



INVESTMENT GUIDE

YOUR FIRST STEPS IN THE DOMINICAN REPUBLIC

Any person or entity wishing to do business in the Dominican Republic needs some basic knowledge to help them make the first steps successfully. We have prepared this small guide to help our clients develop a business in a suitable way.

Location, territory and population

The Dominican Republic, a country with great tourist potential, is situated in the Caribbean region, in the center of the Greater Antilles, between the geographic coordinates 17° 36' and 19° 58' North latitude and 68° 19' and 72° 01' West longitude, situated in the North hemisphere, just south of the Cancer Tropic. It is the second largest country in the region. Its central location presents strategic advantages, for it facilitates trade exchanges with other countries of Latin America, the United States of America and Canada.

It shares with the Republic of Haiti the denominated island Hispaniola, of which it occupies two-third parts. It is limited at the North by the Atlantic Ocean, in the East by the Mona Channel, which separates it from Puerto Rico, at the South by the Caribbean Sea, or sea of Antilles, and in the West by the Republic of Haiti. Its territory extends 48,670.82 km², of which 1,575 km² is coastal (Oficina Nacional de Estadística (ONE), 2008, p. 21).

The total estimated population of the Dominican Republic for the year 2012 reached 10,135,105 habitants: 5, 056,917 male persons and 5, 078,188 female. The total urban population of the country is calculated at 6, 865,739 inhabitants, while the rural



population is around 3,269,366. This reflects the general tendency of the population to live mainly in the metropolitan regions. (Oficina Nacional de Estadísticas (ONE)).

Economy and main performance indicators

The Dominican Republic has the largest economy of Central America and the Caribbean. It has experienced a series of changes in the last decades and has been adapting to opening markets, globalization, and the demands of international trade. What had been a mainly agricultural and fishing economy gradually transformed into a service economy, in which industrial assembly services through Duty Free zones and exports have become increasingly relevant, as also has the tourism and telecommunication sector.

This has diminished the relative importance in the production and export of fishing and agricultural goods such as sugar, coffee, cocoa, tobacco, making way for light manufacturing, namely textile, which in turn has been gradually replaced by other kinds of manufacture such as electric, electronic, leather goods, as well as shoes, jewelry and other higher end products. Additionally, tourism industry activity - bars, hotels and restaurants generated by visitors coming mainly from Europe and North America, coupled with the telecommunications sector occupy the main positions in the production structure of the country.

The growth of the Dominican economy could be considered notorious, it has been defined by various writers as a model in the Caribbean. In fact, during the past three decades the rise of the Dominican economy, measured by Gross Domestic Product (GDP) indicators, has on average exceeded 5% - a higher growth rate than the Latin-American region as a whole, and one of the highest on a global scale. Markedly, in 2011 the Dominican Economy recorded a 4.5% growth, practically at par with the 4.6% verified average in Latin-America and the Caribbean, and surpassing the 3.8% average growth of the global economy (Ministerio de Economía, Planificación y Desarrollo, 2011,



p. 1). 2013 has registered a 4.1% growth of the GDP, and during the first trimester of 2014, January-March, we can forecast a 5.5% growth, compared to the same semester the preceding year.

To complement these statistics, it should be emphasized that the Dominican Republic has been exempt of inflation processes and has in recent years maintained an annual average rate of 6%. This has helped sustain the living standard of the population and avoided the sudden changes that affect the macroeconomic stability of the country.

This strength is evident in the exchange rate of the Dominican peso relative to the American Dollar, which has maintained great stability, with only slight depreciation in a climate of complete openness, flexibility and free convertibility.

Toward development: Projection of the Dominican Republic

Based on a review of experiences in more than twenty countries in the matter of strategic planning, the Ministry of Economy, Planning and Development (MEPYD), in collaboration with the National Council for State Reform (CONARE), has elaborated a National Development Strategy (END) proposal, that encompasses multiple aspects of social, political and institutional life in the country, and has actually become Law Nr. 1-12 establishing the National Strategy of Development 2030.

This law propounds the long-term vision of the Dominican Republic and designs a planning and public investment process aiming to overcome the key problems and challenges that limit the development and sustained growth of the Dominican nation. This recent statute, pertaining to development and strategic organization, states that in order to fulfill the desired objectives, public policy will meet around four strategic axes,



their corresponding objectives and action plans which define the model of sustainable development that the Dominican Republic aspires to.

The strategic axes are as follows:

First axis: Sets a course to achieve a Social and Democratic State of law, to strengthen its institutions so that these may operate with a foundation in ethics, transparency and efficiency principles.

Second axis: Advocates for a society with equality of rights and opportunities, by which we intend to guarantee education, health, adequate housing, access to other basic needs and services, and ultimately the progressive reduction of poverty and social inequality.

Third axis: Embarks on a successful path to a sustainable economy, collective and competitive. Its goal is for the Dominican Economy to remain territorially and sectorally integrated; that it steers toward quality, and an environmentally sustainable economy, in order to create, and to decentralize, wealth.

Fourth Axis: Aims for a society and culture of productivity and environmentally sustainable consumerism that adapts to climate change, that governs with equity and efficiency the environmental risks and protections of natural resources, and that promotes an adequate adaptation to climatic change.

In addition to the strategic axis, their objectives and corresponding action plans, Law Nr. 1-12, has anticipated National Agreements that will help secure the goals of the National Strategy are successful. These agreements are centered on: Educational reform to elevate the quality, coverage and efficacy of the education system at all levels; Electric



power reform that looks to definitively solve the structural crisis of the Dominican Electricity system; And a fiscal reform, that seeks a financial agreement for the sustained development of the country, with long term guarantees.

The Dominican Government

The Dominican Republic is a Unitary State with civic, democratic and representative governments. The republican form of government implies that it follows the principle of separation of power by the state, as a way of limiting and controlling political power, dividing itself into Legislative, Executive, and Judicial Branches.

The Executive Branch

The Executive Branch is exercised by the President of the Republic in his capacity as Head of State and government, elected by direct vote every four years in free and democratic elections, organized by the Central Electoral Board (JCE). The President of the Republic is in charge of the national and foreign policies, of the civil and military administrations, and he is the supreme authority of the Armed forces, National Police and other security corps of the State.

As ordained in the Dominican Constitution, under the jurisdiction of the Executive Branch, there are Ministries, created by Law, in charge of matters of government. Presently, there are 22 Ministries, governed by a Minister, appointed by Decree of the Executive Power.

Legislative Branch

The Legislative Branch is exercised by the National Congress, formed by the Senate of the Republic and the Chamber of Deputies, whose members are elected by direct vote every four years. Presently there are 32 senators, one for each province of the country and one for the National District, 190 congressmen, one for every fifty thousand



inhabitants or fraction of more than twenty five thousand, there must be at least two for each province.

The National Congress has the duty to legislate and to tax in representation of the Dominican people, to establish taxes and determine the manner of their collection, to validate the amendments of laws by the Executive Power, to establish the norms related to migration and the status of foreigners, to annually vote on the State budget, to approve or reject contracts presented by the President of the Republic, loans signed by the Executive Branch, and treaties and International Agreements subscribed by the Executive power.

The Judicial Branch

The Judicial Power is the organism responsible for the free administration of justice in the Dominican Republic, it enjoys functional, administrative and budgetary autonomy. All of the judges of the Judicial Branch are independent, impartial, responsible, irremovable and are bound to the Constitution and laws.

By expressed stipulation of the National Constitution, this power is exercised by the Supreme Court of Justice, the Constitutional Court, and other courts of the judicial system namely the Appellate Court, First Instance Court and Justice of the Peace Court.

The Supreme Court of Justice is the highest jurisdictional body of all the judicial organisms, it acts as a cassation Court, it is in its purview to review all the decisions pronounced by other courts in order to verify that the law has been well applied, and it has the duty to unify national jurisprudence. It is divided into three Chambers, each one comprised of five judges. The First Chamber presides over civil, commercial and labor matters, the Second handles criminal matters and the Third sees to land, administrative and fiscal matters.



For its part, in the most recent Dominican Constitution proclamation, of January 26 2010, the Constitutional Court was integrated to the Dominican Judicial system, a body with added power, responsible for guaranteeing the supremacy of the Constitution and the protection of fundamental rights. This Court is aware of the direct actions of unconstitutionality against laws, the preventative control of international treaties and the purview conflicts between public offices. Its decisions are final and irrevocable, and constitute binding precedents to all public powers.

The next court in hierarchic order is comprised of the Appeal Courts which constitute collegiate colleges made up of five judges, appointed to review appeals of judgments pronounced by Court of First Instance. Presently, there are 12 Appellate Courts in the Dominican Republic, one per Judicial Department. In the rank immediately inferior to Appeals courts are the Courts of First Instance, which are courts with a single judge, with full jurisdiction. There are presently 34 Courts of First Instance in the Dominican Republic, one in each Judicial District.

At the base of the Judicial System are the Courts of Peace, there is at least one in each municipality of the Dominican Republic. These are the courts of exception with a single judge called to hear small claim cases that law attributes them expressed competency.

In the Dominican Republic there are Courts of Peace of general law, the Courts of Peace for transit matters and Courts of Peace for municipal matters.

a) Judicial System and Dispute resolutions

In the Dominican Republic, the existing judicial system is the Romano-Germanic system or Continental system, whose main foundation is the law. This system converges into



codes the principles and fundamental rules that govern the jurisprudence in the Dominican State.

The Dominican Constitution is the supreme norm and the base of legal system of the Dominican Government. Equally, there are the International Treaties on Human Rights, which are the direct application of the national system. Then there are the adjective laws that include all the codes in vigor, and finally, the decrees and rules dictated by the Executive Branch.

Disputes arising in the Dominican Republic can be resolved judicially or through alternative means of conflict resolution, depending on their nature. The legal proceedings that concern public order, such as criminal or real estate cases, shall be solved judicially. Private disputes can be solved indistinctly in court or through alternate mechanisms of conflict resolution, as agreed to by the parties involved.

b) Judicial means of dispute resolution

In the Dominican Republic, every person has the right to accessible justice, timely and free of charge, and can turn to the courts to seek the acknowledgment of any right that it considers violated, the Judicial Branch has the obligation to respond to claims with a impartial and duly justified decision.

At the moment a judicial trial begins, the competent court must reflect to understand the conflict, which will be determined by the nature of the conflict and the territory. There are specialized courts to review civil, commercial, criminal, labor, real estate and administrative matters.



In our country, the principles of a double instance of jurisdiction is in force, it allows parties dissatisfied with the outcome in trial court, to appeal to justices in a higher court, for review and eventual modification of the decision (Jorge Blanco, 1997, p. 259).

c) Alternative methods of conflict resolution

The alternative methods of dispute resolution, which have become increasingly important these last years, are proceedings designed to administer justice by means other than judicial or ordinary. The main alternative methods of controversy resolution presently generally used in our country are mediation, conciliation, and commercial arbitration.

Advise for the foreigner in the Dominican Republic

If a foreign investor needs to frequently visit the Dominican Republic or establish residency in the country, below are legal stipulations he will need for his entry and stay in the national territory.

Visa

All foreign persons need a Dominican visa for their entry into the country, which can be diplomatic, official, a courtesy visa, business, visitor, dependent resident or a student visa.

The Dominican Republic has signed visa waiver agreements with various countries, allowing their citizens entry for a period of 60 days with a tourism card. Among those countries are: Australia, Austria, Belgium, Bolivia, Brazil, Canada, Costa Rica, Salvador, Spain, United States of America, France, British Kingdom and Venezuela.



Dominican Residency

If an interested person needs to extend their stay in the country past the expiration of their visa or tourist card, they may opt for a resident visa at any Dominican consulate abroad, and eventually request a temporary or permanent residence card from the General Direction of Migration.

Infringement of Dominican Laws

The Dominican courts have the power to prosecute noncitizens that commit an offense in the country, even in cases where the victim is foreign.

Extradition is the act by which a country formally surrenders a person to another country, to be sanctioned or judged. It is in force by the constitution, the rules of treaties, agreements and international agreements.

Foreign Investment in the Dominican Republic

The first Dominican legislation to regulate foreign investment was law 861 of July 22nd 1978. This law created the Foreign Investment Directory, a body in charge of approving registration applications of direct foreign investments, foreign reinvestments, new foreign investments and license agreements on transfer of technology. The approval of an investment by the Directory confers to the owner the right to register his investment in the Dominican Central Bank.

Currently no previous approval is necessary for investments, but a procedure for registrations is in place, though it is not compulsory. Compliant to Law Nr. 98-03, and Rule Nr. 214-04 on Registry Petition for Foreign Investment Registry in the Dominican



Republic dated March 11 2004, to register an investment, foreign entrepreneurs must submit a request of foreign registration, in addition to other required formalities, to the

Center of Exportation and Investments of the Dominican Republic (CEI RD), within 180 working days from the date in which the investment was made.

The CEI-RD will need to review the request and issue the appropriate Registration Certificate, if necessary, applicable to direct foreign investments, foreign reinvestments, new foreign investments and license agreements on technology transfers, after having verified compliance of legal and regulatory clauses in force.

Legal Regime in force

In 1995, law Nr. 16-95 on foreign Investment was approved. It modified the management of foreign investment in the Dominican Republic, adapting to the country the requirements of the most recent international commercial standards. This new law was the result of a consensus among different sectors of the country that campaigned, in their majority, to regulate foreign investment granting equal treatment to foreign and domestic investors.

It is important to note that the promulgation of this law has been one of the most important steps in the liberation of the national economy, for as a result all restrictions on foreign investment were eliminated, and it marked the beginning of many other important reforms.

The fundamental themes of this law:

- Equality of rights for national and foreign investors.
- Free repatriation of capital.



Conforming to this law:

There are no limitations in the fields of investment, except restrictions established by the Law.

It is necessary to subscribe to the Central Bank registry, by letter of request to the Central Bank, through a simple procedure established for these purposes. This must be carried out within a period of (90) days following the investment.

Free repatriation of dividends and capital.

Non-registered investments: The absence of a registration does not affect the validity of the investments; however it could hinder its free repatriation.

Foreign investment can be directed to:

- The capital of any type of company
- Real estate purchases
- The purchase of shares or other financial instruments

Moreover, article 221 of the Dominican Constitution states: The activities of public or private enterprise, receive equal consideration under the law. Equal conditions for national and foreign investments are guaranteed, with the limitations stipulated in the Constitution and in the Laws. The Law may concede special treatment for investments established in sub-developed locations, particularly for ones located in border provinces.



Types and forms of Investments

Law No. 16-95 on foreign investment regulates three kinds of foreign investment:

- Direct foreign investment. Carried out through contributions coming from abroad to the capital assets of a company operating in the national territory. This can be performed by foreign persons or non-immigrant persons residing abroad.
- Foreign reinvestment. This type of investment is effectuated with the totality or portion of profits coming from a foreign investment registered in the same entity that generated them.
- New foreign investment. Is the foreign investment performed with the totality or portion of profits coming from direct foreign investments duly registered as an entity other than the one that generated those profits.

Similarly, foreign investments in our country may be carried out with different contributions:

- Capital contributions, in freely exchangeable currency, in other words cash contributions exchanged by a financial intermediary duly authorized by the Monetary Council.
- Contributions in kind, such as industrial plants, new and restored equipment, replacements, spare parts, raw materials, intermediate and finished products.
- Intangible technological contributions, such as trademarks, patents, know-how processes.



- Financial instruments: are those that the Monetary Council classifies as foreign investment, except those that are the product of contributions or placements from a reconversion of Dominican external debt.

Investment incentives

Agreements that protect foreign investment

Among the treaties and international agreements ratified by the Dominican Republic, responsible for protecting the rights of free investment and trading in our country, include the following:

Treaty of Free Commerce between the Dominican Republic, the United States and Central America (DR-CAFTA)

The Dominican Republic is a signatory of the Treaty of Free Commerce with the United States of America and Central America (DR-CAFTA). Its Chapter X establishes rules that protect countries that form part this agreement from unfair and discriminatory governmental actions, when they invest or attempt to invest in the territory of other signatory countries of the treaty. The investors enjoy seven additional protections beyond the Dominican laws:

1. Non-discriminatory treatment toward national investors and investors from countries that are not members of this agreement.
2. Limitations on “performance requirements”
3. Free investment-related money transfers.
4. Protection from expropriations that do not meet the rules of international customary law.



5. A “minimum level treatment” pursuant to international customary law.
6. The possibility to hire key management personnel regardless of their nationality.
7. A proceeding of conflict resolution between investors and State.

Cocotonou Treaty

Is the commercial exchange and assistance agreement, signed in 2000, between the European Community and the ACP states (Africa, Caribbean and Pacific), it replaced the 1975 Lomé Convention. This treaty permits duty-free exports of main agricultural and mining products of ACP's to the European Community.

Economic Association Agreement, CARIFORUM-EC

The EPA (Economic Partnership Agreement) signed between the CARIFORUM States and the European Community seeks to strengthen commercial relations, seeks regional promotion and integration, and economic cooperation between the two regions, within an efficient and transparent regulatory framework, for the commerce and investment of all parties involved. This agreement, primarily intends to lift custom tariff obstacles for the distribution of products and services from one block to another.

Treaty of Free Commerce between Dominican Republic, United States and Central America (CAFTA RD)

It is a treaty that aims for the creation of commercial free zone among the signatory countries, with fiscal advantages, customs activity, product origin and internal rules for the traffic of merchandises.



To complement, the Treaty legislates aspects related to hygiene production and environmental protection, respecting intellectual property rights and public and private investment, as well as labor laws in the States of the zone.

In addition, it specifies the mechanisms to solve conflicts and to establish standards by mutual agreement.

Thanks to this agreement, the Dominican Republic has made various compromises, among them the decision to head toward substantial reform of its legislative bodies and processes in different fields related to commerce, such as industrial property, customs, relations of merchandise and service distribution, among others.

DR Treaty – Caribbean Community

In 1998 the Dominican Republic signed the ALC DR-CARICOM Agreement, whose term came into effect in December 2001. This treaty is mainly founded in the free access to goods, the elimination of tariff barriers in commerce, the establishment of rules of origin, the compliance of sanitary and phytosanitary measures; the gradual release of trade services, and the protection of, and incentive for investments, through which products originating from the Dominican Republic will benefit from free access in the most developed countries of CARICOM (PMDs -Jamaica, Barbados, Trinidad & Tobago, Guyana and Surinam).

DR – Central America Treaty

The member-states of this Treaty are: The Republics of Costa Rica, El Salvador, Honduras, Nicaragua, Guatemala, and the Dominican Republic who entered into the agreement in March 2002. This Treaty's application is bilateral between each country and the Dominican Republic, provided the goods were elaborated outside of special regimes. One of the main goals of the Treaty is to encourage the expansion and variety



of commercial goods and services between the parties, as well as to mutually eliminate obstacles for commerce, and to launch and protect foreign investments.

DR – Panama Agreement

In July 1985, the Dominican Republic and the Republic of Panama signed the Partial Scope Agreement. It was ratified in 1987 by the National Congress but will enter into effect in 2003.

By nature, free trade is limited exclusively to goods defined during the negotiation, provided that the Rules of Origin are observed and that they fall within one of the following: List of bilateral products; list of products of the Dominican Republic including unilateral ones; list of products of the Republic of Panama including unilateral ones; and products established in Trade Free Zones.

Paris Agreement for the protection of Industrial Property

This convention aims to protect industrial property patents, industrial designs, commercial trademarks or commercial names, the indication of their source or the appellation of origin, and against the repression of unfair competition, among others.

Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

This is an annex to the Convention for which the World Trade Organization (WTO) was created in 1994. It establishes a series of fundamental principles on intellectual property related to trade, and agreed to by the signatory countries.

Main Investment Sectors

Tourism: The Dominican Republic is one of the main international destinations, which is why in the past few decades the tourism sector has attracted a great share of



investment coming from abroad, and it has become one of the pillars of Dominican economy. This sector is overseen and bolstered by the Ministry of Tourism, which promotes its growth and development from offices in various locations worldwide.

Construction: This field is of great importance in both the public and private sectors. Law 322 of 1981 establishes some conditions for foreign companies wishing to participate in bidding for projects of the State and its dependencies. It must be underlined that foreign participation in a construction contract cannot exceed 50%; exceptionally 70% may be admissible only when the capacity for the national participation does not exceed 30%.

Free Zones: The system of duty free zones in the Dominican Republic is one of the most modern in the world. Their geographic locations are dispersed within the national territory, in specific areas created for this purpose, and they are subject to special customs and tax regulations. Installed within them are companies engaged in the production of goods or procurement of services destined for external markets. Predominantly, the free zone companies are dedicated to the production of textiles, services, to the commercialization and production of tobacco, and derivatives.

Telecommunications: Undoubtedly, Telecommunications has been one of the most dynamic sectors of the national economy. Its operation is under by the General Telecommunications Law No. 153-98, dated May 1998, which, with other ancillary legislation, regulates the installation, maintenance and operation of networks, service delivery, and the procurement of telecommunications equipment. Its objective is to guarantee that telecommunications services are accessible to the entire population, to promote free competition, and to encourage the development of the sector.



The Dominican Institute of Telecommunications (INDOTEL) is the entity in charge of implementing the law, as well as the organizing and promoting the telecommunications market.

Doing business

Dominican Law permits foreign investors to choose from different forms of business organization to develop their commercial activities in the country, making their investments through:

- Constitution of companies. Creation of subsidiary.
- Mergers and acquisitions.
- Establishment of branches
- Distributors, agents or dealers

Constitution of Companies

According to the provisions and modifications of law No. 479-08, dated December 11, 2008, on Commercial Societies and Individual Limited Liability entities, there are various forms of commercial organizations in the Dominican Republic. That is, when two or more persons or entities bring goods for business purposes, according to the law, there exist different corporate operating structures.

Commercial companies, except for joint ventures, enjoy full legal personality effective immediately upon their registration date at the Registry of Commerce. The request for registration and the registration of incorporation is placed with the office of the Chamber of Commerce and Production corresponding to the registered address, in the month following the registration of the Incorporation Act, or upon the conclusion of the meeting of the company or individual company of limited liability, as appropriate.



Some of the most common commercial companies are:

Limited Company (SA): Is a commercial company in which the shareholders hold capital through certificates or shares. This society can be open or closed capital. They are primarily companies with a significant capital, with a complex administration, and are supervised by auditors.

Limited-Liability Company (SRL): This kind of entity has limited liability to capital contributions, therefore it is not linked to the personal assets of its shareholders should debts be accrued. In general sense, this kind of company exists for medium and close investment entities, predominantly family owned and operated.

Simplified Corporation (SAS): As a result of the reform to the Companies Act introduced by Law No. 31-11, to Law No. 479-08, Joint Stock Companies shall adopt the form of simplified Corporations ("SAS"), with necessary conditions on capital and operation, more flexible than ordinary companies, and with some similarities to the limited liability company form, such as flexibility in terms of administration and operation.

Limited Partnership: This is a foreign company that performs commercial or civil activities under a unified corporate name. In this kind of company, shareholders do not make contributions of capital; they contribute by working and are named Industrial Shareholders. All of the shareholders have the quality of commerce and are liable jointly and without limit to company obligations.

Simple private company: Is a sole proprietorship that is characterized by the coexistence of collective partners who are (limitlessly) liable for company debts, and who participate in the management of the company, and by limited partners who do not participate in the management and whose responsibility is limited to providing the capital.



Partnerships limited by Company shares: Are formed by one or multiple partners who will have the quality of traders and who will respond jointly and indefinitely for company debts. As limited partners, they will have title of shareholders and will assume losses only in proportion to their contributions.

In addition to the commercial companies mentioned above, comprised of two or more natural or legal persons for commercial development, the law has created the Individual Enterprise of Limited liability (EIRL). Its purpose is to develop new commercial incentives for small entrepreneurs who act individually. It also eliminates “fake companies”, an old national practice of creating companies in which one of the shareholders held 99% of the shares while the others held only 1%.

Mergers and acquisitions

Law No. 479-08 on Commercial Companies and individual enterprises with Limited Liability also regulates the mergers and acquisitions of companies, as another form of participation for investors in the exercise of their commercial activities, based on the use of existing corporate vehicles.

In a general sense, there are no prohibitions or limitations on mergers or acquisitions of companies, except for the advanced notice to the Taxation Department on reorganization plans. Notwithstanding, there are special laws that regulate mergers and acquisitions, directly or indirectly, in which according to the type of business; prior additional authorization or communications conditions will be set, for their effectiveness or applicability.



These regulations are the following:

The General Law of Electricity No. 125-01 which empowers the Superintendence of Electricity to authorize or prohibit, the mergers or acquisitions of power companies.

The General Law of Telecommunications No. 153-98 which requires telecommunications service providers to obtain authorization from the Dominican Institute of Telecommunications (INDOTEL), for the transfer of use of ownership, concessions or licenses that were granted to operate.

Monetary Financial Law No. 183-02 which requires the pre-approval from the Monetary Council in the cases of mergers, a take-over, or division of financial entities.

Insurance and Guarantees Law No. 146-02 requires companies organized under its protection, to obtain pertinent pre-authorization from the Superintendent of Insurance.

Establishment of branches

Setting up a legal domicile, which is done for both individuals and corporations, effects the establishment of foreign company branches in the Dominican Republic. The Civil Code of the Dominican Republic, Law No. 16-95, and the Corporation Law allow foreign investors to develop their business via their foreign companies duly constituted in their country of origin, without having to set up a local company. This procedure is done through the Executive Branch via Ministry of the Interior and Police.

Distributors, agents or licensees

Law No. 173 of April 6th 1966 on Importers of Goods, Products and Services, provides protection to natural persons or legal entities in the Dominican Republic engaged in the promotion and management of imports, distribution, sales, rent or other kind of



processing of goods or products coming from abroad, as well as for the representation or brokerage agency of services coming from abroad

Foreign companies wishing to appoint agents or licensees in the Dominican Republic must consider Law 173, for the protection of agents, representatives or dealers appointed under other names, against damages resulting from unfair resolutions of contractual negotiations, by the unilateral action of the person or companies they represent, or the ones in whose favor or interest they act. This law has a wide scope and applies to any type of agency, representation, distribution, license, concession, franchise or other agreement, in relation to products or services abroad.

The purpose of the laws stated above is to ensure a full and equitable compensation of possible losses that may occur, and the legitimate guarantees they might otherwise be deprived of.

The provisions of the aforementioned laws are of public nature, this indicates that the law will prevail over conventions between parties. In accordance with article 2 of the law, even if the parties establish the completion date for contractual relations, this clause will not be valid, due to the protective character of the law, in favor of the local licensee. It follows then that such contracts are permanent and necessary in all cases that the licensor demonstrate just cause to terminate the relationship agreement.

In case of dismissal or termination of a contract unilaterally, and without just cause, each licensee will have the right to establish a claim against the licensor for damages. In this respect, it is understood that if one of the parties proceeds to unilaterally terminate the contract alleging expiration date or just cause without the Judiciary Court having pronounced the termination, it will be responsible.



This responsibility will be also applied to the dealer in solidum with the new person or legal entity that has by all means acquired the rights on the concerned products or services, pursuant to article 6 of Law no. 173.

To initiate legal claims provided by law No. 173, in order to obtain a termination of contract by just cause, from the registry made under this law, by the licensor or grantor, or to demand compensation provided for in article 3, in favor of dealers in case of dismissal, substitution, termination of the concession contract, refusal to renew the unilateral contract, without a fair cause by the licensee, the interested party must comply with the provisions stated in article 7.

The article states that these legal demands will be sanctioned using the provisions of common law matters of capacity, of procedure and of prescription.

Before beginning a lawsuit, the Grantee or Grantor should inquire with the Chamber of Commerce and Production about appointing a conciliation commission for an amicable resolution in the interest of all parties involved. This committee will set a date for the conciliation meeting, and will summon the parties before the Conciliation and Arbitration Board.

During the meeting and after the presentation of the documentation and of the discussion, the committee will offer its recommendations. If the parties do not reach an agreement, an act of non-agreement between the parties, will be drafted, or an act of Non-appearance in the instance one of the parties is absent.

The certificate issued by the Conciliation Board must be included with a lawsuit in the event legal action is pursued in Dominican courts.



It should be noted, that, generally, in order for a local representative to benefit from Law No. 173, he must register his agreement in the International Department of the Central Bank of the Dominican Republic, duly authenticated by a Notary Public and the corresponding Dominican consulate, and meet all of the additional conditions this institution requires.

Protection of Industrial Property Rights

The legal basis for the protection of Industrial Property rights in the Dominican Republic is covered Under the Law No. 20-00 on Industrial Property and its implementation regulations. The main goal of the law is to provide an adequate legal Framework that contributes to the transfer and dissemination of technology, for the mutual benefit of producers and users of technical knowledge, and effectively protect industrial property rights, thereby achieving a balance between the rights and the obligations of the rightful owners of industrial property that will promote social, economic, and technological development.

The National Bureau of Industrial Property (ONAPI), created Under Law No. 20-00, is the government agency responsible for issuing patents and recording Industrial Property rights.

Labor law and worker's protection

In the ambit of labor law, the Dominican Republic has had a Labor Code since 1992, responsible for regulating relations between workers and employers through either a written or a verbal labor contract that establishes the responsibilities of each party.



Employment contract. Contract types.

The employment contract is defined in the first article of the Labor Code, as a convention whereby a person commits for a fee, to render a service, personal or other, under direct or delegated authority and direction.

There exist different types of contracts in our country, which can be for indefinite or set terms of time, or for determined tasks or services, depending on the type of service to be performed and the constant and consistent needs of the company.

Forms of Contract termination

An employment contract may be terminated with or without liability or responsibility for the parties. It has been established that an employment contract may end without liability to either party for the following reasons:

1. Mutual consent
2. Contract execution
3. The impossibility of contract execution

However, one of the parties will be liable if the employment contract is terminated by:

Eviction

Discharge or dismissal

Demission



Eviction is defined as the act by which a party, with notice and without stating cause, terminates an indefinite employment contract. If the employer terminates a contract through eviction, he must compensate the worker for his statutory rights (vacation time, Christmas salary and bonuses), and severance pay.

During the first three months of an employment contract a worker may be laid off without rights to severance pay. This discharge or dismissal is the termination of the employment contract by the will of the employer. When an employer proves just cause under the Labor Code, it constitutes a justified dismissal, otherwise it is considered an unjustified discharge.

The difference between a justified and an unjustified dismissals lies in the amount the employer will have to pay to the worker. If the dismissal is justified, the worker will have the right to be compensated for unused vacation time, Christmas bonus, and company shares where applicable. However, if the employer is unable to show just cause for dismissal, he will have to issue the aforementioned statutory rights and severance pay.

However, demission is the resolution of the employment contract by the exclusive will of the worker. In this instance, as established in the Labor Code, the worker must prove the cause that led to his termination of the contract. If he does not prove cause for his demission, the worker will be entitled to only partial statutory pay. Otherwise he shall receive all statutory compensation and severance payments.



Labor Rights

All workers have rights, regardless of **their** nationality:

In instances of a contract of indefinite duration:

- Weekly rest: As set forth in Article 163 of the Labor Code, all workers are entitled to a paid and uninterrupted period of rest of thirty-six hours.

This rest period will be agreed to between the parties and may start any day of the week. In the absence of an express agreement, it will begin on Saturday at noon.

- Holidays: Under the provisions of Article 177 of the Labor Code, employers are required to give all workers fourteen (14) days of paid vacation in accordance with the following scale:

1. After continuous work for no less than one year, and less than five years – fourteen paid vacation days, at regular salary.
2. After continuous work for five years or more – eighteen paid vacation days, at regular salary.

- Licenses: Under the provisions of Article 54 of the Labor Code, the employer must grant the worker three days of paid leave in the event of nuptials, bereavement for grandparents, parents, offspring, spouse or partner; and two days of paternity leave if his spouse or partner is duly registered at the company.

- Salary: Each worker has the right to be compensated for his or her work and the parties shall decide on the salary to be paid.



Under the provisions of Article 196 of the Labor Code, wages must be paid directly to the worker without delay within one hour after the end of the workday on payday. Wages must be paid in full, with exception of discounts authorized in this Code.

- Christmas pay: Under the provisions of Article 219 of the Labor Code, the employer must pay the worker, in the month of December, a Christmas bonus consisting of one-twelfth of the regular wage earned by the employee in the calendar year, without prejudice to the customs and practices of the company, as agreed in the collective agreement or the employer's right to grant a larger sum.

Christmas bonuses shall in no instance exceed a total of five minimum wage amounts, and the payment shall be made no later than the twentieth (20th) of December.

- Participation in company profits: Under the provisions of Article 223 of the Labor Code, companies are required to issue a stake of its annual net profits or benefits, equal to ten percent (10%), to all employees, indefinitely.

For workers employed less than three years, their stake shall not exceed the equivalent of forty-five days of regular salary. For workers employed three years or more, their stake shall not exceed sixty days of regular salary.

Social Security: Employers are required to withhold deductions for Occupational Risk Insurance and Advanced Age Insurance, Disability and Survival Insurance, as set forth in Law 87-01 on the Dominican Social Security System (SDSS), as this law establishes that workers' membership to the SDSS is mandatory as are income tax deductions where applicable

Therefore health insurance coverage upon employment in a company is a workers' right.



Regarding Hygiene, Health and Safety: Under the provisions of Regulation 522 on Health and Safety at work, all companies must have a health and safety program registered with the Ministry of Labor, to ensure accident prevention and adequate work conditions.

A company committee on safety and industrial hygiene is mandatory, as non-compliance can constitute grounds for worker demission.

Project Contracts

Workers' rights on project contracts:

Under the provisions of the Labor Code, contracts for specified projects conclude upon completion of the work, without liability to the parties. This type of contract must be set forth in writing. Upon completion of the job, the employer shall not be obligated to make employee benefit payments but is required to compensate for the worker's earned statutory rights, in other words, vacation pay on jobs exceeding five months duration, and the Christmas bonus in the month of December.

They are not under obligation to pay the worker a company profit share as this right only applies to indefinite employment workers.

Foreign workers

Unlike many other countries, the Dominican Republic does not issue work permits. Consequently a foreigner who wishes to work in our country should obtain a business visa for work purposes, and subsequently a temporary or permanent residency card, justifying their stay through an employment contract with a company established in the country.



On this point we must highlight that foreigners, holding temporary or permanent residency visas, are eligible to work in the Dominican Republic.

Foreigners who obtain employment contracts with companies established in the country may apply for a residency visa, and eventually a temporary or permanent residency card, on the basis of said employment contract.

As for the number of foreign workers a company is allowed to employ, the Labor Code stipulates that at least eighty percent of its personnel must be Dominican.

If there are fewer than ten employees in your company's labor pool, the number of foreign workers allowed is adjusted according based on the following scale:

1. If there are nine employees, six must be Dominican
2. If there are eight or seven employees, five must be Dominican
3. If there are six employees, four must be Dominican
4. If there are five or four employees, three must be Dominican
5. If there are three employees, two must be Dominican
6. If there are two employees, one must be Dominican
7. In the case of a single employee, the employee must be Dominican.

Exceptions noted to the percentage indicated above are workers who :

1. Company Directors or Managers
2. Technicians - provided the Labor Department determines there are no qualified, unemployed Dominicans who can fill the position
3. Workers of a family workshop



4. Foreigners married to Dominican citizens. They must be married for over two years, and have resided continuously in the country for at least three years
5. Foreigners having parented Dominican children and having resided in the country for over five uninterrupted years.

Real Estate Acquisition in the Dominican Republic

Introduction

Property Registration Law 108-05 of March 23, 2005 governing realty transactions in the Dominican Republic is the new legal instrument that regulates real estate property. It incorporates modern laws in order to contribute to the country's development through the decentralization and reinforcement of the instruments responsible for ensuring the proper management of real estate transactions through a management model that simplifies and streamlines the procedures, expediting them, and facilitating access to justice thereby bringing operating units of jurisdiction and the needs of the users, closer together. Law 108-05 aims to progressively strengthen the Torrens system, in detriment of the Ministerial system, which is not in conformity with current needs.

Title Certificate

A Title Certificate guarantees the property ownership prerogatives an individual enjoys. The Title Certificate is the record of ownership, the transcription "in extensu" of the Registration Act, which transfers absolute rights irrevocably, and perpetually. It is the quintessential documentary evidence of ownership. For any property related act to be invoked against a third party it must be registered in the Registry of Deeds corresponding to the jurisdiction of the property.



The Registry of Deeds

The Registrar of Deeds is responsible for recording property rights, for ensuring the laws in its jurisdiction are duly applied, and to comply with all necessary functions it is assigned so as to assist with the realization of real estate transactions.

The documents recorded with the Registrar of Deeds are the following:

- Documents that constitute, transmit, declare, modify or stop property rights
- Documents imposing charges, mortgages and provisional measures on said property
- Documents with particular administrative and legal constraints on properties, such as easements, cultural heritage statements, and others that somehow limit or restrict free disposition of the property.
- Condominium rights over condominium units and condominium common areas.

Procedure for the acquisition or transfer of property

Currently there are no restrictions for foreign individuals or corporations acquiring real estate. Decree No. 21-98 of January 8, 1998 sets forth that the Title Registrar must keep records on all sales to foreigners, only for statistical purposes.

Before purchasing property, it is advisable for the buyer to consult a real estate lawyer who will carry out the corresponding investigations and proceedings, in order to assure the potential buyer a transaction that meets all of the principles of legality, advertising, authenticity and specialty.



To commence, the seller must provide the buyer with the following documents:

- Photocopy of the property Title Certificate
- Photocopy of the floor plan and measurements
- Photocopy of his Identity Card or Passport
- Photocopy of the receipt from the Internal Revenue General Directorate (DGII) reflecting the final payment of Sumptuary Housing tax and Urban Lots (IVSS), and if exempt, the corresponding Exemption Certificate for said tax.

If the seller is a partnership, it must provide the following:

- Photocopy of the partnership constitutive documents, the minutes designating the current Board of Directors, and the minutes of the meeting authorizing the sale
- Certificate issued by the Internal Revenue General Directorate (DGII), attesting that the company is current with their tax payments.

If the building is part of a condominium, they must also provide:

- Photocopy of the condominium declaration
- Photocopy of the condominium rules
- Photocopy of the construction plans, duly approved by the pertinent authorities
- Condominium certificate stating the seller is current in his maintenance charge payments
- Photocopy of the minutes for the last three condominium meetings

If the property is a house:

- Photocopy of the construction plans, duly approved by the pertinent authorities
- Inventory of movable assets
- Copies of the last utility receipts – water bill, electric bill, telephone bill, etc.



The attorney's job, aside from the wording of the promissory contracts or re-sale options among others, consists of ensuring that the property on the Title Deed is free of liens or encumbrances toward other parties, and that it is the exact property the buyer wishes to purchase.

Once the seller has forwarded the aforementioned documentation for preliminary work, the lawyer shall perform the following steps:

- Legal research into the property and the Title Certificate: through inquiry at the office of the Registrar of Deeds, which must issue a certificate of charges and encumbrances, so as to verify the property is free of liens and encumbrances. Endeavoring to personally research the relevant archives of the Internal Revenue General Directorate, which will issue a Sumptuary Housing and Urban Plots (IVSS) tax payment receipt, or if applicable, a tax Exemption Certificate
- Hire a surveyor to inspect the property – location, current occupancy, limits and boundaries, and to inspect the upgrades, if any, unless it is an urban development previously verified.
- Check legal restrictions in the area, for possible use by the buyer: because the use and exploitation of the property may be limited depending on its location, by regulation that may affect the buyer's intended use of the property.
- Verification of the seller's rightful ownership, and verification that the person negotiating the sale is indeed the rightful owner, as well as verification that there are no occupants, or improvements belonging to third parties.



Many attorneys do not take the care in completing the above-mentioned preliminary procedures and verifications, limiting themselves most often to obtaining a no-tax certificate at the Registrar of Deeds, yet these are immeasurable guarantees compared to the risk in not doing those errands in due diligence.

Registration with the Title Registrar

Upon payment of the apposite Property Transfer Tax, arrangements with the Title Registrar's office must be made for the property transfer, object of the aforementioned contract, and advancing the following documentation:

- Sales agreement signed and notarized by a Notary Public.
- Photocopies of identity documents for both the buyer and the seller.
- Original Certificate of Title to be transferred.
- Original payment receipt for the Property Transfer tax.
- Original payment receipt for Real Property Tax (commonly referred to as IVSS), or original exemption certificate.
- Original payment receipt of Law 80-99 and legal seals

The Registry of Deeds will issue a new title certificate to the buyer, and will cancel the one issued previously to the seller. Issuance of the new Title Deed can take anywhere from several days to several months depending on the Title Registry office where the sale has been recorded, and its workload.

The State is the guarantor of the validity of the Title Certificates it issues, by establishing insurance funds that in theory can compensate those who, without fault or negligence, but by an error in the execution of the law, have been dispossessed of their property. The Insurance Fund however has never been able to raise enough funds to implement this legal protection.