

DOING BUSINESS IN THE DOMINICAN REPUBLIC

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*This legal guide is a publication of
the law firm Pellerano & Herrera.
Its purpose is to provide general information
to persons interested in investing in
the Dominican Republic. The information
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FOREWORD

A place to investment... The Dominican Republic

Investing in the Dominican Republic is not a hard decision. Nearly all of the concerns that the investors may face before investing, find favorable and encouraging responses. The Dominican Republic is, without a doubt, a country in the trail for progress and development. Indeed, the facts demonstrate that for over half a century, this country has grown in a consistent manner in every aspect. An attentive glance to the economic indicators show that this growing development has been sustained and that in those short periods of depression, the economy has recovered with even more dynamism. Moreover, it evidences the profound changes that the Dominican Republic has been experiencing in terms of structure and performance.

The more important changes that the Dominican Republic has experienced, are the following:

- It has transformed from an eminently rural society to an urban one;
- A society based on agricultural production has turned into a service based economy; and
- It has emerged from an isolated society as an open and cosmopolitan nation.

The Dominican Republic is a country that stands out for the climate of political stability and social peace it enjoys; and for the warmth with which it opens its doors and heart to those who come to visit it.

CULTURAL, POLITICAL AND ECONOMIC CONTEXT



1 GENERAL INFORMATION

The Dominican Republic is a country that offers multiple opportunities for business and investment.

- Its strategic geographic position allows an easy access to the markets of the United States, Latin America and the Caribbean.
- Its growing economy is supported by an ongoing process of modernization, and reinforced by aggressive efforts to promote trade liberalization and economic integration.
- It enjoys an environment of political stability and democratic consolidation.

For all these reasons, the Dominican Republic conforms the ideal option for companies and persons of any nationality wishing to expand their investments.

GEOGRAPHY

The Dominican Republic shares with Haiti the island of Hispaniola, located in the Caribbean, between Cuba and Puerto Rico. With a surface area of 48,442 square kilometers it occupies two thirds of the Hispaniola. The climate is semi tropical. The average annual temperature is 26 c (78 F) and the humidity ranges from 65% and 80% with two main rainy seasons: from May to July and from October to November. It has a vast geographic diversity: endless white sand beaches, fertile valleys of exuberant flora, desert zones with dune formations and mighty mountains.

The Duarte's Peak, which is the highest mountain in the Caribbean, and the Enriquillo Lake, the lowest point in the Caribbean, are a sample of this diversity. But there is also an impressive flora and fauna diversity.

HISTORICAL OVERVIEW

The Dominican Republic is a free and sovereign country, focused towards the sustainable development of its people, of its institutions and its resources, in a context marked by globalization and the responsible interactions of its agents. As a relatively young country, it was discovered by the Spanish in 1492, and it was on 27 February

1844 when the independence was declared. Its Capital City is Santo Domingo, founded in 1496.

The democratic consolidation process started in 1966, when the development of national productive structures emerged. This has contributed to the political and economic stability of the country. Since then, eleven democratic elections have been held, and the three main political parties have alternated in power.

POPULATION AND DEMOGRAPHY

The Dominican population is the result of an intensive mestization process in which three main components have been present: the Indian, the European and the African.

From the cultural point of view, there is a predominantly Hispanic culture. Spanish is the official language of the Dominican Republic and most of the population is Catholic. However, it is important to outline that the Dominican Constitution enacts the freedom of cults.

The population is approximately of 8.6 millions inhabitants, of which 4,297,325 are women and 4,265,216 are men, which represents 50% of each gender. The Dominican population between 15 and 44 years old is 47% and 34% is below this age. 19% is above. The country has a various and numerous workforce which ranges from university graduates at basic level and technicians and workers with basic skills.

INFRASTRUCTURE

Throughout the years the Dominican Republic has developed a large physical infrastructure, highly developed and adapted to the requirements of a society focused towards production and the marketing of goods and services.

Certainly, this infrastructure is an important support to productive activities.

Special mention should be made of transport and communication facilities both at a local and international level.

Roads: The highway network is one of the best of the region and it connects the country's main destinations.

Airports: The country has a modern and efficient airport system, formed by 6 airports located in every part of the national geography for domestic and international flights.

Ports: The country has 11 important seaports located at a short distance from the production centers, amongst which we can name the Haina, Santo Domingo, and Boca Chica Sea Ports. This latter is one of the most moderns of the Caribbean.

Telecommunications: The telecommunication system is one of the main competitive advantages that the country has. These services are entirely provided by private suppliers and is one of the most advanced in the world.

Power Supply: It is still the greatest challenge for the authorities and an excellent opportunity for investors. The power supply is not sufficient to satisfy the demand. Consequently several mechanism has been implemented in order to rationalize its distribution.

2

POLITICAL AND ECONOMIC SITUATION

The Dominican Republic is experiencing an important process of economic consolidation. The last electoral processes have been developed with transparency and with great poll participation. The traditional political leadership has been slowly replaced by a youngest generation of leaders who are trying to develop a viable economic project comprising global competition, responsibility of the public sector and decentralization.

In the meantime, the country is experiencing important events for its economic future. From 1996 the highest economic growth rates in Latin America were achieved, as a result of the macro economic stability and the gradual increase of the private sector participation.

The Dominican Republic has two major profiles: the external economy whose main growth factor have been the tourism and industrial free trade zones, and on the other hand, the domestic economy, whose main growth factors have been telecommunications, construction, electricity, trade and transport.

The free trade zones and tourism have developed separately in relation to the country's general trade environment, mainly for the following reasons:

- Special legislation has protected the rights of foreign investors;
- The tax structure has provided a fair treatment for the new local and foreign participants; and
- the competitive environment has favored innovation.

During recent years, the Dominican Republic has shown an outstanding macro economic stability:

1. In 2006 the growth rate was 10.7%;
2. The exchange rate has been stable;
3. The interest rate is controlled and with a tendency to decrease; and
4. The annual inflation rate was of 5%

POLITICAL SYSTEM

The Dominican Republic's Constitution defines the government as democratic, republican and presidential. Moreover, it indicates that the exercise of power is distributed in three major branches: executive, legislative and judicial.

3

LEGAL MODERNIZATION AND TRADE LIBERALIZATION PROCESS

Since 1991, the Dominican Republic has been involved in a reform process aiming to modernize the legal and economic framework that regulates business in the country in order to adapt its economy to the new competitive schemes, to facilitate its immersion in economic groups at a global and regional level and to promote the flow of foreign capital.

LEGAL REFORM

In the early nineties, new tax, labor, customs and criminal procedure codes were enacted. However the turning point for liberalization of the Dominican economy was the enactment of Law 16-95 on Foreign Investment, which eliminated all the restrictions to foreign investment and set the scene for other important reforms.

Over the last few years, the main concerns have been the adapting of the local legal standards to those parameters set forth by the World Trade Organization. The main reforms implemented include new laws on telecommunications, stock exchange, industrial and intellectual property rights, exports development, environment, tax and customs reform, electricity law, e-commerce, financial and monetary reform, protection of children and adolescents, money laundering, migration, electoral, insurance, national police and the Criminal Procedure Code, Among others.

The social reforms have taken a place in the legislative agenda. In fact, one of the most significant reforms was the social security law, which modernizes and broadens the scope of the social security system.

Finally there have been legislative decisions taken in order to implement the DR-CAFTA agreement, mainly in the intellectual property rights aspect.

PRIVATIZATION

The privatization of public corporations was seen as necessary. Despite showing a deficient performance, there was a consensus that they were valuable assets that could be enhanced with the injection of capital and a modern administration. On 24 June 1997 the General Law on Reform of Private Enterprises No. 141-97 was enacted. Its main goal was to improve the efficiency of public companies through the liberalization to the private investment. This law provides a capitalization process with private contribution, which shall purchase 50% of the stock capital and assume management of the public company. The election of the company takes place through international bidding. Under this legal framework, the country has been able to transfer to the private sector, many public assets that have become a burden to the administration.

PROMOTION OF NATIONAL COMPETITIVENESS

The Government executes an ambitious program to promote the competitiveness in all the economic sectors of the country. Within this context, the following measures have been taken:

1. Creation of the National Bank for Competitiveness;
2. Enaction of Law 1-02 on antidumping practices; and
3. Several measures to increase the competitiveness in Dominican exports and free zones companies;

4. The approval of the Law of Textile, manufacturing and accessories, leather shoe and skin manufacturing and Law 56-07.

REGIONAL INTEGRATION

The Dominican Republic is making every effort to broaden its trade relations. These efforts have produced results that have reflected in the signature of agreements. Additionally, the Dominican Republic signed the Partial Scope Treaty with Panama, as well as the Free Trade Agreement with the Caribbean region and the Free Trade Agreement with Central America and the DR-CAFTA. The Dominican Republic is member of the World Trade Organization. Its main function is to implement, manage and functioning of the Multilateral Trade Agreements and to encourage the achievement of its objectives.

MONETARY AND FINANCIAL FRAMEWORK

1 BANKING AND EXCHANGE SYSTEM

2002 marked the conclusion of the approval of the new legal framework to regulate the monetary and banking business policy in the Dominican Republic. On 16 November 1992 the Monetary and Financial Law 183-02 was enacted. The objective of the regulation of the monetary system is to maintain the price stability, whereas the financial system regulation aims to monitor the conditions of the cash flow conditions, economic solvency and management set forth by the law to the financial intermediates.

Law 183-02 adopts the organization concept of Financial and Monetary Administration, which includes the Monetary Board, the Central Bank and the Superintendent of Banks. They granted the exclusive attribution to regulate the monetary and financial system throughout the national territory.

In order to protect the country against the abuse of power by Administration acts, the law creates the Monetary and Financial Administrative Court, one of the most significant contributions of this reform.

CURRENCY AND EXCHANGE

The national currency is the Dominican Peso. The exchange system is based in free conversion of the national currency to other currencies.

FINANCIAL SOURCES

The local financial institutions grant long and medium term loans but this does not exclude the long term loans for certain projects. The interest rate shall be determined by the market.

The money debts shall be paid in the agreed currency. The international interest rate is subject to a tax of 15% payable by retention by the local debtor, as per Law 92-04 on systemic risk.

The foreign lender needs to register the loan at the Central Bank only as a formality with statistical purposes.

The Dominican Republic is benefiting from several International programs for financing and insurance against political and exchange variations. It is member of the Multilateral Investment Guarantee Association (MIGA). Moreover, the Overseas Private Investment Corporation is active in the country with financial programs and investment insurance against certain risks.

The European Investment Bank offers long term loans with low interest rates in order to finance projects in ACP countries, mainly in the industrial tourism, mining, energy, transport and telecommunication.

2

STOCK MARKET IN THE DOMINICAN REPUBLIC

The stock market in the Dominican Republic started developing during the eighties, under Decree 554-89 which created the Stock Market of the Dominican Republic (BVRD) as a non-profit self-regulated institution which started its operations in 1991.

Law 19-00 on Stock Market was adopted on 8 may 2000 as a legal framework for the public offer of equities in the Dominican Republic and also to regulate the issuance of bonds, and to promote the development of and organize the financial system, in transparent and efficient manner. With the passing of this law, the stock market in the Dominican Republic has been gaining importance, and has become a valuable tool for business.

On 19 March 2002, the Executive Power approved the decree 201-02 which contained the regulations for the application of Law 19-00. On 3 August 2004, the Executive Power enacted the Decree 729-04, which included a new application regulation for the Stock Market Law.

Stock market transactions are tax exempted. The profits obtained by the placing of equities or bonds in the market are exempted from income tax as well as the payments made to foreign institutions that have invested in the Dominican stock market.

3

LEGAL REGIME FOR FOREIGN INVESTMENT LAW 16-95

Foreign investment is regulated by Law 16-95, enacted on November 20, 1995, together with the regulation for its application approved by presidential Decree No. 380-96 later amended by Presidential Decree 163-97.

The aforementioned legal provisions are one of the most important steps taken towards the liberalization of the national economy. Recognizing the contribution of foreign investment to the country's economic growth and social development, and forming the attractive framework for investors, this legislation provides useful grounds to promote the capital flow to the country, as well as to adapt Dominican economy to the current market globalization trends.

Law 16-95 sets forth the principle of equal treatment for national and foreign investments. Following this principle, it allows to foreign companies and persons to register under such law as agents or representatives of foreign corporations, and benefit of its protection. Moreover, this principle has served as the basis for other legal amendments such as the abolishment of the requirements for purchasing real estate by foreigners and the opening of the banking system to foreign capitals established by the Monetary and Financial Law. There are few restrictions remaining to those sectors where the foreign investment is not permitted.

It is defined as "any contribution from abroad, belonging to foreign companies or individuals, or to Dominican persons residing abroad, to the capital of a corporation operating locally. The foreign investor therefore may participate in any area of the national economy, with no limitation outside the few exceptions set forth by Law 16-95.

The foreign investor shall register his investment at the Central Bank within 90 days after its occurrence, in order to obtain a Certificate for Foreign Investment Registration. This is only for statistic purposes.

The investor provided with a Certificate of foreign investment has the right to remit abroad in foreign currency, through the private Exchange market:

- All the capital invested and all capital gains;
- All dividends declared each fiscal year, after payment of the Income Tax.

The lack of registration of FI at the Central Bank, does not affect in any way the validity of such investments. However, the investor will have difficulty to freely repatriate its funds abroad, since without the Certificate, he will not be able to go to commercial banks for buying the foreign currency needed to remit abroad the dividends.

INVESTMENT PROMOTION (CEI-RD)

The Export and Investment Center (CEI-RD) is the established organization set forth to promote the investment in the country and to develop the export sector. Its objective is to encourage the export offer and to attract foreign capitals and national investment through the strengthening of the general export climate and to increase competitiveness, to improve the balance of payments and contribute to the sustainable development of the nation.

It offers free services to the investors in the following areas:

- Specific information by sector,
- Drafting specialized opinions for investors,
- Co-ordination of legal forums,
- Receiving complaints,
- Following specific cases,
- Intermediation in the event of conflict between the investors and public administration and
- Consultations on the national tax system.

BILATERAL AGREEMENTS FOR PROMOTION AND PROTECTION OF INVESTMENT

The authorities have accelerated the process of negotiation of bilateral agreement and promotion and protection of investment with different nations in terms of direct foreign investment (IED) and on the basis of reciprocity, are designed to promote and protect the investment and promote economic development.

4 MONEY LAUNDERING

Amongst these agreements are the ones signed with Spain, Ecuador, France, China, Argentina, Chile, CARICOM and Central America and DR-CAFTA. Some others are under negotiation.

On 10 June 2002 the law 72-02 on Money Laundering originating from the Illicit Drug and Controlled Substances Traffic. This legislation, together with its regulation No. 20-03 dated 14 January 2003 has as main objective to define the behavior that characterizes the money laundering originating in several delinquent activities, as well as setting forth preventive measures and criminal sanctions. In this respect, the law aims to establish the mechanisms and necessary instruments to prevent and discover money laundering, to order the retention of such individuals and the administrative sanctions deriving from its breach. The money laundering legislation foresees the international cooperation in this subject.

For the purposes of Law 72-02 incurs in money laundering those individuals that, under the knowledge that the goods, funds and instruments are the result of a serious offence, undertakes any of the following actions:

- Converts, transfer, transport, buys, possess, holds, use or manages such properties;
- hides, covers or prevents the real determination, the nature and the movement of the rights related to such goods and
- Associate, assist, facilitate or counsels in the above mentioned offences.

The individuals incurring in the above described activities shall be sentenced to incarceration and fines. The funds or goods seized shall be transferred to the Office for Custody and Administration of Seized Goods. For the case of such goods that may deteriorate or request a permanent action for its conservation, those should be placed in auction and the amounts obtained shall be placed as Time Deposit at Banco De Reservas, until a judgment intervenes.

In case of breach of the present regulation, the court shall order that the goods, products or instruments related to the offence shall be seized from any other equivalent value, or shall order the payment of a fine for such value. In case of seized goods coming from illicit traffic the National Committee against Money Laundering shall distribute it as follows: 1.5% for institutions devoted to regeneration of drug addicts; 2.50% for the National Directorate for Drug Control and 3.5% for the National Council on Drugs. To prevent and educate against the drug use:

The individuals are obliged to comply amongst others, with the following obligations:

1. Identify their clients,
2. communicate within the first fifteen days of each month the Unit of Financial Analysis all the cash transactions made during the previous month that are over US\$10,000,
3. To keep for a period of 10 days the documents that prove the operations and the identity of the persons that have made is, or that had business relations with the entity;
4. To maintain the confidentiality and
5. To establish procedures to prevent and avoid the realization of assets laundering.

5 RISK PREVENTION OF FINANCIAL ENTITIES

The Law 92-04 was published on 4 February 2004 for Risk Prevention of the Financial Intermediate Entities, which aimed to strengthen the monetary and financial administration and monitor the compliance of the liquidity, solvency and administration requirements of the financial intermediate entities. Its objective is to protect the depositors and to avoid the systemic risk.

In order to implement the Program, the Central Bank created the Bank Consolidation fund, which will be exclusively used for the cases in which an entity of financial intermediation faces solvency, cash flow, or viability problems or any inconvenience deriving from the non compliance of its shareholders with the capitalization goals. This program shall be implemented in the case of Superior Solvency marker over the Minimum, in cases of Solvency Coefficient under the Minimum regulatory and non viable financial institution.

The law exclude from participating in the Dominican system to those who would have had high ranking responsibility positions in those entities in the tow months prior to the institution is incorporated to the program.

As a complement, on 31st December 2004, the Monetary Board approved the "Rules for Assessment of Assets in order to set forth the methodology to be followed by the finance intermediation entities in order to assess and penalize the risks of assets and contingencies. Its norms are applicable to every finance intermediate entity.

INTERNATIONAL TRADE

International trade plays a key role in the Dominican Economy. Imported components overtake 60% of the value of the consumed goods in the local market and the exports have grown in the last few years. This situation has been backed up by the importance of the Free Trade zones, the preference rights that this nation enjoys in order to export to the United States and the European Union, as well as the integration process followed by the Dominican Republic.

1 IMPORTS

The country imports products from all over the world, but about 40% comes from the United States. The majority of imports of free trade zones are material to be assembled, originating from the United States, China, South Korea, Taiwan, Puerto Rico and Italy.

The Customs Code supported by law 14-93 of 28 August 1993 adapted the custom taxes, adopting the Reconciled Coding and Designation System used internationally. This simplified the calculation and recovery process.

In order to adjust to GATT requirements, law 146-00 of 27 December 2000 was enacted. This regulation introduced a customs reform that set forth new rates. Additionally, the exemptions for strategic sectors of the economy were kept and reinforced. This Customs rectification contributes to the strengthening of the national industry's competitiveness.

On the other hand, Article VII of GATT was approved on July 2001, as a method of assessment of goods. The WTO authorized the Dominican Republic to waive provisionally 24 items subject to the GATT valuation method.

Custom taxes are calculated and charged in Dominican Pesos. The conversion to pesos is made according to the current official exchange rate at the moment of payment. Besides the customs taxes, the importer must pay the following:

1. Selective Tax charged to certain goods, which ranges from 10% to 80%, calculated on the CIF price of the goods plus custom duties, and;
2. The Transfer Tax on Industrialized Goods and Services (ITBIS). Besides the free trade zones, the waivers and exemptions are clearly defined and identified.

2 EXPORTS

The preferential rates that the Dominican Republic enjoys to access the United States and European markets, as well as the progress of the commercial liberalization in the country with its neighbors from Latin America and the Caribbean, makes this a sector with wide development perspectives, especially when new legal provisions have been adopted in order to increase the sector's competitiveness.

According to the CIECA report, Dominican exports to the United States during 2003 represented 45.5% of the total country's exports, which reached 473 million pesos. The export rhythm to the United States during the last five years have had an increasing rate of 6.2%.

An analysis of the trade flows between United States and the Dominican Republic shows that Florida is the State that has the highest import rate from Dominican products, despite the fact that New York has the highest number of Dominican immigrants. For Miami Port, the Dominican Republic represents the highest source of imports from the Caribbean Basin, representing 21% of its imports. This indicates that New York can be a very fertile market for most of the product that are being exported to the United States.

The Dominican Republic Export a vast diversity of finished and semi-finished goods. A good part of its exports is originated in free trade zones, which includes garments, shoes, electric components, jewelry and medicines. The traditional exports include sugar, coffee, cocoa and tobacco. The country also exports minerals, such as gold aluminum, silver and copper.

The main destinations of Dominican Exports are the United States, Puerto Rico, United Kingdom, Netherlands, Canada, Haiti, Belgium, Luxemburg and South Korea.

The documents required to export are the following: 1. Export Form, 2. Bill of Lading or Airway Bill, 3. Certificate of Origin, and 4. Sanitary Certificate. Additionally, in any cases there are local procedures for some products that have been regulated by public institutions or if the country of destination requires.

On August 6, 1999. Law 84-99 was enacted for the Reactivation and Promotion of Exports, in order to eliminate the charges resulting from the payment of customs duties for materials incorporated to the export products, which reduce the competitiveness of exports of the country and constitute a necessary measure within the process of liberalization of the Dominican economy. The Decree 213-00 of 2 may 2000 provided the regulations for application of Law 84-99 while the Decree 1108-01 of 2001 eliminated the obstacles for the implementation.

This new legislation provides the following benefits:

1. The repayment of customs duties paid by the raw material;
2. The simplified compensation of custom duties, and;
3. Temporary admission regime of foreign components without paying custom duties. However, exporters admitted by CEI-RD to this regime shall present a bond deposit that guarantees the payment of custom duties in the event that the imported goods remain in the country permanently.

3

PREFERENTIAL MARKET ACCESS TO THE UNITED STATES

The preferential market access rights, granted to Dominican exports in order to access the United States market, has been an important factor in the development of the sector and is the best tool to contribute to the growth of the Dominican Textile Industry, and particularly, to the free trade zones network, under which system is organized the majority of local textile companies.

Main Regulations:

- Trade Act 1974 established the Generalized System of Preference (GSP), which grants several countries the preference access rights for a wide range of manufactured and semi-manufactured products that may enter the United States.
- In 1983 the Caribbean Basin Recovery Act (CBRA) also known as the Caribbean Basin Initiative allowed the nations of the region to benefit from a wider preferential regime than the one established by GSP. Since then, almost all the export products of the area are exempted of import tariffs when entering the United States market.
- The countries of the Caribbean Basin benefit from customs duties reduction established in Tariff 807 of the Harmonized Tariff Schedule of the United States. Under this regulation apparel assembled in a CBI country from components manufactured in the United States pay import taxes, only over the value added abroad. Under 807A program, the assembled apparel in CBI countries made of cut and formed textiles in the United States have guaranteed access to this nation's market (GAL).
- Another quota provision known as 809 guaranteed the entry to the US market of the garments made of US textiles, which were cut and assembled in a CBI country which has signed a bilateral agreement with the United States.
- The Caribbean Basin Trade Partnership Agreement (CBTPA) passed by the United States Congress on 24 January 2000 enlarged the benefits to CBI countries, by implementing the textile parity in their favor. By virtue of this amendment, prior complying with certain requirements, all of these textile products, as well as those made with United States material, shall be totally exempted of the customs taxes and may enter freely to United States market.

On 2 October 2000 the President of the United States issued a proclamation in order to implement the CBTPA, thus amending the HTSUS, to which a sub chapter XX was added. This Chapter rules the eligible products for the Special Tariff Treatment under the Trade Parity Agreement between the United States and the Caribbean Basin. Textile products that do not comply with rules of origin set forth by the parity law may still enter US market under programs 807, 807A and 809.

4

LAW ON TEXTILE PARITY

For many years and thanks to the special preference tariff treatment set forth by the United States in favor of the Caribbean region, textile exports towards US market showed continuous growth rates. In 1994 this situation changed drastically, with the implementation of North American Free Trade Agreement (NAFTA) which grants commercial benefits to Mexico larger than the ones granted by CBI.

The Dominican Republic was one of the most affected countries with the enforcement of NAFTA. In 1993 the Dominican Republic showed a growth rate of more than 20%

per year. After the implementation of NAFTA, and because of the reduction of its textile exports it was reduced to 1.3%.

The objective of the parity law is to grant the countries of the region the parity with Mexico, allowing such nations to benefit from a similar tariff treatment than the one granted to Mexico by NAFTA, as regards to textile and other products, in order to recover the competitive position that these countries had. The benefits granted to CBI countries under CBTPA have a unilateral character, however this is not unconditional.

This special concession is limited to a range of products and is extended for eight years: from 1st October 2000 to 30 September 2008 or until ALCA or a similar free trade agreement between United States and each beneficiary country is implemented. The products shall comply with the rules of origin set forth in Chapter IV of NAFTA, according to which, in general, the textile products must be obtained in a CBI country and imported directly to the United States.

5

LOME/COTONU AGREEMENT

The Lome Convention was a non-reciprocal cooperation agreement signed between the European Union member states (EU) and a group of African, Caribbean and Pacific nations (ACP) in order to promote and accelerate the social, cultural and economical development of those ACP countries, as well as to consolidate and diversify mutual relations. It set forth a preferential trade system in favor of the ACP countries and financial, technical and emergency aid.

On 23 June 2000 the Cotonou Agreement between EU and ACP countries was signed. It acted as the continuity of the Lome Agreement. The National Congress ratified it in July 2001. It was signed for 20 years but it has a revision provision every five years and a financial protocol for each five years period.

The Cotonou Agreement is based on five interdependent pillars:

1. A global political dimension;
2. Participation of civil society and the economic and social actors;
3. More emphasis in poverty reduction;
4. A new trade and economic cooperation framework, and;
5. A reform of financial cooperation.

ACP and EU group are based in blocks, and therefore ACP countries has divided in 6 regional groups in order to prepare the negotiation position:

- 1) Central Africa;
- 2) Occidental Africa,
- 3) East Africa,
- 4) South Africa,
- 5) Caribbean,
- 6) Pacific.

In principle, all goods coming from ACP countries are exempted from customs duties and quantitative restrictions while entering the European Union. The limitations to this rule result of the restrictions derived from the Common Agriculture Policy of the European Union and the quotas set forth to ACP countries for certain products.

6 REGIONAL ALLIANCES

The country's exports to EU have increased under this system. The most important exports are tobacco, textiles, bananas, pineapples, coffee, rum, electronic alarms and oranges.

The Dominican Republic is making constant efforts to accelerate the commercial integration of the Latin American and Caribbean Countries and has become one of the main promoters of this process. Among this context, the Executive Power created in February 1997, the National Committee for Trade Negotiations in order to procure the signature of trade agreements on the most successful and beneficial manner for the Dominican Republic. This Commission forms the negotiating team that has been developing the negotiating process with the nations of the region.

The Dominican position has been oriented towards a decisive approach to the closest geographical region, proposing the forming of a strategic alliance with Central American and CARICOM. This will allow to enlarge the market and the export capacity of these countries and negotiate with the large blocks of the hemisphere.

The country has already signed a Free Trade Agreement with Central America, a similar agreement with CARICOM and a Trade Agreement with Panama. With CARICOM it shares the ACP countries forum and CARIFORUM and as a member of the Cotonou Agreement.

Central America, CARICOM, the Dominican Republic and various other nations form part of the Caribbean Estates Association (AEC).

All these movements must be framed within the World Trade Organization's regulations of which the Dominican Republic is a member having signed the Marrakech agreement in 1994.

- **CARICOM FREE TRADE AGREEMENT.** The Caribbean Community or CARICOM provides for political cooperation, as well as the creation of a common market between the English Speaking Countries of the Region.

The Dominican Republic is part of CARICOM since August 22, 1998. This agreement was ratified by the National Congress in January 2000. It liberalizes over 85% of trade between both markets, for an estimate of 47 million of consumers. Moreover, it seeks to Promote the active participation of the private sector and to strengthen and broaden the economic relations between both parties.

- **CENTRAL AMERICAN FREE TRADE AGREEMENT.** On 16 April 1998 a Free Trade Agreement between Central America and the Dominican Republic was signed. The signing countries were members of the Central American Economic Integration System, formed by Costa Rica, El Salvador, Honduras, Nicaragua and Guatemala. It was ratified in March 2002.

This treaty contemplates trade of good and services as equal treatment of investment. It is consistent with the provisions set forth by WTO and with the creation process of FTAA. It grants reciprocal and immediate trade liberalization to all goods, except for a limited list of products. This agreement opens for the Dominican Republic a potential market of 30,000 million dollars and over 40 million consumers.

- **ASSOCIATION OF CARIBBEAN STATES.** The Association of Caribbean States was created in 1992 to implement the programs and to increase and consolidate the economic relations between members. Its members come from the three economic groups; CARICOM, Central America, The Group of Three (Colombia, Venezuela and Mexico), and four independent countries: Cuba, D.R., Haiti and Suriname.
- **TRADE AGREEMENT OF PARTIAL SCOPE WITH PANAMA.** On 6 February 2003 Panama and the Dominican Republic signed a trade agreement, with the following major points: 1. Regulations for application of the Commercial Treaty. 2. List of approved and included products in the Treaty. 3. Agreement for the reciprocal promotion and protection of investment. This treaty was enforced in November 2003.
- **FREE TRADE AGREEMENT WITH UNITED STATES, CENTRAL AMERICA AND THE DOMINICAN REPUBLIC (DR-CAFTA).** The Free Trade Agreement between the Dominican Republic, the United States and Central America is a great achievement for the country. The Dominican Republic will now be able to insert its products, good and services to the territory of its main commercial partner. It was enacted by the USA government on 1st March 2007.

In August 2002, the North American Congress granted authority to the President of the United States to establish a Free Trade Agreement with Central America. Although its incorporation to this process was rather belated, in March 2004 the Dominican Republic and the United States agreed to establish an adequate framework that recognizes the differences in the development level and in the size of the economies of the member countries.

Its objectives are the following:

1. To promote the conditions of loyal competition within the Free Trade Zone;
2. to increase the opportunities for investment in the member territories;
3. to protect and enforce in an proper and effective manner the Intellectual Property Rights;
4. to create efficient procedures to apply and enforce TLC, for its joint administration and the dispute resolution; and
5. To establish guidelines to bilateral, regional and multilateral cooperation.

This agreement is formed by the following chapters: 0. Preamble, 1. Preliminary provisions, 2. General Definitions, 3. National Treaty and Product Access to the Market. 4. Rules of Origin and Origin Procedure. 7. Technical Obstacles to Trade, 8. Trade Defense (Safeguard, anti-dumping), 9. Public Tendering, 10. Investment, 11. Trans-boundaries Service Trade, 12. Financial Services, 13. Telecommunications, 14. Electronic Commerce, 15. Intellectual Property Rights, 16. Labor, 17. Environment, 18. Transparency, 19. Administration of the Treaty and Training Trade Related Capacities, 20. Solving Disputes, 21. Exceptions, 22. Final Provisions and 23. Annexes.

Among the most important aspects of this Treaty, are the following:

1. The chapter devoted to the Access of Products to the Market defines the way in which the tariffs and not tariff tax wavers are going to be applied and sets forth the mechanisms for the quota protection and the safeguard mechanism.

The States capacity to regulate investment was safeguarded. Moreover, it was agreed that in principle, no patrimonial damage caused to an investor will be considered as expropriation. This chapter has two important annexes: a) The first one includes the reserves to discriminatory treatment established by the actual legislation and b) reserved the right to adopt new discriminatory measures or opposed to the general TLC provisions.

2. In the chapter regarding the Rules of Origin, there are minimum requirements for transforming that must comply with the materials to produce the final goods of a country.
3. A new system was established in the chapter of Government Purchases whereby public institutions are obliged to make open biddings for all the contracts covered by the agreement.
4. The chapter referring to Investment, there was a non discriminatory treatment for investment and investors of any of the parts regarding the nationals of that other part; but also, there will be a better treatment than any other party grants to other countries, and in the case of the United States, the best treatment given to any other Estate in the Union.
5. In the chapter referring to Services, which represents another important sector as our economy is based mainly in services there were some reserves in sectors such as distribution, maritime transport, air transport, duty free zones and audio and video.
 - There was also an annex agreed on Professional Services, which aims to promote the recognition of professional services.
 - The document also indicates the commitments that the Dominican Republic undertook regarding Law 173. These were:
 - a. only applicable to relations with enterprises of the United States;
 - b. the commitment has no retroactive effect,
 - c. As of the application date of the Agreement, the parties may apply in their contracts Law 172 on common agreement, and
 - d. indemnities shall be established in consideration to each case, amongst others.

The Dominican Republic reserved the right to adopt more restrictive measures or non discriminatory in areas such as property delimitation in the border, acquisition of public enterprises, aviation, fishing, communication, governmental finances, social services and decisions regarding minorities.

6. Protection for invention rights (patents) for 20 years; - cause of expiration of a patent; preservation of the interpretative aspects achieved under WTO, partial application of the provisions related to non divulged information in the process of obtaining the permits of commercialization of the pharmaceutical products and agricultural chemicals amongst other achievements.
7. The guidelines that will be used in the event of a conflict were set forth creating a similar mechanism to WTO.

- **THE DOMINICAN REPUBLIC AND WTO.** The Dominican Republic is guided by the parameters adopted by the World Trade Organization (WTO) to establish the economic modernization process and trade integration on a global basis. The country is a signatory in Doha.

The adapting of the country to the rules set forth by OMC has implicated changes in every area of influence of the economic activity.

The WTO understands that from October 2002 the Dominican Republic has shown a development rhythm progressive and substantial. It outlines that the country is progressing considerably as it has commercial and investment levels very liberal and with a vast participation in the global commerce.

- **THE DOMINICAN REPUBLIC AND TAIWAN.** The Dominican Republic and Taiwan signed the letter of intent for a Free Trade Agreement, in order to promote trade and investment between both nations.

MAIN AREAS OF INVESTMENT

1 FREE ZONES

Free trade zones are an option that the Dominican Republic promotes with three main purposes:

1. Source of employment;
2. Generation of foreign currency, and;
3. Technology Transfer.

The Free Trade Zone system in the country is one of the most advanced worldwide. There are 54 industrial parks holding 539 companies. From the industrial parks in the Dominican Republic, 29 are private, 22 are state owned and 3 are mixed.

During 2003, 11 new companies were established in free zone areas. This growth was the result of the installation of new corporations that were attracted by the benefits of the Textile Parity Law enacted by the United States.

From the existing employments in free trade zones, 52.6% correspond to women and 47.4% to men: 84.7% are workers, 10% technical positions and 5.3% administrative staff. The industries generating more direct employment are: manufacturing and textile, tobacco and derivatives, electronics and pharmaceutical products.

47.8% of the free zone companies are owned by US investors, followed by Dominican investors, who own 33.90% and European and Asian investors, the rest. 93% of Dominican free zone products are exported to the United States and Puerto Rico, followed by European countries like France, Belgium, United Kingdom, Netherlands and Germany.

Due to the difficulties that the textile industry is currently facing, several compensatory measures have been taken.

The Dominican system of Trade Zones is highly attractive to investors, mainly because of the vast amount of advantages offered, such as:

1. Favorable legal regime that exempts companies from payment of import duties, income tax and other tax obligations;

2. Preferential access rights which waive Dominican exports from customs duties at entering the United States and European markets;
3. Possibility of obtaining financing from local or foreign institutions;
4. Facilities to repatriate the benefits in foreign currency;
5. Low cost labor;
6. Climate of political stability.

Duty free zones are governed by Law 8-90 dated 15 January 1990, which aims to promote the establishment of free zones and the growth of existing ones. This law created the National Free Zone Council, which is in charge of regulating and supervising the sector.

Law 28-01 of 2001 creates a special zone for border development. It declares of national interest the promotion and protection of companies under its provisions, with the objective of promoting the development of the Haitian border. It sets forth a preferential regime which grants access, subject to specific limitations, to special fiscal incentives.

The Cybernetic Park of Santo Domingo is a Joint Project of the Government and the private sector conceived to act as an industrial park for high technology corporations. The incentives offered are greater than the ones granted to those companies installed in industrial parks.

2

TOURISM

The Dominican Republic is currently the island of more tourist attraction in the Caribbean, and the most visited destination in the area, due to its climate, natural resources and accessibility, among other factors.

The main Tourism Law no. 541 was passed on 31st December 1969. However, the industry began its growth on the 70's guided mainly by government initiatives. From the 80's the tourist sector started to have private participation. Today tourism is one of the pillars of Dominican Economy.

As per the provisions of Law 84 of 26 December 1979, the tourism sector is regulated by the Ministry of Tourism, which in addition to the country's facilities, has several offices in different parts of the world.

The Dominican Tourist infrastructures belong 54.7% to local capital and 45.3% to foreign capital. The country has around 60,000 hotel rooms to host tourist that come mainly from Europe and North America.

In 2001, the Government enacted Law 158-01 on Promotion on Tourism Development in its continuing efforts to develop new tourist poles in the country and with the objective of granting incentives to tourist activity, but focusing on the areas that have not yet developed its potential.

3

AGRICULTURE

The Dominican Republic has traditionally being an agricultural country. Its territory is distributed as follows: 52% is mainly forest; 20% is appropriate for livestock; 26% for farming and 2% is to be preserved.

The country is the larger Caribbean exporter of agricultural products. The main products of the country are sugar, rice, beans, coffee, cocoa and tobacco. Since the end of the 80's other products were also exported in great amounts; such as fruits and

other vegetables. The items that have shown more growth in the last years were rice, cocoa, beans, potatoes, tobacco and coffee. The tobacco leaf has also experienced a growth, as well as the coffee beans, cocoa beans, and sugar cane; as the result of some measures taken by the Government.

The Dominican Republic has strongly penetrated in organic agriculture, which is a market with growing trends. The main organic products are dried coconuts, bananas, biodynamic bananas, pineapples, mangos, lemons, green coffee, aromatic herbs, raw coconut oil and cocoa.

Another area which experienced substantial growth was livestock, wood development and fisheries also, the production of chicken and eggs.

The government body in charge of this area of the economy is the Ministry of Agriculture (SEA) supported by other institutions.

4

MINING

Mining is an important activity in the Dominican Republic. The country has good reserves of gold, silver, nickel, marble, limestone and granite. The importance of these mineral resources of the country make mining one of the most interesting sectors for investment. At the moment, the government is undertaking several programs in order to promote foreign investment in this sector.

To this end, the Government formed the Corporate Mining Unit, with the objective to follow up and serve as an operational contributor to all the mining projects in which the Dominican Government takes part, and to ensure that private investment in the sector follow a clear, credible and guaranteed pattern.

The mining activities are ruled by law 146 of 1971. The supervising body is the General Directorate for Mining, a dependency of the Ministry of Industry and Commerce.

5

CONSTRUCTION

The construction activity has shown a renewed dynamism. In this process we have appreciated the involvement not only in the public but in the private sector. This can be easily reinforced by the analysis of the economy sectors of 2006. The participation in this sector in the GDP increased to 5.1% with a growth of 22.7% compared to the previous year.

Law 322 of 1981 sets forth certain requirements for the foreign companies willing to participate in the bidding process run by government and its dependencies. Foreign participation in a construction contract shall not exceed 50%, although it could be increased to 70% when the national participation cannot reach 30%. Moreover, in the event of complicated projects, foreign companies may request the government agency to classify the project outside the scope of Law 322, and therefore granting all the rights over the contract, with no need for additional participation.

6

ELECTRICITY

In 1997, Law 141-97 on Reform of Public Enterprises ordered the capitalization of Dominican Electricity Corporation. In 1998 the Superintendence of Electricity was created in order to regulate the sector and in 1999 the privatization of generation and distribution took place and was transferred to foreign investors.

In 2001 General Electricity Law 125-01 was enacted. This legislation regulates all the stages of production, transmission, distribution and commercialization of electricity,

as well as the functions of the competent bodies and reiterates the exclusive right of the State to regulate the power sector, recognizing the importance of the private sector in these activities, as an effort to promote the expansion of the sector and the efficiency in the service. The application regulations of this law were approved by Decree 555-02 of 19 July 2002.

This law also proposes that the transmission of electricity and hydroelectric generation shall remain on the hands of the public sector and the State activities shall be subject to the same rules as the private companies.

As a manner of assuring the stability of the service, the Dominican Government signed an agreement with the Government of Venezuela, aimed to ensure the fuel supply with the benefit of the financing of 25% of the invoice. This agreement is still in force.

Law 125-01 is the legal framework that regulates all the aspects related to this sector, involving areas such as the requirements to participate in this area, interconnection, price, penalties and infringement of the law. The public bodies whose main functions are to see the compliance of this law are the Superintendence of Electricity and National Energy Commission.

7

TELECOMMUNICATIONS

During the last years, telecommunications have been one of the most dynamic sectors of the Dominican Economy. As a result of this growth, it was necessary to request and obtain a new area code for the Dominican Republic. Therefore in addition to 809, the Dominican Republic has 829 as a second area code.

On 27 May 1998 the General Law on Telecommunications No. 153-98 was enacted. This legislation seeks to modernize the regulating measures of this sector, adapting it to the parameters established in the area by International Organizations, such as the World Trade Organization (WTO) and the International Telecommunications Union (ITU). It regulates the installation, maintenance, operation of network provision of services and equipment with the following objectives:

1. To guarantee the access to telecommunication services of all the population;
2. To promote free competition in the telecommunications market;
3. To promote the development of the sector with the view of increasing the economic growth of the country;
4. To adapt local laws to the international agreements signed by the country;
5. To regulate the radio electrical spectrum; and
- 6) To ensure that the regulatory functions of the State are carried out effectively and impartially.

Law 153-98 created the Dominican Institute on Telecommunications (INDOTEL), as the regulating body in this sector. INDOTEL started its operations in 1999 and since then, works actively in order to ensure the application of the law, as well as organizing and promoting the telecommunications market.

Law 153-98 enacts the principle of free service provision of telecommunications. Any company complying with the legal requirements has the right of requesting concessions to offer telecommunication services.

8 BANKING

One of the main objectives of Law 153-98 is to provide an adequate legal and technical framework for the regulation of the radio electrical spectrum in the Dominican Republic. INDOTEL started the clearing process of this spectrum and as of July 2004 the country has 43 television channels, 136 AM radio stations, 194 FM radio stations, and 20 short wave stations. Up to this date, the country has 60 concession holders for cable transmissions, 16 telephone services and 7 Internet service providers.

As a result of the good performance of the Dominican economy in the last few years, the banking system has been experiencing a very strong growth, characterized by the diversification and modernization of the services.

The Monetary and Financial Law 183-02 enacted on November 26, 2002, has the main objective of giving a better legal security to banking transactions, as well as to adapt it to the current systems. It redefines the organizational structure of regulatory and supervisory bodies of the financial system provides, of financial intermediation and universal banking, as well as the criteria of free market and liberalization.

Law 183-02 sets forth the multiple banking systems and eliminates the specialized institutions. The banking system would be formed only by the financial intermediates indicated as follows: Multiple Banking, Credit Entities, Associations of Savings and Loans and Cooperatives.

This legal provision liberalizes the banking services by giving an equal treatment to foreign corporations, setting the parameters to regulate its admission. Moreover, it authorizes the foreign banks with no domicile in this country to establish offices for representation in the national territory, according to the regulations in force.

The forming of intermediate financial entities is subject to the approval of the Monetary Board, prior opinion of the Superintendence of Banks.

In relation to the prudential norms the statutory provisions only take into consideration the modern international tendencies inspired in the basic principles of the Basel Capital Accord. The Law employs the concept of "Technical Patrimony" in order to construct the prudential regime, among which are the following:

1. The capital ratio shall not be lower than 10%, calculated by the relation between the technical patrimony and the risk assets;
2. It regulates the concentration of risks by prohibition of transactions entailing direct or indirect financing of more than 20% of regulatory capital to single risk person or group;
3. Credits granted to shareholders, managers and employees should not exceed the total amount of 50% of regulatory capital;
4. The total value of fixed assets belonging to the financial entity shall not exceed 100% of the regulatory capital;

Law 183-02 confirms the obligation to maintain liquid assets with the Central Bank under the system of reserve ratio, which is a specified percentage of deposits, pursuant to the relevant regulations of the Monetary Board.

This law creates a system of administrative and criminal sanctions that may be applied in the event of non-compliance with the legal provisions.

9 INSURANCE

Law 146-02 on Insurance and Bonds was passed on 11 September 2002. The main objective of this law is to regulate the insurance business in order to adapt it to international standards, providing a maximum level of protection to consumers, in the understanding that the insurance business is a significant economic activity that should be promoted.

The supervision of the legal regime and operations of insurance and reinsurance companies, intermediates and adjusters corresponds to the Superintendence of Insurance, a dependency of the Ministry of Finance.

In general, the insurance that covers risks in the Dominican Republic must be subscribed in the country, except when it involves insurance for surplus lines. The areas of insurance where insurers and reinsurers may operate are classified as: personal insurance, general insurance and fidelity insurance.

To operate as an insurer, reinsurer, intermediate or adjuster a minimum paid capital is required.

BUSINESS ORGANIZATIONS

The most common way of business association in the Dominican Republic is the limited liability company ("Compañía por Acciones"). The Commercial Code also provides for other types of business entities such as:

- Civil Partnership;
- Commercial Partnership;
- Limited Commercial Partnership;
- Limited Stock Partnership; and,
- Company of Participation.

1

The procedure for setting up a corporation is set forth by the Commercial Code, not only in the aspect related to shareholders but also in what refers to By-Laws, Shares and relevant matters.

INCORPORATION PROCESS

CAPITAL RULES

The rules on corporate financial structure are very flexible, and except for highly regulated industries, such as banking and insurance, there are no capitalization rules.

The Commercial Code regulates the issue of shares. There are three types:

1. Nominative Shares;
2. Order Shares; and,
3. Bearer Shares.

In any case, a certificate must be issued and may transfer their interest in the manner set forth for each type of share.

It is mandatory to fix the nominal value of the shares, which is usually fixed at RD\$100.00.

CORPORATE CONTROL

The control of the corporation may be achieved by various mechanisms. The most used are the quorum and voting requirements, stock transfer restrictions and the pre-emption rights.

ESTABLISHMENT OF BRANCHES-DESIGNATION OF AGENTS IN D.R.

The establishment of branches of foreign companies is made through the procedure of fixing legal domicile in the country. The complying with this requirement is not mandatory but recommended.

In some cases the law requires that the foreign company complies with the requirement of fixing domicile in the country in order to operate. For instance, for financial services in the local market, foreign banks must either incorporate a Dominican Company or open a branch in the country. From the tax point of view, foreign branches receive the same treatment as Dominican companies.

The foreign company willing to designate agents or licensees in the local market should mainly take into account the Law 173 of 1966 on Protection of Import Agents of Goods and Products and Law 16-95 on Foreign Investment, to protect the local agents from the unfair termination of their contracts by their foreign principals. The provisions of Law 173 are of public order and therefore are applied irrespectively of what has been agreed by the parties.

The Free Trade Agreement between the United States, Central America and the Dominican Republic assumed certain commitments for the application of Law 173, which only apply to the relations with the United States.

Law 16-95 extended the scope of application of Law 173 by eliminating Article 12, and established that all local agents, regardless of their nationality, may enjoy the rights granted by Law 173. Moreover it allows the registration at the Central Bank of technology transfer agreements. Such as know-how, franchises, technical assistance; that enables the license to pay abroad in foreign currency the royalties and commissions owed to the licensor.

The law also allows foreign companies that make «intangible» technological contributions, like trademark, designs, etc. to register such contributions as foreign investment, and thus receive freely in foreign currency the profits obtained in the Dominican territory.

COMMERCIAL REGISTRY

Law 3-02 of 18 January 2002 created the obligation to obtain a Commercial Registry for any physical and legal person carrying out commercial activities in the Dominican Republic, with the objective of contributing to the formalization of business activities and the exchange of commercial information.

The commercial registry is done within the deadlines set forth by the Chamber of Commerce and Production of the applicant's residence. The Chamber will issue a Certificate of Commercial Registry renewable every two years, and notice shall be given of any changes in the business or in the articles of incorporation. This registration makes it of public knowledge to third parties. The lack of registration entails a sanction.

BANKRUPTCY

The commercial Code sets forth in Part III (Article 437-614) a complicated procedure to regulate the business bankruptcy in the Dominican Republic.

LEGAL FRAMEWORK FOR BUSINESS ACTIVITIES

There are several provisions that regulate or affect the pursuance of business activities in the Dominican Republic. We will analyze the most important ones, such as the taxation, labor regulations, environmental laws, mechanism for protection of intellectual property rights, the applicable regulations for commercial transactions and electronic commerce.

1

TAX REGIME

On 31 may 1992, Law 11-92 was adopted, which contains the Tax Code of the Dominican Republic. In the last years, this law has been reformed in several occasions. The Internal Tax Revenue Office is responsible for the collection of taxes and the enforcement of fiscal laws.

The main taxes in the Dominican Republic are:

INDEPENDENT SERVICE PROVIDERS

During the first 10 working days of each month, the employers shall file and pay the taxes retained to their employees, as well as to the personnel rendering a service in an independent manner. Such payment will correspond to the taxes retained in the previous month. Payment is made by certified or cashier's check on the name of the Internal Revenue Collector.

INDUSTRIAL AND COMMERCIAL ACTIVITIES

On the first 15 days of each month the juridical persons and self owned businesses whose actual tax paying rate (defined as the one resulting from dividing the declared tax at the fiscal period by the gross income of the same fiscal period) were less or equal to 1.5%, will pay their corresponding advance tax payments on the basis of 12 equal monthly quotas, resulting of applying 1.5% to the gross income declared on the previous year. If the effective tax rate is over 1.5% they will pay monthly as an advance tax payment 1/12 of the tax paid in the previous year.

The advance 1.5% is not applicable to those individuals that develop commercial or industrial activities as long as their annual income coming from such activities is equal

or less than RD\$5,000,000. The payment shall be made by a certified or cashier's check issued on the name of the Internal Revenue Collector.

INCOME TAX TO SALARY EMPLOYEES

An income tax shall be assessed on any income received by workers in a relationship of dependency, by practicing of a liberal or independent profession, commercial activities and financial gains coming from abroad. The Tax Code sets up a retention table applicable to individuals, as follows:

- Annual Income up to RD\$ 316,017.00; Exempted.
- RD\$316,017.01 to RD\$ 474,024.00; 15% of the exceeding amount of RD\$316,017.01
- RD\$474,024.01 to RD\$ 658,367.00; RD\$23,701.00 plus 20% on the exceeding amount of RD\$474,024.01
- RD\$658, 367.01 and over RD\$60,570.00 plus 25% on the exceeding amount of RD\$ 658,367.01.

On 15 March of each year, tax payers shall file their income tax return on taxes paid and retained for the previous year, for salaries paid to their employees as well as independent personnel who rendered any work or service.

CORPORATE TAX RATE

As for 2007, the corporate tax rate is currently 25% on the taxable income for each fiscal year. Juridical persons are defined as the stock capital corporations, government entities in respect to their incomes of commercial nature and other entities, the non divisible heirs, partnerships, and civil partnerships, informal partnerships, and any other form of organization non expressly detailed which main objective is intended to obtain benefits, and that has not been declared expressly exempted in this tax.

FISCAL LOSSES

The losses suffered by Corporations in the practice of their business shall be deducted from the profits obtained in the subsequent economic periods, and shall not extend for more than 5 years. The loss can be deducted only up to 20% of the total amount and in the first three periods, at 20% for each one independently. (Is non cumulative). On the 4th and 5th fiscal period will only be deducted under certain conditions.

TAX ON THE TRANSFER OF MANUFACTURED GOODS AND SERVICES(ITBIS)

On the first 20 days of each month, all individual or corporations that transferred manufactured goods and services or that were importers of these goods, shall file and pay the Tax on Transfer and Industrialized Goods (ITBIS) with a certified or Cashier's Check payable to the name of the Internal Tax Revenue Office. A 10% surcharge shall

be applied in case of any delay or noncompliance in paying this tax during the first month, and 4% for each additional month and some other penalties.

REAL ESTATE PROPERTY TAX

A 1% tax all is assessed to real estate properties designed for residence or business and industrial activities, belonging to physical or natural persons, which value, including the land, exceeds RD\$5,000,000. This tax is annually adjusted by inflation.

The non built urban lots shall be levied with 1% tax irrespectively of their value, with no exemption. There will only be exempted those owners of real estate properties who are over 65 years old, as long as such house has not been transferred for the last 15 years, and it's the only real estate asset of that owner.

This tax shall be be paid in two quotas, one of 50% on March 11 of each year, and the balance on September 11 of this same year.

ASSETS TAX RELATED OBLIGATIONS

Assets Tax shall be applied to all assets in the general balance of the tax payer, not adjusted by inflation, after making the the deductions for depreciation, amortization, provision for unrecoverable credits, stock investment, the land located in rural areas, the Real Estate property destined to agricultural operations and the advanced tax.

ZERO RATE FOR EXPORTERS

A zero rate shall be assessed on any goods designed for exportation. Exporters shall be entitled to a deduction of the value of such tax as would have been assessed on the purchase of any goods designed for exportation. If any balance remained in favor or the exporter, such balance shall be reimbursed to the Internal Revenue Office. The same shall apply to any Selective Consumer Tax paid by exporters, provided both ITBIS and Selective Consumer Credits were reflected by said exporters in a recurrent manner during 6 months or more.

CAPITAL GAIN TAX

To determine the capital gain tax, it shall be deducted from the price of sale of the good, the cost of acquisition or production adjusted by inflation. The capital gain received by the tax payer is subject to income tax, which is 29% on the income obtained.

INTEREST PAID OR CREDITED ABROAD

Who ever pays or credit into an account interest of Dominican Source coming from loans obtained with financial institutions from abroad, shall retain and pay the Tax Administration as a sole and definitive tax, 10% of such interests.

DESIGNATION OF RETENTION AGENTS

Corporations and sole owner businesses shall act as retention agents whenever paying or crediting to account any considerations to other individuals or non divided estates, as well as to other non tax exempted entities, except corporations.

TAXES TO PAYMENTS MADE BY CHECKS AND TRANSFERS

There is a tax of RD\$ 1.50 for each RD\$ 1,000.00 on values paid through checks and transfers.

TAXES ON FORMING CORPORATIONS

The forming of corporations, partnerships, are subject to a 0.5% tax of the authorized stock capital, which in no case should be less than RD\$1,000.00. This tax is applicable also to the informal partnerships and shall be calculated on the bases of the stock capital agreed in the contract which originates the corporation. The capital increases shall pay the same rate, in addition to a 0.5% for taxes, there is a 1.30% on duties.

SELECTIVE TAX ON CONSUMPTION

This tax is levied on some goods produced locally, as well as to its importation, or rendering of services. The applicable rate is the following:

- a) 10% on communications;
- b) Fixed amounts per absolute liter of alcohol;
- c) Fixed amounts for cigarette packs.

This tax is mandatory for those persons, corporations or enterprises, national or foreign, that produce these goods and are in the last phase of the process, even if their intervention is done through services rendered by third parties; the importers of goods levied by this tax, directly or by third parties.

This tax shall be paid on the 20 working days of the month following the period declared. The importers shall pay this tax together with tariff or custom taxes.

Insurances are levied with this tax at a 16% rate, being exempted of this tax those insurances set forth by virtue of Law 87-01. The electric appliances are also levied with a Selective Consumption tax between 20% and 10% respectively.

TAX VOUCHERS

As of 1st January 2007, all physical and juridical persons with domicile in the Dominican Republic who make operations of transfer of goods, deliveries, or voluntary services, shall issue the following tax receipts:

- Invoices generating tax credit and or support expenditures and costs;
- Invoices to Final Consumers (With no Tax Credit Value);
- Debit Notes; and,
- Credit Notes.

In order to avoid inconveniences in the economic activities, the Tax Administration may allow the authorization of special tax vouchers such as registration for informal suppliers and registration for minor expenditures.

Every tax voucher may have an authorization number for its issuance, which shall be given by the General Tax Office (DGII). This number shall always be printed in the vouchers as well as the kind of tax voucher. For example: " Valid for Tax Credit" or : Valid for Final Consumer:

INFORMATION REPORT ON TAX VOUCHERS

Every tax payer filing monthly ITBIS declarations, shall report their operations on expenditures and fees in order to claim for income tax credits. It shall be presented on the 15th day of every month.

NOTICE BY DGII

The notices by the Tax Administration are done by personal delivery, telegram, certified correspondence with acknowledgement, electronic mail, fax or any other electronic mean of communication established by the Administration.

TAX PAYER'S DUTIES

The Tax payers are obliged to comply with the formal duties set forth by the Tax code, such as:

- a) To register at the National Tax Registration;
- b) To inform any change of domicile, commercial name, telephone, activity or any other change that affects the tax responsibility;
- c) To keep the registries and mandatory account books;
- d) To present Tax Declarations corresponding to the documents and information required and give any clarification if required;
- e) To visit the Tax offices when required;
- f) To have the information available for inspectors and tax auditors;
- g) To inform of the sale, or any other in a 60 days period, in order to obtain authorization from DGII;
- h) To keep hard paper copies, as well as electronic files of the accounting records, such as receipts, invoices, checks and others, for 10 years.

TAX PAYER'S RIGHTS

The main rights are:

- a) Right to extension;
- b) Right to payment facilities;
- c) Right to Waiver of Advances;
- d) Right to Compensation;
- e) Right to Information on Acting;
- f) Right to confidentiality;
- g) Right to file different Administrative and Judicial Motions; and,
- h) Right to Reimbursement.

2 LABOR LAWS

The relations between companies and their employees are governed by the Labor Code, contained in Law 16-92 of 17 June 1992. The Ministry of Labor monitors the enforcement of such provisions and the Labor Courts have jurisdiction over labor disputes.

QUOTA OF DOMINICAN EMPLOYEES

At least 80% of the workers of a corporation must be Dominican citizens. Managers and other employees that have supervising functions shall be preferably Dominicans but there are no restrictions at the management level.

WORKING PERIODS

The regular working week is 44 hours, with a normal day of eight hours. The common practice is to work 40 hours from Monday to Friday and in some companies the remaining 4 hours on Saturday. The working hours for part time employees can not exceed 29 hours.

PAID LEAVES OF ABSENCE

The law grants five days in case of marriage, three days in the event of death of a close family member, and 2 days for the worker whose wife has given birth.

VACATION

All workers who have been working for a continuous year are entitled to a paid vacation of 14 working days.

SEXUAL HARASSMENT

The law prohibits employers or their representatives to commit actions that may be considered as sexual harassment against an employee.

MATERNITY PROTECTION

The employer cannot terminate without just cause the working contract of a female employee during her pregnancy or during the three first months after birth. Moreover, in order to dismiss her on the grounds of cause, the employer shall previously obtain the authorization from the Ministry of Labor. Women have the right to ask for their vacations immediately after their prior and post natal leave and to request during the next year half a day leave per month, in order to attend pediatric visits.

WAGES

Dominican labor laws set forth a minimum wage for private sector employees, which is periodically fixed by the National Salary's Committee. According to Resolution 5-2004 of this institution, the minimum monthly salary for private sector companies is RD\$6,400.00, for those corporations which assets are over RD\$4MM. For those entities between RD\$2MM and RD\$4MM, it should be of RD\$4,400.00. Finally, the minimum monthly salary will be RD\$3,900.00 for those corporations with assets under RD\$2MM. There are special minimum wages for some sectors.

OVERTIME, NIGHT SHIFT AND HOLIDAY WORK

In these cases, the employer shall pay 35% above the basic salary for over time, 15% for night work and 100% for overtime over 68 hours a week, as well as for Sundays and holiday work.

FRINGE BENEFITS

The fringe benefits approved by law are: Christmas Salaries, participation in company profits and payment of vacations.

TERMINATION OF EMPLOYMENT

During the first 3 months of employment, employees can be dismissed without the employer having to make any severance payments. Afterward, employees can be dismissed in accordance with the provisions of the Labor Code.

Also, in the event of unjustified dismissal, the employees are entitled to severance payment, based on different aspects of the Code.

SOCIAL SECURITY OBLIGATIONS

On 10 May 2001 Law 87-01 on Social Security was enacted. This provision modifies completely the social security system in the country. Its main objective is to give full mandatory coverage against elderly risks, disability, advanced age, surviving, illness, and maternity, infancy and labor risks. The Law sets forth a transit period of 10 years for the progressive enforcement of the security system.

Law 87-01 creates the Dominican System for Social Security (SDSS) formed by a complex framework state of government agencies, mixed and privates, such as the National Council for Social Security (the body which sets up the policies), the Social Security Treasury (to collect contributions, distribute and pay financial resources) Superintendence of Pensions, Superintendence of Health and Labor Risks, National Health Services, Pension Fund Administrators, Health Risk Administrators, Health Service Providers, etc.

Under the contributive regime, coverage is provided as follows:

- a. Insurance of Aging, disability and survival (Pensions);
- b. Health Insurance (for employee and family); and,
- c. Labor Risks Insurance.

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ENVIRONMENTAL PROTECTION

Law 64-00 on Environment and Natural Resources was enacted on 18 August 2000. Moreover, there are special laws in areas of tourism, electricity, telecommunications and others, which cover some environmental aspects. The main objective of the law is to propose regulations for protection, improvement and restoring of the environment and the natural resources, through sustainable development.

Law 64-00 recognizes the importance of protection, preservation and sustained use of natural resources for the well being of human race. It transforms into an essential duty of the State the effective protection of the environment, adopting an integral policy to be executed, together with the participation of all the institutions related with natural resources and society. It also recognizes the principle of precaution.

The Law regulates soil, water and air pollution, as well as dangerous products, elements and substances, domestic and municipal waste, human settlement and sound contamination. It regulates the concession of rights for the use of natural resources.

The administration of the environment and natural resources is under the jurisdiction of the Ministry of Environment and Natural Resources. Its main attributions are to elaborate, execute and supervise the application of national environment policies and natural resources, and to ensure the preservation, protection and sustainable use of the natural resources, the improvement of the norms on soil pollution, air, water, adequate exploration and exploitation mining resources, the preservation of the sea border resources and implementation of general rules for humans settlements and industries.

Law 64-00 has a predominantly technical and scientific character. Therefore, the basic instruments for the implementation of environment policies are the studies of

4 PROTECTION OF THE INTELLECTUAL PROPERTY RIGHT

environmental impact evaluation and environmental reports. In this respect, any industrial activity undertaken in this country, shall be certified by an environmental license and several permits. There are sanctions for the companies that do not comply with the law and the Dominican Republic is signatory of a series of Conventions, Agreements and Protocols.

The comprehensive reform of the intellectual property protection in the Dominican Republic, undertaken in 2000, has been a great achievement towards the modernization process of the business legal framework in the country, and a significant step towards the process of complying with WTO obligations. Currently, and due to the implementation of DR-CAFTA, the Copyrights Law and Industrial Property Law have been amended in order to comply with this agreement.

Law 20-00 of 8 May 2000 on Industrial Property has as its main purpose to provide a legal framework that contributes to the transfer of technology in benefit of the producers and users of technical know-how, and to effectively protect the industrial property rights, obtaining a balance with the rights and obligations of the holders of industrial property rights to promote social, economic and technical development of the country. Decree 599-01 sets forth the Regulations for enforcement of Law 20-00.

The Government body in charge of granting patents and registering the industrial property rights is the National Office of Industrial Property (Oficina Nacional de Propiedad Industrial, ONAPI)

Civil and criminal sanctions may be applicable in case of violations to the industrial property rights and include compensation, as well as fines and or prison.

PATENTS

Patents may be obtained to protect inventions, utility models and industrial designs. The invention is defined as any idea or creation of the human intellect, whether related to products or processes, capable of being applied to industry.

It should be a novelty, being unknown in respect to the technique. Moreover, the invention shall have an inventive character.

Non patentable subject matters include:

1. Discoveries already existing in nature, scientific theories and mathematics methods;
2. Solely aesthetic creations;
3. Presentations Information;
4. Computer programs;
5. Therapy methods, surgical or diagnostic methods for human or animal treatment;
6. Living and existing substances in nature;
7. New uses of patented products or processes; and
8. Plans, principles, or economic methods for business.

Those inventions which are contrary to the moral and public order cannot be patented, or those who are evidently dangerous to health, human life or environment. Neither could be those plants or animals nor the biological process for the production thereof.

In this respect, only non-biological or microbiologic process may be patented, while vegetable inventions will be regulated by special legislation.

Patent applications shall be addressed to the National office of Industrial Property.

The Law grants the National Office for Industrial Property the faculty to decide on the requests, following the procedure set forth thereon. Patents are granted for 20 years.

There is also compensation on the validity of the patents, which could be extended once, to a maximum of three years, in the cases that ONAPI has incurred in a reasonable delay in granting the registration of a patent according to the deadlines set by CAFTA.

Law 20-00 proposes a reduction up to 20% in the application requests rates, when the inventor has requested or is beneficiary of a patent, and its economical situation, duly confirmed by ONAPI does not allow to cover all the costs required for the application or maintenance of the patent.

TRADEMARKS

Law 20-00 protects all types of trademarks including collective and certification marks, defining them in a wide manner. The registration grants the exclusive right on its use. The prior use (over six months) determines the priority for the registration. There are also certain priority rights recognized for the marks abroad. The new trademark is registered on the first person requesting its registration.

Among the distinctive rights that can be registered are some prohibitions related to the sign itself, such as:

- Signs that can be used in commerce to describe the product;
- Generic or scientific denominations of the product, colors etc.;
- Signs that are contrary to moral and public order;
- Signs that offend persons, religions, countries and others;
- Signs that may confuse or mislead the public in respect of the nature of the product, etc.

Other prohibitions are related to existing rights, including:

- Similar signs to registered (already in use) trademarks for similar or related products, or similar to registered labels, commercial names or symbols;
- Signs that copy, imitate or translate notorious signs when this can cause confusion;
- Signs affecting the personality rights of third persons, or the name, image or companies' or organization's reputation;
- Signs that violate existing intellectual property rights, etc.

The National Office for industrial property receives and studies all the applications according to the procedure thereof. The registration grants the exclusive use over the trademark and authorizes its holder to object to any use of the registered trademark, except in the case of commercial usual indications. The registration is granted for 20 years renewable for consecutive periods of 10 years. The renewal requests shall include the evidence of the use of the trademark.

TRADE NAMES

Law 20-00 protects the distinctive signs such as trade names, labels, symbols, slogans, denominations of origin, etc. The right to the exclusive use of a commercial name comes from its first commercial use. The protection is granted even when there is no registration and it concludes with the abandonment of the name. Only in the case of commercial slogans, the right for exclusive use arises from registrations.

Tradenames cannot be formed of indications or signs contrary to the moral or public order or that may create confusion in the public as regards to nature, activities or any other aspect related to the company or associated thereon, or to its products or services.

The registration is not mandatory, and provides for a presumption that its holder has legitimately adopted and used the name. The registration procedure is similar to the one for trademarks. Is granted for renewable periods of 10 years, except for the denominations of origin, which is indefinite.

Costs and related procedures have been set by ONAPI as provided by Law 20-00.

COPYRIGHT

The Dominican Constitution establishes as a basic human right the recognition and protection of ownership rights over scientific, artistic and literary works. On 21 August 2000 a new Law 65-00 on Copyright was passed. Its main objective is to provide a legal and institutional framework according to the TRIPS provisions. While taking into account the best national interest.

The National Office for Copyrights (ONDA) is the entity authorized to take measures to ensure the protection of the copyrights in the country.

Furthermore, the country has ratified the following international treaties in this area:

- Bern Convention on Protection of Literary and Artistic Works of 1886;
- Universal Convention on Copyright, 1952;
- Rome Convention on Protection of Performers, Phonograms Producers and Radio Broadcasting, 1961;
- WIPO Copyright Treaty and Wipo Performance and Phonogram Treaty, 1996.

Law 65-00 protects any original intellectual creation whether literary, artistic or scientific that may be fixed, transmitted, or copied by any existing or future method of printing, reproduction or divulgation. Additionally, it protects the independent creations derived from original works, such as the ones resulting from adapting, translating or transforming the original work.

Authors are the original holders of the intellectual property rights over their creations. Any rights granted thereafter to third parties by virtue of law or contracts, have a derivative nature. They have moral and economic rights over their works. The moral rights allow:

- To receive credits for their creations;
- To object to changes that may affect the merit of their creations;

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COMMERCIAL TRANSACTIONS

- To keep their creation non published; and,
- To take their creation out of circulation, and compensate for damages.

Moral rights are inherent to the author. Upon death they are transferred to legal heirs or to the State, in the absence of legal heirs.

ACQUISITION OF REAL ESTATE PROPERTY

The acquisition of real estate property or real estate rights by foreigners is not subject to any special condition different from the nationals: the same regime applies for both.

Before purchasing a real estate property it is convenient to verify directly its situation at the Titles Registry Offices and even obtaining a written confirmation of the result of those investigations. This is usually achieved through the request of a certification from the Title Registrar. This system protects the buyer from the claim of any previous sale or lien that has not been registered when the buyer deposits its sale contract for registration purposes.

The prompt registration of a sale is very important. In order to have it, the buyer shall deposit at the Title Registrar one original of the sales-purchase agreement legalized by a Public Notary, together with the Certificate of Title in the name of the seller, which shall be cancelled and replaced for a new one on behalf of the buyer.

The property transfer at the Title Registrar's offices requires payment of some taxes.

Another aspect to consider is Law 18-88 dated 5 February 1988 on Luxurious Property Tax and non Urban Lots, amended by Law 288-04 of Tax Reform. This levies the real estate property over five million pesos with an annual tax rate of 1% of the exceeding value of this amount.

The granting of mortgages and liens is regulated by the Civil Code, The Commercial Code, the Land Registry Law and other Special Regulations.

MORTGAGES

In general, any kind of real property right may be mortgaged. Mortgages on future real estate properties are not valid, but creditors' interests are extended to improvements made to the property after the mortgage is granted.

The secured obligation must be valid and its nullity would also invalidate the mortgage. It may, however, be conditional or eventual, in which case the mortgage will also be.

Mortgages must be registered at the Office of Registry of Titles of the real property's location. This is done by filing the mortgage agreement and the certificate of title covering the property. The registration date is the date of filing, although the issuance of the certificate occurs weeks later.

The proper taxes must be paid at the moment of registration:

LIENS

The liens on personal property may be possessory and non possessory, depending on whether the debtor keeps the goods in his possession or not.

For non possessory liens certain registration mechanisms are available in order to protect the creditor's right in the event of a transfer or additional lien by the debtor. Law 6186 of 1966 regulates the non possessory liens on consumer goods, equipment, inventories and agricultural products. Law 483 on Conditional Sales is another law that regulates it.

The lien may also cover non tangible goods, such as shares, credits, bank accounts, contracts, etc., in which case the debtor of the obligation handed over as lien shall be served. Furthermore, the lien may be an "accessory transfer" in which case, the debtor assigns a non tangible right in favor of the creditor as a second payment. This formula is usually used in the accounts to be recovered.

ELECTRONIC COMMERCE

On 4 September 2002 Law 126-02 was approved on Electronic Commerce, Digital documents and signatures. The regulation for the application was approved by decree 335-03 of 8 April 2003. This legislation intends to adapt the country's legal framework to the new world scenario and to enable the country to benefit from the wide advantages of new digital technologies for the promotion of economic activity and undertaking the commercial transactions in a global area. More specifically, its objectives are the following:

- To promote easier electronic commerce within and among nations;
- To validate the transactions between parties made by using new information technologies; and,
- To promote and support technological developments initiatives linked to the electronic commerce and to use and spread its usage in the population.

Law 126-02 is based on the model laws drafted by the United Nations Commission on International Trade Law (UNCITRAL) and regulates the notions of original, preservation, data messages and digital documents in order to provide them with legal force. The application regulations specifies the conditions for the use of digital signature, making the difference of the electronic signature, and setting up the requirements for the establishment of certification entities.

INDOTEL is the regulating body which controls the activities undertaken by the certification units and controls the activities developed by the certification authorities.

LEGAL FRAMEWORK FOR FOREIGN PERSONS

1 ENTRY AND RESIDENCE

The foreign investor whose business or activities requires him to visit the Dominican Republic or move his residence, shall find in this chapter information regarding the main laws and provisions regulating his entry and stay in the country, as well as his family and civil life.

ENTRY REQUIREMENTS

In general, foreigners need a Dominican visa in order to enter the country. Visas are classified as Diplomatic, Official, Courtesy, Business, Dependants, Tourism, Residence and Student. The Foreign Service of the Dominican Republic issues these visas abroad or by the Ministry of Foreign Affairs.

Citizens of countries that have signed an agreement with the D.R. for the exoneration of visa requirements may enter the country for a period of 60 days, upon the purchase of a "tourist card" at the arrival port for US\$20.00. It is advisable to confirm entry visa requirements with the closest consular representation of the country before traveling to the D.R.

OBTAINING DOMINICAN RESIDENCE

Foreigners may acquire the right to reside in the country through:

- Obtaining a Residence Visa at the Dominican Consulates abroad, and
- Obtaining a provisional and then permanent Residence Card from the General Immigration Office.

RESIDENCE VISA

The applicant for a Residence Visa must file the following documents:

1. Application letter;
2. Form 509 completed;

3. Letter of Guarantee from a Dominican person or company or from a foreign citizen residing in the country;
4. Police Record;
5. Health Certificate;
6. Work contract, bank letter or other financial evidence;
7. Four photographs 2 x 2 inches and three profile photographs;
8. Birth Certificate;
9. Photocopies of the passport;
10. Certification of the General Immigration Office of the applicant's last date of entry in the country.

The procedure is similar for obtaining the visas for spouses and children.

PROVISIONAL RESIDENCE

Provisional Residence is obtained within the 3 or 4 months after filing the application and it is valid for a year. Once the residence is expired, the applicant may request the permanent residence, which is valid for renewable periods of three years. Foreigners with residence in the country may obtain an local identity card.

All documents issued abroad filed at the Ministry of Foreign Affairs or at the Immigration office must be legalized by the competent authorities of the country of origin and by the nearest Dominican Consulate and if they are not in Spanish, must be translated by a Judicial Interpreter.

There is a special program for foreign investors in order to accelerate the process of obtaining Dominican Residence. This program applies to foreign investment made in the country, by a physical or legal person in the form of a contribution to the stock capital of a corporation duly established according to the laws of the Dominican Republic, for a minimum of US\$200,000 or its equivalent in local currency. This contribution shall follow the requirements of Law 16-95 of Foreign Investment and must comply with the procedure to that effect.

Dominican Nationality is obtained basically by:

- Being born in Dominican Territory;
- By having a Dominican parent;
- By the naturalization process.

A foreign person may become a Dominican citizen after a continuous residence in the country for two years.

The application is made to the President of the Republic via the Ministry of Police and Interior, and must include the following:

- Grounds for requesting nationality;
- Police Record issued by the authority of the country of origin;
- Birth certificate, translated and legalized;

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ACQUIRING DOMINICAN NATIONALITY

- Explanation if the applicant is changing nationality;
- Receipt of taxes from the Internal Revenue Offices;
- Five 2" x 2" photos;
- Any other document to support the application; and,
- Two certified letters issued by the Immigration Department of the Dominican Republic, expressing that:
 - a) The interested person is resident in the country; and,
 - b) Its file has the guarantee letter required to grant the residence according to the law.

The President has the discretionary power to grant nationality. After the publication in the Official Gazette, the applicant must swear loyalty to the Dominican Republic. An indication of this oath is published in the Official Gazette. The process last from one to two years. The President of the Republic has the faculty to revoke the nationality under certain conditions.

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MARRIAGE

Foreigners wishing to get married in the Dominican Republic must present the following documents:

- Passport -original and copy;
- Certification letter of single status issued by the appropriate authority in the country of origin and legalized by the Dominican Consulate; and,
- Tourist Card, Residence Card or Identity card, as applicable.

The marriage ceremony is performed by the Civil Registrar of the place of residence of one of the spouses in the presence of at least two witnesses.

The Civil Code regulates the relations between married couples. The community of property system is called "legal regime" which is automatically applied to all couples marrying in the Dominican Republic.

Within the community system there are three kind of properties;

- The common property, which belong to spouses in equal proportion;
- The husband's own property; and,
- The wife's owns property.

The community is formed by all the personal property and real estate property acquired during the marriage.

Law 189-01 of 22 November 2001 grants both the husband and wife the joint administration of the community in marriage.

The dissolution of the community, by divorce or death of one of the spouses entails the determination of their divisible assets, the recovery of the each spouses property and the distribution of the remaining common property between the spouses or their

IMPORTANT ASPECTS OF DOMINICAN FAMILY LAW

heirs. This liquidation and distribution of the community may be done through Notary or in the event of a lack of an agreement, through the ordinary courts.

Couples wishing to adopt a different scheme may choose another of the legal regimes, such as separation of property, community reduced to earnings, universal community, etc. However, the spouses must, before the marriage, draft an agreement to that effect before a Notary Public. The Officer performing the marriage must register this agreement in the Marriage Act. Once the marriage is done, they cannot change their regime, even when they divorce and decide to re-marry.

DIVORCE

The divorce may be:

- By mutual consent;
- By specific cause; or,
- Special.

Divorce by mutual consent

It can only take place after two years of marriage or before 30. Furthermore, the husband cannot be over 60 and wife not over 60.

Spouses who decide to divorce must sign a Notary's Act declaring their intention to divorce and agree, among other things, the distribution of goods, the minor children's custody and the payment of alimony. This Act shall be ratified by the First Instance Judge, who after verifying that legal formalities have been complied with issues a judgement admitting the divorce.

The formalities of registration, pronouncement and publication must be done in certain deadlines.

Divorce by specific cause

The divorce by determined cause may be requested in the event of incompatibility differences, absence, adultery, condemn for a criminal offence, physical mistreatment, abandonment of the place, alcoholism or drug-addiction.

The competent court is the First Instance Court of the defendant's domicile. This Court, after examining the evidence and hearing each party's witnesses, orders the divorce on behalf of one of the spouses and decide, the custody of the minor children, and the payment of alimony.

Special Divorce or Quick Divorce

Special divorce applies only to foreign or Dominican couples residing abroad that decide to divorce by mutual consent. The spouses must sign an Agreement before a Public Notary in the country of residence where they declare their intention to divorce, agree on the distribution of the property, the custody of the minor children and the payment of alimony. At the same time, they grant authority to the First Instance Judge to render a decision on the divorce. This agreement must be legalized by the corresponding Dominican Consulate.

At least one of the spouses must be present at the hearing in the Dominican Republic, while the other may be represented by a duly notarized and legalized Power of Attorney.

The process at Court, plus the registration, pronouncement and publication of the divorce takes from one to four weeks. Furthermore, in order to make it valid abroad, it has to be certified by:

- The Attorney General Office;
- The Ministry of Foreign Affairs; and,
- The Embassy or Consulate of the Country where the Divorce is to be valid.

ADOPTION

It is regulated by the Minor's Protection Code, contained in Law 136-03. The National Council for Children and Adolescents (CONANI) is in charge of coordinating the procedure for adoption. The applications for adoption must comply with the requirements of the International Convention for Protection of Minors and other International Measures and are aimed to protect the child's interest.

Our legislation only contemplates the process of Privilege Adoption which is irrevocable and grants the adopted child filiations that replace the origin one and the same rights than a legitimate child.

The requirements for adopting a child in the Dominican Republic are:

- To be over 30 years old;
- Be married for more than 5 years, if the couple is non Dominican and for more than 3 years if they were Dominicans;
- Be at least 15 years older than the adopted minor;
- Live with the minor in the country at least during 30 days if the child is over 15 years or 60 days if is under this age;
- Present a declaration of loss of parental authority in the case of abandoned children; and,
- If the adoptive parents have children older than 12 years, they must present them at the Court.

All the documents submitted for the process must be authentic. Certified by the Dominican Consulate of the country of origin of the adopting parents. Also by the Ministry of Foreign Affairs in the country. If they are not in Spanish, they shall be translated by an official translator and duly certified by the Attorney General's Office.

The adopting parents must file their request at the Court of Minors of the domicile of the person under which care is the minor. This request is presented to the Child and Juvenile's Protector. If it is accepted, the Judge, after verifying if enough evidence was filed for the adoption, issues the judgment during the ten following days.

Once the judgment is granted it shall be:

- (i) Published in a national newspaper;

- (ii) Notified to at least one of the adopting parents and the biological parents;
- (iii) Registered at the Civil Registrar's Office;
- (iv) Transcribed the judgment decision at the Civil's Office; and,
- (v) Legalized at the Attorney General's Office, Ministry of Foreign Affairs and the Consulate of the country of origin of the adopting parents in order to allow the departure of the child, replacing the original birth certificate.

Finally, the complete file must be deposited at the General Immigration Office and an interview must be held at this entity which shall grant the departure permit for the adopted child.

INHERITANCE

Our Civil Code sets forth different ranks of heirs in order to regulate the transfer of the deceased person's property. The inheritance shall be distributed equally among the living relatives belonging to the highest rank. There are six ranks of heirs:

- First: descendants;
- Second: parents and siblings;
- Third: ascendants;
- Fourth: collaterals;
- Fifth: spouse;
- Sixth: The State.

Dominican Law establishes a legal reserve on behalf of the children and parents of the deceased. This legal reserve is 50% of the patrimony if the deceased leaves one surviving child or one or both parents, and 66% if there are two children and 75% if there are three or more.

According to Law 288-04 of Tax Reform the inheritance tax is 3% on the value of the estate after the corresponding deductions have been made. In the event of donations the rate increases to 50%.

The liquidation and payment of taxes is necessary in order to transfer the estate to the heirs. In addition, certain procedures must be followed in order to finalize the process, depending on the type of asset.

The Dominican Criminal Code sets forth three types of offences depending on their seriousness: misdemeanors, felonies and crimes. The sanctions applicable to each one differ significantly.

Criminal courts are also entitled to condemn persons found guilty of felonies or crimes to the payments of indemnities to the victims. Furthermore, property may be confiscated when such property is the evidence of the result or evidence of the crime.

Among the violations subject to special provisions are:

- Issue of non supported checks;
- Drug Trafficking and Money Laundering, which are crimes;

4 FOREIGNERS UNDER DOMINICAN CRIMINAL LAW

- Violation to Law 50-88 on Drugs and Controlled Substances, Law 72-02 on Assets and Money Laundering and Regulation 19-03 on Custody of Seized Assets;
- Tax offences, sanctioned with fines;
- Violation of the Tax Code.

CRIMES OF DOMINICAN JURISDICTION

Dominican Courts have jurisdiction to judge foreigners who infringe the laws in the country, even when the victim is also a foreign person. The infringements committed by Dominican Citizens abroad may be judge by Dominican Courts under the following conditions:

- The violation is penalized by Dominican Laws;
- The suspect has not been judged abroad;
- Dominican Authorities have received formal complaint of the Victim or the foreign government; and,
- The suspect is in the country.

EXTRADITION

Extradition provides the formal surrender of an individual by one country to another, so that the person is judged for crimes committed in that country. The extradition is ruled by the Constitution, Norms, Treaties, Conventions and International Agreements.

The Dominican Republic has signed extradition treaties with United States of America and with Spain. Furthermore, the country is signatory of the Inter-American Convention of Extradition of 1981. With certain variations, these treaties contain the following elements:

- The offence must be of certain importance;
- There must be an official request made through the proper channels;
- The requesting country must have jurisdiction to judge the offence that motivates the request;
- The obligation of handing over the suspect is applicable only if all the conditions are met;
- The suspect cannot be judged for a different offence from the one that originated the extradition;
- Extradition cannot be granted if the statute of limitations for the offence has expired;
- If the extradition is requested to serve a sentence, the pending time must be at least six months; and,
- Extradition may be delayed for health problems of the suspect.

DEPORTATION

Foreigners that incur in any of the following activities in Dominican Territory may be arrested and deported to their country of origin:

- Illegal entry in the country, use of false documents, permanence in the country after the expiration of the visa, etc;
- Subversive activities against the Dominican Government;
- Drug Trafficking;
- Conviction of a crime during five years after entering the country;
- Practice of prostitution or related activities.

The immigration inspectors are the ones in charge of investigating these cases and obtain the corresponding arrest orders. Foreigners cannot be deported without having previously had the chance to defend themselves from the charges of which he/she is being accused of.

LITIGATION

1 LEGAL AND JUDICIAL SYSTEM

LEGAL SYSTEM

Dominican Law is based in the Napoleonic Code adopted at the beginning of XIX century which were formally incorporated into the Dominican Legal system in 1884. There is a Civil Code, a Civil Procedure Code, a Criminal Code, a Criminal Procedure Code and a Code of Commerce. Dominican Judges are greatly influenced by French judicial precedents to interpret the provisions of these codes. There have been modifications through the year, but some of the provisions are obsolete. For several years, works have been undertaken in order to draft new versions of these legal instruments.

The Dominican Judicial System is structured as follows: Peace Courts, First Instance Courts, Appeal Courts and Supreme Court of Justice. There are as well specialized courts that have jurisdiction in special matters, such as First Instance and Appeal Courts for Labor, Litigation -Administrative Tax Court, Land Court, Courts for Children, created by Law 14-94 on the Protection Code for Children and Adolescents. There is no Jury in the Dominican Republic; only the Judges are the ones deciding the cases and rendering the judgments. They are appointed by the Supreme Court of Justice.

There are also courts to which the Constitution and the Law grant the power to resolve conflicts. These are The Electoral Board, the Superior Administrative Court, The Police Court and the Military Court.

2 FOREIGN ELEMENTS IN DOMINICAN COURTS

Civil and procedure laws regulate the participation of foreign elements in the procedures followed before Dominican Courts.

By virtue of the principle of contractual freedom, foreign laws may be chosen as the applicable legislation because of an agreement signed in the country, as long as such laws do not contradict public order provisions, which cannot be disregarded by private agreements.

Foreign plaintiffs at the Dominican Court may be required by the opposite party to deposit a "judicatum Solvi" bond as a guarantee for the payment of the judicial costs and indemnities that might result from claims. This requirement is applicable to foreign persons and companies with no legal domicile in the country.

In order to file foreign documents in Dominican Courts, these must comply with the following requirements:

1. Be legalized by a Public Notary or the officer with functions of certifying signatures in the country of origin;
2. Notary legalization must be certified by the competent authority to legalize the signature;
3. The document must be certified by the corresponding Dominican Consulate; and,
4. The signature and capacity of the Consul must be certified in the Dominican Republic by the Ministry of Foreign Affairs.

3

ARBITRATION

ARBITRATION

People or business may choose to solve their disputes outside courts, and submit their litigations to conciliation or arbitration that provides a faster and efficient process. This is possible whenever the dispute does not refer to public orders provisions.

LOCAL ARBITRATION

An arbitration process for commercial matters is provided under the the Civil and Commercial Chamber of the First Instance Court. However, this does not offer any significant advantage than a normal judicial process. A more convenient system is the one created by Law 50-87 of 1987 on the Chamber of Commerce and Production.

For the application of this legislation, an Arbitration and Conciliation Council (CCA) was created, which may serve as an arbitrator for the disputes arising between individuals and or companies.

INTERNATIONAL ARBITRATION

In October 2001, the Dominican Republic became a member of the 1958 New York Convention on the Recognition and Enforcement of Arbitral Awards. This Convention addresses the recognition by national courts of arbitration agreements, the mandatory referral by such courts to Arbitration courts, according to the agreement, the enforcement and recognition of arbitration awards and the grounds for refusal of such recognition and enforcement. This decision has made a considerable difference in term of the legal framework applicable to foreign investment in the Dominican Republic.

The most significant effect of this convention is to simplify the enforcement arbitral awards in the Dominican Republic.

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