individuals, as well as Unbuilt Urban Lots. For legal entities, the tax on assets replaced this tax.

b. Rate: 1% of the total assets of the whole property whose sum exceeds RD $6,858,885.00. This value is adjusted annually for inflation.

6. Other Taxes

a. Excise Taxes: The Dominican tax system includes other taxes, some of particular relevance as is the case of excise taxes, which apply to mineral oils, alcoholic beverages and cigarettes, as well as telecommunications services and insurance.

b. Tax on vehicle ownership: This tax is levied on the registration or filling of all motor vehicles of recent arrival into
the Dominican territory. Its payment is necessary for the issuance of the first license plate and issuance of the title of ownership (registration).

Rate: A 17% of CIF value.

In addition, motor vehicles are taxed according to their CO2 emissions per kilometer at the following rates on the CIF value thereof:

a) Less than 120g CO2 / km = 0%
b) Greater than 120 and up to 220g CO2/km = 1%
c) Greater than 220 and up to 380g CO2/ km = 2%
d) Greater to 380g CO2/ km = 3%

There is also an annual tax on vehicle traffic rights of 1% of vehicle value.

7. Fiscal Incentives Legislation

a. Tourism: Law No. 158-01 and its amendments, grants the exemption of 100% of all taxes to individuals or legal persons investing, promoting or undertaking tourism projects in any of the specific areas identified by the Law, which are generally areas of low economic development.

b. Industrial Sector: Law No. 392-07 on Competitiveness and Industrial Innovation seeks to encourage, through tax reductions, the innovation and modernization of the national productive apparatus, while encouraging the creation of industrial parks as a more efficient tool to achieve the advantages of agglomeration. As of November 25, 2014, it was enacted Law 542-14, which amends several articles that Law 392-07, in order to broaden its scope.

c. Renewable Energies: with the enactment of Law No. 57-07 of Renewable Energy, the Dominican Government seeks to create business opportunities in an area for the country’s development: energy. This Law establishes a system of important exemptions: 100% exemption of import duties of equipment and machinery for the production of renewable energy and 100% exemption from income tax for a period of ten years, and other incentives.

d. Frontier Developments: To stimulate the development of border areas, Law No. 28-01 establishes a system of tax exemptions to companies that are installed within the limits of the geographical areas defined as borderline.

e. Film Industry: The Law No. 108-10 promotes the film industry and its amendments, establishes a series of tax exemptions in order to foster a progressive development of national cinematography and generally promote the film industry in the Dominican Republic.

8. Free Trade Agreements

In the last ten years the Dominican foreign trade policy has undergone a radical shift. After a long history of trade protectionism and inaction in business matters, it has gone to an active agenda for the opening and trade negotiations.
In the first trials of free trade agreements, were established CARICOM and Central America, but were quickly overtaken by two mega agreements: the first, called DR-CAFTA, signed between the United States and the countries of Central America and the Dominican Republic; the second and most recent was the Economic Partnership Agreement (EPA, for its acronym in English), established between the European Union and CARIFORUM countries, among which is the Dominican Republic.

9. Agreements to Avoid Double Taxation

Although the Dominican Republic has signed several bilateral agreements with other countries to avoid double taxation, only two are currently in force and are:

- The Agreement between the Dominican Republic and Canada to avoid double taxation and to prevent fiscal evasion with respect to taxes on income and capital; signed on August 6, 1976, ratified on 23 September 1977 and in force since January 1st, 1977. This agreement includes the clause Tax Sparring, through which a Canadian company, established in the Dominican Republic, pays an income tax rate of 18% instead of 43% average that would pay in Canada.

- The Agreement between the Dominican Republic and Spain to avoid double taxation and prevent fiscal evasion with respect to taxes on income; It was signed as of November 16, 2011 and ratified by the National Congress on March 31, 2014, by Resolution 115-14. The Agreement is applicable to persons who are residents of one or both States, and to income taxes imposed by each of the States regardless of the system they are levied.


This type of agreement becomes increasingly important, not only to facilitate the elimination of situations involving double taxation, but also to prevent and avoid tax evasion and fraud. It only applies to federal taxes in the United States and domestic taxes in the Dominican case, regardless of the residence of the person to whom the information relates.
1. Legal Norms

The legal rules applicable in labor matters are found in the Constitution, which sets out a few general principles, in the Labor Code (Law No. 16-92 of 29 May 1992, as amended) and in the Labor Regulations and the rulings issued by the Labor Department. The conventions of the International Labor Organization which have been ratified by the Dominican Republic also have a bearing on labor matters.

2. Principle of Territoriality

According to Principle V of the Labor Code, the Code applies to all persons who perform personal services within the territory, regardless of their nationality and of the place where they may have entered into their employment contracts. Dominican Labor Law applies not only to workers, but also to hired managers and professionals employed by companies.

3. The Principle of Public Order in Labor Legislation and the Rule Favoring Employees

The rules of Dominican labor law embody public policies which favor the employees. Agreements unfavorable to employees which contradict these rules are void. On the other hand, under Principle VII, agreements favorable to the interests of employees are valid.

4. Formation of the Employment Contract

An employment contract is presumed to arise whenever a person renders a service to another under his supervision and authority. Although a labor relation can come about by the mere fact of rendering the service, it is advisable to execute a written agreement setting forth, at the very least, the date when the employment relation begins, the nature of the service and the salary.

5. Different Types of Employment Contracts

An employment contract can be concluded for an indefinite period, for a fixed period or for a specific job or service. Whenever an employee is hired to satisfy a permanent need of the employer, under Article 26 of the Labor Code, it is deemed to have been concluded for an indefinite period. There is also a presumption in Article 34 that, unless otherwise agreed, an employment contract is for an indefinite period. The law sets forth the special circumstances in which contracts for a fixed period of time and contracts for a specific job or service can be stipulated.

6. Salary

The salary is made up of the amounts in money payable, either daily, weekly, bi-weekly or monthly, plus other benefits which the worker receives in exchange for his labor. The stipulated salary cannot be offset except in certain cases spelled out in Article 201 of the Labor Code.

7. Minimum Wage

There are several minimum wages, depending on the nature of the activity performed by the worker. The minimum wages are set by the National Salary Committee. The minimum wage in the Free Zones is generally lower than in the rest of the country.

8. Overtime

The number of working hours can be set in the employment contract, but according to Article 146 of the Labor Code, they may not exceed 8 hours per day, nor 48 hours per week. Within certain limits, employees can be required to work overtime; the salary scale for overtime work is established in Article 203.

9. Weekly Time of Rest and Legal Holidays

Employees are entitled to an uninterrupted period of rest of at least 36 hours per week, which usually begins at noon on Saturday. When an employee is required to work during his weekly period of rest, he must be paid twice the amount of his salary for his week-end work or given compensatory time off during the following week. The same rule applies if an employee is required to work during a legal holiday, which does not coincide with the weekly day of rest.

10. Vacations

After one year of uninterrupted employment, a worker is entitled to 14 working days of paid vacation, which is the equivalent of 2 weeks and 3 days. He must be paid his salary for this period when he begins his vacation.

11. Christmas Bonus

During the month of December, the employer is required to pay to each employee 1/12th of his ordinary wages accrued during the calendar year.
12. Profit Sharing
Employees as a group are entitled to a share equal to 10% of the pre-tax profits, if any, of the employer. Assuming a sufficiently high profit, the amount each employee receives depends on his seniority. Those who have been employed for less than 3 years get 45 days of ordinary wages, those who have been employed for more than 3 years get 60 days of ordinary wages. These amounts are payable the following year, after the employer has filed his income tax return. Workers in the Free Zones are not entitled to a share in profits.

13. Limits on the use of Foreign Workers
At least 80% of the total number of workers in any enterprise must be Dominicans. Similarly, Dominican workers must receive at least 80% of the total payroll. There are exceptions to these rules.

14. Temporary Lay-Offs
When an employer is unable to provide work to some or all of his employees, for lack or raw materials or other causes beyond his control, he is relieved from having to pay their salaries, but for that he must prove his case to the satisfaction of the Labor Department.

15. Termination of the Labor Relation
The Labor Code has divided the types of termination of labor relations into two categories; those that involve liability for the payment of severance and those that do not.

a. Termination without Liability
The employment relation can terminate without liability for severance pay in the following cases: 1) by a mutual agreement signed in the presence of an officer of the Labor Department or a notary public, 2) because of the conclusion of the job for which the employee was hired, 3) because the term of the contract has expired or 4) because of impossibility of performance due to force majeure.

An employment contract also terminates without liability when the worker is fired for just cause. Article 88 of the Labor Code contains a list of the "just causes" for firing. Within 48 hours of the firing, the employer must notify the Labor Department of the ground for the firing. If he fails to notify the worker within a limited time frame, as often happens, or if he is unable to prove that he gave the notice, the firing is conclusively deemed to have been without just cause, and the employer is required to pay severance.

b. Termination with Liability
An employment contract terminates with liability of the employer for severance pay in 3 situations: 1) in the case of dismissal ("desahucio"), 2) in the case of firing ("despido") without just cause, and 3) in the case of resignation by the employee ("dimisión") for just cause.

These cases all involve unilateral terminations. 1) In the case of a dismissal, the employer, without invoking a "just cause", informs the employee that his services are no longer needed. The employer then has ten days in which to pay severance. 2) In the case of firing, the employer alleges a ground for firing, but if the ground he gives does not constitute a "just cause" or if he is unable to prove his allegation or if, as mentioned above, he fails to give notice of the firing to the Labor Department within 48 hours, he becomes liable for severance pay. And 3) In the case of a resignation, which the employee can justify on the basis of wrongful conduct on the part of the employer, he is also entitled to severance pay.

In practice, the distinction is difficult to draw between the cases in which the employer dismisses the employee, but does not pay severance as legally required, and the cases in which he fires the employee without alleging or proving a just cause. Numerous cases turn on whether an employee was fired or dismissed. The distinction is important, because of the fact that, if the employee was dismissed, in addition to his right to severance, his salary continues to accrue during the proceedings until he is finally paid (last sentence of Article 86 of the Labor Code); whereas if he was fired without just cause, he is entitled, in addition to his severance pay, to his wages only to the day when he was fired, if indeed they were withheld.

The legal rules applicable in labor matters are found in the Constitution, which sets out a few general principles; in the Labor Code (Law No. 16-92 of 29 May 1992, as amended) and in the Labor Regulations and the rulings issued by the Labor Department. The conventions of the International Labor Organization which have been ratified by the Dominican Republic also have a bearing on labor matters.

c. Severance Pay
Severance pay ("prestaciones laborales") consists of two amounts: 1) The amount the employee would have earned during the period the employer was required to give him advance notice of his firing or dismissal ("preaviso"), but has failed to do so, and 2) unemployment compensation ("auxilio de cesantía"), the amount of which depends on the employee's seniority, according to a pay scale contained in Article 80 of the Labor Code.

16. Maternity Benefits
A pregnant employee has several benefits.

a. First and foremost, she is entitled to 12 weeks of maternity leave with pay. This period normally begins 6 weeks before the probable date of birth, but the woman can begin the period later and the unused portion prior to birth is added to the portion after birth.

b. The employer is not allowed to dismiss ("desahuciar") a woman during her pregnancy and for 3 months after giving birth. A dismissal during that period is considered void and the woman's salary and other benefits continue to accrue until the employer makes a correct dismissal after the period of protection has expired.

c. It is nevertheless possible to fire ("despedir") a pregnant employee for just cause, but the firing must be authorized in advance by an official of the Labor Department who has verified the seriousness of the employee's fault and determined that the firing is not motivated by the fact that she is pregnant. This protection also applies to an employee who has given birth within the past 6 months. An employer who fires a woman during pregnancy or during this 6-month period without Labor Department approval is liable for 5 months of salary in addition to the usual severance pay.

d. Additionally, a pregnant employee enjoys the following protections:

- If the work performed by the woman is detrimental to her health or to that of her unborn child, the employer must alleviate her task or else allow her additional maternity leave without pay.
- So long as she is breast feeding her baby, the employee is entitled to 3 breaks a day, each one for 20 minutes, to satisfy that need.
- During the first year after giving birth, the employee is entitled each month to 1/2 a day of absence from work, so that she can have her child examined by a pediatrician.

17. Unionization
The freedom to organize is a constitutional right under Article 18 (11) (a) of the Constitution. It extends not only to workers, but also to employers. A labor union can be formed for a given enterprise or for a given trade or profession.

Each union has its own by-laws. The General Meeting selects among its members those who will be charged with the task of negotiating a Collective Bargaining Agreement with the employer. So long as these delegates retain their capacity as negotiators, they cannot be dismissed.

18. Job Training
Workers have the right to demand that their employer give them training on the job, so that they can improve their
skills and become more gainful. Additionally, Article 24 of Law No. 116-80 requires all Dominican businesses to contribute each month 1% of their payroll and to withhold 0.5% from the workers’ profit share, to be paid to the Institute of Technical and Professional Training (INFOTEP), which offers technical and vocational training.

19. Administrative Obligations

Under Articles 15 and following of Regulations No. 258-53 to the Labor Code, all employers must comply with the following formal requirements:

- File a List of Permanent Personnel with the Labor Department within 15 days after beginning operations and each year before the 15th of January.
- If the enterprise employs temporary workers, a separate list of such workers must be filed with the Labor Department within the first 5 days of each month.
- Within the first 15 days of the beginning of each agricultural cycle, the enterprise must also file a list of the seasonal workers it employs.
- Whenever the employer has required some of its workers to work overtime, it must within the first 10 days of each month file a list of the amount of extra hours and the amount of extra salary paid for those hours.
- The employer must place a work schedule (“cartel de horarios”) sealed by the Labor Department in a visible place on his premises, showing the total number of working hours, the lunch breaks of the various employees and their respective days off.
- During the first 15 days of each year, the employer must also place a schedule of vacations in a visible place, showing the times each employee will be on vacation.

20. Transfer of Employees

When a going business or a branch of a business is sold or otherwise transferred, as a protection for the workers, the buyer of the business takes over the employees with their seniority, and is jointly and severally liable with the seller of the business for labor-related obligations which arose prior to the sale or transfer.

21. Administrative Agencies

The Ministry for Labor is the highest administrative agency in labor matters. It operates through numerous departments and local representatives. Its functions include inspections in matters involving actual or potential labor disputes, as well as hygiene and security in the workplace. It acts as an employment agency, prepares statistical studies, engages in mediation and arbitration and, through its National Salary Committee, it sets the minimum wages for different types of businesses.

22. Labor Courts and Labor Procedure

The Dominican Republic has special Labor Courts, which handle labor matters in an expeditious manner. The procedure begins with a conciliation hearing before the labor judge. In the case of an appeal, the employer, if he is the appellant, must post security for twice the amount which he has been ordered to pay in order to stay enforcement of the lower court judgment.

23. The Effect of DR-CAFTA on Labor Relations

Chapter XVI of DR-CAFTA outlines the obligations of the Contracting Parties in labor matters. The parties reaffirm their commitments as members of the International Labor Organization (ILO) and in particular their adherence to the 1998 ILO Declaration Relative to the Principles and Fundamental Rights. The Parties are committed to ensure that these principles are faithfully reflected in their legislation and practices.
1. Governing Principles of the Dominican Social Security System

Law No. 87-01, which creates the new Dominican Social Security, enacted in May 2001. This law has several complementary rules, including the Regulations on Family Insurance, Occupational Risk, Pensions, Social Security Treasury, among others. Among the principles that govern and sustain said system, we must highlight the following: universality, according to which the social security system should protect all Dominicans and residents in the country without discrimination on grounds of health, sex, social status, political or economics; and obligatoriness, pursuant to which the affiliation, contributions and participation are compulsory for all citizens and institutions, under the conditions and standards set by the legislation.

2. Funding Regimes of the Dominican Social Security System

The Dominican Social Security System is composed of three funding schemes:

- **Contributory Regime:** It is composed of employees, public and private, and of employers, including the State as employer. In this regime, both employer and employee fund with their contributions the benefits offered by the Dominican Social Security System.

- **Subsidized Regime:** protects self-employed workers with unstable incomes and lower than the national minimum wage and the unemployed, disabled and indigent. This scheme is primarily financed by the Dominican State, in view of the provisions of the Regulation on Subsidized Dominican Social Security.

- **Subsidized Contributory Regime:** is composed by independent professional and technicians and self-employed employees with average income similar or greater than a national minimum salary. It is funded by contributions made by the worker and State subsidies to compensate the lack of contributions by the employer. Actually, this regime is not in force.

3. Affiliation and Contributions to the Contributory Regime to the Dominican Social Security System

a. **Affiliation**

The affiliation of the employee and the employer to the social security regime is mandatory, unique and permanent, regardless of whether the beneficiary remains active or not, carries two or more jobs simultaneously, goes to work in the informal sector or migrate the country.

As for the pension system is concerned, this has been structured in mixed form, having each affiliate worker a personal account, which is its unique patrimony, to which are credited the mandatory contributions made by both the employer and the employee himself. In that sense, as it enshrines the principle of free choice, every worker has the right to select the pension fund manager (AFP) of his choice. These entities are responsible for managing and investing the funds in the personal account of the employee, and make them increase. If the employee does not choose an AFP of his choice, the employer is required to enroll him in the AFP in which are affiliated the majority of its employees.
On the other hand, worker affiliation to a health risk manager (ARS) includes the family, i.e., that the selection is valid for all dependents. Similarly, and in compliance with the principle of free choice, each worker can select the ARS of his choice.

b. Contributions

Both the Old-Age, Disability and Survivorship Insurance offered by the pension system as well as the Family Health Insurance Contributory Scheme are financed by the contributions made by the employer and the worker, having as basis of those contributions the employee’s salary. The contributory salary is the amount of salary that is used as the basis for calculating contributions to be paid by the affiliate and his employer, being the components of the contributable salary the ordinary salary, commissions and vacation payment.

Meanwhile, the minimum contributory salary for Social Security is the corresponding minimum wage for the sector to which belongs the affiliate. The Law 87-01 itself sets contribution ceilings. In the case of pension insurance and under Article 57 of Law 87-01, the maximum contribution limit is twenty national minimum wages, while for family health insurance, article 143 Law 87-01 sets the ceiling to ten national minimum wages.

In this regard and according to Article 1 of Law No. 188-07, of August 9, 2007, the cost of Old-Age, Disability and Survivorship is currently 9.97% of the contributory salary, the employer must contribute with 7.10% while the employee contributes 2.87%. Regarding the Family Health Insurance, the current cost of such insurance is 10.13% of the contributory salary, corresponding to the affiliate to contribute with 3.04% and the employer with 7.09%.

4. Benefits of the Dominican Social Security System for the Contributory Scheme

a. Contributory Regime

i. Old-age insurance, disability and survival.

It aims to replace the loss or reduction of income from old age, death, disability, unemployment in old age and survival. The old-age pension includes protection of the pensioner and his survivors. The right to an old-age pension is acquired when the affiliate (i) proves having the age of 60 and has paid contributions for at least 360 months or (ii) has completed 55 years and accumulated a fund that allows him to enjoy a retirement greater to 50% of the minimum pension.

The right to a total disability pension is acquired when the affiliate proves suffering a chronic illness or injury, whatever its origin. The total disability is considered as the two-thirds reduction in the productive capacity of the employee, and partial disability, between half and two thirds, and having exhausted their entitlement to benefits for non-professional disease or work injury. The total disability pension equals to 60% of base salary and in cases of partial disability corresponds to 30%, whenever does not affect the economic production capacity of the affiliate. In case of death of the active affiliate, the beneficiaries, this is, the direct dependents of the affiliate will receive a survival pension of not less than 60% of the contributable salary of the last three years or fraction thereof.

ii. Family Health Insurance (SFS)

Its purpose is the comprehensive protection of physical and mental health of the affiliate and his family, as well as to achieve universal coverage without exclusions for age, sex, social status, occupational or territorial. Unlike old-age insurance, disability and survivorship where membership to an AFP is individual, in the case of SFS, the affiliation extends to his family, so the selection made by the affiliate of the administering health risk (ARS) is valid for all dependents.

The SFS provides benefits in kind and in cash. Benefits in kind are the Basic Health Plan (PBS) and service of childcare facilities, while cash benefits are illness compensation and maternity compensation governed by the Regulation on the subsidy by common illness and Regulation on maternity allowance and lactation allowance.

The PBS is the set of health services, provided through the Family Health Insurance to all affiliates of the Dominican Social Security System. The services offered are comprehensive and include health promotion, prevention and treatment of diseases, the rehabilitation of the patient, pregnancy, childbirth and their consequences. It is governed by the Regulation on the Family Health Insurance and the Basic Health Plan, approved by the National Council of Social Security by Resolution No. 48-13, dated October 10, 2002.

iii. Occupational Risk Insurance for Work Accidents and Occupational Diseases

Its purpose is to prevent and cover for damages caused by accidents or occupational diseases, as established by Law No. 87-01 creating the Dominican Social Security System and the Regulation on Occupational Risk Insurance as a complementary standard to such legislation. It includes any bodily injury and any morbid condition that the worker suffers on occasion or as a result of the work provided to another person, and includes treatments due to traffic accidents during working hours or en route to or from the workplace. Labor Risk Insurance is financed exclusively by the employer. This funding includes basic fixed and variable quotas, which are set depending on the line of activity and of the risk of each company.
1. Introduction

In recent years, the Dominican Republic has grown significantly in the flow of foreign investments, mainly due to tourism development and the consequent entry into the country of foreigners interested in settling permanently in the Dominican territory. The Law No. 171-07 on Special Incentives for Pensioners and foreign source Annuitants dated July 13, 2007, has joined the rules that encourage the flow of foreigners and foreign investments in the Dominican Republic.

2. Object of the Law

The main purpose of Law No. 171-07 is to promote the appropriate legal framework for foreign retirees and annuitants who choose to reside in the Dominican Republic can enjoy special benefits. For these purposes, pensioners or retirees are "foreigners or Dominican citizens who are beneficiaries of a corresponding monthly pension or retirement plan of an official government or agency or private company of foreign origin, who are interested in transferring their permanent residence into the country and receive their pension or retirement benefits in the Dominican Republic " (Article 1, Law No. 171-07).

The annuitants are those people who enjoy stable and permanent income, whose capital comes from abroad, due to one of the following reasons:

- Deposits or investments in banks established abroad;
- Remittances from Banks or financial institutions established abroad;
- Investments of entities established abroad;
- Remittances originated by real estate properties;
- Interests received of titles issued in foreign currency generated abroad;
- Profits on investments in securities issued in foreign or national currency with the State or its institutions, provided that the capital has been generated abroad and the currency exchange is made in the country;
- Interest, income and dividends from real estate investments made in the country, whose principal has been generated abroad. (Article 1, Law No. 171-07).

An indispensable condition to take advantage of the benefits established in Law No. 171-07 is that the retiree receives a monthly income of not less than US $ 1,500.00, and that the annuitant, meanwhile, receives no less than US $ 2,000.00 or its equivalent in Dominican pesos. For each additional dependent, a monthly income of US $ 250.00 per person is required. These amounts declared as income are exempt from income tax.

Those who receive the income described in the preceding paragraph may obtain a residence for investors, under the conditions that were set out in Decree 950-01 and Law 98-03 which creates the CEI-RD.

3. Benefits and Scope of the Law

Law No. 171-07 benefits those foreign pensioners and annuitants wishing to permanently reside in the country, subject to their compliance with certain requirements. The benefits and exemptions that qualified applicants are entitled to are as follows:

- Possibility of rapidly obtaining residence through the process called "residence due investment";
Tax exemption on home furnishings and personal property, under Law No. 14-93, as amended by Law No. 146-00 on Tax Exemption to Home Furnishings and Personal Property:

- Partial tax exemption on used motor vehicles. The law allows each applicant to import a vehicle. In addition, vehicles purchased in the country will be exempt from tax transfer of industrialized goods and services (ITBIS) and excise tax (ISC);
- Exemption from payment of taxes on real estate transfers (3% of the value of the property transferred) on the first property acquired;
- 50% exemption of taxes on mortgages, when the creditors are financial institutions duly regulated by the Monetary and Financial Law (mortgages are taxed with a unified tax of 2% ad valorem on the value of the mortgage);
- Exemption of 50% of Real Estate Property Tax (tax on real property is 1% of the value of the property when the value exceeds RD $ 6,858,885.00 This amount is adjusted annually for inflation.);
- Exemption from taxes on the payment of dividends and interest generated in the country or abroad;
- Exemption of 50% tax on capital gains, subject to the annuitant being the major shareholder of the company that has to pay this tax and that this company is not engaged in commercial or industrial activities (the gain is determined by deducting the price or value disposal of a respective good, the acquisition or production cost adjusted for inflation).

The benefits of this law applies equally to Dominican citizens pensioned or retired by institutions of foreign governments, and those who do not have that characteristics, evidencing perceiving incomes on the conditions laid down in Article 1 of the Law.

Articles 45 and 46 of Law No. 253-12 for Strengthening Tax Collection Capacity of the State for Fiscal Sustainability and Sustainable Development (Fiscal Reform) provide that government institutions that administer laws that provide for waivers or exemptions for certain sectors or social groups must submit to the Ministry of Finance, prior knowledge of classification application, the feasibility study having to identify the source of compensation of the tax expenditures that would represent the exemption. On this basis, the Ministry prepares a cost-benefit analysis of the incentives awarded. In this connection the Ministry of Finance will grant a no objection to the classification of the beneficiaries of incentives.

4. Sanctions

Persons who request the benefits of Law No. 171-07 and that consciously provide false information to take advantage of the concessions granted by this legislation will be subject to penalties and be fined an amount equal to twice the corresponding amount of taxes that they must have to pay to the Dominican treasury.

"Today’s world revolves around knowledge. So it becomes necessary to promote and encourage innovation, research, scientific and technological development and personnel training as the new sources of competitive advantage to achieve development through tools that provide expertise".


i. Background

As part of an initiative to integrate intellectual property with public policies and national development plans, the “National Intellectual Property Strategy for the Dominican Republic for 2012” (hereinafter “the National Strategy”) was approved and published in March, 2013. This document was prepared on April 15, 2010 in cooperation with the World Intellectual Property Organization (WIPO), in the framework of Project DA-10-05 of the Development Agenda, with the commitment, support and supervision of the National Industrial Property Organization (ONAPI). Several state institutions and the private sector provided support for this project.

The initiative was launched by WIPO designating the Dominican Republic in 2010 as the country in Latin America best suited to working on a pilot program aimed at promoting awareness about intellectual property (hereinafter “IP”) in all government and private spheres nationwide.

The National Strategy identified fifteen (15) strengths that make this country an ideal destination for the potential success of this effort. These strengths include a robust and reliable institutional and legislative basis, the potential of the cultural and folklore industry, the considerable development of the tourism industry, the government’s commitment through various development plans and strategies for the short, medium and long term, the existence of several research centers directed by the major national universities, the constant training of patent and trademark examiners, and the first steps towards the implementation of IP in the agricultural sector.

Nine opportunities were also identified involving advantages that can be availed of, namely: the country’s political and institutional stability, the existence of a National Development Strategy that considers the development of IP as one of its more powerful engines, the presence of financial cooperation and technical assistance institutions, a positive climate for investment, and the ratification by the country of most international IP treaties.

ii. Objectives of the National Strategy.

Despite progress in the legislative and institutional areas, until recently, the Dominican Republic ranked No. 122 among 144 nations in the world on the issue of the importance of innovation, based on the Global Competitiveness Report 2011-2012. This project arises in a context of changing situations, in order to avail of a set of strengths and opportunities determined by the National Strategy that the country can exploit to overcome various challenges hindering the progress of IP.

Advocates of the National Strategy consider the current promotion of knowledge and creation of new technologies protected by IP insufficient. However, they are optimistic about the success of this pilot project to improve creativity, competitiveness and innovation in the country.

iii. Industry Key Sectors identified by the National Strategy for the promotion of IP.

According to the National Strategy, there are nine key sectors of the national economy that could avail of the initiatives outlined to boost growth, competitiveness and development. These sectors are:

- Agriculture
- Higher Education
- Biotechnology Industry
- Cultural Activity

1 The system has two institutions, ONAPI and ONDA. ONAPI is certified under norm ISO 9001, and the test of the National Strategy revealed it has good functioning, administration and reputation inside and outside the country.
2 The protection of intellectual property rights is recognized in article 52 of Dominican Constitution of the year 2010, as well as in some particular laws in the field.
IV. The six major objectives for the development of IP in the Dominican Republic.

The National Strategy has identified six major objectives, each of them with minor strategic objectives, recommendations for action, indicators of compliance levels and institutions in charge of executing them. For each of the six major objectives strategies have been designed to be achieved in the short term (1-3 years), medium term (4-6 years) and long term (7-10 years). Several recommendations and activities for each strategic objective have also been created.

Under the National Strategy, the first step to achieve these goals within their respective time frames is the creation of an interagency committee that will be called upon to supervise, monitor and coordinate efforts aimed at implementing the recommended actions. This committee would be composed of members of the National Bureau for Intellectual Property (Oficina Nacional de la Propiedad Intelectual - ONAPI), the National Copyright Bureau (Oficina Nacional de Derecho de Autor - ONDA) and the National Competitiveness (Fair Trade) Council (Consejo Nacional de la Competencia - CNC), with the assistance of WIPO and the private sector, although it has not yet been determined in what manner and to what extent each of these agencies will participate.

The strategic objectives for each activity are based on the need for awareness, training and exposure of intellectual property issues to those who will lead to the development of this sector, ie., researchers, inventors, entrepreneurs, micro, small and medium enterprises, artists, musicians, actors, artisans, farmers, those with careers in engineering, marketing, design, among others. It has also been suggested that schools, on an extracurricular basis, foster expressions of Dominican culture as a cultural policy for spreading the arts and motivating artistic and cultural creation. The training involved in the scheme will also extend to the health sector, by creating IP networks to manage research on traditional medicines and their uses, looking to generate patentable products.

As the lack of awareness of intellectual property rights is the aspect that has prevented progress in this area, it is imperative to work in the training of personnel, for which the National Strategy highlights the importance of state and private funding, especially at the institutional level.

The National Strategy also values the importance of the presence of experts to serve as guides for local talent in producing and reproducing knowledge, as well as interagency cooperation and networking between companies and research centers to generate rights that may be protected by IP. The National Strategy also shows the importance of access agreements of patented drugs from pharmaceutical companies and public health agencies and the importance of promoting access to patented pharmaceuticals through the use of compulsory licensing and parallel imports.

In order to sustain the stream of intellectual productive to which this training and promotion will give rise, the National Strategy highlights the need to expand the existing physical and virtual infrastructure and to build new storage and display space for art and science. This includes building science and technology parks, local presentations of plays, music, dance, paintings, etc., and creating databases to preserve the new creations and to make them available from various places and through various media.

Below, a table summarizing the areas with potential for local and international investment, where advocates of the National Strategy will focus their efforts, strategic objectives and goals.

<table>
<thead>
<tr>
<th>Core Idea of the National Strategy</th>
<th>Strategic Objectives and Recommendations of the core ideals in relation to IP investment opportunities</th>
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<tr>
<td>Intellectual creation and generation - focused on the production of intangible IP assets in companies / industries, Dominican research and development centers, through the use of intellectual property.</td>
<td>Design nationwide multi-disciplinary training programs to promote patent applications and knowledge about them.</td>
</tr>
<tr>
<td>The protection of intellectual property by promoting effective protection of those rights.</td>
<td>Encourage the dissemination and teaching of IP rights to researchers, inventors and businesses to create and strengthen scientific and technological innovation.</td>
</tr>
<tr>
<td>Enforcement of intellectual property rights aimed at creating awareness of respect for intellectual property.</td>
<td>Improve government and private sector institutional financial support to encourage research and scientific development.</td>
</tr>
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a. Concept of invention

An invention is an idea, a creation of the human intellect, capable of being applied in industry and which satisfies the requirements set forth in Law No. 20-00 on Industrial Property of 8 May 2000. An invention can be related to a product or to a process. The requirements for protecting intellectual property include:

- Being new: the invention must contain a new aspect.
- Being non- evident: the invention should not be obvious to someone with an ordinary degree of knowledge.
- Being capable of being made or used: the invention must be capable of being applied in industry.

b. Modifications of the patent application procedure

The patent application procedure involves:

1. Filing the application: the applicant submits a written document that contains information about the invention.
2. Examination: the patent office reviews the application to determine if it meets the requirements for granting a patent.
3. Publication: the patent office publishes the application, and anyone can file opposition or make comments.
4. Granting the patent: if the application is approved, the patent office issues a grant for the invention.

The examination of the patent application is independent of the examination of the opposition, which can be filed within a certain time frame after publication of the application.
IV • Use, exploit and manage intellectual property in order to promote good governance and commercial exploitation of intellectual property rights.

- Strengthen the infrastructure and service platform by offering automated procedures for registration of works, creating incentives for inventors, etc.
- Encourage the use and exploitation of IP in the business-industrial sector, through studies to determine the innovative capacity of businesses and industry partnerships for joint projects and dissemination of research results, improve productivity using IP and other economic and tax incentives.
- Create mechanisms for the dissemination and use of the information contained in patent documents and publish the patents entered in the public domain to increase innovation and competitiveness.
- Strengthen the cultural industry by analyzing their numbers and those with productive potential and their contribution to job creation and productivity.

V • Foster intellectual property aimed at promoting awareness of intellectual property new generation of rights.

- Promote and raise awareness of the use of utility models and industrial designs, patents and trademarks in companies, designations of origin and collective marks, especially in the agricultural sector.
- Develop educational materials for schools and universities.
- Use the proceeds from registration applications of IP rights to foster their promotion.
- Promote alliances with higher education institutes, chambers of commerce, industry associations, etc., to train private sector technicians who may serve to spread the word.
- Promote the IP system through the audiovisual media.

VI • Create an inter-agency organization to formulate intellectual property policy, create a coordination mechanism for the proper performance and decision-making of public policy in this area.

- Define the body.
- Establish an inter-industry commission with legal status and capacity to act and draw guidelines on the subject.
- Train high level officials in IP policy.

VII • Encourage the use and exploitation of IP in order to promote good governance and commercial exploitation of intellectual property rights.

- Support the establishment of an inter-agency organization to formulate intellectual property policies, in order to provide for the proper performance and decision-making of public policy in this area.

VIII • Implement a system of intellectual property rights registration and management.

- Implement a system of intellectual property rights registration and management.

IX • Establish an inter-agency organization to formulate intellectual property policy, create a coordination mechanism for the proper performance and decision-making of public policy in this area.

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- Strengthen the cultural industry by analyzing their numbers and those with productive potential and their contribution to job creation and productivity.

An invention in the Dominican Republic is a novelty, its industrial applicability and the fact that it is not a simple technique. Inventions, utility models and industrial designs can be registered in the Dominican Republic.

The following are not considered to be inventions: the discovery of something that already exists in nature; scientific theories; mathematical methods; creations that are exclusively esthetic; economic or business plans, principles or methods; creations that relate to purely mental activities or to games; means of presenting information; computer programs; therapeutic or surgical methods for the treatment of human or animal diseases or methods for their diagnosis; all kinds of living matter or substances existing in nature, provided that the invention relates exclusively to the matter or substance in the form in which it exists in nature; the combination of existing inventions or the mixing of known products; and variations in their forms, dimensions or materials, unless such combination or mixture is such as to allow it to function separately or that their qualities, characteristics or functions are modified so as to obtain an industrial result which would not be obvious to a technician versed in the subject; and products or processes which are already patented although they would receive a use different from that described in the original patent.

b. Concept of a Utility Model

A utility model is any new form, configuration or disposition of the elements of an artifact, tool, instrument, mechanism or other object, or of any part thereof, which allows a different or a better functioning, utilization or manufacture of the object of which the utility model is a part, or which gives it a usefulness, advantage or technical effect which it previously did not have.

c. Concept of an Industrial Design

An industrial design is any arrangement of lines or combination of colors or any external form, which can be two-dimensional or three-dimensional, and is incorporated in any product or artifact, including, but not limited to, the parts used in its assembly if it is a complex product, the packaging, presentation, graphic symbols and typographical characters other than computer programs, which give it a special appearance, without any change in the use or purpose of the product.

An industrial design is protected if it is new and has a singular appearance. Its novelty appears from the fact that it has not been divulged or made accessible to the public in any country of the world through publication, advertising or the use of some other medium before an applicant in the Dominican Republic has filed an application for the registration of the industrial design or the date on which priority is recognized. The singularity stems from the fact that the impression which the design produces in an informed user differs from the general impression created in said user by another design which has been made available to the public prior to the date of application for registration or, if priority is claimed, prior to the date of priority.

d. Statutory Basis

At this time the following laws and regulations relative to these types of intellectual creations are:

• Law No. 20-00 of 8 May 2000 on Industrial Property.
• Regulations No. 599-01 of 1 June 2001, as amended by Regulation No. 180-03 of 3 March 2003, (iii) and Law No. 424-06 which ratifies the Treaty creating DR-CAFTA. The Constitution also recognizes inventions and innovations and declares that they are entitled to protection as fundamental rights.

e. Membership in International Conventions

The Dominican Republic is a party to the following international treaties:

• Paris Convention, Act of The Hague (1925), since 6 April 1951
• Agreement on Trade-Related Aspects of Intellectual Property Rights, since 9 March 1995
• Convention establishing the World Intellectual Property Organization (WIPO), since 27 June 2000
• Patent Cooperation Treaty, since 28 May 2007

f. Life of a Concession

Patents have a life of 20 years, utility models have a life of 15 years, and industrial designs 5 years, beginning on the date of filing of the respective application. The life of an industrial design can be extended for two additional periods of 5 years each upon payment of a fee for the extension. A person who has filed an application for a patent, a utility model or an industrial design in a country which grants reciprocity to holders of such rights from the Dominican Republic and their assignees will be given priority to register his right in the Dominican Republic.

For patents and utility models, the right to priority is effective for 12 months from the date of application in the
The protection of a mark is obtained through registration. Goods and Services pursuant to the Nice Convention. It also applies the International Classification of marks. It also applies the International Classification of (Act of The Hague), which governs the rights of priority of any breach of a registered patent.

3. Trademarks and Service Marks

a. Concept and Types or Marks

A “mark” is defined in Law No. 20-00 as any visible sign or combination of signs susceptible of graphic representation capable of distinguishing the products or services of an enterprise from those of other enterprises. The protection applies to words, words of fantasy, names, pseudonyms, commercial slogans, letters, numbers, monograms, figures, portraits, labels, coats-of-arms, prints, emblems, fringes, lines and bands, and combinations and arrangements of colors, as well as three-dimensional shapes. It also embraces the form, presentation or arrangement of products or their packaging and labeling, or of the places where the products or services are available, so long as they are sufficiently distinctive, and that their use is not susceptible of creating confusion with respect to the source, qualities or characteristics of the products or services being identified.

Certain marks are inadmissible for reasons inherent in the sign or on account of the fact that third parties had acquired the right earlier. The Dominican Republic is a signatory to the Paris Union (Act of The Hague), which governs the rights of priority in marks. It also applies the International Classification of Goods and Services pursuant to the Nice Convention. The protection of a mark is obtained through registration.

b. Statutory Basis

Trade and service marks are the most common forms of industrial property in the Dominican Republic. Dominican legislation follows the guidelines of the World Trade Organization (WTO), namely: (i) Law No. 20-00 of 8 May 2000 on Industrial Property; (ii) Regulations No. 599-01 of 1 June 2001, as amended by Regulations No. 180-03 of 3 March 2003, (iii) Law No. 424-06 which ratifies the Treaty creating DR-CAFTA. The Constitution also recognizes names, marks and distinctive signs and declares that they are entitled to protection as fundamental rights.

c. Membership in International Conventions

The Dominican Republic is a party to the following international treaties:

- Paris Convention, Act of The Hague (1925), since 6 April 1951
- Agreement on Trade-Related Aspects of Intellectual Property Rights, since 9 March 1995
- Convention establishing the World Intellectual Property Organization (WIPO), since 27 June 2000
- Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods (Act of The Hague), since 6 April 1951.

5. Domain Names

The upper-tier code name for the Dominican Republic is .do. The following sub-domain names can also be used: .web.do; .art.do; .ald.do; .mil.do; .com.do; .edu.do; .gov.do; .gob.do; .org.do; .and.net.do. Since December 2009 it has been possible to register second-tier domain names in the Dominican Republic. The agency responsible for registering domain names is the Catholic University (Pontificia Universidad Católica Madre y Maestra, PUCMM), through its Network Information Center. Since 2009 PUCMM adopted the Uniform Domain Name Dispute Resolution Policy established by ICANN. Consequently, all conflicts related to local domain .do are being resolved through the process described in said Policy.

The protection of species of vegetation was created by means of the International Convention for the Protection of New Varieties of Plants, an inter-governmental agency headquartered in Geneva. The International Convention for the Protection of New Varieties of Plants of 1961 was ratified by the Dominican Republic as Law No. 438-06 of 30 November 2006. The purpose of the Convention is to stimulate the creation of new varieties of vegetation for the benefit of humanity. This law has not yet been implemented. When implementation occurs, it will certainly be within the scope of the Ministry for Agriculture.
The protection of copyright for artistic and literary creations is a fundamental right which has been recognized by several Dominican Constitutions. The present Constitution recognizes it in Article 52. The detailed regulation is contained in Law No. 65-00 of 21 August 2000 and in Regulatory Decree No. 362-01 of 14 March 2001. Law No. 424-06 of 20 November 2006, which introduces DR-CAFTA, also brought about some changes in Law No. 65-00.

The institutions involved in the protection of copyright are making a strenuous effort through enforcement operations to combat piracy, which takes place in the fields of music, motion pictures, software and works of literature. They are urging the holders of copyright to make use of the rights which the law places at their disposal.

1. Acquisition of Copyright

Law No. 65-00, in Article 3, incorporates the universally recognized principle, also expressed in Article 5.2 of the Bern Convention, that the author of a literary or artistic work has exclusive rights thereto from the moment of its creation without the need for registration. The right arises when an original work is first published.

2. Extent and Contents of Copyright

According to Article 2 of Law No. 65-00, copyright relates to “the protection of literary and artistic works as well as the literary or artistic expression of scientific works…” It includes, but is not limited to, works in written form, lectures, speeches, sermons and similar works; theatrical plays, choreography, musical compositions, audiovisual works; drawings, paintings, architectural designs, sculptures, prints, lithographic and similar artistic works; photographs, commercial drawings, illustrations, maps, sketches, works of plastic art, computer programs and data bases, among others.

On the other hand, in compliance with Article 9.2 of the Agreement on Trade-Related Aspects of Intellectual Property Rights, Article 7 of Law No. 65-00 expressly excludes the protection of ideas, of processes and mathematical operations. The law recognizes moral as well as patrimonial rights in favor of the author. The latter can be assigned or licensed to third parties.

3. Special Provisions for Certain Types of Works

The Law contains special provisions relative to audiovisual works and computer programs.

4. Limitations and Exceptions to Copyright

The Law contains a restricted list of limitations and exceptions to copyright, among which can be mentioned: quoting an author within certain limits, reproducing a work by photocopy exclusively for educational purposes or to prepare examinations in educational institutions, to the extent justified by the intended purpose; and the reproduction of articles, photographs, illustrations and commentaries in relation to current events, which have been previously published in the press, on the radio or on television. Additionally, the Law permits the reproduction of statutes, regulations, administrative rulings and judicial decisions with the corresponding citation.

In Article 44, the Law also allows the use of the work of an author for the following purposes: for education, to demonstrate receiving equipment to customers in a retail establishment, communication to the blind, and those which are undertaken for use in the home without intent to make a profit.

5. National Treatment, Automatic Protection and Independence of Protection

The Law expressly incorporates the three principles which the Bern Convention sets out for the purpose of harmonizing the laws of the member countries: National Treatment: Under Article 8 of the Law, National Treatment must be accorded even in the absence of a treaty requiring it; Automatic Protection, reflected in Article 3 of the Law, in line with the provisions of Article 5.2 of the Bern Convention, which grant the author automatic protection from the moment the work is created; and Independence of Protection, which means that protection is independent of the type of work involved.

6. Duration of Protection

In its patrimonial aspect, copyright protects the author during his lifetime and also protects his spouse, descendants and assigns for 70 years from the time of his death. In the absence of a spouse, descendants or assignees, the State will hold the copyright until it expires 70 years after the author’s death.

7. The Public Domain

The public domain encompasses the works whose period of protection has expired, expressions of folklore and traditional culture, works whose authors have expressly renounced their rights, and the works of persons deceased without leaving descendants or other successors.

8. Collective Management Societies

Three Collective Management Societies are presently functioning in the Dominican Republic: (i) The General Society of Dominican Authors, Composers, and Publishers of Copyright and Related Rights.
Music, Inc. (SGACEDOM), formed in 1996 under Decree No. 166-96, which in 2002 became an associate member of the International Confederation of Societies of Authors and Composers and in 2007 became an ordinary member of that organization. It holds contracts of reciprocity with collective management entities in the United States, Spain, Mexico, Brazil, Chile, Colombia, Venezuela, Costa Rica, Ecuador, Panama, El Salvador, Honduras and Uruguay; (ii) Dominican Society of Sculptors, Inc. (SODOMAPA), created by Decree No. 926-03; and (iii) Dominican Society of Phonograph Record Producers (SODIMPRO), created by Decree No. 772-03.

9. Border Enforcement

Enforcement of copyright along the borders is of great importance for copyright protection in that it makes possible the stoppage of works suspected of being pirated through the Office of Customs and the Office of the Attorney General and the later investigation into the origin of the detained merchandise.

Copyright Law No. 65-00 describes measures that can be taken by copyright holders to stop merchandise in Customs. Law No. 424-06 reinforces these provisions by introducing an expeditious procedure which allows copyright holders to institute proceedings leading to the stoppage of pirated merchandise.

10. Civil actions and Penalties

Civil actions and criminal penalties are available to the copyright holder to secure respect for his rights. Law No. 65-00 sanctions copyright violations with imprisonment ranging from 3 months to 3 years and fines ranging in amounts from 50 to 1000 minimum wages. Additionally, the National Copyright Office can apply administrative sanctions, including the temporary or permanent closing of the infringing business, confiscation of equipment, fines, and destruction of illegal copies.

Law No. 424-06 sets out guidelines to be used by civil courts in assessing damages for copyright infringement, such as the profits obtained by the infringer, the value of the goods involved in the violation, and the earnings which the holder would have obtained if he had authorized the use of his rights.

11. Copyright Agreements to Which the Dominican Republic is a Party

The Dominican Republic is a party to the following treaties and international agreements:

- Convention for the Protection of Literary and Artistic Property (Mexico 1892, since 1902)
- Convention on Artistic Property (Buenos Aires, since 1910)
- Inter-American Convention on Copyright for Literary, Scientific and Artistic Works (since 1946)
- Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Cultural Property (since 1972)
- Rome Convention for the Protection of Performers, Producers of Phonograph and Broadcast Organizations (since 1977)
- Universal Copyright Convention (since 1982)
- Agreement on Trade-Related Aspects of Intellectual Property Rights (since 1995)
- Bern Convention (since 1997)
- World Intellectual Property Organization (WIPO) Treaty on Copyright (since 2003)

12. Intellectual Property and DR-CAFTA

The DR-CAFTA included improvements in the protection of:

a. Patents. It established i) Patent Term Restoration (PTR), which grants a compensation for a maximum of 3 years for the unjustified delays in the issuance of a patent or the granting of a permit to market a product. ii) Linkage: The Ministry for Health is now required to establish safeguards in its approval process to avoid third parties from marketing a pharmaceutical product protected by a patent, unless the titleholder of the patent has granted its authorization.

b. Data Protection: protection is granted for 5 years to new pharmaceutical products and for 10 years to new agricultural-chemical products.

c. Trademarks: collective marks, certification marks, sound and smell marks, as well as geographical indications may now be registered.

d. Border measures are contemplated for trademarks and copyright.
1. Legislation

a. General Aspects

In the Dominican Republic, this subject is governed by Law No. 126-02 on Electronic Commerce, Digital Documents and Signatures and the Regulations for its application in Decree No. 335-03 and complementary norms issued by the Dominican Telecommunications Institute (INDOTEL).

The promulgation of Law No. 126-02 is a milestone in the insertion of the Dominican Republic in the information age; it enhances the competitiveness of the country’s productive sector and supports the modernization of its public institutions.

Law No. 126-02 is based on the Model Law on Electronic Commerce and Digital Signatures prepared by the United Nations Commission on International Trade Law (UNCITRAL). It follows the principle of “technological neutrality” which already existed in the General Telecommunications Law No. 153-98. It does not define the legal concepts on which the applicable technology is based, but on the requirements and conditions which the technological solutions must satisfy in order to be legally recognized.

The Law declares that a digital equivalent has the same value as the original and recognizes the legal validity of digital signatures and of electronic commercial transactions by establishing the requirements that electronic documents and data messages, among others, must meet.

According to Law No. 126-02, the term “electronic commerce” is defined as “any commercial relation, contractual or not, structured on the basis of one or more digital documents or data messages or by other similar means.”

b. Digital Documents and Data Messages

Digital Documents are defined in Law No. 126-02 as “information codified in digital form on a logical or physical support, in which use is made of electronic, photolithographic, optical or similar methods, which represent legally relevant acts or data.” Data messages are defined as “information generated, sent, received, stored or communicated by electronic, optical or similar means, such as the electronic transfer of data, electronic mail, telegram or telex.”

The legal effect of data messages and digital documents is expressly recognized in Article 4 of Law No. 126-02, which establishes the fundamental principle that legal validity or binding force will not be refused to any type of information for the sole reason that it is in the form of a digital document or data message. These forms are declared to be admissible in evidence and suitable for the formation and validity of contracts.

The Law is based on the underlying principle of functional equivalent. Electronic means can be used where traditionally a writing on paper was needed to ensure legibility and unalterability of a document and to make copies possible, so that each party could have an equivalent, and where authentication of a document was achieved through a signature, so that the document was acceptable to the public authorities and to the courts.

c. Electronic Commerce in the Transportation of Goods

Articles 29 and 30 of Law No. 126-02 make special reference to electronic commerce in the transportation of goods, where extensive use is made of electronic communications in business to business (B2B) transactions. The Law validates the digital documents utilized in the transportation of goods, under the principle of singularity of data messages, which means that a single document is all that is needed to perfect the transaction. Thus a shipment can be made by means of a single bill of lading, which cannot be modified except when it is assigned or endorsed.

d. Digital Signatures, Certificates and Certifying Entities

The Law defines a digital signature as “a numerical value which is adhered to a data message by using a known mathematical procedure, related to the key of the initiator of the message and to the text of the message itself, so that it is possible to determine that the message arises exclusively from the initiator’s key and that the message has not been modified after being transmitted.”

The legal recognition of a digital signature is stated in...
Article 31 of the Law, which declares that when a norm requires the signature of a person, this requirement will be satisfied and it will have the same force and effect as if it were in manuscript form, if it incorporates the following features: a) it is the only digital signature used by that person; b) it is susceptible of being verified; c) it is under the exclusive control of the person using it; d) it is linked to the information, digital document or message such that, if they are modified, the digital signature is automatically deleted; and e) it is in accord with regulations issued by the Executive.

The Law also declares that a signature is true when it is based on a digital certificate issued by an accredited certifying entity. This requirement associates the existence of a true digital signature with a controlling entity licensed by the State which verifies that proper technical and security procedures have been followed by the provider of the certification service.

A digital certificate is a digital document which has been digitally recognized by a certifying entity which identifies the signer during the period of validity of the certificate and which constitutes proof that the signer is the source and originator of the content of the digital document or message which incorporates the certificate.

A certifying entity is a legally accredited institution or legal person, which is authorized to issue certifications in relation to digital signatures and to offer services of registration and chronological stamping of the transmission and reception of data messages and to perform other functions related to communications with digital signatures.

Certifying entities can be public or private legal entities, national as well as foreign, including the chambers of commerce which have been authorized by the Dominican Institute of Telecommunications (INDOTEL) upon verification that they are in compliance with certain requirements, including their financial, technical and legal capacity.

The accreditation procedure for certifying entities are set forth in Resolutions No. 094-04, which among other things provides that after the entry into force of DR-CAPTA, certifying entities located in the United States and duly licensed to perform their service in that country will not be required to set up a domicile in the Dominican Republic as a condition for rendering their services in the Dominican Republic, provided they comply with the requirements of Law No. 126-02.

e. Agency in Charge of Regulating Electronic Commerce
The Dominican Institute of Telecommunications (INDOTEL) is the agency in charge of regulating electronic commerce in the Dominican Republic and of supervising and controlling the activities and operations of the certifying entities.

2. Norms Related to the Technological and Security Standards in Electronic Commerce

The procedures for Security are outlined in Norm ISO 17794, which is binding on all certifying entities and also includes a series of recommendations for general users concerning the steps to be taken in order to implement their systems and protocols.

The specifications applicable to the public key of the Dominican Government and the components thereof are set forth in the Norm on Standards of Technological Specifications Applicable to X.509 V3 Certificates for Use in the Infrastructure of the Public Key of the Dominican Government which, among other things, makes the use of certificates X.509 V3 obligatory in the use of the Internet.

3. Complementary Legal Aspects
a. Determination of the Official Time by Electronic Means
Pursuant to Article 84 of the Regulations for the Application of Law No. 126-02, INDOTEL issued Resolution No. 026-06 relative to the determination of the official time by electronic means and the Internet. This Resolution sets forth the mechanism by which the National Office of Meteorology determines the official time and offers it as a public service.

The official time is used to determine the date and hour for acts which time is of the essence, such as the filing of digital documents in judicial and administrative proceedings, electronic purchases and electronic notifications.

b. Protection of Personal Data by Regulated Subjects

e. Use of Data Messages, Digital Documents and Signatures in Relation to Electronic Payments
In order to secure the technical operability, INDOTEL, in coordination with the Monetary Board and the Superintendency of Banks, issued Resolution No. 033-07 relative to electronic payment means and the intervention of the Certifying Entities in the operation of financial services associated with electronic payments. This Resolution governs the electronic transfer of funds and other banking operations through the transfer of electronic data or the giving of instructions through channels of communication with the use of electronic devices (such as ATM machines, terminals at points of sale, among others) the creation of electronic funds, their circulation, exchange and collection, the creation and use of digital checks and other means of electronic payment.

c. Norms Relating to the Publication of Information about Consumers and Users by the Regulated Subjects.

By means of Resolution No. 043-06, INDOTEL has established the rules for divulging information by the Regulated Subjects, describing which data they may make available to the public. It also determines which data shall be "private information" of the consumers or users for whom they perform services. This Resolution, however, does not govern the information which the Regulated Subjects must furnish concerning themselves and their activities. These are to be found in Law No. 126-02 and Regulations No. 335-03 and specifically in the rule on "Procedures for Authorization and Accreditation of the Regulated Subjects" and "Technological Specifications applicable to Certificates x.509 V3 for use in the Infrastructure of the Public Key of the Dominican Government" and "Norm for the Protection of the Rights of Consumers and Users."

d. Protection of the Rights of Consumers and Users
INDOTEL issued Resolution No. 142-06 on the protection of the rights of consumers and users in relation to the products and services offered by the Regulated Subjects. This Resolution governs the rights and duties of consumers and Regulated Subjects in relation to the products and services offered by the latter; the procedures for the protection of the rights of consumers which INDOTEL makes available; the security procedures which the Regulated Subjects in the course of receiving, using, storing and treating the information and data furnished by the consumers and users and the liability which the Regulated Subjects must assume vis-à-vis consumers and users with respect to the products and services they offer.
1. General Aspects of the Law on Technological Crimes and Misdemeanors

Crimes and misdemeanors related to technology and communications are found in Law No. 53-07 of 23 April 2007 on Crimes and Misdemeanors of Technology. This law penalizes illegal behavior when committed through electronic systems, computers and telecommunications. The purpose of this law is the protection of systems that utilize information and communication technologies and to penalize crimes committed with the use of such technologies. It aims to safeguard information systems and their component parts, the information and data stored therein or transmitted thereby, including commercial transactions and other correspondence carried out by such means, as well as the confidentiality of their contents.

The law reaches a) criminal action committed in the national territory; b) criminal activity outside the country having an effect in the country; c) criminal activity committed in the country which produces its effects abroad; and d) complicity in the Dominican Republic in acts committed abroad.

The Law on Technological Crimes is based on the principles of reasonableness and proportionality and is divided into the following parts: general rules of substantive criminal law, ordinary crimes committed by technological means, crimes against intellectual property, crimes committed through the use of telecommunications, investigative agencies and rules of procedure.

2. Rules of Substantive Criminal Law

Among the types of crimes sanctioned by the Law, the most important are crimes against confidentiality, completeness and availability of data and of information systems, such as obtaining access codes by illegal means, using cloning devices so as to obtain access to information systems, sabotage of systems and damage or alteration of data.

Other types of crimes include illegally obtaining access to an international network, taking advantage of the fraudulent activity of a third person in order to receive a payment, without proper authorization manufacturing, using, trafficking in or possessing computer programs or equipment whose sole or primary use is as tools to commit technological crimes; the interception of messages or signals or causing damage to or altering data; and sabotage.

3. Ordinary crimes Committed by Technological Means

Among such ordinary crimes, the Law lists the following: (i) attempts against the life of a person by using electronic systems, computers or telecommunications or component parts thereof; (ii) theft by the use of technology; (iii) illegally obtaining funds by threats against the legitimate user of a financial service, or of a computer or of a means of telecommunication; (iv) electronic transfers of funds by the illegal use of an access code or similar device, fraud, extortion, identity theft, forgery of documents or signatures, etc.

Other crimes of this sort are the unauthorized use of electronic systems, computers or telecommunications, or of devices that can be used to carry out operations aimed at invading privacy, illegal commerce in goods or services, defamation by electronic means, public slander, advertising sexual services, distributing or acquiring child pornography.

4. Intellectual Property Crimes

The Law also encompasses the use of technology to commit crimes characterized by Law No. 20-00 on Industrial Property and Law No. 65-00 on Copyright.

5. Crimes Against Telecommunications

Crimes against telecommunications carry prison terms ranging from 3 months to 10 years and fines from 5 to 200 times the minimum wage, when they involve the following acts: (i) fraudulent return calls, (ii) fraud in the giving of information with dials such as 1-976, (iii) fraud in the detour or re-direction of long-distance traffic, (iv) theft of telephone lines, (v) directing traffic by unauthorized routes so as to avoid or reduce the cost thereof, (vi) illegal manipulation of telecommunications equipment, and (vii) invasion of private telephone exchanges.

6. Crimes Against the Nation and Acts of Terrorism

Under the Law, crimes committed against the fundamental interests of the Nation through the use of information systems, or electronic or telecommunication systems, such as sabotage, espionage or leaking information, carry prison terms ranging from 15 to 30 years of imprisonment and fines ranging from 300 to 2000 times the minimum wage.

Also, any person who, through the use of information systems or electronic or telecommunication systems, commits acts of terrorism, is punishable by imprisonment from 20 to 30 years and a fine from 300 to 1000 public sector minimum wages, and confiscation and destruction of the information system and its components used in committing the crime.

7. Investigative Agencies

The Office of the Attorney General has created a department specializing in the investigation and prosecution of technological crimes. An agency has also been created within the Police Department called DICAT (Departamento de Investigación de Crímenes y Delitos de Alta Tecnología), and another one called DIDI (División de Investigaciones de Delitos Informáticos) has been established within the National Bureau of Investigations.

8. Procedural Rules

As means of enhancing procedure, technology is used to preserve evidence and to verify the authenticity of information presented in digital or electronic form, with the aim of improving and accelerating the process of obtaining evidence.
The Dominican Republic protects Dominican concessionaires or agents engaged in the country to promote and manage the import, distribution, sale, rental or any other form of exploitation of foreign goods or products or manufactured in the country, guaranteeing their compensation for damages they may suffer as a result of the unilateral termination without just cause of contracts by their foreign principals.

Law No. 173 on Protection of Importer Agents of Goods and Products, dated April 6, 1966: (i) is of public order and therefore cannot be revoked or modified by the parties by any particular convenience; (ii) prohibits the grantor to terminate or resolve their relationships or refuse to renew the contract at its normal expiration except for just cause; and (iii) requires the grantor to compensate the concessionaire if decides to sell the products in the Dominican Republic by himself or through third parties.

Law 173 applies even if the concession contract does not have an exclusive basis. However, a non-exclusive distributor does not have a monopoly. The Supreme Court has held that a non-exclusive distributor cannot prevent a competitor import the same products from a broker and distribute them in the Dominican Republic.1

To benefit from the protection granted by this law, it must be complied with the registration procedure before the International Department of the Central Bank of the Dominican Republic.

Every concessionaire shall be entitled to sue the grantor, in case of his removal, replacement or termination of the contract subscribed by them, or the refusal to renew the contract, by the unilaterally and without just cause action of the grantor, for the fair and complete repair of the damages and prejudices suffered for such cause. The amount will be fixed on the basis of the following factors:

- All experienced losses suffered by the concessionaire by reason of the personal efforts performed for the exclusive benefit of the business being deprived of, including disbursements for payment of compensation provided by labor laws;
- The current value of the investment for the purchase or lease and the adequacy of units, equipment, facilities, furniture and fixtures, insofar as they are only usable for the business being deprived;
- The value of promotions of performed services by reason of the the commercial reputation of the concessionaire of the goods or products, parts and accessories having in existence and for which sale or exploitation ceases to benefit. This value is determined by the cost of acquisition and transport of products to its establishment, plus duties, taxes, charges and expenditures;
- The amount of gross profits made by the concessionaire in the sale of goods or products or services over the past five years; or if the grant does not reach the five years of exploitation, five times the average annual gross profits during the time of operation. If the grant has lasted more than five years, the grantor must also pay the concessionaire the sum obtained by multiplying the number of years in excess of five by tenth parts of the average gross profits made over the last five years of representation.

The concessionaire not registered under Law 173 may institute legal proceedings to claim the execution of the

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agreement, by way of common law, specifically under the provisions of the Dominican Civil Code.

Law No. 424-06, on Implementation of the Free Trade Agreement between the Dominican Republic, Central America and the United States of America (DR-CAFTA) provides that only shall be governed by Law 173 those contracts that explicitly provides for the application of Law 173, and which have been executed prior to the entry into force of the Treaty.

The enforcement character of Law No. 173 does not apply to the grantors of the United States under DR-CAFTA. The Treaty states that after the termination of the concession contract, of which is part a provider of goods and services of the United States or any entity controlled by the supplier ("covered contract"), or after the decision of not to renew the contract:

- if the covered contract contains a provision for compensation, including a provision establishing non-compensation, compensation will be based on said provision;
- if the covered contract had no such provision, any compensation will be based on the actual economic damages and not a statutory formula;
- the grantor will honor outstanding guarantees;
- the grantor will compensate the distributor for the value of any inventory that the distributor cannot sell by reason of the termination or not renewal decision. The inventory value shall include any customs duties, surcharges, transportation costs, costs of internal movements, and inventory carrying costs paid by the concessionaire.

Contracts are not covered by Law 173 are governed by the common law and the principle of contractual freedom. The Treaty also allows (i) that disputes arising out of the covered contract to be resolved through binding arbitration, and (ii) that the parties of the covered contract establish in the contract the mechanisms and forums that will be available in case of disputes.
1. Legal Framework

The rules applicable to government procurement are found in Law No. 340-06 of 18 August 2006, as amended by Law No. 449-06 of 6 December 2006, and in the Regulations contained in Decree No. 543/12, issued by the Chief Executive on 6 September 2012.

2. Government Procurement System

The system is organized around two main ideas: centralization of policies and norms and decentralization of operations. The centralization of policies and norms is in the hands of the Department of Government Procurement, described as the Directing Organ for the System of Contracting for Goods, Works, Services and Concessions, and which is a part of the Ministry for the Treasury. The operative work is under the control of entities having operating units in charge of supervising the work of the contractors.

3. Principles of Government Procurement

Several principles guide the activity of Government procurement: principle of efficiency, principle of equality and free competition; principle of transparency and publicity; principle of economy and flexibility; principle of fairness; principle of responsibility, morality and good faith; principle of reciprocity, principle of participation; and principle of reasonableness.

4. Government Agencies Subject to Law

The legislation on Government procurement apply to the Legislative Branch, the Executive Branch and the Judiciary, and to all Government bodies described in the Constitution, such as the Chamber of Accounts and the Central Electoral Board; and to the agencies which comprise the central administration of the State; to the autonomous and decentralized agencies; to the municipalities, to the State-owned enterprises; and to any other public agency which contracts for the acquisition of goods, services, works and concessions with public funds.

The public procurement law applies to the legislative, executive and judicial branches, to other organs of constitutional relevance, as the Constitutional Tribunal, the Superior Electoral Tribunal, the People’s Defense Office, the Chamber of Accounts, the Central Bank and the Central Elections Board, the organs that comprise the central state administration, to autonomous or decentralized agencies, to municipalities, public companies, as well as any moral person that may contract the purchase of goods, services, works and concessions with public funds.

5. Contracts to Which the Legislation on Government Procurement Applies

Such contracts include the purchase and contracting of goods, services and consultations; contracts for the carrying out of public works; concessions of goods, works or services of the Public Sector; and leasing with and without purchase option. The Law also applies to all contracts which have not been expressly excluded or which are subject to a special regime.

a. Contracts Which are Expressly Excluded

The Law expressly excludes certain contracts from its rules on Government procurement, including loans and donations from other states or international organizations, such as the multilateral lending agencies (the World Bank, the Inter-American Development Bank); Government borrowing; employment contracts of public servants which are governed by the Law on Public Function; and contracts between Government entities.

b. Contracts Subject to a Special Regime

The Law on Government procurement does not apply to contracts which, under special legislation, are subject to a special status: (a) the concession of public telecommunications services, which are governed by the Telecommunications Law No. 153-98; (b) concessions for the generation and distribution of electric power, which are subject to the provisions of the General Electricity Law No. 125-01; and (c) mining concessions, governed by the Mining Law No. 146 of 1971.

6. Procedures for the Selection of Contractors

The Law on Government procurement enumerates five (5) procedures through which Government organizations must select the contractor with whom they will be dealing. The selection is largely a function of the upper limits assigned to each agency by the current budget of the Central Government.

The procedures for the selection of Government contractors are the following: (a) National or International Public Bidding. International bidding must take place pursuant to an existing Treaty; or when a technical evaluation has determined that there are no national enterprises capable of providing the goods or services or to carry out the project, or when no bids were received from national enterprises
in response to an earlier call; (b) restricted bidding; (c) distribution of work through a drawing of lots; (d) comparison of prices; and (e) reverse bidding.

A public bidding will be international on three assumptions: (i) when the purchase or contract is covered by a treaty or international agreement signed by the country, (ii) when a technical evaluation determines that no domestic suppliers are able to provide the goods or services or to implement the projects or works, and (iii) when a previous national public bidding has been declared deserted.

The specific procedure for selection of the contractor to be used is determined by reference to the highest thresholds published by the Department of Public Procurement according the applicable calculation.

a. Compulsory Public Bidding

When the subject of the Government contract is the granting of a concession of goods, public works or services, the selection of the contractor must take place through national or international public bidding. Public bidding is also required when the amount of the contract is likely to exceed a certain limit.

b. Direct Contracting

There are a total of eight (8) exceptions to the requirement of public bidding for Government contracts and, when one of these applies, the Government agency can enter into a direct contract with the selected party:

(a) contracts which because of an emergency or for reasons of national security are important for the State, the economy or the lives of the inhabitants;

(b) contracts for the purchase of scientific or technical equipment or works of art or for the restoration of historic monuments, when the work can be done only by a certain enterprise, artist or specialist;

(c) the purchase of goods or services which can only be supplied by a certain person or enterprise;

(d) purchases of goods or services in an emergency which has been previously declared;

(e) purchases for the construction, furnishing, acquisition or leasing of offices for the Foreign Service;

(f) termination of contracts which have been rescinded when the cost of the termination does not exceed 40% of the total cost of the project;

(g) purchases aimed at promoting micro, small or medium-size enterprises, and

(h) announcements made through the existing media.

7. Requirements to be a Government Contractor

A person or company wishing to contract with the Government must have professional and technical qualifications which guarantee its competence, as well as the necessary financial resources, reliability and experience and human resources to perform the contract. It must not be involved in an insolvency or reorganization proceeding and must be up to date in the payment of its taxes and Social Security obligations.

a. Technical Expertise for Certain Contracts

When the contract involves public works, supplies or technical advice, the rules specify the information which must be furnished in order to determine the qualifications of the interested party.

b. Inscription in the Registry of Government Suppliers

In order to take part in any sale to the Government or other Government contract, the contractor must be registered in the Registry of Government Suppliers. It is sufficient to file an application for registration in order to take part in any of the selection procedures.

c. Registration of Foreign Firms

Foreign firms are not required to be registered prior to participating in any public bidding or other contracting procedure, but must register if the work is adjudicated in their favor and prior to the signing of the contract.

i. Documents Required for Registration

The Regulations for the application of the Law on Government procurement contain a list of the documents which must be presented for inscription in the Registry of Government Suppliers, depending on whether the applicant is a natural or a legal person.

8. Administrative and Judicial Controversies

The controversies that arise in the context of a Government contract are decided in first instance by the Resolving Body of the Government agency for which the work is being done. The decisions of the Resolving Body can be appealed to the Superior Administrative Court. By stipula-
1. Overview of Law No. 64-00 on Environment and Natural Resources

   a. Objective

   Law No. 64-00 on Environment and Natural Resources, dated August 18, 2000, (the “Law”) has as objective to establish standards for the conservation, protection, improvement and restoration of the environment and natural resources so as to ensure their sustainable use. This legislation, which has the character of public policy, declared natural resources and the environment as a common heritage of the nation.

   b. Governing Body

   The Ministry of Environment and Natural Resources (“MIMARENA”) is the regulatory body of the Law with jurisdiction to issue rules and regulations governing the use of land, water, marine resources, minerals, forests and caves.

   c. Overview of Environmental Permits and Licenses

   The Law provides a number of procedures for the environmental regulation and protection in the Dominican Republic. Depending upon the type of project, different types of authorizations by MIMARENA are required, including environmental license and environmental permit. The environmental license is the document in which is consigned that it has been evaluated the environmental impact study and that the activity, work or project may be performed, subject to the environmental management and adaptation program (PMAA) and to the measures indicated by MIMARENA, being granted to projects with significant potential impacts. The environmental permit is the document issued at the request of an interested party to projects with moderate potential impact, based on the assessment of the environmental impact statement submitted by the sponsor and prepared by a provider of environmental services duly accredited by the MIMARENA, which certifies that from the point of view of environmental protection, the activity can be executed, provided it complies with the above measures and having the PMAA duly approved.

   Environmental licenses and permits have a contractual character and shall be valid for five (5) years. However, its validity will depend on the results of PMAA monitoring which shall be audited in those terms established by the corresponding permit or license. The permit or license is granted in accordance with the provisions laid down in Regulation of the Environmental Authorizations System, dated March 24, 2011, which provides a receipt unit before the Directorate of Environmental Authorizations Service, in the form of unique window, and a system of categorization of projects by sector and a Georeferenced Information system (GIS) of previous analysis indicated below (available online).

2. Environmental Permits and Licenses of Existing Installations

   a. Requirements

   The requirements for environmental permits and licenses for existing installations can be found on the MIMARENA website: ww.ambiente.gob.do.

   b. Prior Analysis

   It is the process by which the MIMARENA determines the level of environmental study required in order to grant the corresponding Environmental license or permit, in compliance with the Regulation of Environmental Permits and Licenses System, dated March 18, 2002.

   c. Environmental Report

   Is the document where are described the project and its main impacts, both environmental and socioeconomic, are identified the corresponding mitigation measures and it is established the “environmental adaptation and management program” of the project, in accordance with the Regulation of Environmental Permits and Licenses System. This document must be prepared by a provider of environmental services duly accredited by the MIMARENA.
d. Environmental Adaptation and Management Program (PMAA)

It is the set of actions to be implemented to improve the environmental performance of the project and to ensure the management of natural resources without reducing their productivity and quality. It must explicitly state how measures of prevention, mitigation or compensation identified by the corresponding environmental study be implemented, and must include the budget and personnel responsible and self-monitoring actions to be implemented in different phases of the project.

e. Follow-up and control

MIMARENA shall conduct periodical inspections and audits in compliance with the provisions of the PMAA. When the results of this monitoring reflect that the project in question meets the requirements of the Law, it shall issue a certificate of environmental compliance.

3. Environmental Permits and Licenses for new projects

a. Requirements

The requirements for environmental permits and licenses for new projects are found on the MIMARENA website: www.ambiente.gob.do.

b. Environmental impact assessment and projects subject to such requirement

It is the instrument of environmental policy and management composed by the set of procedures, studies and technical systems that estimate the effects that the execution of a particular work, activity or project may cause on the environment. The list of projects requiring such an assessment is found in Article 41 of the Law. For more information, refer to the Regulation of Environmental Permits and Licenses System.

c. Declaration on Impact Statement

Is the document prepared by a provider of environmental services duly accredited by the MIMARENA and presented by the project promoter, which is the natural or legal person proposing their implementation or is responsible of it, with the description of the environment that will be affected, the prevention measures and an estimate of their costs. The environmental impact statement is incorporated into the project budget, according to the Regulation on Environmental Permits and Licenses System.

d. Environmental impact study

It is the technical and scientific study aimed at the identification, prediction and control of environmental impacts of a project. It contains preventive, mitigation or compensatory measures of the identified impacts, and establishes the management and adaptation program necessary for the project to run as well as its follow-up plan.

4. Soil and Water Authorizations

a. Authorization for Extraction of Materials from the Soil

The use of subterranean water obtained by pumping is possible in certain areas, depending on the hydrological conditions of the zone. To this end a certificate of no objection must be obtained by means of a letter to the Vice-Minister of Soil and Water, which complies with the requirements set forth in the web page of the Ministry. www.mediambiente.gob.do. For complete information, it is also necessary to review Law No. 6552 of March 1962 on Distribution of Public Water, as amended.

b. Other Authorizations

i. Construction of wells to remove subterranean water

Before discharging any liquid waste, it is necessary to obtain a certificate of no objection by applying to the Vice-Minister of Soil and Water, which must comply with the requirements mentioned in www.mediambiente.gob.do and to which must be attached the documents mentioned therein.

ii. Permission to discharge liquid waste

The use of subterranean water obtained by pumping is possible in certain areas, depending on the hydrological conditions of the zone. To this end a certificate of no objection must be obtained by means of a letter to the Vice-Minister of Soil and Water, which complies with the requirements set forth in the web page of the Ministry. www.mediambiente.gob.do. For complete information, it is also necessary to review Law No. 6552 of March 1962 on Distribution of Public Water, as amended.

5. Authorizations for the use of forestry resources

a. Cutting Trees

For the construction or preparation of tourist projects or other real estate developments, it is necessary to obtain a permit to cut down trees or to clear land. The permits are issued by the Office of Forestry Permits upon compliance with the requirements listed in the document entitled “Norms and Procedures for Forestry Permits.”

b. Other Authorizations

i. For the Establishment of Lumber Industries

To install and operate a saw-mill, it is necessary to obtain a Certificate of Installation and Operation of a Saw-Mill issued by the Department of Lumber Industry upon submission the documents listed in www.mediambiente.gob.do.

ii. Lumber Import

For the importation of lumber, it is necessary to obtain a letter of no-objection issued by the Vice-Ministry of Forestry Resources upon satisfaction of the requirements mentioned in www.mediambiente.gob.do.

iii. Decree 164-14. Regulation of Law 110-13, for the trade and export of waste of ferrous and non-ferrous scrap metal, scrap copper, aluminum and its alloys

To carry out all operations relating to trade and export of waste from ferrous and non-ferrous scrap metal, scrap copper, aluminum and its alloys, it is necessary to obtain a registration with the relevant entity depending on the category established in the Decree 164-14, available at www.ambiente.gob.do.
iv. Environmental Technical Regulations for the management of used lead acid batteries.

To carry out the business of used lead acid batteries the facility must be located in an industrial or commercial area and meet the requirements listed in the Regulations approved by MIMARENA through Resolution 008-2015 available at www.ambiente.gob.do.

iv. Environmental Technical Regulations for Management of Metal Scrap Waste

To perform tasks related to management of scrap metal waste or non-hazardous metal waste, it is necessary to obtain the corresponding environmental authorization in order to operate a storage facility in accordance with the requirements listed in Resolution No. 004-2014 available at www.ambiente.gob.do.

6. Protected Areas and Biodiversity

a. Protected Areas

i. Permits for Studies and Research

Anyone interested in carrying out a study or a research project in an area included in the National System of Protected Areas or in relation to biodiversity or wildlife is required to have an authorization from the Vice-Ministry of Protected Areas and Biodiversity upon compliance with the requirements contained in the Regulations for Research in Protected Areas and Biodiversity.

ii. Concession Permit for eco-tourist operation in a specific protected area

Is granted to physical or judicial persons interested in performing eco-tourist activities for commercial purposes, such as regular transportation and tour guides. The requirements for such purposes are outlined at www.ambiente.gob.do.

b. Biodiversity

i. Permit to import or export wild plants or animals for commercial purposes

To import or export certain species of wild plants, animals, or any product derived thereof, it is required an import or export permit, as applicable, of wild plants and animals for commercial purposes. These requirements are outlined at www.ambiente.gob.do.

7. Marine and Coastal Resources

a. Fishery Resources

i. Authorization to import or export fishery Resources.

To import or export fishery products it is required to obtain a certificate of no objection to import or export (as applicable) of fishery products issued by the Fishery Department of the Directorate of Fisheries Resources of the MIMARENA. It is necessary to indicate the number of the marketing license referred below, Type and quantity of product, destination and shipping port, as well as to attach the pertinent documentation.

ii. Marketing License of Fishery Products

It is granted by the Fishery Department of the Directorate of Fisheries Resources of the MIMARENA. It is required to indicate the quantity and size of equipment used and attach all pertinent documentation.

b. Other Authorizations

i. Operation or Implementation of investment project in coastal and marine zone

It is required to obtain from the Deputy Ministry of Coastal and Marine Resources of the MIMARENA a letter of No-Objection in order to initiate the process, which is issued for the purpose of initiating the process of environmental evaluation. Such a letter is issued after a review of the proposal, followed by an on-site examination. If available, a memorandum describing the project should be provided.

ii. License for Fish-Farming

To obtain a fish-farming license, it is necessary to address a communication to the Deputy Minister for Coastal and Marine Resources, complying with the requirements stated in www.mimar@ambi@ente.gob.do.

iii. Use, export or trade of live Costal and Marine Resources

These activities require a certificate of no-objection from the Deputy Minister for Coastal and Marine Resources, in order to assess the viability of exploiting the particular resource. It requires an analysis of the project, a review of the applicant’s background and an on-site inspection. A detailed description of the project must be attached to the application.

iv. Distribution of electric energy

For those projects of distribution of electric energy, MIMARENA has available the Environmental Guide at www.ambiente.gob.do.

v. Good Hotel Practices

The MIMARENA has issued the Guide for good environmental practices for the Hotel Sector which is available to all concerned at www.ambiente.gob.do.

3. Authorizations for the accreditation of environmental consultants

In compliance with the final part of Article 42 of the Law, the MIMARENA issued the Regulation establishing the Procedure for Registration and Certification of Environmental Services Providers. The Registry of Environmental Service Providers shall be made to the MIMARENA and it shall consist of natural or legal, national or foreign, persons engaged in the production, review or evaluation of environmental impact studies, risk studies and environmental management, diagnostics and environmental statements, strategic environmental assessments, and audits of environmental impact.

4. Other Authorizations

a. Certificate of Registration of Environmental Impact.

It is a kind of environmental clearance under the category of permissions that are granted by a document in which it is noted that the activity, work or project in question has no potential to cause significant impacts to the environment and natural resources.

b. Environmental Evidence

It is an authorization granted to projects with low environmental impact, for the execution of which it is only required to ensure compliance with current environmental regulations and which correspond to a certain category of projects.
c. Environmental Compliance Certificate for export of surplus rocks, minerals and materials of the soil called sand, gravel, grit and stone.

Given the continuing degradation of the upper basin, and thus their conversion into large deposits of sediment retention that can be used for various purposes and activities of channeling, adequacy of channels and removal of sediments from rivers, and the intensive mining practice in the country, there exist in the Dominican territory important alluvial deposits that are exploited and make the Dominican Republic a self-sufficient country in this regard.

Despite this, and by reason that the use of instruments of controls to strengthen the evaluation and certification of environmental conditions necessary for exports of surplus rocks, minerals and materials of the soil means a guarantee towards environmental protection and sustainable development, has been resolved by the Ministry of Environment and Natural Resources, through Resolution No.007 / 2012 to approve the procedure for Environmental Compliance Certificate for Export of surplus of rocks, minerals and so-called crustal materials: sand, gravel, grit and stones, jointly with the payment of an Environmental Export Fee.

The steps required to obtain this certification must be conducted before the Deputy Ministry of Soil and Water, provided that the mining activities performed in the country are aimed at the marketing, regardless of the type of rock in question when it has undergone transformation processes or is in a natural state. There are only excluded from the guidelines of the resolution components of the soil called boulder (bowls and bedpans).

5. Constitution of the Dominican Republic

Article 67 of the Constitution prohibits the introduction, manufacture, possession, sale, transportation or storage of chemical, biological or nuclear weapons; the use of internationally prohibited agrochemicals; as well as nuclear residue, toxic or dangerous waste. It also provides that in contracts made by the Government and in the permits it grants for the exploitation of natural resources, there is an implied obligation to respect the ecological equilibrium, to give access to or acquire technology, and to restore the environment to its natural state, if it has been altered.


Chapter 17 of DR-CAFTA establishes commitments and obligations of the parties regarding environmental protection. It also provides that the parties shall (i) ensure that their laws provide high levels of environmental protection; and (ii) endeavor to not weaken or reduce environmental laws to encourage trade or investment with another party. It includes commitments to highlight the cooperation between the parties on environmental matters; and encourages parties to develop voluntary mechanisms and market-based as means to achieve and sustain high levels of environmental protection.

7. Quality Standards of Water Bodies

Having as its main objective the protection and preservation of the quality of national water bodies and to ensure the safety of its use and to maintain appropriate conditions for the development of ecosystems linked thereof, it was, created the Environmental Regulation on Quality Standard of Surface and Coastal Waters. This Regulation creates a classification of coastal and surface waters according to their forms of usage, and in turn establishes quality standards that are intended to be maintained or acquired in the receiver or section thereof.

The observances and requirements set forth in Regulation apply to all persons, whether natural or legal persons responsible for discharges of wastewater or liquid waste generated by activities of an industrial, domestic, commercial, agricultural, livestock nature, municipal, recreational services, and any other type.

The classification of water receiving bodies is the basis of the stroke of strategies and guidelines that are designed for their maintenance and improvement, as well as the planning of new industries that go back to the pollutant loads discharged by industries and levels of contamination present in the aforementioned water bodies.
1. The Family Law in the Dominican Republic

The fundamental basis of issues related to the family, by birth of the person, the legal status and marriage, considered as the foundation of the family, is contained in the Dominican Civil Code, an adaptation of the French Civil Code of 1804 or Napoleonic Code. Other procedural laws have been created to adequated the rules to social and economic realities of the Dominican family.

a. Divorce Law 1306-bis

The marriage is dissolved by death of the spouse or by divorce (Article 1, 1306-bis law).

b. Divorce by Mutual Consent

It is a procedure carried out by mutual and persevering consent of the spouses, recorded in a notarial act where the parties stipulate and agree their desire to become divorced and provide for the division of their marital property and if had procreated minor children, which of the parents will have custody of them. The event is approved by the Court of First Instance and after a simple procedure the marriage is dissolved.

c. The Divorce for Cause

It is motivated by one of the following causes for divorce: incompatibility, absence decreed by the court, adultery of either spouse, the physical abuse and serious offenses committed by one spouse against the other, the voluntary abandonment of the household by one of the spouses and habitual drunkenness or habitual or immoderate use of narcotic drugs. Divorce for incompatibility, which is the most common one besides that of mutual consent, is an adversarial procedure, carried out by the Court of First Instance of the defendant’s domicile. What it is sought to prove that there is such incompatibility between the spouses that it is impossible to lead a live in common. The division of marital property is carried out after the pronouncement of divorce. The judge is in possession of the decision to determine, among other things, whether or not to admit the divorce, which one of the spouses will have custody of the minor children, if any, and fix child support amount. This judgment is subject to appeal.

d. “Fast” Divorce

This divorce, created by Law 142 of June 4, 1971, allows nonresident aliens and Dominican spouses to obtain a divorce in the country. It is a procedure very similar to divorce by mutual consent, since the spouses agree through a notary act the terms and conditions regarding their divorce and in ten days or less, a divorce decree is issued that terminates marriage.

One of the spouses must be present on the day of the hearing at the Court of First Instance chosen by the parties that shall know about the divorce.

As for the validity of the divorce, it should be noted the explanation of Prof. William Headrick, in that same “[is recognized] in the United States alone, under the theory of ‘estoppel’; which bounds the spouse which has voluntarily submitted to Dominican court from denying the jurisdiction of that court. In other countries it is considered that the Fast Dominican divorce is an evasion of national jurisdiction or fraud to law.” (Headrick, 2006, p. 48).

2. Law 136-03 or Code for the Protection of Fundamental Rights of Children and Adolescents

This Code of August 7, 2003, became into force in October 2004.

a. Legal Age

The Civil Code provides in Article 488 that the legal age is established at 18 years old. From this moment on, the person acquires full capacity for all acts of civil life.

b. Minors

Article 388 of the Civil Code states that minors are all those individuals who have not yet reached 18 years of age.
c. Parental Authority
It is the set of rights and obligations of parents towards their minor children. Before turning 18 years of age, children and adolescents are under parental authority. This is shared equally between parents and it is only lost or suspended if a court so provides.

d. Custody
The care or custody of children and adolescents is the situation of a child or adolescent who is under the care and protection of a parent or even of a third party, either by court decision or by a factual situation.

The custody involves a series of obligations to the custodian, such as providing material, moral and educational assistance, as required by Article 86 of Law No. 136-03. In accordance with Article 214 of the Law, the domicile of the child or adolescent under guard or custody shall be that of the parent or of the third party who has the custody.

e. Visitation Rights
Visitation right is intrinsically linked to the custody. It is the right of the child or adolescent who does not live with one or none of their parents, to have contact with them.

Both the violation of visitation and custody regimes are punishable under this Law in Article 104 which provides that the parent who violates a sentence of custody or visitation may be sanctioned to one day in prison for every day or part thereof of the duration of the violation to the provisions of the judgment.

To perform the procedure of custody and / or visitation rights, the competent court is the Court of Children and Adolescents jurisdiction.

f. Child Support
Article 170 of Law No. 136-03 defines food as “the care, services and products aimed at meeting the basic needs of a child or adolescent, essential for subsistence and development: food, housing, clothing, assistance, medical care, medicine, recreation, comprehensive training, academic education. These obligations are of public order.” This obligation cannot be repealed by the parties.

There is no table or outline to follow to determine the amount of alimony. The obligation to maintain the children is an obligation of both parents, but the amount to be fixed must take into account first the needs of children or adolescents, as well as the economic potential of the obligor parent. As it goes ‘no one is obliged to do the impossible’, it is not possible to set an exaggerated amount to a father or a mother who does not have the economic capacity, but it also impossible to set an amount that exceeds the actual needs of that child or adolescent simply because the obligor have sufficient financial resources.

To determine this child support, it is estimated that the obligor earns at least the official minimum wage and also takes into account his social and economic status, as provided in Article 189.

In the event of default by the obligor, he could suffer a penalty of up to 2 years of correctional imprisonment, in accordance with the provisions of Article 196.

Additionally, in order to leave the country, the obligor must pay in advance the equivalent of one year’s pension and the subscription of a deposit credit bond in favor of the child or his representative, with an insurance company, as provided in Article 182.

The procedure to fix, increase or reduce child support is conducted in the Magistrates Court of the jurisdiction of the child or adolescent domicile, under Law 52-07 of 23 April 2007.

This authorization duly authenticated by a public notary and certified by the Attorney General of the Republic should be submitted to the Directorate General of Immigration which in turn issues an authorization allowing the exit of the child or adolescent from the country.

In case of differences between the parents, they must go before the Court of Children and Adolescents of the child jurisdiction to obtain the proper authorization.

This provision applies to all children and adolescents who are in Dominican territory.

This Convention, ratified on 4 May 2004, facilitates the solution of cases where a child has been removed or retained outside their habitual residence without permission of a parent or a third party who somehow had any care or custody right or have had if the removal or retention had not happened.

The Supreme Court, through Resolution 480-2008 of March 6, 2008, established the procedure for hearing the application for return of the underaged person illegally transferred to the Dominican Republic.

In our country can adopt both Dominicans and foreigner's over 30 years of age.

The adoption procedure is divided into an administrative phase, carried out by the Department of Adoptions at the National Council for Children and Adolescents (CONANI), and a judicial phase before the Court of Children and Adolescents.

This Convention was ratified on 14 November 2009 and entered into effect on 1. October 2010. As its name implies, it applies to cases of children subject to international parental disputes regarding custody or visitation rights; children who have been victims of international abduction (including those States that have failed to ratify the Hague Convention of 1980); children who are placed in alternative care which do not fall within the definition of adoption and therefore are outside the scope of the Hague Convention of 1993 on International Adoption (eg the institution of kafala in Islamic Law); children who are the subject of cross-border trafficking and other forms of exploitation, including sexual abuse; children accompanied and unaccompanied refugees; and those who travel internationally with their families.

Same as our law 544 on Private International Law, the Convention determines that the competent court to make a decision about a child as well as the applicable law shall be that of the habitual residence of the child or adolescent, which is a different concept from domicile.

ii. Adoption
Adoption is a way to give the child or adolescent the opportunity to grow within a family, on the grounds that, as stated at the beginning of one of the preambles of the International Convention on the Rights of the Child, the family is the fundamental group of society and the natural environment for the growth and well-being of all its members, particularly children.

The form of adoption that exists in our country is the privileged adoption, which, as provided in Article 116 of Law No. 136-03, is one in which the adopted “ceases to belong to his blood family and ceases kinship with the members thereof as well as all its legal effects, with the exception of the impediments to contract marriage.

In our country can adopt both Dominicans and foreigners over 30 years of age.

The adoption procedure is divided into an administrative phase, carried out by the Department of Adoptions at the National Council for Children and Adolescents (CONANI), and a judicial phase before the Court of Children and Adolescents.

This Convention determines that the competent court to make a decision about a child as well as the applicable law shall be that of the habitual residence of the child or adolescent, which is a different concept from domicile.

After a child or adolescent is assigned to an adoptive family, it opens the period of coexistence, which is 30 days, and if the adoptive parents are foreigners the coexistence period is 60 days. It is possible to apply for reducing that period to be less than sixty 60 days, but shall never less than 30 days.

Finally, when fulfilled requirements of the law in its Article 139, the file is sent to the Court of Children and Adolescents jurisdiction to obtain the proper authorization.
Adolescents of the jurisdiction of the address of the person or entity under whose care the adopted is for the approval of adoption where the adoptive parents are interviewed by the Prosecutor who grants his opinion on the adoption. He or the Judge of Children and Adolescents grants his sentence approving or rejecting the request, according to the provisions of Article 141.

ii. Hague Convention of 1993 on the Protection of Children and Cooperation in Respect of International Adoption

This Convention ratified on November 22, 2006, guarantees that international adoptions procedures are made within a climate of transparency that seeks to preserve the interests of the child.

Adopters whose countries are Member States of the Convention will also have preference when they are assigned a child or adolescent, in accordance with the provisions of Article 135 letter d) of Law No. 136-03.

Both for The Hague Abduction Convention as well as for Adoption, CONANI functions as Central Authority for implementation of The Hague Conventions.

3. Law No. 544 on Private International Law and Family Law

This law was enacted in December 2014, and in its Article 15 states that the Dominican courts in matters related to the subject of the individual and the family shall be competent in the following circumstances, namely:

1) Declaration of disappearance or death, when the person subject to such a measure had have their last habitual residence in Dominican territory;

2) Disability and of measures to protect the person or property of minors will be governed by the provisions of the Hague Convention of 19 October 1996 on jurisdiction, applicable law, recognition, enforcement and cooperation in matters of parental responsibility and measures for the protection of children, with respect of disabled elders, shall be known by Dominican courts when they had their habitual residence in the Dominican Republic;

3) Personal and property relations between spouses, marriage annulment, separation and divorce, when both spouses hold habitual residence in the Dominican Republic at date of the petition or had their last common habitual residence in the Dominican Republic and the plaintiff continues to reside in the Country, at the date of the petition, as well as when both spouses are Dominican citizens.

4) Affiliation when the child is an habitual resident in the Dominican Republic at the time of the application, or the plaintiff is Dominican and habitually resident in the Dominican Republic for at least six months before the filing of the petition;

5) Establishment of adoption, when the adopter or the adoptee is Dominican or a habitual resident in the Dominican Republic;

6) Food, when the creditor thereof has his habitual residence in Dominican territory.


Resolution No. 439-2004, of 30 March 2004, allocated chambers 6 and 7 of the Civil and Commercial Court of First Instance of the National District to deal with cases relating to family law. In 2007 it was also designed chamber number 8 for the same purposes.

These chambers know of: approvals, amendments of acts of the civil status, constitution or reversal of family property, division of property between heirs or spouses and their award at public auction, liquidation of companies made between cohabitants, execution and annulment of wills, lawsuits sucesoral indignity; actions concerning the civil status of the elders; accountability of sucesoral goods; demands on interdic- tions, and adoption of adults.

5. Family Mediation Center of the Judicial Power

At the Center for Family Mediation created by Resolution 886-2006 of April 20, 2006, can be quickly known, in a quiet and confidential ambiance, with a specialized mediation staff those cases involving divorce, child support for minors, custody, visitation rights, conflicts of parental authority, recognition of paternity, partitions and any other related matter. The decision is approved by the competent court.

6. Successions

The succession "is the legal concept that allows the transfer of rights and obligations for one or more living persons of the patrimony left by another who died". (Ciprian, 2000, p. 26).

The patrimony, consisting of the assets and liabilities that a person owns, is distributed among his heirs at the time of his death. In accordance with the provisions of Article 718 of the Civil Code, to be considered open a succession is necessary that the person must have died.

The succession may be legal or testamentary. In the absence of a will, which is where the person has expressed the way it should have its heritage disposed of, is when is recurred to the legal succession which is governed by Articles 723 to 773 of the Civil Code. (Ciprian, 2000, p. 46).

Article 711 states that "The ownership of property is acquired and transmitted by El succession, by donations inter vivo or testamentary, and not by effect of obligations."

They can inherit the children and descendants of the deceased, his ascendants and collateral, as provided in Article 731, as well as the surviving spouse and the Dominican State, as well, under certain circumstances.

The estate is open at the place of domicile of the deceased, as provided in Article 110.

Article 61 of Law 136-03, grants equal rights, including inheritance rights, among all sons and daughters born of a consensual relationship, marriage or adoption.

a. Legal Reserve

Article 913 of the Civil Code contains the provisions relating to the legal reserve or hereditary reserve, defined as "a succession institution that has established the Legislator to protect certain heirs of the bounties, either inter vivo (donations) or by will (bequests) that can make the petitioner in detriment of the goods which constitute the heritage." (Ciprian, 2000, p. 149).
RESPECT FOR THE RULE OF LAW IS PART OF OUR PHILOSOPHY

A. Legislation on unfair business practices and on means to achieve competition
B. Consumer and user protection law
C. Legislation on competitiveness and industrial innovation
D. Legislation on corruption in business and investment
1. General Considerations

Since the nineties, the Dominican Republic has made administrative and legislative reforms to become actively involved in the opening of markets under the international standards of respect for free trade, fight against unfair practices and other trade defense measures, such as safeguards. In 1995, the Dominican Republic ratified the agreements of the Final Act of the Uruguay Round of Trade Negotiations and is subscribed as a founding member of the World Trade Organization (“WTO”) and initiated a process of adapting its legislation to participate in the global economy, adjusting the legal framework of trade defense and repressing restrictive competitive practices, among other measures.

In this regard, in January 2002 Law No. 1-02 on Unfair Trade Practices and Safeguard Measures was enacted, and then its Implementing Regulations, standards these which incorporate mechanisms for the implementation of the multilateral agreements of the World Trade Organization regulating these matters. Similarly, were defined the procedures to be performed by the competent national authorities to face unfair competition in the context of international trade, to prevent or remedy damage or threat of damage to the domestic industry, and to delimit certain adjustment criteria that seek to benefit producers who were unable to compete successfully in the Dominican market. Through Decree No.52-13 dated February 18, 2013, the Executive Power appointed the five (5) commissioners that up to this date compose this institution, for a four years period.

In 2008, the General Law on Protection of Competition No. 42-08 was enacted following the adoption of various sectoral laws that incorporate provisions related to competition and consumer protection; such as health, electricity and telecommunications. In this regard, the Dominican Republic has signed several international trade agreements, among which include the DR-CAFTA (US, Central America and the Dominican Republic) and the Agreement on Economic-EPA Partnership (European Community and the member countries CARIFORUM), who came to join those who had agreed with the CARICOM and Central America before the DR-CAFTA.

With the enactment of Law No. 1-02 and Law No. 42-08, the Dominican Republic has created the legal and institutional framework of the country within the context of international trade and restrictive trade practices, encouraging markets efficiency for the benefit of investment security and of consumers.

2. Legislation on Unfair Trade Practices and Safeguard Measures

The Law No.1-02 on Unfair Trade Practices and Safeguard Measures establish the rules and guidelines governing the application of anti-dumping duties against price discrimination, the application of countervailing measures against subsidies and safeguard measures to prevent or correct damage or threatening to be caused by such unfair practices in international trade, or by a significant increase in imports into the Dominican Republic.

The provisions of this legislation are explicitly linked to the agreements of the World Trade Organization (WTO) on the subject matter (Agreement on Implementation of Article VI of the General Agreement on Customs Tariffs and Trade of 1994, which covers the topic on “anti-dumping” rights- the Agreement on Subsidies and Countervailing Measures, the Agreement on Safeguards and Article XIX of GATT 1994); all part of the Dominican legal system since January 1995.

Each of these issues acquire a strategic importance as the Dominican Republic continues its integration into international markets through the negotiation of free trade agreements and other initiatives of a regional and multilateral character.
a. Unfair Trade Practices

These practices are not necessarily prohibited, but that solely can be taken steps to counteract or prevent them when and if has been determined the existence of material injury or threat of material injury to a domestic industry or material retardation of the creation of that industry under the conditions established in the WTO Agreements.

Dumping is a situation of international price discrimination that occurs when the price of a product to be sold in the Dominican Republic, is lower than the normal value of that product when sold in the market of the export country. The grant, on the other hand, is a financial contribution by a government or any public body within the territory of a trading partner of the Dominican Republic, with which is granted a benefit on the manufacture of the product to be exported to the Dominican Republic.

Law No. 1-02 and its Implementing Regulations provide the productive sectors with the mechanisms and tools needed to address such practices and to ensure the defense of their commercial rights.

b. Safeguard Measures

This concept includes those measures destined to regulate imports on a temporary basis, in order to prevent or remedy serious damage or threat of serious damage to a branch of national production, and to facilitate adjustment to producers who were unable to compete successfully in the Dominican market, in front of massive increments in imports of similar or directly competitive products with their own products.

A measure of this type temporarily prevents imports of a particular product in order to offer a respite to the national productive sectors affected or threatened by such imports and to facilitate their readjustment to the new market reality.

The law also classifies those conducts considered an abuse of dominant position, prior determination of the concepts of relevant market and the dominant position itself. Among the considered prohibited conduct after a qualifying examination, are found, refusal to deal, tied sales, the imposition of unequal conditions between equivalent services, among others.

The National Commission for Protection Against Competition is in charge of all the supervisory and punitive functions in relation to concerted practices and acts of abuse of dominant position.

Law No. 42-08 does not contain a system of prior control (ex ante) on mergers, ie, it is not required the Commission’s approval before they are performed. However, the surviving agent of the merger may be, after the merger, investigated or sued for the execution of the above-mentioned practices, rather than on the result of the merger itself.

Said Law classifies what constitutes acts of unfair competition, defining them as those which “are contrary to good faith and business ethics aimed at an illegitimate diversion of consumer demand.” Define the implementation of measures against conducts which represent an offense based on the aforementioned unfair competition. Among these acts, sanctioned in the Dominican Republic, we have deception, confusion, improper comparison, imitation, the violations of business secrecy, failure to comply with rules, denigration, and those actions that induce a breach of contract. These provisions would apply along with laws on Industrial Property and Protection of Consumer or User Rights. It is up to the Commission or to the judge, according to the election of the administrative or judicial preference of the applicant, to determine if there are any faults, and to apply sanctions corresponding to the offense committed. In that sense, and as provided by law, the affected party may appeal both to the Commission, in its administrative attributions, as well as before the courts. If the first option is elected, once the administrative procedure is initiated, the affected party must await the final decision in order to request any compensation for damages through the courts.

The disputes arising between the parties are settled through specific proceedings before the Commission, which may be initiated by both the interested party as well as the Commission itself, on its own initiative. The instruction process is headed by the executive director of the Commission, who shall process the disciplinary proceedings to the Board, if applicable, or reject the request. The Board, in its capacity as the administrative and judicial sanctioning body receives the file, holds hearings to listen to the parties, witnesses and instruct the measures it deems necessary. After completion of the discussions, the Council proceeds to the issuance of a reasoned decision, to be determined in this particular case the existence or not of a violation of the law and establish its administrative penalty, according to the elements and scales defined in the Law.

The decision of the Board is likely to be challenged by judicial review, to be known in last instance by the Administrative Supreme Court. Such a decision may be appealed against in accordance with the procedure laid down in the law that organizes such resource.

In cases of unfair competition, the affected party may exercise the declaratory action of disloyal act, the action to rectify misleading incorrect or false information, or action in compensation for damages and prejudice, as well as a joint action with two or three motions simultaneously. In cases of condemnation by concerted practices or abuse of dominant position, the winning party may obtain compensation for damages and prejudice.

Currently the National Commission for Protection of Competition is working on implementing regulations of Law 42-08. Once ready it will allow a better implementation of the innovative law and the strengthening of the legal framework for competition in our country.
B. Legislation on protection of Consumer or User Rights

The General Law on Protection of Consumer or User Rights No. 358-05 is a rule intended to support the growth and economic development in an environment of free competition that provide the conditions for offering fair prices to support the purchasing power of the population, in which the rights of consumers and users of goods and services are enshrined.

Its main objective is to establish a system for the defense of the rights of consumer or user to ensure fairness and legal certainty in relations between providers and consumers of goods and users of services, whether of public or private law, national or foreigners.

Creates the National Institute for the Protection of Consumer Rights (Pro Consumer), in order to define, establish and regulate the policies, rules and procedures of Pro Consumer.

Regulation No. 236-08 for Application of Law No. 358-05 seeks to provide the initial administrative measures to offer the guarantees established by law on behalf of consumers and users, through the organization and effectiveness of complementary standards and internal procedures of Pro Consumer.

Law No. 358-05 establishes the rights of consumers or users regarding the goods and services offered by providers, among which are the following.

1. Protection of Health and Safety

This law seeks to ensure that goods and services should be safe or that they do not represent unforeseen risks to the health and safety of the consumer or user. All those anticipated risks should be made known through instructions or warnings signals. In the event of unforeseen risks, once detected, the providers must inform consumers and, if necessary, withdraw the products or services from the market. Similarly, providers must comply with the import bans and product placement, and rules regarding the expiration date of food, medicine and other perishables.

2. Protection of economic interest

Offers of products and services shall conform to the nature, quality, conditions and price thereof. Bids may be made by: a) the arrangements agreed directly with the consumer; b) publication in local trade; c) publication in advertisements, circulars or other media.

Persons who provide repair or maintenance services are required to abide by the terms, terms, conditions and other circumstances offered, advertised or agreed, and must provide a written guarantee.

The supplier is responsible for the adequacy and quality of goods and services offered, it sells or provides. If it is found that a good or service was sold defective, flawed or insufficient, without informing the purchaser, will be the obligation of the supplier, at the option of the consumer or user, to return the amount paid, to grant a rebate in price or value paid, or return the goods or services with the qualities, quality and price originally offered.

Similarly, the Law provides that when durable goods are marketed, the consumer is guaranteed for defects or vices of any kind that affect the proper operation or make the characteristics of the delivered products differ with respect to what is offered.

3. Information and Education

Consists in receiving from suppliers a truthful, clear, timely, sufficient, verifiable and written in Spanish language information on the goods and services offered and price, features, performance, quality, origin, nature, among others, by any means of information and communication.

4. Right to representation and association

All consumers or users have the right to be heard by the appropriate agency, Pro Consumer, either individually or through an association, in order to defend their interests.

5. Duties of Providers

The Law establishes as obligations of providers, without prejudice to any other rules contained in or resulting from procurement, the following:

- Harmonize the legitimate interests and needs of economic and technological development, with the defense and protection of consumers;
- Act according to honest commercial practices, fairly and without discrimination;
- Comply with all health standards, labeling, safety and quality requirements for products or services offered;
- Ensure that their activities are consistent and appropriate to the nature, safety and preservation of products and services provided;
- Respect and comply with the specifications, terms and conditions offered or agreed with the consumer;
- Be informed of the nature, utility, quality and foreseeable risks of the products and services they offer and transmit this information to the consumer in a clear, accurate and sufficient manner;
- Ensure that quality, name, form, condition of packaging and presentation, origin, nature, size, weight and content are not altered or replaced in detriment of the consumer;
- Include in a truthful, adequate, appropriate and accessible to consumer information on products and services offered, in accordance with the legal system of measurement units.

6. Violations

In the course of its business, providers of goods and services may incur in civil and criminal liability. In addition, the Executive Office of Pro Consumer Pro could impose administrative sanctions.

All members of the marketing chain will be civilly liable for injuries or losses. Criminal liability reaches the agent guilty of the offense or crime.
The Law categorizes offenses as minor, serious and very serious, according to the criteria of health risk, amount of the benefit obtained, degree of intentional- ity, seriousness of the social alteration produced, gen- eralization and recurrence of the offense.

7. Administrative Procedure

The Executive Office of Pro Consumer is the entity responsible for investigating violations of the Law No. 358-05. To this end, it has created an expedited procedure through which will have access to the documents and information it deems relevant to its investigation.

8. Conciliation and Arbitration

There is a free procedure for the settlement of disputes between consumers and users prior to exhaust- ing the aforementioned administrative procedure or go to court. The parties may or may not reach an agree- ment, in which case the Executive Office of Pro Con- sumer continues the process. This procedure is regu- lated by Resolution of the Board of Pro Consumer No: 11-2008 dated June 3, 2008.

9. Judicial Action

The law establishes that the Courts for the Peace are competent to hear such offenses. It also states that the civil action may be additionally requested to the civil courts. The parties may or may not reach an agree- ment, in which case the Executive Office of Pro Con- sumer continues the process. This procedure is regu- lated by Resolution of the Board of Pro Consumer No: 11-2008 dated June 3, 2008.

C. LEGISLATION ON INNOVATION AND IN- dustrial Competitiveness

1. Overall Considerations

The negotiation of and accession by the Dominican Republic to international trade agreements have high- lighted the need for a national scheme to encourage investment for industrial restructuring and optimiza- tion. For this purpose, it was enacted Law No. 392-07 on Competitiveness and Industrial Innovation, of De- cember 4, 2007 (Law No.392-07), which creates the institutional and regulatory framework for the competi- tive development of the manufacturing industry, and its implementing Regulations under Decree No. 674-12 of December 7, 2012.

The object of Law No.392-07 is to encourage the hori- zontal and vertical integration of the industry (clusters, parks and industrial districts) to achieve efficient en- tainment and competence of the Dominican industry in the international market.

The Center for Industrial Development and Competi- tiveness (Proindustria) serves as the governing body of the industrial sector. Its functions are to authorize operations and classify industries, perform financial operations to develop and sustain the sector and manage the guarantee fund to cover the financial risk of the small and medium industries (SMIs).

To qualify for the incentives of Law No.392-07 it is re- quired to obtain the industrial classification, for which the established procedure must be followed, pay the corre- sponding taxes and meet the requirements demanded by Proindustria. The Resolution of Industrial Qualification shall indicate the activity to be developed by the compa- ny and a list of goods that can be imported based on the tax benefits provided by this Law. The industries classified will be equipped with an Industrial Identification Card which must be renewed every two years.

Currently Proindustria has authorized five industrial operating parks intended for small and medium busi- nesses: Santo Domingo Este (PISDE); San Cristobal (PISAN); Proincuva in Santiago (La Canela); and in Santo Domingo Oeste (DISDO).

2. Benefits of Industrial Classification

The Law No.392-07 provides incentives for innovation and industrial competitiveness, which are listed below:

a. Trade Facilitation

It is established a special arrangements for the import and export of goods, based on the management of a risk profile system and random verification, in coordi- nation with the Directorate General of Customs (DGA).

According to Article 20 of Law No. 392-07, as amended by Article 9 of Law No. 542-14, of December 5, 2014, the industries benefiting from this special scheme shall be exempt of payment to the Directorate General of Customs (DGA) the tax for Transfer of Industrialized Goods and Services (ITBIS) for the import of indus- trial machinery and capital goods used in the produc- tion process. Similarly are included as exempt assets those assets listed in Article 24 of Law No. 253-12, on Strengthening the State Revenue Raising Capacity for Fiscal Sustainability and Sustainable Development, dated November 13, 2012, amending Article 343 of the Dominican Tax Code, Law No. 11-92 of May 16, 1992. On the other hand, those industries, despite being under the special regime, must pay to the DGA the rate of 1% of the ITBIS levied on imports of raw materials referred to in Article 24 of Law No. 557-05, of December 13, 2005.

b. Equal Treatment to Local Purchases of Manufactured Goods

The facilities for the purchase abroad of goods grant- ed under other incentive schemes (free zones, tour- ism, etc.), as well as the exemption on customs duties, excise taxes and ITBIS shall apply in equal measure to the purchase of domestic consumables. The regu- lation and control of this benefit will be made by the Directorate General of Internal Revenue (DGI), espe- cially regarding the special tax receipts and require- ments to be met by suppliers for the clearance of goods under this regime.

c. Reimbursements to Importers

Those companies classified by Proindustria exporting to third markets may seek reimbursement of the IT- BIS, the excise tax on telecommunications, excise tax on insurance, excise tax on checks and fuel tax, in the same percentage representing the export earnings of total sales revenue in a period. This refund will be cal- culated on the basis of uncompensated payments or advances that companies perform in regards to these taxes. The Tax Administration (comprising the Director- ate General of Customs and the Directorate General of Internal Revenue) will have a period of two months from the date of the reimbursement request, to decide on it. If at the expiry of this period the Tax Administra- tion has not taken any action, it shall be deemed that the reimbursement is approved and may be offset the amount of the reimbursement with other taxes.

d. Partial Processing

From a classified industry or zone under a special incentive regime it may be sent to the national cus- toms territory those goods to be subject to additional industrial processes by industries in the rest of the Dominican customs territory. Such goods must re-en- ter these industries or special regime zones already transformed within six months non-renewable pe- riod. Such goods are exempt from import taxes, tariffs, customs duties and other related charges. This pro- cedure is regulated and supervised by the Directorate General of Customs (DGA).

e. Development of Industrial Parks

The facilities for the purchase abroad of goods grant- ed under other incentive schemes (free zones, tour- ism, etc.), as well as the exemption on customs duties, excise taxes and ITBIS shall apply in equal measure to the purchase of domestic consumables. The regu- lation and control of this benefit will be made by the
An industrial park is a demarcated perimeter, authorized by the Proinversión Board, in which operate one or more industries that interact and share services and common areas with the same promoter or operator.

The person authorized by Proinversión to develop an industrial park is exonerated in a 100% of national and municipal taxes for building permits, import taxes and other applicable equipment, materials and furniture, even purchased at national level, which are necessary for the original equipment, start-up, first remodeling and adaptation of the park. This incentive is for the operationalization of the industrial park; once operations begin at the park, these exemptions are suspended after two years of having issued the authorization for development of the park, it is found that this has not performed any operation, the authorization is revoked and all owed taxes must be reabsorbed except that the extension of the project is duly justified and approved by Proinversión.

Industrial parks are considered unregulated users of electrical service and shall be exempt from paying any tax on the price of contracted energy and power, except the transmission toll. Industrial parks are also considered major consumers of fuel; therefore they may depreciate rapidly, halving the times currently set by the DGI, the value of machinery, equipment and technology acquired; (ii) deduct 50% of the net taxable income of the previous fiscal year those investments in the purchase of machinery, equipment and technology; (iii) and shall not be considered as part of the tax base on assets, those assets acquired during the period of industrial renewal.

D. LEGISLATION ON BRIBERY IN TRADE AND INVESTMENT

1. Overall

The Dominican Republic is committed to eradicating bribery, for which it has ratified the Inter-American Convention against Corruption, adopted on 29 March 1996 in Venezuela, through Resolution No. 469-98 dated November 1st 1998. It is also a signatory to the Free Trade Agreement between the Dominican Republic, Central America and the United States (DR-CAFTA). Through DR-CAFTA was agreed to criminalize bribery as an crime under Dominican law and adopt mechanisms for the enforcement of criminal penalties.

Finally, on December 8, 2006, it was enacted Law No. 448-06 on Bribery in Trade and Investment.

2. Criminalization of Bribery as a Crime: Law No. 448-06

The object of Law No. 448-06 is to prevent, detect, punish and eradicate corruption to promote transparency, attract investment and boost the competitiveness of the economy. In compliance with the obligations assumed by the Dominican Republic in the DR-CAFTA, the Law No.448-06 establishes behaviors that are considered acts of corruption, which we state below:

a. Guilty of Bribery

Is guilty of bribery, any public official or person who performs public functions for soliciting or accepting, directly or indirectly, any article of monetary value, as a favor, promise or advantage for himself or for another person, in return of performing or omitting any relevant act pertinent to the exercise their public functions, in matters affecting trade or domestic or international investment.

The violator of this conduct will be punished with imprisonment from 3 to 10 years and sentenced to a fine of twice the rewards received, requested or promised, fines that can never be less than 50 minimum wages.

b. Guilty of National Bribery

According to Law No. 448-06, it is prohibited any act of offering or giving to a public official or a person who performs public functions in the Dominican Republic, by a natural or legal person, any article of monetary value or other benefit, as a favor, promise or advantage for himself or for another person, in exchange for the official act or refrain from acting in the exercise of their public functions, in matters affecting trade or national or international investment.

It is included a classification of bribers, rated depending on the type of person, to impose penalties for each particular case. If it is a natural person, shall be punished with the penalty of 3 to 10 years of imprisonment and fined the double the rewards offered, promised or granted, which may not be less than 50 minimum wages.

In the event that the briber is a professional, owner or authorized representative of a company in the industrial, agricultural, agro-industrial, trade or service sector, shall be punishable by disqualification from the exercise of its activities for a period of two to five years counted from the final judgment, or, where appropriate, authorize the closure or intervention, for the same period, of the professional establishment under his management.

The Law provides the possibility that the briber is a legal person and, if so, it would be doomed to closure or intervention for a period of two to five years and a fine of double the rewards offered, promised or granted, which fine can never be less than 75 minimum wages.

In addition to the indicated fine, the legal representative of the juridical person shall be subject to the penalties provided for individuals. In case of recidivism, it will be condemned to closure or intervention for a period of 5 to 10 years, decommissioning, and to a fine of four times the offered rewards, promised or granted, although this may not be less than 100 minimum wages.

c. Guilty of Transnational Bribery

Any person, whether natural or legal person subject to the jurisdiction of the Dominican Republic, which offer, promise or give intentionally, directly or indirectly to a foreign official, any benefit, as a favor, promise, for that official or for another person , in exchange for the official act or refrain from acting in the exercise of their official duties, in matters affecting international trade or investment, it shall be deemed guilty of transnational bribery.

d. Complicity

According to Law No. 448-06, the accomplices of the crime of bribery will be punished as the principal authors of bribery. Although Law No.448-06 does not define the category of an accomplice, the DR-CAFTA precise as a sanctionable conduct, the act of aiding, abetting or conspiring to commit any of the offenses mentioned above.
General Law No. 358-05 on the Protection of the Rights of Consumers and Users is aimed at establishing fair treatment of consumers and other end-users by the providers of goods and services. The Law is administered by the National Institute for the Protection of Consumers (Pro-Consumer) which functions as a decentralized Government agency. Regulations No. 236-08 provides additional rules for the application of the Law and lays out the procedures to be followed. The basic rights of consumers and users, as described in the Law, are as follows:

1. Protection of Health and Safety
   This right seeks to ensure that the goods and services offered to consumers do not represent a danger or risk for their health and well-being. The dangers in the use of a product must be made known to the consumer by means of notices on the label or in the instructions for use. When a risk or danger is unknown when the product is first introduced on the market, but is later discovered, the importer or producer must inform the consumers and, if necessary, must withdraw the product. Expiration dates must appear legibly on foods, medicines and other perishable goods.

2. Protection of Economic Interests
   Goods offered for sale to the public must be of merchantable quality, free of latent defects and correctly labeled. In case of a sale to a consumer of a defective product or of a product that does not function properly, the consumer has the option of returning the product and obtaining a refund of the price or of keeping the product subject to a price reduction. If possible, the consumer can also demand that the product be repaired or restored to a good condition. Repair and maintenance services must be rendered in a workmanlike fashion within the agreed time frame and must be warranted.

3. Information and Education
   Information concerning products on labels and in advertisements and the instructions for their use must be clearly expressed in the Spanish language and must be complete, truthful and honest, including the indication of the price.

4. Right of Defense and Association
   All consumers and users have the right to complain to Pro-Consumer, either individually or through associations created to defend their interests.

5. Obligations of Suppliers
   The Law lists the following obligations for providers of goods and services, in addition to whatever other duties to which they may be subjected under other laws or according to their contracts:
   • To harmonize the defense and protection of the consumer with the legitimate needs of economic and technological development;
   • To act in accordance with honest commercial usage, fairly and without discrimination;
   • To comply with the rules on health, labeling, safety and quality established for the products or services offered;
   • To ensure that the activities of the supplier are compatible with the nature, safety and conservation of the products or services rendered;
   • To comply with the specifications, terms and conditions of their offers or with those agreed upon with the consumer;
   • To be informed about the nature, uses, quality and foreseeable risks of their products and services and to transmit this information to the consumer in a clear and truthful manner;
   • To guarantee that the quality, name, form, packaging and presentation, origin, nature, size, weight and content are not altered or substituted to the detriment of the consumer;
   • To describe fully, truthfully and in a way accessible to the consumer the information relative to the products or services offered in accordance with the legally established system of units and measures.
6. Violations

As a result of their activities, the providers of products or services can become civilly or criminally liable. In addition, the Executive Director of Pro-Consumer can impose administrative penalties.

All parties to the chain of distribution are civilly liable for any injuries or losses produced. Criminal liability exists only for those who are guilty of a violation or crime.

The Law distinguishes among lesser, serious and very serious violations depending on the health risk, the profit obtained, the intent, the social disorder produced, the generalization and repetition of the offense.

7. Administrative Proceedings

The office of the Executive Director of Pro-Consumer is charged with the duty to investigate violations to Law No. 358-05. To this end, an expeditious procedure has been created, which gives access to pertinent information and documentation.

8. Conciliation and Arbitration

Controversies between consumers and suppliers of goods or services can be resolved by means of a voluntary proceeding prior to the institution of administrative proceedings or legal action. If the parties are unable to reach an amicable resolution, the case can be continued before the Executive Director. This amicable procedure is described in Pro-Consumer Resolution No. 11-2008 of 3 June 2008.

9. Judicial Action

The Justices of the Peace have jurisdiction to resolve disputes arising out of violations of the Law. Also, if a criminal proceeding is instituted, the injured party can seek damages by entering into that proceeding as a civil party. The injured party can also bring an action in damages in the civil courts.
The negotiation and adherence of the Dominican Republic to international commercial treaties has given rise to the need to stimulate investment to achieve greater efficiency and to modernize Dominican industry. To achieve this goal, Law No. 392-07 of 4 December 2007 on Competitiveness and Industrial Innovation was passed. It creates an institutional framework for the development of competitiveness in manufacture and its regulation established by Decree No. 674-12, dated December 7, 2012. The Law stimulates horizontal and vertical integration of industry (clusters, industrial parks and districts) to enhance the ability of Dominican industry to compete in international markets.

The Center for Development and Industrial Competitiveness (Pro-Industry) is the agency created for the purpose of improving the industrial sector. It has the power to authorize new industrial operations and to classify existing ones and makes financial resources available to support the sector. It also operates a Guarantee Fund to cover the risk of lending to small and medium-size industries. To take advantage of the incentives of Law No. 392-07, as explained below, an industry must be “classified”, which is accomplished by following certain procedures, satisfying the requirements of Pro-Industry, and paying a fee. Classified industries are given an industrial identification card, which must be renewed every two years.

Currently Pro-Industry has authorized five industrial parks for small and medium-size industries. Four are operating in: Santo Domingo East (PISDE) San Cristobal (Proincuve), Santiago (PISAN) and in Santo Domingo West (DISDO).

1. Benefits of an Industrial Classification

Law No. 392-07 establishes certain incentives for industrial innovation and competitiveness, as outlined below: a. Customs Duties Exemptions

a. Customs Duties Exemptions

The Law sets out a means for liberalizing Customs clearance for imports and exports, based on the company’s risk profile and a selective verification in coordination with the Bureau of Customs. It exempts raw materials, industrial machinery and capital goods, as detailed in article 24 of Law No. 557-05 of 13 December 2005, from the payment of the value-added tax (IBTIS) and Customs duties.

b. Exemptions from Local Taxes

The same exemptions from value-added taxes and excise taxes as are granted for imports also apply to purchases made in the country. The Department of Internal Taxes (DGII) is in charge of verifying the correct application of these exemptions. The industries benefitting from these exemptions are allowed to issue tax-exempt receipts to suppliers who sell goods or render services to them.

c. Reimbursement to Exporters

Industries classified by Pro-Industry engaged in the export trade can apply for reimbursement of the value-added taxes (ITBIS) and the excise taxes levied on the use of telecommunications, on the payment of insurance premiums, on the purchase of fuel and on the use of checks in the same ratio as their exports represent in relation to their total business. The reimbursements are calculated on the basis of such taxes as have been paid or have accrued. The Tax Administration (a composite body of the Customs Bureau and the Internal Tax Department) has two months in which to process such applications. If during that period no response is received by the applicant, the application is deemed approved and the applicant can offset the amount for which he sought reimbursement against his future tax obligations.

d. Partial Processing

A classified industry or an industry located in a tax-exempt area can send its semi-finished products to an industry which does not enjoy exemptions, for the process to be completed. This process must be completed and the finished goods returned to the classified industry within less than 6 months. They then become exempt from import duties on the materials used for completion of the industrial process. The Customs authorities are in charge of supervising the use of this mechanism.

e. Development of Industrial Parks

An industrial park is an area specially licensed by Pro-Industry, in which one industry or several industries, acting separately or in concert, share common facilities furnished by the park’s operator. A person licensed by Pro-Industry to operate an industrial park is exempt from the payment of import duties on equipment, materials and furnishings needed for the initial construction and installation of the park. Once the park commences operations, these exemptions cease to apply. If after 2 years the park has not entered into operation, the exemptions are revoked and the promoter becomes liable for the taxes which would have been payable without the exemption, unless he can justify the delay to Pro-Industry. Industrial parks are considered unregulated users of electric power, subject only to the payment for the use of the transmission lines.

f. Industrial Innovation

With the aim of fostering innovation and technological improvement, industries classified by Pro-Industry are exempt for the requirement of withholding taxes on foreign persons or companies which (i) undertake research, (ii) train their personnel, or (iii) render any other consulting service or technical advice.

g. Industrial Renewal and Modernization

During a period of 5 years from the entry into force of Law No. 392-07, industries which embark on a plan of renewal or modernization enjoy accelerated depreciation on machinery and equipment invested during that period, and are permitted to deduct up to 50% of the income tax paid during the preceding fiscal year. Such machinery and equipment is not counted as a part of the base for the payment of the Assets Tax.
1. Generalities

In pursuit of its goal to eliminate corruption in business dealings, the Dominican Republic ratified the Inter-American Convention against Corruption by Congressional Resolution No. 489-98 of 1 November 1998. The DR-CAFTA Treaty contains a requirement that the country must pass a law criminalizing bribery and that it must implement effective mechanisms to enforce it. To this end, on 8 December 2006, Law No. 448-06 on Bribery in Commerce and Investment was passed.

2. Bribery as a Crime under Law No. 448-06

The purpose of Law No. 448-06 is to prevent, detect, sanction, and eliminate corruption, thereby attracting investment and furthering competitiveness in the economy.

a. Taking Bribes

Bribery is committed by any public official or person carrying out a public function and who, directly or indirectly, requests or accepts any object having a monetary value or a favor, promise or advantage for himself or for another, in exchange for performing or omitting to perform an act relative to his public function in a matter affecting national or international business or investment. The person found guilty of such conduct is liable to imprisonment for a period from 3 to 10 years and can be sentenced to a fine of twice the reward received, requested or promised, but on no case less than 50 minimum wages.

b. Committing Bribery

Law No. 448-06 prohibits and sanctions any act of offering or giving to any public official or person carrying out a public function in the Dominican Republic on behalf of any person or legal entity, any object having a monetary value or a favor, promise or advantage for him or for another, in exchange for performing or omitting to perform an act relative to his public function in a matter affecting national or international business or investment.

The penalties vary depending on the person found guilty of bribery. An ordinary individual would be liable to imprisonment for a period from 3 to 10 years and could be sentenced to a fine of twice the reward offered, promised or given, but in no case less than 50 minimum wages. A professional or the owner or representative of a business would be deprived of his capacity to engage in business activity for a period from 2 to 5 years and his professional or business practice could be closed for the same period.

A legal entity can also be guilty of bribery, in which case its premises would be closed for a period from 2 to 5 years and to the payment of a fine of twice the reward offered, promised or given, but in no case less than 75 minimum wages, in addition to which the chief executive officer of the entity would be subject to the penalties for individuals. For repeat offenders, the penalty is a closing or judicial administration of the establishment for a period from 5 to 10 years and to the payment of a fine of twice the reward offered, promised or given, but in no case less than 100 minimum wages.

c. Transnational Bribery

Any natural person or legal entity subject to the jurisdiction of the Dominican Republic, who offers or gives to any foreign public official or person carrying out a public function in a foreign country on behalf of any person or legal entity, any object having a monetary value or a favor, promise or advantage for him or for another, in exchange for performing or omitting to perform an act relative to his public function in a matter affecting international business or investment is guilty of transnational bribery.

d. Complicity

Under Law No. 448-06, accomplices to the crime of bribery are penalized in the same manner as the principals. Although the Law does not define the term “accomplice”, DR-CAFTA specifies that such conduct is the act of aiding instigating or conspiring in the commission of any of the crimes mentioned above.
CROSS-BORDER TRADE REGIME

CHAPTER 6

A. The monetary and financial system of the Dominican Republic
B. Legislation regarding the stock exchange
C. Regulation of the systemic risk
D. Laws on insurance and bonding
E. Position of the Dominican Republic in the system of multilateral and regional preferences
F. The Dominican Republic-central American Free trade agreement with the United States (DR-CAFTA)
G. Economic association agreement between the European Union and the Cariforum
H. Other treaties and international agreements
1. Customs General Directorate: Competences and Attributions

The Customs Law No. 3489 of February 14, 1953, and its amendments, contains the customs regime of the Dominican Republic. The Customs General Directorate (DGA) is the entity responsible for the collection and administration of all taxes and duties related to foreign trade and trade agreements signed by the Dominican Republic.

It should be noted that it is currently being discussed a draft bill on Customs, which would amend the aforesaid system to include facilities on foreign trade and the development and administration of precepts and commitments on free trade agreements and expand the purpose the customs regime as recommended by the standards of the World Customs Organization (WCO).

Also, within the projects of the DGA under its modernization plan, it stands out the implementation of the Integrated Customs Management System (SIGA), which streamlines the process of customs clearance of goods and processes, allowing users to issue payments and validate the parameters required by Dominican customs through electronic means as well as the single Window System for Foreign Trade (single Windows), which allows to submit standardized information and documents in a single entry point to fulfill all import, export and in-bond requirements.

2. Determination of Customs Tax Liability

The DGA has a system of self-determination of the customs tax liability by which the taxpayer recognizes the imported goods, proceeds to its duties classification, establishes the tax payable by reference to the tax base, and issues payment of computed taxes, which informs to the DGA.

3. Declaration, Recognition and Dispatch of Goods

The customs declaration is the act of will by which the consignor or consignee of the goods, subject it to clearance for a customs regime. With the declaration, it is free and voluntarily expressed the rate at which the goods will be subjected and are accepted the obligations that this system imposes.

Article 51 of Law No. 3489 establishes a 4 working days term from the arrival of the ship or goods transport media for the consignor or consignee of same to submit to the Customs Administration, the declaration of imports along with the waybill and commercial invoice, accompanied by 4 manifestos, written in the Spanish language, in clear and legible letters in the appropriate forms.

Today, the customs declaration processes are made through the SIGA System in accordance with Standard Application of the Law on Electronic Commerce for Customs Procedures and the Standard DGA 01-12 which regulate the Electronic Submission of Customs Declaration. With this declaration the customs regime is formalized.

4. Protection of Intellectual Property

The Law No. 20-00 on Industrial Property provides that if the owner of an industrial property right suspects that an import of goods in violation of its trademark rights is prepared, may request a court order to suspend customs clearance of such goods to prevent their free circulation or exploitation.

On the other hand, Law No. 65-00 on Copyright provides that if the holder of a copyright suspects an im-
If he does not agree with the decision of the Administrator on his objections, the consignee may submit a claim to the Director General of Customs; and if not in agreement with the decision of the latter, before the Tax and Administrative Law Court.

7. Offences and Penalties

The Customs Law qualifies as an offense of smuggling the entering or exiting the national territory of merchandise which does not comply with or pay duties and taxes provided by import and export laws as well as its internal transportation, distribution, storage or public or clandestine sale. The traffic of exonerated goods may constitute smuggling if it does not comply with the applicable requirements. It is also considered as smuggling the entry or exit of amounts greater than US $10,000.00 or its equivalent in national currency if the relevant statement is not made according to Law No. 72-02 against money laundering from illicit drug trafficking and controlled substances.

8. Customs Regimes

a. Import Regime for Consumption

The Customs Law provides that the duties and taxes must be paid on the import of goods shall be those applicable on the day they were declared for consumption.

b. Definitive Export Regime

The Customs Law provides that for dispatching the consignee shall submit to Customs the general manifest of the shipped goods.

c. Temporary or Rights Suspension Regimes

i. Temporal Admission for Goods Improvement

Law No. 84-99 on Export Promotion in its Art. 8 provides for reimbursement of customs duties and taxes paid on raw materials, supplies, intermediate goods, labels, packaging and packaging materials imported by the exporter or by third parties and incorporated into export goods or returned abroad in the same state as they entered the territory.

ii. Temporal Export

Law No. 14-93, which creates the Customs Tariff and its amendments, exempts from tariffs all Dominican goods previously exported and re-entered into the country without having undergone transformation or increased in value, within six months from the date of departure and return. To obtain this exemption, the exporter shall submit documents supporting their reentry.

iii. Transformation of Goods for Consumption

The Law No. 8-90 on Free Zones provides that they can export up to 20% of its production to Dominican territory, in the case of products manufactured in the country, and up to 100% if they pay the correspond-
ing customs duties, provided that the product it is not
manufactured outside the free zone and have a local
raw material content of at least 25% of its total.

Law No. 8-90 and its amendments (Art. 17, section F,
as amended by Law 56-07, dated May 4, 2007), ex-
empts a 100% on import taxes, tariffs, customs duties,
consular, or re-export taxes and related charges af-
flecting raw materials, equipment, utensils, construc-
tion materials, parts, facilities, vehicles intended to free
zones or to their workers.

iv. Temporal Admission or Import of Goods

Chapter III of the DR-CAFTA and Resolution No. 68-06
of the Ministry of Finance provide entry to Dominican
territory free of customs duties under the import or tem-
porary admission, regardless of origin, of the following
goods: (a) professional team of press and television,
broadcasting and cinema equipment, computer soft-
ware for business, trade or professional activities of
the qualifying person; (B) goods intended for display
or demonstration; (C) commercial samples and ad-
vertising films and recordings; and (d) goods admitted
for sports purposes. The same treatment is given to
commercial samples and printed advertising materials
imported from a country that is part of the DR-CAFTA,
regardless of their origin.

To achieve effective and generally applicable regula-
tion, the DGA issued Standard 1-2014 on Temporary
Admission Regime without transformation, which al-
lows the import into the Dominican customs territory,
with total or partial suspension of duties and taxes,
certain goods for a defined purpose, intended to be
re-exported within the period determined by the DGA,
without having undergone any change, except normal
depreciation of goods as a result of customer usage.

v. Temporary In Bond Import

Chapter III of the DR-CAFTA provides free entry of cus-
toms duties on goods, regardless of origin, admitted
temporarily from the territory of another country of DR-
CAFTA, to be repaired or altered or re-entered into the
national customs territory, or after having been tempo-
rarily exported to the territory of another country for re-
pair or alteration only.

vi. In Bond Warehouses

Law No. 456-73 on In-Bond Warehouses provides that
imported goods may remain in these warehouses with-
out payment of import duties and taxes, deposit, bonds
and other obligations of customs legislation, for six
months, renewable.

9. Clearance Term

The Law No. 226-06 on DGA Autonomy and Article 5.2,
ordinal 2 (a) of the DR-CAFTA provide that the clear-
ance process of the goods must be carried out within
twenty-four hours.

RESPECT FOR THE RULE
OF LAW IS PART OF OUR PHILOSOPHY
1. Purpose

Law No. 480-08 of 11 December 2008 on International Financial Zones ("IFZ") is aimed at creating a legal framework for such zones in specified areas of the Dominican Republic where financial services can be offered only to persons or entities located outside the country. According to this Law, such financial services are to conform to the highest international standards of honesty and transparency, especially with regard to the fight against financing terrorist activities and money laundering.

2. Institutional Framework

The IFZ system is governed by the National Council for International Financial Zones. The administration is headed by an Executive Director and consists of a Department of Financial Services, a Department of Supervision, and a Department of Financial Investigations.

The principal function of the Council is to establish policy guidelines and rules to fulfill the purposes of the Law and issue regulations to complement its provisions. The Council operates under the administrative control of the Monetary Board.

The functions of the Council include representing the institution legally and supervising the Departments. The Law permits the Council to delegate some of its functions to its Executive Director.

The Financial Services Department is in charge of investigating and supervising the financial services offered by suppliers of such services as well as other entities which render related services within the IFZ. This Department is also responsible for submitting draft regulations governing financial services to the Council.

The IFZ Department conducts investigations and undertakes supervision of providers of other services (excluding financial services offered by the suppliers of such services and by other entities which render related services within the IFZ, supervised by the Financial Services Department). The Department is also responsible for submitting to the Council draft regulations for the providers of incidental services within the IFZs.

Finally, the Financial Investigations Department has the duty to receive, analyze and make available to the Council any report of suspicious activity or other information concerning money laundering or financing of terrorist activities or other financial crimes committed in one of the IFZs. This information must also be provided to the Financial Analysis Unit of the National Committee against Money Laundering established by Law No. 72-02 on the Laundering of Assets Derived from the Illegal Trade in Drugs and Controlled Substances and to the Unit for the Prevention of Money Laundering of the Banks Regulator.

All actions by the Council and its administrative departments are subject to external audits by one or more internationally recognized accounting firms. These audits must include verification that all conflicts of interest have been correctly resolved, that the supervision of the activities conducted in the zones is effective, and that the various departments of the National Council for International Financial Zones are performing their functions properly.

3. System of Prior Authorization

The establishment of an IFZ and the conduct of financial and related activities therein are subject to prior administrative authorization or license which restricts the types of services offered by the licensee to those contemplated in the Law.

4. Permitted Activities

Within an IFZ two types of services can be offered: (i) financial and related services and (ii) support services.

a. Financial and Related Services Include:

- Financial, banking and investment services such as those habitually rendered by banks, trust companies and investment funds;
- Brokerage services for securities and commodities;
- Money and asset management, corporate and project financing;
- Insurance, reinsurance and insurance brokerage;
- Lending and guaranteeing loans;
- Giving financial and investment advice;
- Receiving and safekeeping valuables for deposit;
Conducting negotiations and undertaking multinational liquidations;

Any other financial service or activity permitted by the Council in furtherance of the purpose of the Law.

b. Support Services Include:

Air transportation and maritime brokerage and operating shipping agencies;

Appraisal and qualification of investments;

Forming companies, establishing corporate headquarters and offices of holding companies, and general conduct of business;

Rendering professional services such as accounting, auditing, tax and legal advice, and general business advice; and

Any other support service or activity permitted by the Council in furtherance of the purpose of the Law.

5. Benefits Enjoyed by Users and Operators in the IFZs

Licenses issued to users and operators of the IFZs carry with them the following incentives:

a. Complete exemption for a period of 30 years from the date of the decree authorizing the establishment of the IFZ of the following taxes:

Income tax and capital gains tax;

Taxes on the interest generated by loans obtained from national or foreign financial institutions;

Taxes on the profits or dividends received by partners or stockholders;

Withholding taxes on the remittance abroad of Dominican-source income;

Taxes on the formation of companies and increases of capital;

Municipal taxes, assessments and contributions;

Import duties and related levies on the importation of equipment, furnishings, construction materials, motor vehicles and office equipment;

Sales taxes and value-added taxes;

Excise taxes;

Tax on telecommunication services;

Consular invoice fees for imports;

Export and re-export taxes;

Real estate transfer taxes and on registration of real estate operations in general;

Asset and property taxes;

Taxes and fees on construction;

Taxes on bills of lading and international cargo established in article 274 of the Tax Code.

b. Classification as a non-regulated consumer of electric energy, if in compliance with the General Law of Electricity No. 125-01, as amended, and its regulations, making it possible to purchase electric power directly from a source on the wholesale market.

c. Classification as a large consumer of fuel under the Statutory Law on Fossil Fuels, which makes it possible (a) to purchase the fuel needed to generate its own electric power for sale or for use in its operations, free of duties at the import terminals without the intervention of distributors and at the same prices as prevail for companies engaged in power generation and (b) to import the fuel needed directly or through authorized importers, completely exempt from duties, taxes or charges.

d. Non-applicability of the rule requiring a landlord to deposit the amount received from his tenant as a security deposit for the payment of rent with the Agricultural Bank of the Dominican Republic.

e. The possibility of repatriating earnings and profits resulting from their IFZ operations, free of taxes and levies, in freely convertible currency.

6. Arbitration of Disputes

The users and operators of the IFZ who may be affected by a decision of the Council, or one of the Departments, can appeal such decision pursuant to a special type of arbitration provided in the Law. The manner of appointing the arbitrators and the arbitration procedure will be established in the regulations. Arbitral awards will be final and binding on the parties.
The World Trade Organization (WTO) was formally created by the Marrakesh Agreement, incorporated in the final minutes of the meeting in Marrakech, Morocco, in April 1994. The record contains the results of the Uruguay Round of Trade Negotiations, which was sponsored under the General Agreement on Tariffs and Trade (GATT). The WTO was established on January 1, 1995.

The WTO is the only legal and institutional framework of the multilateral trading system which integrates: (a) the General Agreement on Tariffs and Trade (GATT) 1994 and other agreements relating to trade in goods; (b) the General Agreement on Trade in Services (GATS); (c) the Trade Related Agreement on Intellectual Property (TRIPS); (d) the Dispute Settlement Understanding, and (e) the Review Mechanism of Trade Policies. The WTO is also integrated by numerous ministerial decisions and declarations that complement the agreements.

The agreement that established the WTO has 29 legal texts that regulate trade in goods, services and intellectual property, and includes 25 additional documents, including ministerial declarations and agreements of intent.

In 1950, the Dominican Republic acceded to GATT 1947. In 1995, the country completed the constitutional approval process of the WTO agreements, thus forming part of the original members of that organization.

The Members which integrate the various categories consist of: developed countries, developing countries (where the Dominican Republic stands), least developed countries and economies in transition.

The WTO Doha Round

The Declaration of the Fourth Ministerial Conference of the WTO in Doha, Qatar, adopted in November 2001, established the negotiating mandate for a new multilateral round (Doha Round). The mandate originally included 21 subjects for negotiation and other tasks related to the implementation of WTO agreements. Negotiations are still in the discussion stage.
The development of the negotiations is based on existing groups within the framework of the WTO and new groups that were created for that purpose. The original mandate of the Doha Declaration continued précising on the ministerial conferences in Cancun (2003), Geneva (2004) and Hong Kong (2005). In November 2009 and December 2011, were held in Geneva, Switzerland, the seventh and eighth ministerial meetings, respectively, but it has not been possible to achieve in them agreements in order to conclude the negotiations of the Doha Round. The ninth Ministerial Conference of the WTO was held in Bali, Indonesia, 3-6 December 2013. Meanwhile, work continues to advance the negotiations, through the Trade Negotiations Committee (TNC) and the various negotiating groups.

Basic Rules of the Trading System

The rules of the WTO system are aimed at achieving free trade in goods and services by removing trade barriers. According to the clause of the most favored nation (MFN) trade must not be discriminatory between WTO members. The national treatment principle also applies, in order that members do not accord less favorable treatment to imported products than that accorded to similar products of national origin. In addition, specific rules have been defined as quantitative restrictions, regulatory aspects in the areas of trade defense, dispute settlement procedures, services, intellectual property, among others.

3. The Preferential Arrangements under GATT-WTO

a. GATT Article XXIV

According to Article XXIV of GATT, an exception to the MFN principle, established in Article I of the GATT 1994, in the sense of allowing the formation of customs unions and free trade areas, exempting members states of these preferential regional arrangements to extend the mutual benefits to other WTO members, which would be required to apply the MFN clause. The Committee on Regional Trade Agreements of the WTO is to review and monitor compliance with the rules applicable to regional agreements.

i. Enabling Clause

According to differential and more favorable treatment, reciprocity and greater participation of developing countries, approved by GATT 1979 y known as the Enabling Clause, the developed countries extend preferential treatment to imports from developing countries without demanding reciprocity. This is done through the generalized system of preferences (GSP). That clause also allows flexibility in the obligations of developing countries related to non-tariff barriers and covers preferences that these countries can mutually agreed upon, along with the particularly treatment to Less Developed Countries. The clause complements the provisions of Part IV of GATT on Trade and Development, which recognizes the special situation of developing countries and less developed countries, in the multilateral framework.

ii. Unilateral Preferential Programs

There are special preferential programs, through which developed countries grant non-reciprocal preferential treatment only to products from countries of specific regions, which are considered as characteristic discriminatory at the WTO. These programs have been authorized under the GATT-WTO temporary exemptions, as have been the Caribbean Basin Initiative (CBI-1 and 2) and Lomé Agreements.
1. The multilateral system

By virtue of its participation in the multilateral trading schemes, initially as a contracting party to the GATT and then as a member of the WTO, the Dominican Republic has developed since 1995 a trade policy based on the principles of openness and non-discrimination, according to the fundamentals of the GATT-WTO system. Consequently, the country has committed to adapt its legislation and its trade practices related to multilateral commitments of the GATT-WTO system.

a. Special Preferential Programs

Upon the implementation of DR-CAFTA by the Dominican Republic, the programs Generalized System of Preferences (GSP), Caribbean Basin Initiative (CBI) -Caribbean Basin Initiative- and the Caribbean Basin Trade Promotion Act (CBTPA) of the United States are suspended and replaced for the country by the preferential treatment of DR-CAFTA.

b. The Dominican Republic, the Lomé-Cotonou Agreement and the Economic Partnership Agreement (EPAs) with the European Community (EC)

In the year 1989, the Dominican Republic joined the Lomé Agreement and since then has benefited from trade preferences and cooperation under this scheme and subsequent ones, including the Cotonou Agreement. In need of adapting the preferential regime Cotonou-Lome to the WTO standards, the European Community negotiated the Economic Partnership Agreement (EPA) which replaced the trade provisions of the Cotonou Agreement. The agreement was initiated on 16 December 2007, signed in October 2008 by the countries of CARIFORUM, except Haiti, who signed later in December 2009. The agreement has been provisionally applied since December 2008 and the EC began the tax reliefs since January 2008.
1. General Aspects

The Free Trade Agreement among the Dominican Republic, Central America and the United States of America (DR-CAFTA) is a multilateral treaty whose parties are Costa Rica, El Salvador, the United States, Guatemala, Honduras, Nicaragua, and the Dominican Republic.

DR-CAFTA was signed on 5 August 2004 in Washington, D.C., and came into force for El Salvador and the United States on 1 March 2006, for Honduras and Nicaragua on 1 April 2006, for Guatemala on 1 July 2006, for the Dominican Republic on 1 March 2007, and for Costa Rica on 1 January 2009.

The Treaty establishes a free trade zone for the purpose of stimulating and expanding trade among the signatories by eliminating obstacles to trade, promoting competition within the zone, increasing the opportunities for investment, effectively protecting intellectual property rights, and other objectives of equal importance.

These objectives are developed along the following lines:

• **Most Favored Nation Treatment**, which provides that the treatment given to the nationals, goods and services of the most favored signatory to the treaty or other foreign nation must be extended to the nationals, goods and services of the other signatories.

• **National Treatment**, which means that each signatory gives to the nationals, goods and services of the other signatories the same treatment as it gives to its own nationals, goods and services.

• **Transparency**, which implies that all laws, regulations and resolutions of general application must be published and that bills and drafts of legislative and administrative measures must also be made public, so that interested parties of the other signatory countries can formulate their observations.

The Treaty covers trade relations in the following areas:

• Merchandise, by standardizing rules of access to markets, denominations of origin, Customs procedures, public health measures, use of pesticides, technical obstacles to trade and rules aimed at protecting the local market;

• Government contracts;

• Investment;

• Transnational services;

• Financing;

• Telecommunications;

• Electronic commerce, and

• Intellectual property rights.

The Treaty gives preferential access to the Dominican market to investors and suppliers of goods and services. It also addresses labor law and environmental law, and imposes the obligation on each Contracting Party to ensure that its laws in those areas are effectively enforced, so as to equalize the conditions under which competition takes place among the enterprises of the member countries. For the same reason, the Treaty imposes on the Signatories the obligation to eliminate corruption, both on a national and on an international level.

2. Trade and Investment

Below are lists of some of the products which enjoy preferential import duty treatment.
a. Market Access

Customs duty treatment. DR-CAFTA does not allow an increase in Customs duties nor the imposition of new ones, at the same time it contemplates the progressive elimination of certain duties. Each country establishes its own schedule of import duty reduction which applies to all other countries with certain exceptions. Import duty reduction began for all countries in 2006.

Furthermore, since 31 December 2009, the Signatories are forbidden to grant import duty exemptions as incentives for certain businesses.

Exceptions to national treatment and to import and export restrictions for the Dominican Republic. The D.R. prohibits the importation of vehicles more than 5 years old and vehicles of more than 15 metric tons more than 15 years old, as well as used clothes and used electric household appliances.

Fees and formalities. When DR-CAFTA came into force, the D.R. eliminated the consular invoice and the foreign exchange fee.

b. Facilitating trade

The main objective of the Treaty is to facilitate trade. That requires, not only reduction of import duties, but also simplification of import and export procedures, harmonization of the pertinent rules, standardization of the requirements for information, and use of advanced technologies of communication. The aim is to have efficient and reliable commercial transactions while at the same time improving the quality and efficiency of administrative controls which assure the safety of consumers.

Among the provisions of the Treaty aimed at facilitating trade, the following stand out:

i. Dispatch of goods within 48 hours of their arrival,
ii. Automatization of Customs procedures to speed up the assessment of duties,
iii. Establishment of a system of risk management, so as to focus inspections on merchandise of high risk and simplify the dispatch of low risk merchandise,
iv. A special dispatch mechanism for perishable goods, so that Customs is cleared within 6 hours of the filing of the shipping documents at the Customs Office, provided the goods have arrived,
v. Possibility of submitting and processing information prior to arrival of goods,
vi. Publication of general resolutions by the Customs Offices of the Member Countries to clarify doubts on interpretation and application of the pertinent rules, standardization of the requirements for information, and use of advanced technologies of communication.

According to the Treaty, the Dominican Government will not be able to grant less favorable treatment to providers of goods and services for its own use than the treatment it gives to investments covered by the Treaty.

c. Government Contracting

According to the Treaty, the Dominican Government will not be able to grant less favorable treatment to providers of goods and services for its own use than the treatment it gives to investments covered by the Treaty. The Dominican Republic agreed not to condition the obtaining of an advantage for an investment in its territory by a national of any other country, to the making of a redemption payment.

vii. Executives and directors. The Dominican Republic shall not demand that positions of management or direction in an investment covered by the Treaty must be held by nationals of any other Signatories.

Reservations of the Dominican Republic: The provi-
The provisions of DR-CAFTA on the rendering of services apply to all services, except for such as have been reserved by each country. The most important ones are as follows:

i. National treatment and most favored nation treatment. The D.R. must give to the providers of services of the other signatory countries treatment which is no less favorable than that which, in similar circumstances, it gives to its own nationals and to nationals of other Signatory countries.

ii. Access to markets. The D.R. may not impose limitations on the number of providers of a given service, or on the total value of assets or transactions involved in rendering a given service, or on the total number of service operations or the total amount of services produced, or on the total number of persons employed in any given service sector or the total number of persons that any given service provider may employ. Furthermore, the D.R. cannot restrict or prescribe the types of legal entities that may render a service or require that a joint venture must be used to provide a certain service.

iii. Local Presence. The D.R. may not demand that a service provider of another Signatory country, as a condition to rendering a transnational service, establish or maintain a representative office or form a company or reside in the territory.

iv. Transfer of funds. All transfers and payments relative to the transnational rendering of services may be done freely and without delay, in freely convertible currency and at a rate of exchange in effect on the currency market at the time of the transfer.

v. Law No. 173 on Agents and Distributors of Imported Merchandise and Products. Law No. 173 does not allow the termination of a commercial agency or distributorship by the foreign principal or supplier, regardless of the date of termination stipulated in the contract, except for just cause. It imposes a high measure of damages if just cause is not proved. After the effective date of DR-CAFTA, this law will apply only if its application is expressly stipulated by the parties. Contracts to which that law does not apply will be governed by general legal principles.

vi. Intellectual property rights

i. Patents. The Treaty preserves the 20-year duration of a patent. It gives a right to compensation for a maximum period of 3 years for unjustified delay in the issuance of a patent or the granting of permission to market a product.

ii. Trial period. Protection is granted for data obtained during a trial period of 5 years for pharmaceutical products and 10 years for agricultural chemicals.

iii. Trademarks and geographic names. Trademarks include collective trademarks, certificates and sounds, and can also include geographic names. There is no hierarchy between trademarks and geographic names. The principle “first in time is first in right” applies to both of them.

iv. Copyright and related rights. The period of protection for these rights is extended to 70 years and no hierarchy is established between copyright and related rights. Protection of business information and protection against invasion of business privacy by technological means are increased. Lastly, the Treaty guarantees the free transferability of patrimonial rights.

3. SETTLEMENT OF DISPUTES

a. Settlement of investment disputes. When an investor alleges that his rights under DR-CAFTA have been violated by the host Government, or that the host Government has in some way breached its duties, he can take his case to an arbitration tribunal. The plaintiff can submit his claim directly to the arbitrators or can do so on behalf of a subsidiary doing business in the defendant State. In these proceedings, the State is always the defendant.

In such a case, arbitration can be conducted under any one of the following rules: (a) Convention for the Settlement of Investment Disputes between a State and nationals of another State and the Rules of Procedure for such arbitrations, provided that both the State of the plaintiff investor and the defendant State are parties to the Convention; (b) Regulations of the Supplementary Mechanism for the Administration of Procedures by the Secretariat of the International Center for the Settlement of Investment Disputes; (c) the Rules of Arbitration of the United Nations Commission on International Trade Law (UNCITRAL).

The award rendered by the arbitral tribunal is binding on both parties with respect to the issue decided in the case. The losing party agrees to comply with the award without undue delay.

b. Procedure for the settlement of disputes between States. When one of the Signatories to DR-CAFTA considers that another Signatory is not acting in compliance with the Treaty in a manner prejudicial to its interests, it can institute a proceeding under the Chapter of DR-CAFTA entitled “Settlement of Disputes” and seek a mutually satisfactory resolution. The Chapter deals with the enforcement and interpretation of the Treaty and of the legislation passed pursuant to its mandate, as well as legislation in the making which may impinge upon the benefits which the Signatory had the expectation of receiving under the Treaty.

4. ADMINISTRATION OF DR-CAFTA

The Treaty sets up an administrative structure to oversee its proper operation. At the head of this structure is the Free Trade Commission, whose members are the ministers of trade of the seven Parties to the Treaty. The Minister of Industry and Commerce represents the Dominican Republic before this organization.

On a national level, the Department of Foreign Commerce and Administration of International Commercial Treaties of the Ministry for Industry and Commerce is the entity charged with following the trade agreements to which the country is a Party and ensuring their correct application and administration.
1. Background

The negotiation of the Economic Association Agreement between the European Union (EAA) and the CARIFORUM is a sequel to the Cotonou Agreement signed in 2000 between the European Union and the countries of Africa, the Caribbean and the Pacific (ACP). Before that time, the commercial relations among these countries were governed by the Lomé Convention, originally signed in 1975 and renegotiated several times as Lomé I, Lomé II, Lomé III and Lomé IV.

The Cotonou Agreement, which will remain in effect until 2020, substitutes Lomé IV for the purpose of allowing the ACP countries to further their integration into the world economy. This Agreement covers three principal areas: commercial interchange, cooperation in the area of development financing, and political dialogue. Of these, the provisions on commercial interchange were non-reciprocal and transitional, and required a dispensation from the World Trade Organization (WTO), since they were incompatible with the multilateral agreements administered by that organization.

The negotiations of the EAA were divided by region: four with Africa, one with the Caribbean and one with the Pacific. The Caribbean Region was the first to complete its negotiation with the European Union within the framework of the CARIFORUM (an entity which encompasses the Dominican Republic and the CARICOM countries).

The negotiations for the EAA began in 2004 with the active participation of the private sector. The agreement was initialed on 16 December 2007 and signed in October of 2008 by the CARIFORUM, including the Dominican Republic, although Haiti did not sign until December of 2009. The Agreement has been applied to the Dominican Republic since December of 2008 and the European Union began lowering its tariffs in January of 2009.

2. Purpose and objectives

The purpose of the EAA is to render the preferential programs which the European Union has unilaterally offered to the ACP countries under the Cotonou Agreement compatible with the mandate of the WTO. The EAA is a permanent bilateral free trade agreement with a financing and investment aspect aimed at economic development. Other aspects of the Cotonou Agreement (cooperation and political dialogue) will have to be renegotiated before 2020.

The obligations established by the EAA are clearly asymmetrical when it comes to access to markets. The European Union liberalized all eligible imports from the CARIFORUM in January of 2009 while the CARIFORUM will not begin to liberalize its imports of European products until 2011, after expiration of the two-year period of adjustment given to the region. (Certain products considered highly sensitive were excluded from the agreement.)

The objectives of the EAA, as set forth in Article 1 of that Agreement, is the reduction and eventual elimination of poverty; to promote regional integration; to improve the commercial capability of the region; to integrate it gradually into the world economy; and to stimulate cooperation in certain types of trade and investment.

3. Regional arrangements

In principle, the EAA agreement between the Caribbean and the European Union should complement the process of regional integration found in the Revised Chaguaramas Agreement establishing the Caribbean Community (CARICOM) and the Free Trade Agreement between CARICOM and the Dominican Republic signed in 1998. These agreements coexist legally with the EAA. In the case of a difference in the treatment of a product or sector by the two agreements, the one least restrictive to trade should prevail.

Although there evidently are different levels of integration in the region, the European Union recognized “the importance of the regional integration of the States belonging to the CARIFORUM as a means of permitting these countries to achieve greater economic opportunities, political stability and integration in the world economy.” It is also stipulated that “the rhythm and content of regional integration is a matter to be determined exclusively by the members of CARIFORUM in the exercise of their sovereignty.
an in accordance with their present and future political aspirations\(^2\), which leaves the matter of further integration to the countries of the region.

It is also important to note the rule of Article 238 of the EAA on regional preferences. It provides that “any more favorable or advantageous treatment given by a signatory of CARIFORUM to the European Union must also be granted to the other signatories of CARIFORUM.” This clause requires each nation of the CARIFORUM to give to all members of CARIFORUM the same favorable treatment it gives to the European Union in terms of access to its markets.

This treatment comes into play at three different times: (i) one year after the signature of the Agreement, among the more developed countries of CARICOM (Bahamas, Barbados, Guyana, Jamaica, Surinam and Trinidad & Tobago) and the Dominican Republic; (ii) two years after the signature of the Agreement among the less developed countries of CARICOM (Antigua and Barbuda, Belize, Dominica, Grenada, Saint Christopher and Nevis, Saint Lucia, Saint Vincent and the Grenadines); and (iii) Haiti will not be obligated to extend to the Dominican Republic the treatment it gives to the European Union until 5 years after the signing of the Agreement. This last provision may become the basis for profitable trade relations between the Dominican Republic and Haiti.

### 4. Free trade agreements after the EAA

Article 19 of the EAA is a most favored nation clause which provides that any member of CARIFORUM which signs a free trade agreement with a country having a large economy must grant to Europe the same treatment it has granted to that country. This provision must be taken into account by the Dominican Republic in its future negotiations of free trade agreements, since it will be required to extend to the European Union any access to its markets which it grants to a large economy and which is more favorable than what Europe currently enjoys under the EAA.

- Gives duty-free access to Dominican exports to the 27 countries of the European Union;
- Gradually opens up the Dominican market to imports from Europe, but with safeguards to protect local employment and sensitive industries;
- Liberalizes the provision of services;
- Sets up the basis for intra-CARIFORUM trade;
- Lays the foundation for eventual intensification of trade between the Dominican Republic and Haiti.

The EAA is an unprecedented free trade agreement for the Dominican Republic. It encompasses goods, services and investments and provides for cooperation with the European Union. It will undoubtedly enhance the attractiveness of this country for foreign investment and will stimulate the export of non-traditional products, thereby enhancing the diversification of the economy.

### 5. Opportunities for the Dominican Republic

Obviously, the signing of the EAA has significantly increased the importance of the Dominican Republic as a destination for foreign investment. It is one of a small number of countries (in addition to Mexico, Chile, Morocco, Jordan and Israel) which have free trade agreements both with Europe and the United States. It is also useful to point out that the EAA:

- Gives duty-free access to Dominican exports to the 27 countries of the European Union;
- Gradually opens up the Dominican market to imports from Europe, but with safeguards to protect local employment and sensitive industries;
- Liberalizes the provision of services;
- Sets up the basis for intra-CARIFORUM trade;
- Lays the foundation for eventual intensification of trade between the Dominican Republic and Haiti.
Since the middle of the 1980’s, the Dominican Republic has taken part in various negotiations, which had as a result the signing of free trade agreements with several countries of the region. The first such agreement was the one signed with Panama in 1985. Then, after a period of inactivity, a new start was given to the negotiating process during the presidency of Leonel Fernandez through what he called “the Strategic Alliance between Central America and the Caribbean.” The purpose of this initiative was to build a “strategic bridge” between the English-speaking islands of the Caribbean and the nations of Central America.

The negotiating process between the Dominican Republic and Central America began in November of 1997 and concluded in July of 1998. Simultaneously, this country was negotiating with the nations of the Caribbean Community (CARICOM). In both of these negotiations, the private sector played an important part.

In 1997, a National Commission for Trade Negotiations was formed under the direction of the Secretary of Foreign Relations. This Commission remains the vehicle for the negotiation of free trade agreements, whereas their implementation is undertaken by the Foreign Trade Department of the Ministry of Industry and Commerce.

1. Partial trade agreement with Panama

This agreement was signed in 1985, but was not put into force until November of 2003, in which an agreement was reached on the details of the regulations for its application.

The peculiarity of this agreement is that the parties have expressly listed the products which were to benefit from it, subject to rules of origin. It contains 4 lists of products: (i) products that enjoy free access to the markets of both countries (described as “two-way products”), (ii) products of the Dominican Republic freely exportable to Panama, (iii) Panamanian products freely exportable to the Dominican Republic and (iv) products manufactured in free trade zones. A Permanent Mixed Commission is in charge of evaluating the effects of these trade relations, to approve any modification in the mutual concessions and to add new products to the various lists.

2. Central America

A Free Trade Agreement between the other countries of Central America (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) and the Dominican Republic was signed in April of 1998 and came into force in 2001. Although this is a regional treaty, its effect is bilateral between each of the Central American countries and the Dominican Republic. It includes all products originating in the region with the exception of certain products contained in a “negative list”, which do not benefit from the advantages of the treaty.

A Joint Council of Administration, composed of representatives of the signatory parties, is in charge of giving effect to the treaty. The Council has approved a system for resolving the disputes that arise under the treaty. This Agreement coexists with DR-CAFTA, which came into force for the Dominican Republic on 1 March 2007. DR-CAFTA incorporates several of the provisions of the Free Trade Agreement with Central America, including some of the exceptions to the free trade between the countries. Should there be found to be a discrepancy between the provisions of both treaties, the least restrictive rule would apply.

3. Caribbean Community

The Free Trade Agreement between the Dominican Republic and the Caribbean Community (CARICOM) was signed in August of 1998 and ratified by the Dominican Congress in February of 2001. It establishes equal treatment between the Dominican Republic and the more developed countries of the Caribbean Community and a differentiated treatment of the less developed countries. This agreement strengthens the trade relations among the member countries along the guidelines established by the World Trade Organization (WTO). It facilitates the free exchange of goods and proscribes unfair trade practices.

The implementation of the Agreement is under the direction of a Joint Council, composed of representatives of all the parties. The Joint Council is also called upon to resolve any controversies that may arise in the execution of the treaty. The Agreement between the Dominican Republic and CARICOM coexists with the 2006 Treaty of Economic Association with the European Union and the CARIFORUM (an entity to which the Dominican Republic and the CARICOM countries belong). Should there be found to be a discrepancy between the provisions of both treaties, the least restrictive rule would apply.

4. Other bilateral negotiations

With the aim of opening up other markets to Dominican exports, meetings to exchange information have been held with Mexico and the countries of MERCOSUR. There have also been rounds of negotiation with Canada and the Republic of China (Taiwan).

1 In February of 2003, a Code of Conduct was approved, as well as the Model Rules of Procedure for the Resolution of Controversies (Chapter XVI of the Treaty).
2 Barbados, Guyana, Jamaica, Suriname and Trinidad & Tobago.
3 Antigua y Barbuda, Belize, Dominica, Granada, Montserrat, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines.
THE MONETARY AND FINANCIAL SYSTEM OF THE DOMINICAN REPUBLIC

CHAPTER 7

A. Monetary and Financial system of the Dominican Republic
B. Legislation regarding the stock exchange
C. Regulation of the systemic risk
D. Laws on insurance and bonding
1. History. Legislative Evolution

During the second half of the Twentieth Century, the financial and banking market of our country was regulated by laws and regulations that ruled such sector in a dispersed, sectorial manner lacking unity.

In the year 1947 were created the Dominican monetary unit (the Peso), the Central Bank and the Banks Superintendence through Monetary Law No. 1528 dated October 9, 1947, and Law No. 1530 of October 13, 1947 (subsequently amended and replaced by the General Law on Banks No. 708 dated April 15, 1965 and its amendments). Subsequently, another relevant legislation was promulgated, the Organic Law of the Central Bank No. 6142 dated December 29, 1962.

Currently, it rules the Monetary and Financial Law No. 183-02 (the “Law” or Law No.183-02”), dated November 21, 2002, which arose from the need to strengthen the controlling bodies of the monetary and financial sector, and of the transformation and adaptation of the national financial system to the progress of modern times and international guidelines.

2. Applicable Legal Statute

The Monetary and Financial Law No. 183-02 constitute the most significant legislative transformation of the Dominican monetary and financial regime. It consists of 4 titles, with their respective sections and 91 articles, and constitutes, along with the Constitution of the Dominican Republic proclaimed on January 26, 2010 (the “Constitution”) and the regulations dictated by the Monetary Board of the Central Bank and the Banks Superintendence, el en force legal framework for the regulation of the local monetary and financial sector.

3. Aspects of Interest regulated by Law No. 183-02

Law No. 183-02 provisions principles and processes of interest in the regulation of the monetary and financial regime, its administrative bodies and exchange policy, amongst which must be highlighted the following:

- Flexibility in the use of currency by providing in Article 28 thereof, the principle of free convertibility of currency, under which it is possible to convert local currency into any other foreign currency;
- Derogation, by article 29 of the Law, of the existing past requirements related to the transactions carried out in foreign currencies, including restrictions inherent to international transfers. However, these transfers are subject to the restrictions imposed by Law No. 72-02 against Laundering of Assets Originated by the Illicit Traffic of Drugs and Controlled Substances and other Serious Offenses, dated June 7, 2002 (“Law No. 72-02”), as well as to the administrative control provisioned by the Exchange Regulation enforced by Resolution of the Monetary Board on October 12, 2006;
- Creation of the Monetary and Financial Administration;
- Promotion of transparency in the Monetary and Financial Administration, upon establishing the mandatory publications such as the monetary program of the Central Bank, newsletter with the monetary and financial regulations and instructions by the Central Bank; newsletter of the memos from the Banks Superintendence, audited financial statements of the Central Bank and of the Banks Superintendence, among others;
- Introduction of the concept of consolidated supervision in those cases of direct or indirect control of financial intermediation entities on related support and services entities and other entities;
- Introduction of the Risk Information System tending to ensure the veracity and correctness of the data provided in respect to debtors of the system, which allows the homogeneous classification of credits;
- Regulation of the banking secrecy;
- Establishment of an administrative control regime on the actions originated by the Monetary and Financial Administration that provides a
system of administrative recourse for the im-
pugment of such actions;

- Establishment of a regime of sanctions by the
  classification of offenses and the imposition of
  sanctions of administrative and criminal char-
  acter to the participants in the monetary and
  financial system.

4. Organization of the Monetary and Financial Ad-
ministration

The Monetary and Financial Administration is com-
posed by the Monetary Board, the Central Bank and
the Bank Superintendence, being the Monetary Board
the supreme body amongst these entities. The Ad-
ministration is vested with functional, organizational
and budgetary autonomy for its compliance of the re-


responsibilities entrusted to it by Law No. 183-02. The
attributions so entrusted by law are deemed unwaiver-
able and may only be exercised in accordance with the
provisions of said legislation.

The acts of the Monetary and Financial Administration
are favored with a presumption of legality and may
only be appealed those that terminate an administra-
tive procedure, through an appeal before the entity
that issued the act or through an administrative appeal
before the Monetary Board. The acts of the Monetary
Board, for their part, may be hierarchically appealed
before the Administrative Supreme Court. The Law No.
13-07 dated February 5, 2007, provisions the transfer
of competences from the Administrative Contentious
Court for the Monetary and Financial to the Administra-
tive Supreme Court.

b. The Central Bank

The Central Bank is a public law entity with legal per-
sonality, which is vested with autonomy recognized
by Article 225 of the Constitution and granted with tax
exemptions or any tax imposed on its property or op-
erations; the collection and compilation of statistics of
the balance of payments of the monetary and finan-
cial sector, and other steps necessary for the perfor-
mance of its duties. Likewise is recognized its regu-

latory power, both internally as for the development of
instructions on the provisions of the monetary and
financial regulations in matters of its own competence.
The Central Bank is also designated as the govern-
ment body with power to impose penalties in case of
deficiencies in the legal reserve, breach of the rules of
administration of the payment systems, violation of the duty
of disclosure and restrictions on the issue, reproduc-
tion or counterfeit of legal tender currency.

The Central Bank may not provide credit to the govern-
ment or other public institutions, directly or indirectly,
nor through financial institutions nor by performing
contracts, which may have implications of grants to a
public institution or involves any subsidy, with the ex-
ceptions legally established. Nor can guarantee obli-
gations of third parties, or grant personal guarantee
or assume solidarity on any obligations contracted by
third parties.

b. Participation of Foreign Investment in the
financial Intermediation and Representation
Offices

The participation of foreign investment in the national
activity of financial intermediation is governed by regu-
lations issued by the Monetary Board, which establish
the requirements and conditions for the different finan-
cial institutions located abroad engaged in financial in-
termediation activities in the country.

According to Article 18 of the Law, the Superinten-
dence of Banks is a public law entity with legal per-
sonality, to which are attributed supervisory functions,
with full functional autonomy, accountable for the su-
ervision of financial intermediaries entities. It has the
power to demand the regularization of noncompliance
with the laws and regulations in force, and impose ap-
propriate sanctions, except for those applied by the
Central Bank under the Law. It is recognized equally its
regulatory power, both internally as for the instruc-
tional development in the monetary and financial regu-
lations on those matters of its competence.

5. Financial intermediaries. Representation Of-
cices and foreign financial institutions

a. Financial Intermediary Entities

The financial intermediaries may be of private or public
nature; those of private nature can be of stock or non
stock character.

Are considered financial intermediation entities of cap-
tal stock the multiple services banks and credit insti-
tutions. The latter may in turn be savings and credit
banks and credit corporations.

It is established an unlimited duration for these entities,
which will not cease their operations without prior ap-
proval of the Monetary Board. Its dissolution shall be
in accordance with the provisions of Law No. 183-02
and the Regulation on Dissolution and Liquidation of
Financial Intermediary Entities. The Law states that the
dissolution of the financial intermediaries of no capital
stock shall be governed by its special laws, by the reg-
ulations issued by the Monetary Board and the rules of
common law applicable to them.

b. Participation of Foreign Investment in the
financial Intermediation and Representation
Offices

The participation of foreign investment in the national
activity of financial intermediation is governed by regu-
lations issued by the Monetary Board, which establish
the requirements and conditions for the different finan-
cial institutions located abroad engaged in financial in-
termediation activities in the country.

According to Article 18, literal a, of the Law, such partici-
patation may be performed in four modalities:

- By acquiring shares of multiple services banks
and existing credit entities, by banks and other
financial institutions as well as individuals, hold-
ing, in these cases, the authorization by the
Monetary Board when the acquisition exceeds
30% of paid-up capital of the acquired entity,
and a letter of no objection from the Banks Su-
perintendence if the participation fluctuates be-
tween 3 and 30% of the paid capital;

- Through the establishment of financial interme-
diates of capital stock character in accordance
with the provisions of the Law;

- In the form of subsidiary, by establishing multi-
ple service banks and credit institutions owned
by banks and other financial institutions;

- By establishing branches of banks incorporat-
ed under the laws of other countries;

- Once such entities are authorized to perform
financial intermediation activities in the local
market, they will be subject to the same rules
and requirements as the national entities.

In regards to representation offices, Article 39, lit-
eral b) of the Law allows the establishment of repres-
entation offices in the country to foreign banks
not domiciled in the country. However, it maintains
the prohibition of financial intermediation activities
by the aforementioned representation offices.

6. Dissolution of Financial Intermediary Entities

The dissolution of financial intermediaries is produced by the procedure laid down in Article 63 of the Law and the wording of the provisions of the Rules on Dissolution and Liquidation of Financial Institutions, implemented by the Banks Superintendence under the authorization of the Monetary Board.

7. Legislation against Money Laundering in the Dominican Republic

The Dominican Republic is a signatory to several international treaties designed to prevent and punish money laundering, among which include the Convention of the United Nations against Illicit Traffic in Drugs, Narcotics and Psychotropic Substances, also called Vienna Convention of 1988; the Inter-American Convention against Corruption dated 29 March 1996; and the Kingston Declaration on Money Laundering of November 1992.

The Law No. 72-02, together with its Implementing Regulations No. 20-03 dated January 14, 2003, is the current statute of legislation against money laundering.

a. Conceptualization of money laundering

According to Law No. 72-02, the laundering could be defined as the incorporating of illicit goods into the monetary system, so that through its transformation, conversion and acquisition of the appearance those were lawfully acquired.

b. Evolution of classification and regulatory framework for money laundering in the Dominican Republic

Money laundering was classified for the first time in the Dominican Republic by Law No. 50-88 on Drugs and Controlled Substances in the Dominican Republic dated July 25, 1988, in its Article 58, considering “the acquisition, possession, transfer or money laundering or any other securities and gains derived from or used in illicit trafficking” as serious crimes.


The most recent amendment to the Law 72-02 is produced with the enactment of Law 196-11 of August 8, 2011, addressed to adapt Article 33 of the Law, which incorporates the Attorney General of the Republic as one of the entities benefiting from the distribution of seized funds, for being the institution that leads the State criminal policies through criminal prosecution of the offense through the Public Ministry; to that effect, as of the effective date of said Law, Article 33 provides: “With the goods, products or instruments confiscated according to the provisions of this Law, which should not be destroyed nor be harmful to society, it shall be proceed as it follows:

- A twenty five per cent (25%) for the Attorney General of the Republic
- A twenty five per cent (25%) for the Drugs National Council
- A twenty five per cent (25%) for the National Drug Control Directorate.
- A fifteen per cent (15%) to the Non Governmental Organizations (NGO) which work with prevention of drugs consumption.
- Ten percent (10%) to the National Police. In the judgment are recognized the rights of a pledgee or mortgagee in good faith, the prosecution will proceed to the auctioning of the seized goods, products or instruments and shall pay the credit on the terms provisioned in the judgment.

Paragraph I. In cases where the process of investigation into the offense have participated authorities of other countries or international organizations, the Dominican State may agree with other States or international organizations on the destination of the seized property.

Paragraph II. In cases of seized goods, products or instruments originating of other offenses under this Law shall be distributed as follows:

- Fifty percent (50%) to the Attorney General of the Republic.
- Fifty percent (50%) to the National Police.

The Dominican Republic, with the aim of preventing and controlling money laundering and cooperate with the international community in preventing crimes from money laundering is part of the Caribbean Financial Action Task Force (CFATF), an organization composed of twenty-nine States of the Caribbean Basin that have agreed to implement common countermeasures to address the problem of criminal money laundering, established as a result of a series of meetings convened in Aruba in May 1990 and Jamaica November 1992.

The main objective of the Caribbean Financial Action Task Force (CFATF) is to achieve effective implementation of its recommendations and the compliance thereof to prevent and control money laundering.

The CFATF receives support from the cooperators and sponsors of the Financial Action Task Force (FATF), a multidisciplinary intergovernmental body composed of twenty-six countries and major financial centers in Europe, North America and Asia that have united to fight against money laundering and for this purpose have adopted forty recommendations which constitute the basic framework against money laundering and have been designed for universal application. Some of these recommendations have been adopted by the CFATF to put into effective enforcement the mechanisms to prevent and control money laundering, providing training and expertise to nations and cooperating with each other to ensure the implementation of these mechanisms in the Caribbean region.

In its interest to cooperate in the fight against the crime of money laundering and meet the international standards and recommendations of the CFATF, the Dominican Republic has made significant progress by adopting the following measures, namely:

- Incorporated into its legislation the Terrorism Act, classifying it as a predicate offense to money laundering (Article 35 Law 267-08 of July 4, 2008).
- It reinforced the anti-money laundering supervision to financial institutions and of securities in the sense of the legal obligation to report cash transactions for amounts equal to or above US $ 10,000.
- Law No. 189-11 on Development of the Mortgage Market and The Trust and its Implement-
In accordance with Article 3 of Law No. 72-02, incurs dering a judgment with authority of and other related crimes provided for in that law, until detention, in order to preserve the availability of prop-
dering process can dictate, at any time, without prior Law 72-02 states that the judge hearing a money laun-
d.  Precautionary Measures

Law 72-02 states that the judge hearing a money laun-
dering process can dictate, at any time, without prior notice or hearing, an order of provisional seizure or detention, in order to preserve the availability of prop-
erty, products or instruments related to illicit trafficking and other related crimes provided for in that law, until intervened a judgment with authority of res judicata.

Recidivism is punishable by the corresponding maxi-
mum penalty according to the violation.

Banking secrecy does not constitute, under any cir-
cumstances, impediment to the enforcement of this legislation, when information is requested by the com-
petent authority through the governing bodies of the financial sector.

f. National Committee against Money Lau-
dering.

In order to promote, coordinate and recommend the policy of prevention, detection and suppression of money laundering, Law 72-02 creates the National Committee against Money Laundering. Similarly, the Law provides for the establishment of the Office of Custody and Administration of Seized and Confiscat-
ed Goods, attached to the said Committee, in order to preserve, manage and sell assets seized and forfeited in connection with the commission of any typified of-
fense.

8. New regulatory developments in the financial sector of the Dominican Republic

a. Regulation on Banking Sub-agents.

The interest of financial intermediaries to offer their services to the unbanked population and to have access to as many users in the country has prompted the Monetary Board to issue the “Regulations on Bank Sub-agents" through the First Resolution adopted on 14 February 2013 (the “Regulations”). By virtue of which, it is regulated, through outsourcing of services, the creation of a network of small businesses to act on behalf of financial intermediaries.

The issuance of this regulation takes place under Ar-
ticles 40 (lit.w), 42 (lit. v) and 75 (lit. v) of the Monetary and Financial Law, through which it allows multiple service banks, Savings and Credit Banks and Savings and Loan Associations, to adopt, in accordance with regulations, instruments and operations that demand the new banking practices.

Legal and natural persons who are engaged as Bank Subagents must perform some business activities. Article 5 of the Regulation gives a non-exhaustive list of these businesses, leaving open the possibility that the Banks Superintendence to supports additional others that deem convenient. The proposed Bank Subagents include:

- Drugstores
- Hotels
- Telecommunications entities Service Centers
- Supermarkets, minimarkets, grocery stores and hardware stores

The Banks Superintendence is the body in charge of approving applications for Banks Subagents, previous evaluation of the Banks Subagents Operating Manual and verification of compliance with the requirements of Article 7 of the Regulation.

Among the operations and financial services that are allowed to bank subagents, Article 8 of the Regulation provides: (i) receive cash payments, from loans and credit cards as well as cash and electronic media utili-
ty bills, fees, taxes or any other payments for third par-
ties who have previously contracted with the financial intermediary, (ii) receive and make bank transfers, (iii) receive deposits in savings or checking accounts and allow withdrawals from savings accounts, (iv) delivery to the final beneficiaries of remittances or transfers re-
ceived, (v) receive complaints, among others. In addi-
tion, the Regulation, in its Article 11 details the opera-
tions that cannot be carried out by Bank subagents.

With regards to the sanctions regime of the Regula-
tion, it provides that those Bank Subagents operating or advertising under that quality, without having en-
tered into a service contract with the financial interme-
dary in question, or perform financial intermediation activities by itself, shall be liable to be punished un-
der the provisions of the Monetary and financial Law. Furthermore, the breach of contract by the Bank Sub-
agent will result in the revocation of the non objection-
issue in question, or perform financial intermediation activities by itself, shall be liable to be punished un-
der the provisions of the Monetary and financial Law. Furthermore, the breach of contract by the Bank Sub-
agent will result in the revocation of the non objection-
i issued by the Banks Superintendence and the ineligi-
bility to act as a Bank subagent for another financial intermediary.
b. Credit Cards Regulation

Through its First Resolution dated February 7, 2013, the Monetary Board approved the "Regulation of Credit Cards" (the "Regulation"), whose primary purpose is to devise policies and procedures to be followed by financial intermediation entities that offer credit cards, in order to create a transparent and fair overview for consumers of this product. This legislation brings a series of clear and specific provisions to regulate aspects such as minimum requirements that must have the contracts with cardholders, interest calculation, fees, charges and taxes, specifications in issuing financial statements, information that entities should provide to users, to the Banks Superintendence and to the Central Bank, among other elements that dictate the operation and management of credit cards.

In relation to agreements entered into between the issuer and the cardholder, the Regulation lays down the general aspects that must contain same, such as language, font size, validity, termination and obligations of the parties. Regulation required to notify the holder of the credit card in case of unilateral contract modification, the user having the right to reject this amendment and request the cancellation of the card prior to these changes will be opposable to the cardholder.

Among the aspects of transparency in the regulation is the obligation to publish interest rates on an annual basis through physical and digital media, as well as the publication of the model contracts in force on the website of the financial intermediary.

Among the highlights of this legislation is the elucidation of interest payments, fees, charges and fees for credit card users. In the case of interest, it is established that they can be charged only on the agreed services and effectively provided the basis for calculating the daily average on outstanding balance of capital and excluding interest, fees and other charges. Besides, charging interest on financing interest is prohibited.

With regard to commissions, an important point of great benefit to consumers is that for its calculation only be required to pay those that have been previously agreed by the parties, the costs incurred by intermediary entities being excluded from these to provide banking services, such as data processing costs, delivery of statements, etc. Similarly, regarding charges, it may only be performed those previously notified to the cardholder, and accepted by it, and if provided additional services the customer’s express consent must be obtained before making any charge.

The provisions of the Regulation came into effect from the date of its publication, this is April 4, 2013. They were granted a period of sixty (60) days from that date, to the Central Bank and the Banks Superintendence to elaborate the corresponding instructions. Meanwhile, the credit card issuers, within ninety (90) days, also from the publication of the Regulation, must make the necessary adjustments in their technology systems and statements formats. That is, that from July 4, 2013, the financial intermediaries must be in compliance with the provisions of this new legislation.

This regulation on the use of credit cards is a major step in favor of current and future users of this financial instrument, enriching in turn, the safety, efficiency and competitiveness of banking services in general.
The legal framework pertaining to securities and the Dominican Stock Exchange are contained in the Law on Companies and Limited Ownerships No. 479-08, as amended (“the Company Law”); the Stock Exchange Act No. 19-00 of 8 May 2000 (referred to hereafter as “the Law”) and the Regulations for its application contained in Decree No. 664-02 7 December 2012, as well as the rules established by the National Securities Council and by the Office of the Superintendent of Securities.

The Law governs: the public offering of securities, which can be denominated in national or foreign currency; the entities offering their securities on the stock exchange; the brokers who operate on the exchange; and, all other activity relative to the public offering of securities.

The Law defines the term “security” (in Spanish “valor”) as the right, or conglomerate of rights, having an essentially economic content, which are freely negotiable on an exchange, such as shares of stock, options to buy stocks, debentures, bonds, warehouse receipts and other documents representing present or future commodities, instruments representing the securitization of mortgages or other forms of debt, and any other type of negotiable commercial document.

A “public offering” is one which is addressed to the general public, or to specific sectors of the public, by any means of mass communication, inviting the persons to whom the offer is addressed to buy, sell or exchange securities of any kind on the exchange. It excludes private transactions involving securities and any other transaction not falling within the terms of that definition. Any public offering of securities is subject to prior approval by the Superintendent of Securities, who, in case of doubt, can determine that a particular offering is public or private according the dispositions of the Law and the Regulation.

For purposes of the law, the primary market involves the initial offering of shares by the issuer who thereby obtains liquidity with which to finance his operations; whereas the secondary market is the one in which securities which have already been issued are sold by their holder who seeks to convert them into cash.

1. Agencies Regulating the Stock Exchange
   a. Superintendent of Securities

The Office of the Superintendent of Securities is an autonomous Government institution subordinate to the Monetary Board. Its purpose is to regulate and supervise the stock exchange, to strive for transparency of its operations by requiring and divulging complete information about share offerings and the companies that issue them. It has the power to impose administrative penalties, in addition to legal actions that may be brought in appropriate cases.

The Superintendent maintains a register of the shares listed on the exchange and of the companies which have issued them, as well as the names of the brokers licensed to transact business. A large part of this information appears on the website of the Superintendent’s Office (http://www.siv.gov.do/).

2. National Securities Council

The Council is composed of one official from the Central Bank, one from the Ministry for The Treasury, the Superintendent of Securities, and four members from the Private Sector. Its business is to resolve matters brought before it by the Superintendent or by any one of the participants in the stock exchange; to prepare monthly reports of its activities and an index of the securities listed on the exchange; and to act as conciliator in cases involving disputes between participants in the exchange, when those have not been resolved by the Superintendent.

3. Parties Who Take Part in the Stock Exchange

The participants in the Stock Exchange are:

   a. Stock Exchange

A self-governing institution under the supervision of the Superintendent, which renders services to stockbrokers enabling them to carry out transactions in a continuous and orderly manner and to undertake other actions that may be useful or necessary to maintain the market.

There is currently only one stock exchange in the country, known as the Bolsa de Valores de la República Dominicana, S. A., where only local transactions take place (www.bolsard.com).

   b. Intermediaries in Securities Transactions

These are persons or legal entities, who can be Dominican or foreign, who habitually carry
out intermediary activities in relation to securities offered to the public, whether on the Exchange or the counter, and who are required to be licensed by the Superintendent. They can function in different ways: as seats on the Exchange, as stock brokers and as securities intermediaries. There are at present a number of registered seats and brokers, who are listed on the web page of the Exchange.

Commodities Exchange: These are self-regulating institutions subject to approval by the National Securities Council and whose purpose is to render services in connection with the marketing of products originating in, or destined for, the agricultural and livestock sector, the agroindustrial sector and the mining sector, as well as documents of title representing products, futures contracts and derivatives relating to products. There is at present only one commodities exchange in the Dominican Republic, known as the Bolsa Agroempresarial de la República Dominicana, S. A. (BARD) (www.jad.org.do).

c. Commodities Exchange: These are self-regulating institutions subject to approval by the National Securities Council and whose purpose is to render services in connection with the marketing of products originating in, or destined for, the agricultural and livestock sector, the agroindustrial sector and the mining sector, as well as documents of title representing products, futures contracts and derivatives relating to products. There is at present only one commodities exchange in the Dominican Republic, known as the Bolsa Agroempresarial de la República Dominicana, S. A. (BARD) (www.jad.org.do).

d. Clearing House: This is an institution, which would have to be licensed by the Superintendent of Securities, and which would be involved in the buying and selling of futures contracts, options to buy shares and other similar transactions which the Superintendent would authorize. It could also take charge of organizing corporate liquidations, allow customers and intermediaries to hold open positions, be parties to current accounts, margin accounts and balances. There is at present no clearing house licensed to operate in the Dominican Republic. It nevertheless represents a potential goal for investment to facilitate the existence of a derivatives market.

e. Centralized Securities Deposit: Such an institution renders services to the participants in the Stock Exchange by registering, safekeeping, transferring, offsetting and liquidating securities which are negotiated for cash on the Exchange, and registering these operations. There is at present one Centralized Securities Deposit known as Cevaldom Depósito Centralizado de Valores, S.A. (www.cevaldom.com). In addition to its role in the Stock Exchange, this agency also acts as a party to the system of gross liquidations payments and securities of the Dominican Republic system, with the conditions under which the Fund operates are set forth in a contract between the Fund and its customer.

h. Closing Investment Funds: These types of funds invest in securities providing a fixed return, which is passed on to the investor. The risk of default of any one of the securities in which the Fund has invested is passed on proportionately to the shareholders of the Fund. The shareholder must sign an agreement recognizing the existence of this risk.

i. Fund Managers: These are persons or entities engaged in managing the investments made by Mutual Funds or Closed Investment Funds. They must be authorized by the National Securities Council.

j. They are at present three companies engaged in fund management: Excel Administradora de Fondos Mutuos de Inversión, S.A., Abra Adm. Administradora de Fondos and the Banco Nacional de Fomento de la Vivienda and the Producción (BNV).

k. Securitization Companies: Engaging in securitization also requires permission from the Council. Securitization is a process whereby a fund is created by the purchase of securities or other evidences of indebtedness, typically mortgages, and against this fund shares are issued, which give the shareholders a direct right to a portion of the securities or evidences of indebtedness held in the fund. At present two companies are engaged in securitization: Titularizadora Dominicana, S. A. and the Banco Nacional de Fomento de la Vivienda and the Producción (BNV).

l. External Auditors: Auditing firms belonging to the Institute of Public Accountants render auditing services to the companies whose securities are listed on the Exchange and to the participants in the market. They must be approved by the Superintendent of Securities (http://www.siv.gov.do/mercado/registros/auditoresexternos).


<table>
<thead>
<tr>
<th>Year</th>
<th>Primary Market</th>
<th>Secondary Market</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>RD$896,082,800.00</td>
<td>RD$203,916,286.05</td>
<td>RD$1,169,999,066.05</td>
</tr>
<tr>
<td>2006</td>
<td>RD$1,146,923,121.92</td>
<td>RD$257,376,128.54</td>
<td>RD$1,674,300,250.46</td>
</tr>
<tr>
<td>2007</td>
<td>RD$2,742,688,134.36</td>
<td>RD$88,671,899,824.81</td>
<td>RD$954,456,087.07</td>
</tr>
<tr>
<td>2008</td>
<td>RD$8,043,072,380.63</td>
<td>RD$34,928,266,144.19</td>
<td>RD$42,971,338,524.82</td>
</tr>
<tr>
<td>2009</td>
<td>RD$34,204,185,203.30</td>
<td>RD$23,526,640,949.43</td>
<td>RD$57,726,845,152.73</td>
</tr>
<tr>
<td>2010</td>
<td>RD$8,690,160,999.09</td>
<td>RD$27,726,640,949.43</td>
<td>RD$40,682,092,256.00</td>
</tr>
<tr>
<td>2011</td>
<td>RD$5,983,132,135.88</td>
<td>RD$70,519,523,926.02</td>
<td>RD$76,502,659,761.88</td>
</tr>
<tr>
<td>2012</td>
<td>7,564,205,960.13</td>
<td>43,653,275,304.05</td>
<td>50,617,481,264.19</td>
</tr>
<tr>
<td>Total</td>
<td>42,540,570,735.22</td>
<td>208,235,492,160.91</td>
<td>250,775,963,196.14</td>
</tr>
</tbody>
</table>

Graph 1
Stock Market Operations per Year

[Graph showing stock market operations per year with data points for each year from 2005 to 2012.]
4. Procedures for Making a Public Offering

There are three steps in making a public offering:

a. Obtain Authorization from the Superintendent of Securities. The Law requires this prior authorization, which is limited to verifying that it contains complete and truthful information for the guidance of investors. Approval does not carry with the liability of the Superintendent in case of poor quality of the shares or insolvency of the issuer.

Privileged issuers are subject to an abbreviated procedure. They need only furnish institutional and financial information and their rating, if applicable. This documentation must be in Spanish or accompanied by a translation prepared by a licensed Dominican translator.

For a foreign company to issue shares on the Dominican Stock Exchange, it must either form a Dominican subsidiary or else establish a branch which obtains authorization to establish its domicile in the country. The subsidiary or branch must be registered in the Mercantile Registry and have a Taxpayer Number. It must also provide additional documentation required by the Regulations, such as legal and financial information, a list of directors with an indication of their background in other institutions, its rating from the standpoint of risk, and the terms of the issue.

b. Inscription in the Registry of Securities and Commodities Exchanges.

Once a public offering has been approved, the securities to be offered as well as the issuer must be registered in the Registry of Securities and Commodities Exchanges, where the public will have access to the prospectus of the issue, which contains information regarding the securities and their rating, and the issuer and brokers who will handle the placement.

Rule R-CNV-2012-03-MV dated February 3, 2012 establishes new fees for Document Submission and Registration on the Securities Market and Products Registry. For these purposes issuers making a public offer of securities representing debt and/or equity, will pay a fee, as follows:

- In the case of a public offering of securities by a foreign entity through the services of a Dominican intermediary, the intermediary must submit to the Superintendent evidence of listing of the security in the exchange of the country of origin. Foreign securities must be registered with the Superintendent, not only to be offered on the exchange, but also over the counter. This possibility is the result of homogeneous conditions for public offerings and a recognition of the reliability of securities regulations in other jurisdictions.

5. Maintenance and Monitoring Services Fees.

Rule R-CNV-2012-24-MV dated October 26, 2012, fixes rates for Securities Market Registry Upkeep, in other words the costs of maintenance services offered to market participants enrolled in the registry. The participants have been classified by different Stock Exchanges and Central Depositories of Securities, with rates ranging from DOP 300,000.00 to DOP 5,000,000.00.

Meanwhile, Rule R-CNV-2012-09-MV, dated March 22, 2012, defines Supervisory fees, as established in the Securities Market and Products Law to be applied to Securities Brokers, Fund Managers and Securitization Companies.

For Securities Agents and Brokers the base calculation is 2% of annual fees generated by the brokerage of securities at the end of the previous semester. For fund managers and Securitization Companies the fee will be 1.5% of total existing assets of the company at the end of the previous semester.

6. Incentives for Investments Through the Stock Exchange

7. Penalties for Violation

Persons who violate the provisions of the Law, its Regulations or the rulings of the Superintendent of Securitie can become liable for administrative, civil or criminal penalties, depending on the case. There are also special penalties for violation of the rules of the Stock Exchange, such as failure to provide relevant information, giving out confidential information, manipulating the market or using it as a means of money laundering or the financing of terrorist activities.

On February 3, 2012, the law governing the Prevention and Control of Money Laundering and Financing of terrorism in the Dominican Republic was issued. It establishes certain provisions that should benefit market participants and securities issuers who are mandatory subjects under the Money Laundering Law. It also includes core provisions of the Terrorism Act to prevent the use of the market as a vehicle for money laundering and terrorist financing from illicit activities.
The norm establishes individuals and entities on the Stock Exchange Market as mandatory subjects, such as issuers of the Public Offer of Securities (except for the differentiated issuers mentioned in the legal provisions ruling the Stock Market), securities intermediaries, securities brokers and agents, the Stock Exchange and Products, Investment Fund Managers, The Chamber of Compensation, securitization companies, the Central Securities Depository, and other participants involved the public issuance of securities on the Dominican stock market, depending on the type of operation being conducted.

These regulated entities must comply with obligations relating to the prevention of money laundering and the financing of terrorism by identifying customers, creating prevention and monitoring systems and programs, being careful with transactions, preparing reports and summaries for the Securities Regulator and applying suitable procedures in the recruitment, assessment and training of personal.

All entities will have a Compliance Committee consisting of four members: the General Manager, a Member of the Board of Directors, the Operations Manager and/or Business and the Compliance Officer, in order to prevent money laundering and financing of terrorism. Also, regulated entities will have a Head Unit in charge of a Prevention and Control Program, to lead by a Compliance Officer whose primary responsibility is to analyze, monitor and detect money laundering and the financing of terrorism.

A record of all transactions will be kept, regardless of the amount, if due to its nature it could be linked to money laundering. The Prevention and Control Unit will analyze the case and report it to the Securities Regulator, through the Prevention and Control Unit of this institution.

The Regulator will notify the Financial Analysis Unit (UAF) of all suspicious transactions detected in the course of inspections to these entities.

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### Composition of Investment Portfolio of Pension Funds by Issuer (in millions RD$, June 30, 2013)

<table>
<thead>
<tr>
<th>Issuer</th>
<th>Investment</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministerio de Hacienda</td>
<td>26,462.89</td>
<td>12.63%</td>
</tr>
<tr>
<td>Central Bank</td>
<td>101,622.42</td>
<td>48.49%</td>
</tr>
<tr>
<td>Commercial Banks</td>
<td>64,075.60</td>
<td>30.58%</td>
</tr>
<tr>
<td>Saving and Loan Associations</td>
<td>9,431.25</td>
<td>4.50%</td>
</tr>
<tr>
<td>Saving and Credit Banks</td>
<td>852.27</td>
<td>0.41%</td>
</tr>
<tr>
<td>National Housing and Production Fostering Bank</td>
<td>2,942.68</td>
<td>1.40%</td>
</tr>
<tr>
<td>Private Enterprises</td>
<td>3,829.55</td>
<td>1.83%</td>
</tr>
<tr>
<td>Multilateral Agencies</td>
<td>342.71</td>
<td>0.16%</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>209,559.37</strong></td>
<td><strong>100.00%</strong></td>
</tr>
</tbody>
</table>

---

1. Notion of Systemic Risk. Legal Status

A systemic risk occurs when the inability of one financial institution to perform its obligations has a secondary effect on other institutions of the financial sector.

In view of the danger of such an event for the economy, the Dominican Government, following models found in other countries, has adopted strict regulations aimed at preventing such risk from materializing.

The system set up by the Monetary and Financial Law (Law No. 183-02) to deal with the problems of liquidity of financial institutions was amended and strengthened by Law No. 92-04, which created the “Exceptional Program of Risk Prevention for Financial Institutions”.

The main objectives of this Program are:
- To protect depositors;
- To avoid the contamination of other institutions (i.e. systemic risk);
- To minimize the cost to the State of solving the problems of defaulting financial institutions;
- To minimize the effect on the value of the currency which the massive use of public funds can carry with it.

2. The Program for the Prevention of Systemic Risks

Under Article 2 of Law No. 92-04, if the Banking Superintendent discovers that a financial institution is confronted by problems of liquidity or if its capitalization is insufficient, or if it is unable to abide by the terms of a previously adopted rehabilitation plan, and if the Superintendent considers that this situation is likely to have a negative effect on the whole banking system, then he must bring the matter to the attention of the Monetary Board with a recommendation that the Program be put into effect. If the application of the Program is authorized, the Superintendent can:
- suspend the rights of shareholders and directors;
- remove the managers;
- if necessary, seize the properties of the institution in question.

The Law also provides in Article 9 that the Banking Superintendent, without Judicial authorization, can order the transfer of assets and liabilities of the institution, without the consent of the shareholders, directors, debtors, creditors, or holders of instruments issued by the institution. These transfers are tax exempt. The extent of these measures will depend on the degree of insolvency of the institution as determined by the Superintendent.

3. The Bank Consolidation Fund

As a part of the Program, a Bank Consolidation Fund was established by the Central Bank for the purposes of: (i) capitalizing banks or restructuring bank assets, (ii) offsetting losses, and (iii) guaranteeing deposits.

The assets of this Fund are being kept separate from the remaining properties of the Central Bank. It receives these assets from compulsory contributions from the financial institutions, from certificates of the Central Bank itself and from amounts from the budget of the Government and other sources of liquid assets. It is conservatively managed by the Central Bank along the same lines as it manages its international reserves. According to Article 14 of the Regulations of 12 September 2005, the Fund is incorporated under Law No. 122-05 on Non-Profit Entities of 8 April 2005, and has an independent legal existence.

The resources of the Fund can be used to buy common stock or subordinated debt of a troubled institution involved in the Program. Its capitalization of the institution can be partial or total. In the latter case, after rehabilitating the institution, it can sell it or merge it with another financial institution.

4. Procedure for the application of the program for the prevention of systemic risks

The Monetary Board will authorize the use of assets of the Fund in furtherance of the Program, upon a determination by the Banking Superintendent that this use is necessary.

Depending on the seriousness of the failure of the financial institution to live up to its obligations, the Fund can be used for the following operations:
- To subscribe shares of common stock or purchase subordinated debt, so that the financial institution achieves the minimum level of compliance with the regulatory norms;
• To cover the imbalance between assets and liabilities;
• To contribute financial assets with characteristics of liquidity and profitability, which would ensure the viability of the entity;
• To honor the deposits made in the troubled financial institution in case it is determined that it is no longer viable and that no other institution is prepared to purchase its top-ranking debt and that all attempts to have it absorbed by another institution have failed.

Before the Bank Consolidation Fund will buy shares or subordinated debt, the shareholders of the troubled institution must sign a memorandum of understanding with the Banking Superintendent. This agreement by the shareholders is then incorporated into the minutes of a special shareholders’ meeting of the institution.

Furthermore, the entity must satisfy the following conditions:

• That loans to insiders are kept current and that a schedule is established for the reduction of any excess that may have been loaned to insiders;
• That losses have been fully recognized and that the capital has been reduced to reflect these losses, with the consequent reduction of the par value of the shares;
• That the Fund has appointed new members of the board and taken other measures to strengthen the institution;
• That the new members of the Board are honest and responsible persons.

So long as the financial institution is subjected to the Program, it is intensely supervised by personnel of the Office of the Banking Superintendent and it is subject to certain restrictions, among them the granting of further loans and guarantees, the payment of dividends, the opening of branches or offices, and the purchase of fixed assets.

The troubled institution is subject to an audit by a firm of certified public accountants selected by the Superintendent, to determine its net asset value. If it is determined that the institution is not viable, it is dissolved and subjected to a process of liquidation pursuant to Articles 63 and following the Monetary and Financial Law.

The directors, managers and executive officers who were administering the institution at the time it was subjected to the Program and those who served in any one of these capacities during the 12 months prior to the commencement of the Program are excluded from holding any administrative position in any institution of the Dominican financial system, in addition to which they may be subject to the criminal penalties.

Personnel of the Monetary and Financial Administration who take part in the management of the institution while it is under the Program are also subject to civil and criminal liabilities for any wrongful acts they may commit.
1. Background

Up to 2002 the insurance and bond system was governed by three different laws, which were not in complete harmony with one another. There was Law No. 126 of 10 May 1971 on Private Insurance and its amendments, Law No. 4117 of 22 April 1955 on Compulsory Insurance for Motor Vehicles and Law No. 400 of 9 January 1969, which created the Insurance Regulators Bureau.

Aimed at creating a modern and effective system of rules, the National Congress passed Law No. 146-02 on Insurance and Bonds, which repealed and substituted the earlier laws, as well as the rules of the Code of Commerce on insurance. This law consists of 274 articles and is at present the legal framework for matters of insurance, reinsurance and bonds, except for certain rules, such as Articles 2011 and following of the Civil Code, dealing with suretyship agreements.

2. Generalitys

Article 1 of Law No. 146-02 defines the two types of contract governed by that law. The contract of insurance is defined as a policy in which, in consideration of the payment of a premium, the insurer agrees to pay to the insured or to a third party, if so stipulated, an amount intended to cover a loss or damage described in the policy. A bond is defined as an agreement in which a bondsman, in consideration of the payment of a fee, renders himself liable to a third party, the beneficiary, in the event of a breach of contract or other act of the party primarily liable.

Article 6 lists certain insurance and bonding contracts which must be made in the Dominican Republic, in a form approved by the Office of the Superintendent of Insurance, such contracts being:

- Life and health insurance;
- Insurance on goods and properties situated in the country and Dominican interests in such assets abroad;
- Hull insurance on ships, aircraft and other motor vehicles registered in the country or which are placed there temporarily;
- Insurance on shipments of imported cargo;
- Bonds on obligations due or to be performed in the Dominican Republic.

The Law classifies these contracts into three different groups: insurance of persons, general insurance, and bonds, for which insurance and reinsurance companies can be licensed to issue policies.

3. Office of the Superintendent of Insurance

The Law governs the organization and functioning of the Office of the Superintendent of Insurance or "Superintendency", and provides that it is has its own legal personality and title to its properties, but is a dependency of the Ministry for The Treasury. It is responsible for the supervision of companies which provide services of insurance, reinsurance, and bonding, and for their agents and adjusters.

4. Participants in the Insurance and Bonding Market

a. Insurers and Reinsurers

All insurers and reinsurers, both Dominican and foreign, must comply with certain requirements and be licensed by the Office of the Superintendent of Insurance in order to offer their services in the country. These requirements are: (i) to be incorporated locally and be registered in the Mercantile Registry, (ii) to carry out insurance, reinsurance and bond operations or other related actions, exclusively and (iii) to have subscribed shares paid in cash to the value of not less than RD$ 8,500,000.00, or the equivalent in Dominican Pesos to US$ 500,000.00; and (iv) that the name chosen is not the same or similar to the name of another company or partnership already existing in the country, engaged in the business of insurance or reinsurance, and could therefore lead to confusion.

A foreign insurer or reinsurer is one whose capital is held, to the extent of 51% or more, by foreign nationals. The shares held by foreign nationals must be in registered form. Foreign insurance and reinsurance companies must (i) maintain their minimum capital in the Dominican Republic and (ii) have been in business in their country of origin as insurers or reinsurers for at least 5 years.
companies can also apply for permission to offer insurance or reinsurance services with respect to assets and interests located in the Dominican Republic without being present in the country, in two cases: (i) insurance or reinsurance of lines exceeding the limits of local companies, and (ii) when authorized by international treaty.

b. Agents and Adjusters

Agents and adjusters are subject to the requirement of obtaining a license from the Office of the Superintendent. According to article 200 of the Law, there can be various sorts of agents: general agents, insurance brokers, local agents, personal insurance agents, general insurance agents and adjusters. An agent can carry out only one of these activities, except that a person can at the same time be general insurance agent and personal insurance agent.

c. Guaranty Fund

Insurers and reinsurers must establish a special fund which guarantees exclusively the obligations contracted under their policies. This fund cannot be touched except pursuant to a court order which has become final and non-appealable. Under Article 29 of the Law, the initial minimum amount of the fund is determined by negotiation between the applicant and the Superintendent, depending on the type of insurance to be carried. The amount is adjustable, but cannot exceed a limit set in the statute. The fund must consist of (i) cash deposited in local banks, (ii) financial instruments of easy liquidation in cash, issued and guaranteed by financial authorized institutions. The certificates of deposit must be kept in the custody of the Office of the Superintendent.

6. Compulsory Insurance for Motor Vehicles

Owners of motor vehicles are obligated to take out liability insurance policies for the protection of persons injured through the operation of the vehicle by the owner or by any other person driving the vehicle with the owner’s permission. The obligation to have such insurance extends to all persons and legal entities, including the Government and foreign diplomats. An exception exists only for diplomats from countries which do not establish the same requirement for Dominican diplomats.

6. Appraisals and Appeals

Before any action can be brought in the courts, a claim for payment under an insurance policy must be submitted to an appraiser for a determination of the amount of the loss and for an attempted resolution of any difference between the insurance company and the beneficiary of the insurance.

Unfavorable decisions of the Superintendent can be appealed to the Ministry for The Treasury. Decisions rendered by the latter can then be appealed to the Superior Administrative Court.

7. Penalties

The Law establishes penalties for the violation of its provisions by insurers, reinsurers, agents, and adjusters. Fines can be up to 50 times the minimum wage, in addition to temporary suspension or revocation of the license to engage in the business.

It is a violation to use the words “insurance” or “reinsurance” without being licensed. The fine for this violation is up to 8 times the minimum wage, in addition to which the victim of the fraud, if any, can seek damages. A penalty is also provided for the revealing of confidential information or acceptance of bribes by employees of the Office of the Superintendent.
LEGAL RULES RELATIVE TO FOREIGN NATIONALS ENTERING THE DOMINICAN REPUBLIC AND OBTAINING RESIDENCE PERMITS AND NATURALIZATION

CHAPTER 8

A. Legal Framework for Foreigners Established in the Dominican Republic
The determination of migration policies is a decision for the State, within the regulatory framework established by the rules of Private International Law. In this sense, the legal system of the Dominican Republic has scheduled different ways for foreigners to enter and stay legally in Dominican territory, provided compliance with certain procedures and requirements, depending on the nature of their stay abroad.

A. Procedure to Obtain Visas, Residence and / or Nationality.

1. Visa Acquisition

a. Concept

The visa is a regulation between countries to legalize an entry or residence of foreigners, where they have no nationality or free transit. In the particular case of the Dominican Republic, to enter Dominican territory it is necessary to obtain a visa or, exceptionally, a tourist card. The nature of the visa shall differ depending on the purpose of the foreigner when moving abroad to the country of destination.

b. Types

Following we will detail the most common visas required, serving the purpose of a foreigner to enter the country from abroad:

i. Tourist Visa

The tourist visa is intended for foreigners who want to expend some leisure time in the Dominican Republic, with no further purposes.

- Requirements

The application procedure must be initiated at the consulate of the Dominican Republic, for which the following documentation must be deposited:

- Communication addressed to the consulate with the general information of the applicant and the generic description of his stay in the country,
- Completed Form provided by the Consulate,
- Photograph,
- Copies of documents evidencing their immigration or citizenship status,
- Copies of the documents evidencing their economic and professional status or evidence of the financial position of the person they are financially dependent
- Copy of the first pages of the passport. The original passport must be valid at least until the expiry of the visa applied for and must be submitted for visa stamping.

It is advisable to submit copy of hotel reservation and airline ticket or travel itinerary provided by the travel agency.

ii. Business Visa

The business visa is intended for foreigners who are interested in entering the country attracted by commercial interests.

- Requirements

The application procedure should be initiated at the Consulate of the Dominican Republic, for which it shall be deposited the documentation described below:

- Communication addressed to the consulate with the general information of the applicant and the generic description of his stay in the country,
- Completed Form provided by the Consulate,
- Photograph,
- Copies of documents evidencing their immigration or citizenship status,
- Copies of the documents evidencing their economic and professional status or evidence of the financial position of the person they are financially dependent
- Copy of the first pages of the passport. The original passport must be valid at least until the expiry of the visa applied for and must be submitted for visa stamping.

It is advisable to submit copy of hotel reservation and airline ticket or travel itinerary provided by the travel agency.

contract duly legalized by the Dominican authorities. For its expedition, the same documents required for business to be carried out in the country.

- Copy of birth certificate,
- Certificate of no criminal records
- Health Medical Certificate
- Form provided by the Consulate duly filled out
- Photograph
- Copies of the first pages of the passport
- Original Passport.¹

iii. Work Visa

Work visa, also known as business visa for work purposes, is reserved for foreigners who enter the country with the intention of working for a certain time.

- Requirements

The same documents required for the main visa, in addition to the marriage certificate for spouses and birth certificates for children are requested. For minors there is no need to present evidence of financial solvency, nor the certificate of no criminal records.

v. Student Visa

The student visa is intended for foreigners who wish to enter the country to study.

- Requirements

The application procedure must be initiated before the Consulate of the Dominican Republic, for which it shall be deposited the documentation described below:

- Application letter should be addressed to the Consulate or the Ministry of Foreign Affairs in the event that the person is already in the country.
- If the visa is requested in the country, the application letter must be signed by the Rector of the University or Educational Institution.
- If the application is made abroad it must be channeled by the Consulate. Declaration signed by the parent or guardian where he undertakes to cover the student expenses in the Dominican Republic, proof of financial solvency, photograp, form, certificate of no criminal records, provide a photocopy of the previous visa in case of renewal, provide a medical certificate, provide proof of college enrollment, a copy of the first pages of the passport (name, date and place of birth, date of issue and expiry). The original passport must be presented at the time of printing the approved visa, copy of the birth certificate.

2. Acquisition of Residence

a. Concept

The residence is the document that determines the status that can receive all alien admitted as an immigrant, upon his/her request, through a permit granted by the Executive Power in accordance with existing regulations, which will be valid for at least one year after its date of issue.

In the Dominican legal system, the residences are granted by the Directorate General of Immigration which is the agency of the Dominican State, under the Ministry of Interior and Police, competent to grant foreigners Temporary and Permanent Residences in the Dominican Republic, according to the General Migration Law No. 285-04.

b. Types

i. Provisional or Temporal Visas

With this Type of residence are obtained the Temporal Residence Card and the corresponding Personal Identification Card issued by the Central Electoral Board.

- Procedures

To obtain this documentation is necessary to be in possession of a valid passport, plus a copy of the pages containing: titular’s picture, the date of the last entry into the country, the entry visa if a national of a country that requires it and / or tourist card used. If approved, it must be exhausted the procedure of undergoing medical and laboratory examinations as well as a purge by state security agencies, which must be approved by the appropriate authorities. Thereafter, the application should be made with the required documents, consisting of: a) a form sold by one of the departments of the Directorate General of Immigration, b) a copy of all the pages that make up the passport, c) original birth certificate or certified copy, d) four (4) front photos two (2) profile photos, size 2x2 inches, e) certification of no criminal record, f) guarantee letter and tax return.

It should be stressed that the last two documents are used to demonstrate the solvency of the guarantor (which can be a natural or legal person) of the applicant, which is jointly recommended to be deposited along with all documents supporting solvency.

Upon receipt of all the required documents and a satisfactory medical report, a copy of the file is submitted to the security agency concerned for the purpose of its non-objection recommendation. This phase is usually completed within a period of 1 to 3 months.

Once received the indicated purging, the General Directorate of Migration assess the applicant’s suitability to be benefited with a temporary or permanent residence according to the established parameters, accuracy and truthfulness of the documents and information provided and to immigration policies in the country.

Similarly, other documents may be required or to amend some of those on the docket. In the event of a refusal, the applicant will have available the administrative remedies provided by law.

The foreigners Department is responsible for issuing, for those approved applications; the document entitled “Evidence of Issuance of Personal Identification Card” which, once paid the appropriate fees, shall be signed by the Director General of Immigration and sent to the Central Electoral Board (JCE). The applicant must go personally to the Department of Immigration and send the “Evidence of Issuance of Personal Identification Card” to the JCE. The process is completed with the receipt of the Temporary Resident Card.

iii. Permanent Residence

Permanent Residences are requested at the elapse of a year of having obtained the requested Temporary Residence; foreigners must apply for the issuance of Permanent Resident card. As of the elapse of the Temporary Residence, penalties shall be imposed for delay in the filing of the application due to the irregular stay in the country these penalties must be paid along with the request.

- Requirements

Among the documents to be deposited are those described below: Temporal Resident Card, general medical exams, conducted at the Medical Department of the Directorate General of Immigration, copy of passport, Certification of no criminal record, letter of guarantee and tax returns. Subsequently, the documents will be purged for not-objection purposes.

This phase is usually completed within a period of 1 to 3 months. Finally, once received the referred purge, the General Directorate of Migration assesses the applicant’s suitability to be benefited with a permanent residence according to the established parameters, accuracy and truthfulness of the documents and information provided and migration policies in the country.

The fact of having deposited the application in accordance with the requirements does not imply that the institution will issue a permanent residence. At any stage of the application, the foreigner and / or Guarantor may be summoned to appear personally to the Department to verify the information provided, or for the purposes that it may deem convenient. They also could be requested other documents or to amend some of those which are in the docket. In case of refusal, the applicant will have available those administrative remedies provided by the law.

The Immigration Department is responsible for submitting the application to the Director General, upon reaching adulthood, and for a year, they have the right to waive it within the lapse of a year.2

iv. Naturalization Types

a) Individual Ordinary Naturalization

The Individual ordinary naturalization is granted to any foreign person of legal age, who obtained residence in the Dominican Republic as provided for in Article 13 of the Civil Code. Similarly, it is necessary to consider whether the applicant owns property in the country, or has married a person of Dominican citizenship.

Interruptions of residence for foreign travel of no more than one year, intending to return, will be computed for the calculation of time of residence in the country.

Similarly, to calculate the time of residence in the country it may be computed a residence abroad of no more than one year, if the foreigner was appointed in a mission or function by the Dominican Government.

Following the naturalization of the husband, she may be naturalized without being subjected to any other condition, when and if she is residing in the country at the time of the application and same is duly authorized by him.

The adult children may obtain naturalization after one year of residence, in the event that is requested simultaneously with that of the mother. For its part, the Law stipulates that unmarried minor children acquire full-fledged naturalization of his father; however, upon reaching adulthood, and for a year, they have the power to waive it, declaring in an affidavit drafted by a public official to be submitted to the Executive branch, the nationality of their choice.

footnotes:

a) Procedure

The entry of an alien into the Dominican Republic is a simple procedure and will depend on the country of origin thereof, on the grounds that the requirements vary taking into account this condition.

b) Limitations

Current legislation in the Dominican Republic provides a number of limitations to the entry of foreigners into the country, driven by the spirit of maintaining public order.

It is prohibited the entry of foreigners suffering from a contagious disease or mental illness or that it physically impair them. Also, the entrance is not allowed to those foreigners who are involved in prostitution, illegal trafficking of persons or their organs, illegal trafficking of drugs or those who are addicted to it or encourage their use.

Similarly, the Dominican legislation prohibits the entry of those people with no profession, trade, industry, art or other means of a lawful life, or when evidencing lack of work habits, habitual drunkenness or laziness, or any other condition that determines that they may become a burden to the State. It is also prohibited the entry of those evidencing being guilty of or are processed for committing established common demeanors of criminal nature, having a criminal record, be part of any association or terrorist organization that promotes the violent destruction of the democratic regime, that violate the order and safety of the State and of the citizens.

2. Departure from the Country

a) Procedure

The departure of foreigners from the Dominican Republic, belonging to any immigration status of permanence, requires bearing a valid passport or in lieu of, travel documents that duly identify, or other documents accepted by the Directorate General of Immigration evidencing their identity.

Foreigners who are in the Dominican Republic may leave the country taking into consideration their stay in

c) Ipso Jure Naturalization or by Mandate of Law

Is the system by which it can be granted the nationality to a foreigner who meets conditions set by law, such as residence time, property ownership, marriage to a citizen, children born in national territory, providing special services, without having expressed willingness to acquire it. It is considered as privileged naturalization.

d) Collective Naturalization

It is the system that grants naturalization to a community of individuals.

e) Nationality Acquired by Marriage

This mode of acquisition of nationality is considered by different authors as semi-voluntary. It must be noted that the nationality acquired by the wife or the husband under marriage can take effect with respect to the spouse and not for children.

f) Nationality Acquired by Option

This mode allows an individual to choose one from several nationalities to which he has an option. The option is a benefit granted by a law to the individual, empowering him to make discretionary use of it. It is also a right established by the Constitution of the Republic, in its Article 11.3. It is requested through the Executive Branch via the Ministry of Interior and Police, in the event of being in the country. However, if the applicant is abroad, the procedure must be carried out before the Dominican Consulate nearest to his residence.

g) Conditional Naturalization of Immigrants

Dominican law provides for naturalization of immigrants who enter our country to engage in agriculture or other productive activity in the agricultural sector.

v. Procedural Conditions

Naturalization requests shall be made to the Executive Branch through the Ministry of Interior and Police, with the documents described below:

i. A Birth Certificate, apostilled and a certified translation if not in the Spanish language.

ii. A Certificate of No Criminal Records, issued by the Public Prosecutor of the corresponding Judicial District.

Similarly, it is necessary to consider whether the foreign country of origin is part of the group that is allowed the benefit of holding tourist cards, in which case a visa shall not be required to enter the country. Should the foreigner is from one of the countries listed as recipients of these cards; it shall only be required to acquire it upon arrival in the country, without additional visa.

The tourist card is a national document by which citizens of countries authorized by the Executive Power can enter the country without a visa, for tourism purposes only. These can be obtained in the Dominican Consulates or directly at the airport upon arrival in the Dominican Republic.

If it is wished to extend their visit in the country, tourists must visit the offices of the General Directorate of Immigration and request an extension of the period of stay. The Deputy Minister for Consular and Migration Affairs reserves the right to revoke the authority to issue a visa without prior consultation to the Consulates that do not observe the regulations and procedures regarding visa. In case of irregularities, may apply or recommend appropriate sanctions.

Every foreigner who is admitted into the country will be issued a special entry card in which shall be established their immigration status, which will remain until a change their immigration status or exit the country.
the country. If it is a foreign national who holds a visa simply requires his passport and airline ticket when his stay is less than 30 days in the country. However, if it has a stay exceeding 30 days and less than 3 months must pay an amount to the Dominican State, unless in case of a foreign bearer of a residence status, in which case it will not be subject to any payment to the Dominican State.

b. Limitations

Among the limitations that may present a person to leave the country, whether national or foreign, are departure impediments.

The Directorate General of Immigration through the department of impediments is the recipient of the impediments from the Attorney General’s Office and to perform the interim or final assessments. In principle and in accordance with the Code of Criminal Procedure, the request for departure impediments, as a coercive measure, is reserved to a judge, who must decide its implementation through a sentence. The Public Ministry before the court that has ordered the departure impediment is the channel to process it to the Attorney General of the Republic and this, in turn process it to the Directorate General of Immigration.

C. Acquisition of Property by Foreigners.

1. Procedures

The acquisition of property or property rights in the Dominican Republic by foreigners is not subject to special conditions. The regime applicable to foreigners is the same one as that applies to nationals.

The document that originates the acquisition and / or transfer of a specific property, is deposited with the pertaining Title Deed Registry offices according to the location of the property, after payment of taxes prescribed by law.

The Registrar of Titles, within 15 days after receipt of the document certifying the transfer, must submit a copy to the Ministry of Interior and Police for the purpose of maintaining an official record of each property of foreigners in the Dominican Republic.
1. The Legal System

The basic concepts of the Dominican legal system and the forms of legal reasoning are derived from French law, which was adopted during the Haitian Occupation (1822-1844) and remained in force after the country achieved its independence. The five basic French Codes (the Civil Code, the Code of Civil Procedure, the Code of Commerce, the Penal Code and the Code of Criminal Procedure) were translated into Spanish and passed as legislation in the late 19th century. These codes have since been amended and parts have been replaced. Later Dominican laws are not of French origin. Tax law, labor law, land registration law, divorce, child protection, banking legislation, checks, insurance, auto accidents, etc., are inspired by different models. In 2004, a new Code of Penal Procedure was adopted, based on a Model Code for Latin America. Since the turn of the millennium, there has been a great deal of legislative activity and the Supreme Court has also played an active role in adapting the law to the needs of the times. Although Supreme Court decisions are not considered a part of the law, they are nonetheless being followed by the courts and are occasionally cited by lawyers in giving advice to their clients.

The rules of law are organized in a hierarchy. The Constitution is the supreme law and the Supreme Court has placed treaties on the subject of human rights on a par with the human rights provisions of the Constitution. Next in the hierarchy are the statutes and codes, and below them, the decrees issued by the Executive and the resolutions of the administrative agencies.

2. The Judiciary

According to the Constitution, the Judicial Branch is independent of the other branches of the State with a separate budget to cover its expenses. The basic structure of the Judiciary is found in Law No. 821 of 1927 on Judicial Organization, as amended. The country is divided into 12 Judicial Departments, each one headed by a Court of Appeal divided into chambers, with jurisdiction in civil and criminal matters. The Judicial Departments, in turn, are divided into Judicial Districts, each one of which has a court of first instance, which may be held by a single judge or be divided into chambers, depending on the size of the District. There are also Justices of the Peace, who deal with small claims, traffic accidents not involving physical injury or loss of life, expulsion of tenants for non-payment of rent, and other matters. There are also specialized courts with jurisdiction over labor cases, disputes involving registered land, cases involving minors, and administrative matters.

The Supreme Court has cassation jurisdiction over final decisions against which no other recourse is available. Formerly it had the power to declare laws unconstitutional, but the Constitution of 2010 created a special Constitutional Courts with the power to resolve these matters upon referral from the Supreme Court. Normally, the Supreme Court acts as a court of cassation with the power to decide only questions of law, except that distortion of the facts of a case can also be reviewed. When a writ of cassation is rejected, the decision of the court of appeal is reinstated; if the Supreme Court overrules the decision, it does not itself render a final judgment, but remands the case to another court of appeal. The remand is without binding instructions, and the court to which the case is remanded has the power (which is very seldom exercised) to render a different decision, against which a second writ of cassation can be brought, leading to a second remand, which is binding. The Supreme Court also has first instance jurisdiction in criminal matters involving ministers, senators and deputies, ambassadors and a few other highly placed officials. According to the Judicial Career Law, the Supreme Court appoints the judges of the lower courts.

The Judiciary Counsel is charged with the financial management of the budget allocated to the Judicial Branch. It also handles disciplinary charges brought against judges. The Office of the Attorney General (“Ministerio Público”) is charged with conducting criminal investigations and enforcing the criminal laws as prosecutor. It also supervises the prison system.

As a part of the constitutional reform of 1996, the Judicial System was greatly improved. All judges, including the Justices of the Supreme Court, were replaced; salaries were raised, courthouses were refurbished, computers were installed, a system of judicial promotion was instituted, and candidates for judgeship were given special courses at the National School of Judicature. A Public Defender was established, staffed by young lawyers willing to assist indigent defendants. The Dominican Judicial System is now one of the best in Latin America.1

3. Constitutional Control and Defender of the People

With the proclamation on 26 January 2010 of a new Constitution, two new bodies were created within the Judicial System: a) A Constitutional Tribunal with the power to decide upon the constitutionality of laws and treaties before they are promulgated and to hear cases involving constitutional questions, when referred to it by the Supreme Court acting as a filter; and b) a Defender of the People or ombudsman, whose task it is to defend fundamental rights and to bring proceedings to enforce rights conferred by the Constitution.

1. Declaration of participants in the XIII Cumbre Judicial Iberoamericana, held in Santo Domingo, June 2006.
1. Introduction

The right of access to justice is a constitutional right granted by Article 69 of the Constitution. It provides that every person, foreigner as well as national, has the right to appear in court or before administrative agencies, without the payment of judicial fees, to assert his claims, free of discrimination and without undue procedural obstacles. In furtherance of this principle, the need of posting a judicial solvency bond, which formerly placed a heavy burden on the assertion of claims by foreigners against Dominican nationals in Dominican courts, has been almost entirely removed.

The aim of these reforms is to put in place a system which achieves just results in a reasonable time in the form of well reasoned judicial decisions. In spite of these achievements, one important shortcoming remains, namely the lack of legal interest on unpaid judgment debts. The 12% p.a. legal interest rate in effect since 1919 was abolished in 2002 by the Monetary and Financial Law without being replaced.

2. Civil and commercial litigation

Most civil litigation is brought before the ordinary courts, except that, as will shortly be pointed out, many tort actions are brought in the penal courts. In civil cases, the pleadings are written and the use of legal counsel is mandatory.

The procedure begins, not with the filing of a complaint in court, but with the service of a complaint and summons on the defendant by a process server (“alguacil”). There is no pre-trial discovery. The defendant does not answer the complaint. He “appears” by having his lawyer serve a notice on the plaintiff’s lawyer, stating that he has been appointed to defend the case. A trial, in the sense of a hearing in which the parties submit their evidence and make their arguments orally, does not take place. Instead, the evidence is submitted in separate hearings before the judge. Almost invariably, the first hearing is devoted to a request to the judge to authorize the filing of documents, which request is automatically granted. The plaintiff files a copy of the complaint and of the return on the service of process, and the documents on which he bases his claim. Within the period allowed by the judge, the defendant must also file his documents. By examining the file, the attorney of one party can “take communication” (i.e. become informed) of the documents on which the other party intends to rely. A party wishing to use the testimony of witnesses requests a hearing for that purpose, which is usually followed by a later hearing in which the other party submits the testimony of his witnesses. The witnesses give a free-flowing description of the facts, followed by questions from the bench and the bar. If the testimony of experts is needed, another hearing has to be set for that purpose. The parties and their immediate relatives are not competent witnesses, but the parties can appear at a special hearing as mere informants, not under oath, to give their version of the evidence. At the conclusion of the evidence, the attorneys file their “conclusions” in which they state their claim or defense, often followed by a memorandum in support of their conclusions. At a court where the docket is not overcrowded, 8 to 10 months elapse between the service of the complaint and the final judgment.

An appeal is essentially a re-trial before the court of appeal. Although it is usually based on the same evidence as appears on the record of the lower court, it is possible to introduce new evidence. Enforcement of the decision of the lower court is usually stayed pending the appeal, but in some cases the lower court decision is immediately enforceable. In that case, the aggrieved defendant can apply to the presiding judge of the court of appeal for a stay if immediate enforcement would have “excessive consequences”.

Further recourse to the Supreme Court is possible by means of a writ of cassation. The Supreme Court cannot select the cases it wishes to decide, but must take all cases submitted to it. Cassation does not involve a re-trial, but only a review of questions of law.

In the Dominican Republic the resolution of a case which goes through all possible steps in the judicial process, including enforcement of the final judgment, usually takes from 2 to 4 years. The losing party is liable for the court costs and attorney fees, which are based on an outmoded list and are modest in amount.

3. Criminal litigation

A new Code of Penal Procedure, which came into effect in 2004, considerably improved the quality of criminal justice and produced a greater respect for the fundamental rights of the accused. It eliminated the prior inquisitive system, in which only the Prosecutor had the right to bring a criminal accusation, and replaced it by a more open and oral system of accusation, in which the victim of the crime can
also bring an accusation. The new Code created two new types of criminal proceeding: public by private accusation and entirely private. The first type of case involves lesser offenses, where the Prosecutor will bring the action and prosecute the case as long as the victim shows an interest. In the second type of case, the Prosecutor does not participate at all. In both types of cases, the prosecution is set aside if the parties become reconciled.

In these private and semi-private cases, as well as in cases involving serious crimes, the aggrieved party intervenes in the criminal action as "civil party" seeking damages. Damages in tort can also be obtained in a civil court, but when the tort involves an element of criminal guilt, the injured party usually prefers the criminal procedure, which is more likely to lead to a settlement. Tort actions are brought in the civil courts in cases of liability without fault, in most cases for damage caused by an inanimate object for which its owner is liable, such as a motor vehicle accident involving only property damage.

The procedure in a criminal case begins with the filing of a complaint or accusation by the aggrieved party or ex officio. The Prosecutor then initiates an investigation and, if he determines that there is merit to the complaint or accusation, he brings the case to a judge of investigation, who decides whether or not to take the case to court. Depending on the seriousness of the offense, the case may come before a single judge or before a three-judge court. The decision can be appealed by the defendant or by the Prosecutor and a further writ of cassation to the Supreme Court can also be brought by either party. The resolution of a criminal case takes from 8 to 16 months.

4. Litigation involving land

To reduce the historical uncertainties of many landholdings, the Torrens System was introduced in the Dominican Republic in 1920. The purpose of this law was to set up a procedure for clearing or "quieting" title to land. After the owner had instituted this procedure, the land was registered and a copy of the certificate of title was issued in his name. The original certificate of title was kept by the Registrar. In the course of time, most of the land in the Dominican Republic was registered in this manner. A special system of Land Courts was set up for the dual purpose of quieting title to unregistered land and of resolving disputes related to that land once it had been registered. There still remain some pieces of unregistered land which fall under the jurisdiction of the civil courts.

A revised Land Registration Law was passed in 1947. That law was replaced by Law No. 108-05 entitled "Ley de Registro Inmobiliario." It reorganized the system of land courts and introduced important changes in the procedure followed by these courts. To give time to implement these changes, the law did not come into force until March 23, 2007.

The land courts have limited jurisdiction. They do not have the power to award damages as an ancillary remedy in a case involving a breach of contract or expulsion of an intruder. The land courts have no jurisdiction in mortgage foreclosure cases. They have no jurisdiction in actions against tenants for non-payment of rent or other grounds for expulsion. Their jurisdiction is limited (i) to actions to quiet title to unregistered land, so that the land can be registered and a certificate of title can be issued to its owner, (ii) to disputes involving title or rights in rem to registered land, (iii) to actions to expel squatters and intruders, and (iv) to actions to partition registered land held in common ownership (usually by heirs of the deceased owner). It has concurrent jurisdiction with the civil courts for the settlement of decedent estates, known as proceedings for the determination of heirs.

5. Litigation against the Public Administration

a. Administrative Contentious Recourse

Disputes arising between individuals and the bodies of the central administration of the State or its autonomous or decentralized agencies are known by the Administrative High Court, a nationwide jurisdictional court based in the city of Santo Domingo, National District. As an exception, if the dispute is submitted to a municipality other than the National District City Council and the councils of the municipalities of the province of Santo Domingo, the competent court to know about it is the Court of First Instance corresponding to the place where is located the City Council whose administrative action is challenged.

i. Scope of the jurisdiction on administrative contentious matters

The courts in administrative contentious matters are competent to hear the nullity of administrative, regulated or discretionary acts, issued by an administrative authority, when they are contrary to the law. They also have jurisdiction to hear disputes arising in relation to administrative contracts, cases of via facts, and the patrimonial liability of the administration and of its officials, the forced expropriation for public utility or social interest, and conflicts between the public administration and its officers and civilian employees.

ii. Optional exhaustion of administrative remedies

To appeal to the competent court in administrative contentious matters it is not required to previously exhaust those administrative remedies provided by law, such as the recourse for reconsideration or hierarchical recourse. These recourses are optional to the individuals. If the affected party decides to exhaust them, still holds the right to subsequently file the administrative contentious recourse.

iii. Deadline for filing an administrative recourse

The deadline to empower the court on administrative contentious matters varies depending on the specific administrative action being questioned.

iv. Precautionary Measures

In matters of contentious administrative litigation may be adopted the precautionary measures required to ensure the effectiveness of any judgment that adopts the appeal. To know about this appeal shall be competent the president of the Supreme Administrative Court. In cases of contentious administrative litigation at the municipal level, the competent judge shall be the president of the Civil and Commercial Court of First Instance of the venue of the City Hall, author of the administrative action in connection with which are requested the precautionary measure.
v. Requirements for the adoption of the precautionary measure.

The precautionary measures taken in the course of a contentious administrative proceeding are conditioned to:

(i) it may occur situations that prevent or hinder the effectiveness of protection that may be granted by a judgment;

(ii) that the claim is deemed founded, taking into account the allegations and documents submitted by the applicant, without prejudging the merits; and

(iii) it does not seriously disturb the public interest or that of third parties involved in the process.

vi. Procedure

The procedure for the adoption of a precautionary measure is expeditious, as it is subject to short deadlines, within which an oral hearing is held.

b. Constitutional Actions

i. Amparo Resources

Amparo is an expeditious way available to every person in the Dominican Republic to have access to the protection of their fundamental rights when they are violated or threatened by the action or omission of any public authority. The Constitution of the Republic establishes the amparo in its Art. 72, and further recognizes an injunction to protect individual rights as well as the amparo for the protection of the rights and collective and diffuse interests.

There is a very particular amparo, the amparo of compliance. This comes to enforce compliance with a law or administrative act, regardless of whether or not there is a violation of a fundamental right. The particular legal status of this amparo action is provided for under Law No. 137-11, which regulates the Constitutional Court and the Constitutional Procedures.

In the case of amparo against acts or omissions of an administrative authority, the contentious administrative jurisdiction shall be competent, corresponding to the Constitutional Court subsequently to know about the review proceedings brought against the decision taken on the occasion of these constitutional processes.

ii. Unconstitutionality Direct Action

The Constitutional Court is the competent court to know about direct actions of unconstitutionality brought against the laws, decrees, regulations, resolutions and ordinances, as stipulated in Art. 184, paragraph 1 of the Constitution. For an individual to raise a direct action before the Constitutional Court, he must have a legitimate and legally protected interest.

c. Arbitral Litigation against the State

The State and other persons of Public Law may submit the disputes arising from their contractual relation with particular to the jurisdictions established under force international treaties as well as national and international arbitration, as provided in Art. 220 of the Constitution the Republic.
1. Development of the Methods for Alternative Dispute Resolution in the Dominican Republic

The methods of alternative dispute resolution comprise a set of procedures for administering justice, focused on the settlement of disputes by other than judicial or ordinary ways. It is also known as a system of private justice based on the consent of the parties and the legal power to realize such consent. In the Dominican Republic, these methods have known a boom in the last decade, especially in the forum that administers the Chambers of Commerce and Production of major cities.

a. Mediation

For the Dominican doctrine, mediation is the technique by which a third party acts as facilitator to encourage settlement of conflicts between parties, providing information exchange and communication scenario between them in order to explore possible solutions that may lead to an acceptable settlement, but without proposing any decision per se. In the Dominican Republic, mediation as an alternative dispute resolution method can frequently be seen in issues not necessarily commercial in nature, as in the case of Family Mediation Center of the Judiciary Power.\(^1\)

b. Conciliation

Conciliation is defined in the Dominican Republic as a method through which a third neutral and impartial party, facilitates communication between the parties involved in a dispute, proposing formulas for solving them, which may or may not be accepted.

Conciliation may be mandatory preliminary stage mandatory for the admission of jurisdictional claims in certain matters, prior to Court access. Such is the case of Law No. 173 on protection of agents’ importers of goods and products and the Labor Code, which establishes a conciliatory process at first degree, in the presence of the judge, but carried out by mediators called vocales.

c. Arbitration

Arbitration is a method of alternative dispute resolution whereby two or more persons agree to submit a dispute arising from a relationship between them, to be solved through the decision of a third party or arbitral tribunal chosen voluntarily, whose decision will be made under at law or in equity, thus eluding the ordinary courts.

The provisions governing arbitration in articles 1003 to 1028 of the Code of Civil Procedure\(^2\) have been repealed by the new Law No. 489-08 on Commercial Arbitration. Still remain in force Articles 332 and 631 of the Commercial Code and Articles 15, 16 and 17 of Law No. 50-87 on Chambers of Commerce and Production of 4 June 1987, amended by Law 181-09, dated July 6, 2009, published in the Official Gazette 10528.

2. Law No. 489-08 on Commercial Arbitration in the Dominican Republic

In view of the importance and significance of arbitration in domestic and international trade, the Dominican Republic recently adopted a modern and updated legislation, which provides an environment of greater legal certainty in arbitration matters: Law No. 489-08 on Commercial arbitration of the Dominican Republic, promulgated on December 30, 2008.

a. Generalities and Novelties

The Commercial Arbitration Law applies to both domestic and international arbitration in respect to matters which are freely available and subject to transaction, excluding from arbitration, for being matters of interest to public policy, those conflicts related to the civil status of persons, gifts and bequests of food, shelter and clothing, separations between husband and wife, guardianships and juvenile, absent, or persons subject to interdiction.

In view of the rules of procedure, arbitration may be ad-hoc or institutional, ie, the parties may agree on the rules of procedure applicable to the settlement of their disputes or be subject to the rules of a particular institution.

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\(^1\) Resolution No. 402-2006 dated March 9, 2006, which declare as a public policy of the Judiciary Power the implementation and promotion of alternative mechanisms for dispute resolutions and Resolution No. 886-2006, dated April 20 2006, which promotes the creation of the Family Mediation Center.

\(^2\) Promulgated by Decreto No 2214 de fecha 17 de abril de 1884.
The intervention of the ordinary courts in the arbitration procedure is limited to cases established by law.

Article 5 of the Law expressly provides that the State may be part of an arbitration process with the possibility of including an arbitration clause in the contracts executed.

Among the novelties to consider, we must emphasize that the ordinary courts in recent decisions have expressly recognized the so-called principle Kompetenz-Kompetenz, which gives arbitrators the power to know about their own jurisdiction, and the existence of certain exceptions that permit extend the arbitration clause to not subscribing third parties, as in the case of so-called corporate groups.2


Among the necessary features established by the UNCITRAL Model Law and included in the Arbitration Law of the Dominican Republic, are:

- Arbritral Matter;
- Limited intervention of ordinary courts;
- Kompetenz-Kompetenz Principle;
- Principle of Autonomy of the arbitral clause;
- Resources against awards and exequatur repeal reasons are the internationally renown

3. Law No. 50-87 on Chambers of Commerce, Agriculture and Industry of the Republic and its amendments

Law 50-87 on Chambers of Commerce includes a special title for the alternative dispute resolution within the jurisdiction of the Chambers of Commerce and Production, with the creation of a forum dedicated to process management solution of disputes that arising between two or more natural or legal persons, members of the Chambers, which have agreed to submit the resolution of these methods and regulations of the relevant House.

To submit to the jurisdiction of this forum, an arbitration clause or an arbitration agreement is necessary. The forum can also host international disputes, whether the parties have so agreed or as an institution delegated to Dominican Republic from international organizations disputes settlement.

Awards granted under this law have executory force per se, are final and not appealable except the main action for annulment, admissible in those cases restrictively established by law.

4. Arbitration International Organizations

The Chamber of Commerce and Production of Santo Domingo hosts the National Committee of the International Chamber of Commerce (ICC), with which it maintains active relationships. The Dominican Republic has a representative before the International Court of Arbitration of the ICC. The Chamber of Commerce and Production of Santo Domingo also maintains relations with the Inter-American Commercial Arbitration Commission (IAAC) and the American Arbitration Association (AAA).

The awards granted abroad are enforceable in the Dominican Republic in accordance to the Arbitration Law and applicable treaties.

The recognition and enforcement of arbitral awards are known by the courts of first instance of venue where the award is to be executed. Specifically, in the case of foreign awards it is legally competent the Civil and Commercial Chamber of the Court of First Instance of the National District. To do so, the party requesting to obtain an enforcement order must deposit, through an instance, an original of the award and the arbitration agreement or contract that contains it. Subsequently, the court shall examine the award in graceful jurisdiction, in accordance with the law and the limits of international conventions that are applicable.

To that effect the ordinary courts have recognized that the judgment by which exequatur it is granted is intended to give the foreign judgment due res judicata authority and the corresponding enforceability which are generally lacking in the Dominican Republic.

To seek recognition and enforcement of an arbitration award in our country, it is necessary to consider the grounds for refusal, which are:

- That one of the parties is under some incapacity, or the said agreement is not valid under the law to which the parties have subjected it;
- There has been breach of due process, translated into violation of the right of defense;
- The arbitral award deals with a dispute not contemplated by the arbitration agreement or contains decisions on matters beyond the terms of the arbitration agreement;
- That the constitution of the arbitral court or the arbitral procedure has not been set to agreement by the parties, or failing such agreement does not conform to the law of the country where the arbitration took place;
- That the arbitral award has not yet become binding on the parties or has been set aside or suspended by a competent authority of a country in which, or under the law, the award has been granted;
- That according to Dominican law, the subject of the dispute is not suitable for settlement by arbitration;
- That the recognition or enforcement was contrary to public order in the Dominican Republic.

2. Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention)


The Convention applies to the recognition and enforcement of arbitral awards made in the territory of a State other than that in which recognition and enforcement is sought, when they originate in differences between natural or legal persons. The authority of the arbitral award shall be recognized and its implementation will be granted in accordance with the rules of procedure of the territory where it is invoked.

To obtain the recognition of an arbitration award under this Convention, the requesting party must deposit together with the demand, in the official language of the country where it is requested, the following documents:

- Original duly authenticated of the award or copy of that original incompliance with all the conditions required for its authenticity;
- Original of the agreement by which the parties agree and undertake to settle their disputes through arbitration or a copy of that original incompliance with the conditions required for its authenticity;
- The recognition and enforcement of the judgment could only be rejected when, at the request of the party against whom it is invoked:
  - Original duly authenticated of the award or copy of that original incompliance with all the conditions required for its authenticity;
  - Original of the agreement by which the parties agree and undertake to settle their disputes through arbitration or a copy of that original incompliance with the conditions required for its authenticity;

The recognition and enforcement of the judgment could only be rejected when, at the request of the party against whom it is invoked:

- That one of the parties is under some incapacity, or the said agreement is not valid;
- That the arbitral award has not yet become binding on the parties or has been set aside or suspended by a competent authority of a country in which, or under the law, the award has been granted;
- That the recognition or enforcement was contrary to public order in the Dominican Republic.

1. Supreme Court of Justice of the Dominican Republic, Sentence dated December 7, 2005, B.J. 1141
● The award deals with a difference not contemplated by the commitment or arbitration clause (exceeding decisions thereto);
● The ruling is not yet binding on the parties or has been annulled by competent authority in the country in which has been granted;
● The subject of the dispute, under the law of that country, is not suitable to be resolved through arbitration;
● The recognition or enforcement was contrary to public order in such country.

3. American Convention on International Commercial Arbitration (Panama Convention)

In accordance with the Panama Convention, not appealable judgments or arbitral awards under the law or procedural rules shall have the force of enforceable judgment. Its execution or recognition may be ordered in the same way as the judgments of ordinary courts, according to the procedural laws of the country where executed and the provisions of international treaties.

The recognition and enforcement of the judgment could only be rejected when, at the request of the party against whom it is invoked:

● The parties of the agreement were subject to a certain incapacity by virtue of the applicable law or that such agreement is not valid under the law they have subjected it;
● The party against which the arbitral award is invoked has not been duly notified of the appointment of the arbitrator or arbitral procedure, or has not, by any other reason, present his defense;
● The award refers to a difference not foreseen in the agreement between the parties for submission to arbitral proceeding;
● The constitution of the arbitral court or arbitral procedure does not comply with the agreement between the parties;
● That the award is not yet binding on the parties or has been annulled or suspended by a competent authority of the State in which have been granted;

It may also be refused recognition and enforcement of an arbitral award if the competent authority of the State where the recognition and enforcement is requested verifies that under the law of this State, the subject of the dispute is not suitable of settlement via arbitration; or the recognition or enforcement of the award would be contrary to public order in that State.

4. Free Trade Agreement between the Dominican Republic, Central America and the United States of America (DR-CAFTA).

The DR-CAFTA includes a mechanism for settling disputes between individuals and States that are party to the treaty, and access to arbitration resource. If a party considers that it can not resolve a dispute concerning an investment through consultation and negotiation, the applicant, on its own behalf, may submit a claim to arbitration, in which it is alleged that the respondent has breached: (i) a treaty obligation; (ii) an investment authorization, or (iii) an investment agreement.