

# Dominican Republic

## Legal Provisions

Compiled by:

### Embassy of Switzerland in the Dominican Republic

Santo Domingo, March 2023

#### GENERAL REMARKS

The purpose of this document is to give an overview of trade-related legal provisions and regulations, particularly those relevant for small and medium sized Swiss companies operating from outside the target country. It outlines the current state of legislation and, to the extent possible, its practical application.

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## CUSTOMS LAW AND DUTIES

The Dominican Republic's economy is open to trade and foreign investment. Whether an individual or legal person, every importer or exporter must be recorded under a **National Taxpayer ID (RNC)** to conduct trade activities in the Dominican Republic. In addition, legal persons must also have a trade registry number and natural persons must have an identification document. The new Law No. 168-21, enacted on August 9, 2021, regulates the Dominican customs regime. The customs administration area has streamlined processes, such as the Single Customs Declaration [Declaración Única de Aduanas (DUA)] as the only form for goods declaration and the Integrated Customs Management System [Sistema Integrado de Gestión Aduanera (SIGA)] for electronic declarations.

The Dominican Republic has several types of **custom regimes**. In addition to definitive import and export regimes, which entail the full payment of customs duties, goods may be subject to other regimes, namely:

- Temporary or duty suspension regimes
- Duty drawback regimes
- Duty exemption regimes

These frameworks already existed in 2014 and the new customs legislation from 2021 preserves their essence. Transit is considered a customs operation. The law establishes that goods in transit are not subject to any duties, taxes or charges, and must be inspected only in exceptional cases for reasons of national security. Goods in transit may remain in the country for up to one (1) year. Warehousing procedures continue to be regulated by Law No. 456-73.

Taxes on imported goods (agricultural and non-agricultural) are calculated on the "ad-valorem price," i.e., CIF (Cost + Insurance + Freight) price in the respective currency multiplied by the unified foreign exchange rate. All duties and taxes are collected in Dominican pesos (DOP). Imports are subject to Tax on the Transfer of Industrialized Goods and Services (ITBIS). Certain items are subject to Excise Tax (ISC). The ITBIS is a **value-added tax** applied to all imported items based on the goods' CIF value plus the corresponding fees and other import duties. ITBIS is 18 %, except for certain goods whose rate is 16 %. ISC is levied on specific luxury products, alcoholic beverages, and tobacco products.

Since 2014, when the **single window for foreign trade (VUCE)** was launched, import (and export) procedures are carried out electronically. The VUCE includes the services offered by the government agencies that issue import (and export or transit) authorizations. Through the VUCE, trade operators can consult the procedures and requirements and request in advance the authorizations, permits, certifications, or conformity assessments required by the various competent entities for the importation (and export or transit) of goods. All types of payments (for permits/authorizations or customs services) are made digitally. The VUCE is free to use; however, it costs DOP 200 to file a DUA.

In the Dominican Republic, it is not compulsory to use the services of a **customs agent**. To carry out imports or exports, or opt for a particular customs regime, the operator must use the SIGA to submit a single customs declaration, a commercial invoice, a transport document (bill of lading, air waybill or consignment note) and, for imports under preferential arrangements, a certificate of origin. Law No. 168-21 legalized electronic declarations and the use of electronic means. As a result, commercial invoices and documents can be presented in English.

As of 2023, the Dominican Republic has six **trade agreements**; as a result, several imports are granted preferential treatment. The duty-free status granted under the agreements, except that with Panama, covers between 75.8 % and 95 % of the total tariff schedule. The average preferential tariff in the free trade agreements negotiated by the Dominican Republic is in all cases lower than the average most-favored-nations tariff. The average preferential tariffs range from 0 % to 2.8 %, except for the one applied to products originating in Panama, since the agreement is partial in scope and covers only 208 tariff lines. The **Dominican Republic-Central America Free Trade Agreement (DR-CAFTA)** is clearly the most important trade agreement because it involves the United States of America (USA).

For more information on customs and duties:

<https://www.aduanas.gob.do/>

<https://siga.aduanas.gob.do/>

<https://www.s-ge.com/en/customs-database-worldwide-customs-tariffs>

The center for export and investment ProDominicana announced a **one-stop shop for investment** (VUI-RD), which is a centralized government office established to assist investors with the attainment of all permits, licenses, and certifications required by the different government institutions to successfully materialize an investment project in any of the sectors of the Dominican Republic. Its objectives:

- Personal and virtual assistance platform for potential investors
- Centralized and single point of contact
- All the steps and processes required to implement an investment project
- Time and cost savings for investors

The one-stop shop is available here:

<http://vui.gob.do/>

The **Swiss-Dominican Chamber of Commerce** offers up-to-date insights in their new section:

<http://camaradominicosuiza.org/doing-business-in-the-dr>

### **Cámara de Comercio y Turismo Dominico-Suiza (CCTDS)**

Calle Rafael Augusto Sanchez #86, Roble Corporate Center, Piso 7

Piantini, Santo Domingo, D.N.

E-Mail: [info@camaradominicosuiza.org](mailto:info@camaradominicosuiza.org)

Web: [www.camaradominicosuiza.org](http://www.camaradominicosuiza.org)

### **Applicable legislation**

Law N° 456-73 – [Ley de Almacenes Privados de Depósito fiscal](#)

Law N° 168-21 – [Ley de Aduanas de la República Dominicana](#)

## **IMPORT REGULATIONS / NON-TARIFF RESTRICTIONS**

In order to import goods valued more than 2'000 United States Dollars (USD), importers must present:

- Single Customs Declaration (DUA)
- Commercial invoice
- Customs Value Declaration (DVA)
- Shipping documents
- Certificate of origin (if the importer wants to be governed by a particular system of preferences)
- Import license
- Clearance permit or a health certificate

Certain items are **banned** such as: weapons of mass destruction, wild birds, used electrical appliances, pesticides and insecticides, cocoa plants, cocoa fruits, cocoa seeds, moss plants (bananas) or any part thereof, used clothing, right-hand drive cars, salvage motor vehicles (damaged), light-duty vehicles with over five years of use, heavy-duty vehicles with over 15 years of use.

Other items are subject to **permits** such as: weapons and ammunition, bulbs and seeds, fruits (e.g. citrus, avocado, sapote, nispero, guanabana and mango), spices, live plants, fertilizers and pesticides, meat products, fish and crustaceans, live animals, animal products and by-products, certain medicinal products for human or animal use, chemicals, fresh cattle and meat, gases and ozone-depleting substances, telecommunications equipment, health and personal hygiene products, pharmaceuticals from natural sources for therapeutic purposes, household care products, agricultural commodities, seeds, substances used for plant protection and veterinary products.

As of April 2012, the DUA and other import documents can be digitally submitted through SIGA. The latter operates in all customs centers throughout the country for import and export operations, under a digital signature format. As of 2012, the Dominican Republic has adopted the **Authorized Economic Operator (AEO)** modality, under which economic operators that meet specific requirements can benefit from streamlined customs processes and controls. This program is voluntary and open to any natural or legal person established in the Dominican Republic and involved in commercial logistics chains.

**Tariff rates** applied in the Dominican Republic are contained in Law No. 146-00 of 2000. Rates are based on the Harmonized Commodity Description and Coding System, including the adaptation of its sixth amendment as approved on June 27, 2014, by the Customs Cooperation Council (CCC), currently known as the World Customs Organization (WCO). The Dominican Republic tariff rates have been aligned with those of the World Trade Organization (WTO). No major changes were made to the Dominican Republic's tariff schedule in the last five years. The Dominican Republic applies only **ad-valorem tariffs**. Even though some tariffs increased slightly, the simple average tariff remains unchanged at 7.8 %, as a result of the rise in the number of tariff lines. The slight increase in tariffs is reflected in a greater percentage of tariff lines with rates above 15 % and an increase in average tariffs for agricultural (14.5 %) and non-agricultural products.

In general, the Dominican Republic makes limited use of **non-tariff restrictions** and corrective trade remedies. The most recent WTO trade policy review (published in November 2022) laments that although few non-tariff barriers are applied, it was noted that the Dominican Republic maintained a system of **import licensing**, which raised some concerns. The country continues to use a system of automatic and non-automatic licenses, sometimes referred to as import permits. Licenses are issued for statistical purposes, to control and monitor quality, and/or to administer import levels; they are not intended to limit quantities.

An import license is currently still required for agricultural products, such as flowers, live plants, wood, fertilizers, or seeds. Furthermore, import licenses are required for arms and ammunition; medicines; telecommunications equipment; ozone-depleting gases and substances and all products under **WTO quotas**. The authorities indicated that they are in the process of updating the regulations on the issuance of import licenses (i.e. agricultural import permits). A non-automatic license is also required to import oil. In the case of sugar, prior to its importation, the Dominican Sugar Institute (INAZUCAR) must issue a "declaration of necessity" based on the existence of a deficit in domestic production.

**Sample of an import declaration:**

**Declaración**

* Fecha de Declaración	23/03/2020 12:07:30	* Tipo de Despacho	GENERAL
* Administración	10030 ADMINISTRACION HAINA ORIENTAL	* No. de Declaración	Generar
* Doc. de Embarque	PRUEBACL2024	* Depósito de Destino	
Puerto de Entrada	DOHAI RIO HAINA	* País de Procedencia	840 ESTADOS UNIDOS
Empresa Transportista	SHP101010 MARITIMA ABC	* No. de Viaje / Vuelo	V-6584
Nacionalidad de Transportación	214 REPÚBLICA DOMINICANA	* Medio de Transporte	Buque
Fecha de Llegada	10/03/2020	* Fecha de Entrada	

**Importador**

* Nombre	ABC EMPRESA	* Documento	RNC 111222333
Dirección	C/JACINTO MAÑÓN, NO. 25 PLANTINI SANTO DOMINGO, DISTRITO NACIONAL	Certificaciones	
Teléfono	8095555555	Fax	
E-Mail	j.garcia@abcempresa.com.do		

**Agente de Aduanas**

Nombre de Empresa	ABC EMPRESA	Licencia	2891-P
Nombre	[CED00123456789] JUANA GARCIA	Documento	[CED] 00123456789
Certificaciones			

**Valor US\$**

* Tasa de Cambio (RD\$)	53.80	* Flete	2,000.0000
Valor FOB Total	24,000.0000	Otro	0.0000
* Seguro	480.0000	Valor CIF Total (US\$ / RD\$)	26,480 / 1,424,624

The Dominican regulatory environment for **e-commerce** is supportive; Law No. 126-02 regulates electronic commerce, digital documents and signatures. The general principles of this law are oriented toward the facilitation of e-commerce between and within nations; the validation of transactions between parties (which have been performed by means of the new information technologies), and the promotion and support of the implementation of new technologies. This law allows for the admissibility and legal force of digital documents and electronic signatures, providing the same legally binding effect granted to acts under private signature.

Under DR-CAFTA, the parties have agreed not to apply customs duties, fees, or charges on digital products delivered electronically and to apply customs duties based on value of the carrier medium for digital products delivered physically. Through Law No. 126-02 that formed the National Office of Intellectual Property Rights (ONAPI) and its National Strategic Plan, a legal framework to protect intellectual property rights in e-commerce was created. However, ONAPI has identified weaknesses in prosecuting violations of e-commerce, mainly because of a lack of professionalized local staff.

The Dominican Republic has a regulation that governs the use of **social networks** by public institutions called NORTIC E1 (2014). The Norm A2 requires institutions to include links to their social network accounts in visible places. Any institution certified by this standard complies with this requirement. The General Directorate of Communication (DICOM) is the body created, which assigns to this agency the functions of designing, coordinating and directing the entire policy that must be observed.

The lack of an efficient and reliable **mail system** in the Dominican Republic has constrained the development of mail order and catalog sales. Dominican retailing businesses have been compelled to create other ways of transmitting their message to customers to achieve sales growth. Some local firms have used direct mailings (via delivery services) or promotional materials, social media and telephone marketing. Other firms have established catalog sales through using agents/sellers to reach end users. Local credit card companies sometimes target cardholders with direct marketing of goods and services. Mobiles are the most used platform for business purposes among SME's with a 45 % penetration.

E-mail marketing campaigns have become a common practice for most companies, but as the world has become more digital, the regulations for digital marketing have become stricter. In fact, many may not realize that sending a commercial e-mail can be considered spam and illegal to do, especially when the recipient of said e-mail is located in another country. The **Anti-Spam Law** No. 310-14 expresses that people have the right not to receive unsolicited commercial e-mails, and must be able to opt out of receiving further e-mails. However, if there has been any commercial relation with a customer, then a company has a right to send them offers. These e-mails must be clearly labeled as "advertising" and clearly identify the sender. For detailed import regulations and non-tariff restrictions:

[https://www.wto.org/english/tratop\\_e/tpr\\_e/tp535\\_e.htm](https://www.wto.org/english/tratop_e/tpr_e/tp535_e.htm)

### **Special incentives within the Dominican Free Zones (Zonas Francas)**

In 1990, the Dominican Republic started to promote manufacturing and industrial areas by establishing so-called Free zones, which are composed of export processing zones, service free zones, border free zones, and special free zones. Today, there are **79 free zone parks** in the country, with 734 companies generating over 180'000 jobs, which in turn produce around 60 % of all exports. Approximately half of these companies are engaged in the following activities: medical and pharmaceutical products, tobacco and its derivatives, clothing and textiles, and services. The free zones offer several interesting benefits within a special customs control regime. Exemptions exist of up to 100 % in the following:

- Payment of tax on construction, loan contracts, and registration and transfer of real estate to establish the relevant Free Zone operator
- Payment of company formation tax or capital increase tax
- Payment of municipal taxes that may affect these activities
- All import taxes, tariffs, customs duties, and other related levies affecting raw materials, equipment, and building materials intended to build, enable, or operate in free zones
- All import taxes in connection with any equipment or utensil necessary for installation and operation of government-subsidized canteens, health services, medical care, childcare, entertainment or amenities, and any other equipment that promotes the working class's welfare
- Applicable export or re-export taxes, excluding any tax on industrial processing related thereto or export services, such as raw materials, packaging, labels, services, etc., imposed on productive sectors
- Taxes on patents, goods, or assets, as well as Tax on the Transfer of Industrialized Goods and Services
- Certain custom fees for imports pertaining to Free Zone Operators or Companies
- Payment of import taxes on transportation equipment

Products imported by free trade zone companies engaged in logistics, marketing and commercialization services could be sold in the local market, with prior authorization of the National Council of Free Trade Zones (CNZFE) and upon payment of the corresponding tariffs and taxes.

### Contact information of tax and customs authorities

Dirección General de Impuestos Internos (DGII)

Av. México #48, Gascue, Santo Domingo, D.N.

Tel.: +1 809 689 2181

+1 809 331 2181

+1 809 689 3444 (Centro de Contacto)

Web: <https://dgii.gov.do/>

Dirección General de Aduanas (DGA)

Abraham Lincoln 1101, Edif. Miguel Cocco, Santo Domingo, D.N.

Tel.: +1 809 547 7070

E-Mail: [info@aduanas.gob.do](mailto:info@aduanas.gob.do)

Web: <https://www.aduanas.gob.do/>

### Applicable legislation

Law Nº 8-90 – [Ley sobre Fomento de Zonas Francas](#)

Law Nº 16-95 – [Ley De Fomento a la Inversión Extranjera](#)

Law Nº 146-00 – [Ley sobre Reforma Arancelaria y Compensación Fiscal](#)

Law Nº 126-02 – [Ley de Comercio Electrónico, Documentos y Firmas Digitales](#)

Law Nº 310-14 – [Ley del Envío de Correos Electrónicos Comerciales no Solicitados](#)

## PRODUCT REGISTRATION AND TECHNICAL STANDARDS

As mentioned earlier, several products still require import licenses in the Dominican Republic. These are the respective items, responsible ministries/institutes, and the **validity of the licenses**:

- Agricultural products
  - Ministry of Agriculture
  - 90 days
- Arms and ammunition
  - Ministry of Defense
  - One (1) year
- Medicines, sanitary, personal hygiene, and pharmaceutical products
  - Ministry of Public Health and Social Assistance (MISPAS)
  - 45 days
- Telecommunication equipment
  - Dominican Telecommunications Institute (INDOTEL)
  - No period of validity
- Ozone-depleting gases and substances
  - Ministry of the Environment and Natural Resources
  - 30 days
- Fuels
  - Ministry of Industry, Trade, and MSME's
  - One (1) year

In the Dominican Republic, there is no regulation of **advertising/marketing** per se, but there are several laws containing provisions regarding false or confusing advertising, or advertising that promotes any



product, activity or relation with a third party that may result in unfair competition or affect consumer rights. Such laws are the ones on Defense of Competition, Protection of the Rights of the Consumer or User, and the General Health law in combination with the Drugs Ruling No 246-06, which contain certain provisions governing the advertising of drugs.

The Dominican Institute for Quality (INDOCAL) is the governmental body overseeing the formulation, and implementation of national quality norms, which are enforced by the Ministry of Public Health through the General Directorate of Medicines, Food and Health Products (DIGEMAPS). Currently, there are two standards on **labeling**: NORDOM (Normas Dominicanas in Spanish) 53 for retail food packaging and NORDOM 407 for medication. Before the products are sent to supermarkets, it is required that all consumer-ready food imports have a Spanish label with the following information:

- Name of the food product
- Ingredient list
- Net and drained weight using the Metric system (grams, kg, etc.)
- The Dominican Industrial and Sanitary registration number or its equivalent
- Usage instructions
- Name and address of manufacturer and/or distributor

In addition to NORDOM 53 and 407, Article 112 of the General Health Law No. 42-01 indicates that the following products must be labeled in Spanish: cosmetics, medical equipment, tobacco products, agricultural chemicals, dairy products, and any other substance that may represent a risk to human health. More information is available on:

<https://www.indocal.gob.do>

The Dominican **Standardization System** follows international guidelines, and it is compatible with the General Agreement on Tariffs and Trade (GATT) Code of Standards. The law that created INDOCAL did not affect the Dominican Standardization System in place, which consists of 619 mandatory and voluntary standards. INDOCAL is authorized to provide product certification in the Dominican Republic. The seal of compliance is the certification that INDOCAL provides to those locally manufactured products that meet Dominican standards. Any company interested in obtaining this certification for its product should present documentation indicating that an internationally accredited laboratory (including the two local laboratories currently accredited) has tested and approved the product.

In the case of pharmaceuticals, cosmetics, processed foods, and dairy products, the products must also receive a **certification of approval** ("Registro Sanitario" in Spanish) from the Ministry of Public Health. Without this registration, pharmaceutical, cosmetics, processed foods and dairy products are not allowed to enter Dominican Republic. For more information on the sanitary approval, please visit the website of the Ministry of Public Health portal and Social Assistance portal:

<https://msp.gob.do/web/>

There are two **accreditation laboratories** in the Dominican Republic. One is for electrical equipment, which is mainly used by the electricity utilities to test customers' energy meters suspected of having been altered for fraudulent purposes. There is another laboratory with the required accreditation for performing tests on food products. However, the Sistema Dominicano para la Calidad (SIDOCAL) contemplates that documents and assessments prepared by internationally accredited bodies or testing laboratories shall be accepted in the Dominican Republic.

In the Dominican Republic, the most up-to-date **technical regulations** are published and available to the public for a small fee. SIDOCAL also mandates that the development of new standards should follow the Technical Barriers to Trade (TBT Agreement) guidelines that encourage the adoption of international standards as the Dominican technical requirements whenever possible. Members of the WTO, like the Dominican Republic, are required under the TBT Agreement to notify to the WTO proposed technical regulations and conformity assessment procedures that could affect trade.

### **Applicable legislation**

Law N° 42-01 – [Ley General de Salud](#)

Law N° 358-05 – [Ley General de Protección de los Derechos del Consumidor y Usuario](#)

Law N° 42-08 – [Ley General de Defensa de la Competencia](#)

Law N° 166-12 – [Ley Sistema Dominicano para la Calidad](#)

## CURRENCY REGULATIONS AND OTHER TRANSFER RESTRICTIONS

The **Dominican peso** (Spanish: Peso dominicano) is the name of the currency of the Dominican Republic since 2011. Its ISO code is DOP. Each peso is divided into 100 cents (Spanish: centavos). With the exception of the USD, it is the only currency that is legal tender in the Dominican Republic for all monetary transactions, whether public or private. Banknotes are frequently used in the values of 50, 100, 200, 500, 1000, and 2000 DOP, whereas coins in circulation are valued at 1, 5, 10, and 25 cents.

Given its ability to attract resources domestically, the **Dominican financial system** has not shown a trend towards dollarization. As of the end of May 2022, 71.5 % of financial system assets other than shares were in the national currency and 28.5 % in foreign currency, while 81.9 % of loans were in the national currency, making the system's exposure to currency risk quite small. The Dominican Republic is a net importer of financial services, which accounted for 3.9 % of GDP in 2021. To operate as a financial intermediary, prior authorization must be obtained from the Monetary Board, which may only refuse authorization on legal grounds. There are no restrictions on foreign-owned companies.

**Commercial banks** represent one of the principal sources for private sector financing. Most requested loans are short and medium-term, ranging from 30 to 90 days for working capital or trade financing and from 1, 3 or 5 years at the most for capital expenses. Working capital fixed-term loans require that the borrower make either periodic payments of principal and interest or a single principal balloon payment of the entire outstanding balance at maturity. These loans are reviewed on a case-by-case basis. Financing for construction or tourism projects may have longer terms, typically from seven to ten years.

Indicative current interest rates for loans in local currency are as follows:

- In DOP the preferential rates range between 8.5 and 18 %
- Non-preferential rates can go as high as 23 – 26 % for loans denominated in DOP
- Interest rates for the commercial/corporate sector are revised usually every 6 or 12 months

In 2017, the Dominican Central Bank has indicated that **virtual currencies** are not backed by the Bank and are not legal currency under Dominican law. Thus, financial institutions authorized to operate in the country may not engage in transactions that use these currencies, and individuals who acquire them or accept them as payment do so at their own risk. The Dominican Republic has reaffirmed Law No. 183-02, which asserts that all money debts shall be paid in the agreed, legal, currency. Likewise, in 2017 the Monetary Board and the Central Bank reiterated that local regulated financial institutions are not allowed to invest or perform operations using virtual currency. Most local banks do not take on clients that deal in cryptocurrency related services.

### Applicable legislation

Law N° 183-02 – [Ley de Monetaria y Financiera](#)

## COMMERCIAL REGISTER AND OTHER SOURCES OF COMPANY INFORMATION

To incorporate a company in the Dominican Republic, completing three (3) types of registrations are required. The time required is based on registration procedures, which applies to all corporate vehicles. Here a brief overview of the steps with the respective links:

### Trade Name Registration (1 working day)

Registration covers the name, business name, description, or abbreviation identifying a company or commercial establishment. According to Dominican legislation, trade name registration is declaratory with respect to the right of exclusive use thereof. Such registration shall have the effect of establishing a presumption of good faith as to the adoption and use of the trade name. Electronic form approved by ONAPI, containing the following data:

- A precise indication that the registration of a trade name is requested



- Data that allow the identification of the applicant or his representative and the address to receive physical or electronic notifications, in case the applicant does not have a domicile in the country, he must be represented by a natural person domiciled in the country
- The denomination of the commercial name whose registration is requested
- A detailed list of the activities for which protection of the sign is sought
- The power of attorney evidencing the representation, if any
- The payment of the established fee
- Telephone and/or e-mail
- Number and copy of identity document

<https://www.onapi.gov.do/index.php/servicios/signos-distintivos/nombres-comerciales/item/246-registro-de-nombre-comercial>

### **Trade Registry Certification (1 working day)**

Registration also grants companies legal status. In accordance with Article 16 of Law No. 479-08 and Article 5 of Law No. 3-02 on Trade Registry, the relevant company must comply with all corresponding formalities within one (1) month after execution of its Articles of Association. Registration is to be carried out before the Chamber of Commerce corresponding to the jurisdiction of the company's registered office as indicated in the Articles of Association. Here an example from the Chamber of Commerce in Santo Domingo:

<https://www.camarasantodomingo.do/https-www-camarasantodomingo-do-registro-mercantil/>

### **National Taxpayer ID (10 working days)**

Upon completion of the Trade Registry certification process, the company must notify the DGII its intentions to roll out commercial operations, and apply to obtain a National Taxpayer ID (RNC). The RNC number must appear printed on all company documentation, invoices, and headers. According to General Regulation No. 05-2009 issued by the DGII, since March 31, 2009, a company's start date of operations must be as declared by the taxpayer. Therefore, from the reported date, the company must comply with the obligations and duties set forth in the Tax Code. It should be further noted that the declared date must fall within sixty (60) days from the date of the taxpayer's application. More details:

<https://dgii.gov.do/herramientas/Paginas/default.aspx>

<https://dgii.gov.do/cicloContribuyente/registroRNC/Paginas/default.aspx>

### **Applicable legislation**

Law N° 3-02 – [Ley sobre Registro Mercantil](#)

Law N° 479-08 – [Ley General de las Sociedades Comerciales y Empresas Individuales de Responsabilidad Limitada](#)

## **LEGAL FORMS OF COMPANIES**

Dominican law acknowledges the following **corporate vehicles** for doing business in the country, regulating, among other things, matters relating to the company name, capital, and transfer of shares, its management, supervision, decision-making, conversions, mergers, spin-offs, and dissolutions.

The most popular legal forms of companies are the single member limited liability company, the simplified limited company, the limited liability company, the limited company, and the joint partnership.

Their main characteristics are:

### **Single Member Limited Liability Company (Empresa Individual de Responsabilidad Limitada E.I.R.L)**

The company belongs to a natural person and has its own legal status and separate assets, independent of any other asset of the individual holding ownership of said company. Legal persons are not allowed to incorporate or acquire any company of this nature.

- No minimum share capital requirement
- No limit amounts are set regarding contributions to be made by the company owner, which may, therefore, be freely set and increased by the latter, in accordance with the formalities established by law
- May be transferred, in accordance with the conditions and formalities established by law, but only to another individual natural person
- Owner may appoint a manager or, where possible, undertake the duties assigned thereto
- The appointed manager shall be granted the broadest of powers to act on behalf of the company in any circumstance, within the limits of the company's object and subject to any powers bestowed by law upon the owner
- Supervision by a statutory auditor is not mandatory

### **Simplified Limited Company (Sociedad Anónima Simplificada S.A.S.)**

Company with Limited liability made up of two (2) or more shareholders, whose liability for the company's losses is limited to their contributions. In contrast with a Limited Liability Company, a Simplified Limited Company allows shareholders certain freedom to include organizational criteria in its articles of association according to the company's needs and objectives.

- Shares represent its capital. Minimum share capital requirement is DOP 3'000'000
- At least 10 % of said capital must be subscribed
- Pursuant to its bylaws, shareholders shall be free to determine the organic structure of a Simplified Limited Company which may be managed and directed by a board of directors or by one or several president-administrators
- Supervision by a statutory auditor is not mandatory for any company of this kind unless it is an issuer of corporate debt securities

### **Limited Liability Company (Sociedad de Responsabilidad Limitada S.R.L.)**

Made up of a minimum of two (2) and a maximum of 50 shareholders, who are not personally liable for corporate debts. This type of company is widely used for closely held mid-sized businesses.

- Minimum capital stock of an S.R.L. is DOP 100'000
- Its share capital is divided into equal and indivisible parts called social quotas, of no less than DOP 100 each, which cannot be represented by negotiable securities and which par value is determined by shareholders and set forth in company bylaws
- The social quotas are freely transferable by succession or in case of liquidation of community property between spouses and freely transferable between ascendants and descendants
- The assignment of shares between partners is free, unless limitations are established in bylaws
- The assignment of corporate shares to third parties, as well as the granting of a pledge, requires the consent of  $\frac{3}{4}$  of the partners, prior to the fulfillment of certain formalities and conditions
- Administration shall be under the responsibility of one or several managers, who shall be natural persons and, acting individually, be granted the broadest of powers to act on behalf of the company in any circumstance
- Appointment of a statutory auditor is not mandatory. However, financial statements are required to be audited in the event that credit from financial intermediaries is drawn down, or in case the company has a gross annual turnover exceeding 100 public sector minimum wages

### **Limited Company (Sociedad Anónima S.A.)**

Company with limited liability made up of two (2) or more shareholders, whose liability for the company's losses is limited to their contributions. The purpose of the company is to organize large companies requiring, above all, significant levels of control over their corporate governance. These companies may or may not resort to the stock market as a source of financing or expansion of their operations, in which case, they shall be required to obtain authorization from the Superintendence of Securities.

- Its share capital is represented by essentially negotiable shares

- The minimum authorized capital amount is DOP 30'000'000 represented by shares with a minimum par value of DOP 1 each, and 10 % of said authorized capital must be fully subscribed and paid-in
- The law does not establish any restriction on the transfer of shares of corporations. However, the shareholders may agree to restrictions, provided that such restrictions do not imply a prohibition on the transfer of such shares
- These companies are managed by a board of directors made up of at least three (3) directors
- No company may be appointed as president of any business organization of this kind
- Regarding supervision, the law states that one or more statutory auditors, who are appointed for two fiscal years and are responsible for verifying the annual reports submitted by the board of directors
- The supreme body of the public limited liability companies is the supreme audit institution
- The supreme body of the corporations is the general meeting of shareholders, which receives annually a report on all the operations of the corporation, decides on the distribution of profits, and approves the report prepared by the company's management

### Joint Partnership (Sociedad en Nombre Colectivo)

These are companies in which all the partners are merchants and are liable in a subsidiary, unlimited and joint and several manners for the obligations of the company and jointly and severally liable for the obligations of the company. For their conformation, they require at least two (2) associates.

- No minimum share capital
- Administration is managed by all partners who are considered managers, unless otherwise stipulated in its bylaws, pursuant to which one or more managers may be appointed whether the latter are associates
- Appointment of a statutory auditor is not mandatory

### Foreign Companies in the Dominican Republic

Commercial entities, formally and duly constituted in any country of the world, are recognized in the Dominican Republic, upon confirmation of their legal existence by the corresponding authority and in accordance with the formalities established by the law of the **place of their incorporation**. The law provides that foreign corporations, as to their existence, capacity, operation and dissolution, are governed by the law of the place of their incorporation and, as to their operations and activities in the country, they are subject to Dominican laws.

At least 80 % of a company's work force must be Dominican. Likewise, no less than 80 % of the **payroll**, except salaries for technical or executive positions, must correspond to wages earned by Dominicans. These rules do not apply to employees carrying out executive or managerial duties, or occupying technical positions for which there is no available Dominican substitute. Employers must share 10 % of their annual **pretax profits**, if any, with their employees. If the company is profitable, payment to the employees must be made within a 90 to 120-day period after the end of the company's fiscal year. Businesses in free trade zones, and agricultural, industrial, forestry and mining companies during the first three years of operation, do not have to share profits with their employees.

In practice, any foreign company may establish a business in the Dominican Republic as a **branch** of said company without any formality other than registering in the Trade Registry Office and the DGII's National Taxpayers Registry. In addition, depending on the type of business to be carried out by the branch, it shall be subject to a set of requirements, controls, and registration and information duties, as required by any business type-specific law; this also applies to free zone companies. Once all necessary documentation has been obtained, the registration process in the Trade Registry Office and the DGII's National Taxpayers Registry takes three (3) to four (4) weeks.

For a branch to benefit from the level playing field referred to above, it must meet all requirements set forth in order to have a permanent business presence in the Dominican Republic. According to Article 12 of the Tax Code, a permanent establishment is defined as a fixed place of business in which a foreign corporation or individual carries out its activities in whole or in part, such as a registry of corporate seat, office, or manufacturing facility, supervision and extraction of activities, or consulting services (for a period exceeding six months per year), as well as any representatives or agents performing all or most of said activities on behalf of the company. After the enactment of Regulation No. 50-13 of February 6, 2013, the concept of **foreign entities** was extended to include those that may or may not have their own legal status in their country of origin, including without limitation consortia, trusts, and branches.

Likewise, non-resident taxpayers permanently established in the Dominican Republic are under the obligation to register with the DGII and submit information such as any data identifying their taxpayer registration number in their tax home country and data concerning holders of more than 10 % of the capital or interest in such non-resident legal person or entity, in addition to any other information that may be required from any taxpayer.

Similarly, **non-resident permanent establishments** shall be required to appoint a local taxpayer to represent them before the DGII regarding their tax obligations, as well as to notify the DGII thereof. Appointment of a local representative shall also be required for individuals or entities based in countries or territories with preferential tax regimes involving low or no taxation, or tax havens, where said individuals or entities own any assets or rights within the Dominican Republic.

The main implications of the equal treatment provided for in Article 298 of the Tax Code in favor of foreign companies with permanent establishment are as follows: (i) the same 27 % income tax rate shall apply to both local and foreign businesses; and (ii) taxes shall be levied upon net income, instead of gross income.

Capital gains are subject to a 27 % tax and apply for the disposal, transfer or sale - directly or indirectly - of a capital asset placed or used in the Dominican Republic. Under Article 279 of the **Tax Code**, company branches and permanent premises through which a foreign company conducts business in the Dominican Republic, shall have separate accounting that clearly reflect all sources of income earned. As a result, Dominican tax authorities shall exercise control of the finances of any branch operating in the Dominican Republic, similar to that exercised over a locally incorporated subsidiary.

### **Applicable legislation**

Law N° 11-92 – [Ley que apruebe el Código Tributario de la República Dominicana](#)

Law N° 479-08 – [Ley General de las Sociedades Comerciales y Empresas Individuales de Responsabilidad Limitada](#)

Decree N° 50-13 – [Decreto que Establece el Reglamento de Aplicación de la Ley No. 253-12](#)

## **REGULATIONS GOVERNING SALES AGENTS AND COMMERCIAL REPRESENTATIVES**

In the course of time, **commercial negotiations** have acquired various atypical legal forms, due to the almost non-existent regulation in the Civil Code and the Code of Commerce, thus, in this scenario, Law No. 173-66, which governs the relations between importers in the Dominican Republic, was created. However, in 2004 the DR-CAFTA came into force, this brought with it new rules of competence which affected the usual ways of doing international transactions and business for Dominican traders who were experimenting commercial exchanges with other countries, applying new rules of the game to the distributors of goods and services.

Exporters should be aware of Law No. 173-66, which was designed to protect Dominican citizens who work as **agents or distributors** for foreign companies. Under this law, agents and distributors are able to claim the right to compensation based on a multiple of annual sales if the exporter decides to terminate the relationship. E.g. with the DR-CAFTA entering into force, U.S. exporters are able to avoid being subject to Law No. 173-66. However, all international firms are advised to seek legal counsel before appointing an agent or distributor in the Dominican Republic, because of the lengthy and complicated legal processes. Foreign Investment Law No. 16-95 allows foreign firms to assume direct representation of their products manufactured abroad or in the Dominican Republic without Law No. 173-66's lengthy residency requirements and without the requirement of two-thirds Dominican ownership of distribution companies.

For agency/distributorship contracts signed after the entry into effect of DR-CAFTA on March 1, 2007, Law No. 173-66 applies unless there is a clause clearly stating that it does not apply. The most significant changes to Law No. 173-66 post DR-CAFTA include the following:

- Apply principles of general contract law to the covered contract

- Treat the covered contract in a manner consistent with the obligations of the Agreement and principle of freedom of contract
- A contract may terminate on its termination date, earlier for just cause by the supplier of the goods or services or be allowed to expire without renewal
- If the covered contract has no termination date, it can be terminated by any of the parties with six months advance termination notice
- Allow disputes arising from the contract to be resolved through binding arbitration
- Allow the parties to establish in the contract the mechanisms and forums that will be available in the case of disputes

Law No. 173-66 on Protection to Importing Agents of Merchandise and Products calls distribution contracts in its article one as **concession contracts** from which it is extracted that it is: "any form of relationship established between a Concessionaire and a Grantor, by which the former engages in the Republic in the activities indicated in paragraph a) of this article". Referring to the activity developed by the person of the concessionaire or distributor, which is nothing more than the agent or individual or legal entity that is dedicated to promote or manage the importation, distribution, or sale of products or services, rental or any other form of traffic, exploitation of merchandise or products of foreign origin and the services related to said activities or when the same are commission agents, concessionaires, or under any other denomination in the Dominican territory.

On the other hand, the exclusive **distribution contract** is a type of atypical and very personal distribution contract by means of which a businessperson commits himself to acquire, under certain conditions, goods, or products of a specific brand generally, from another that grants him exclusivity in an area. In the same legal text, he is granted the permission to resell them also under certain conditions and even to provide the buyers of these products with assistance services once the sale is effective.

Although foreign **insurance companies** may not establish branches in the country, within the framework of the DR-CAFTA the Dominican Republic undertook to permit all foreign insurance/reinsurance companies to do so. The authorities pointed out that although this commitment has been implemented, foreign insurance and reinsurance companies have not established branches, preferring instead to set themselves up as local, foreign-capital companies. The Insurance Supervisory Authority must license agents, brokers, and experts. There is an exception for insurance companies, which may act as intermediaries without the need for a license. Where natural persons are concerned, foreigners who want to act as intermediaries must be permanent residents and have lived in the Dominican Republic on a permanent basis, after obtaining permanent residence, for the six years preceding the license application.

In order to be able to operate in the Dominican Republic, non-Dominican **shipping agents** must represent shipping lines accredited by the Ministry of Finance and by the Autoridad Portuaria Dominicana (APORDOM) or, failing that, must become a consignee agent.

**Tourism service providers** must have a license issued by the Ministry of Tourism (MITUR) in order to operate. Law No. 541-69 and several regulations classify tourism services and stipulate the procedures for providing them. Licenses are only granted to Dominican nationals or residents. However, under exceptional circumstances, temporary licenses are granted to non-residents to provide tourism services. To operate in the Dominican Republic, travel agencies and tour operators based abroad must appoint a local representative. Foreign guides may only operate in the country under exceptional circumstances, such as when there is no local guide to provide the service. Providers of tourist guide, accommodation, and transport services may not charge higher prices than those set by MITUR.

### **Applicable legislation**

Law N° 173-66 – [Ley Protección a los Agentes Importadores de Mercaderías y Productos](#)

Law N° 541-69 – [Ley Orgánica de Turismo de la Republica Dominicana](#)

## **ENTRY CONDITIONS FOR STAFF PERFORMING MAINTENANCE OR REPAIR SERVICES**

### **General Entry for Foreigners to the Dominican Republic**

- Foreigners may enter the Dominican Republic as tourists for 30 days
- Extensions of the 30-days period are possible up to 120 days
- Stays beyond 30 days without granted extension incur an additional fee determined on a sliding scale according to the total length of the stay. It can be paid online before departure or at the airport's immigration section, after check-in and past security, upon departure

### **Temporary visitor admission**

Entry conditions to the Dominican Republic are different depending on the duration of the stay and the planned economic activities. Not all types of residencies and work visas are suitable for maintenance or repair services. These three types are the more common permits for these business operations.

### **Short-term permit (PCP)**

Special permission for a short-term stay for a group member, due to their activity, which will remain in the Dominican Republic for a period greater than two (2) months and up to eleven (11) months, guaranteed by a Dominican institution or company. This permit is non-renewable, and it is especially intended for foreign members of a group, because of their declared activity, such as business, voluntary community service, short-term student, artist, etc. Requirements:

- Passport valid for a minimum of (18) months
- Multiple Business Visa (NM) or Student Visa (E), current
- Copy of the air ticket back to the country of departure
- Four (4) recent photographs, of the same set: two (2) front and two (2) right profile, size 2x2 inches, white background
- Updated certification of the institution or company that guarantees the stay of the foreigner
- Medical certificate
- Health insurance
- Documents that guarantee economic solvency

### **Temporary worker permit (PTT)**

Non-resident permit for foreigners entering the Dominican Republic with an employment contract, endorsed by a company legally constituted in the country. The validity of this permit is for one (1) year, and can be renewed for one (1) more year, if proof of the extension or renewal of the employment contract is provided. Requirements:

- Passport valid for a minimum of (18) months
- Temporary Worker Visa (VTT)
- Apostilled or legalized birth certificate
- Four (4) recent photographs, of the same set: two (2) of front and two (2) of right profile, size 2x2 inches, white background
- Certificate of No Criminal Record of your country of origin or of the country where you have resided in the last five (5) years
- Contract of Work and Resolution of the Ministry of Labor that orders the registration of said contract
- Constitutive documents of the company, copy of the RNC, Internal Tax Certification and any other document that the DGM considers necessary
- Receipt of the medical examination, approved by the General Directorate of Migration

### **Investment residence for management staff and / or foreign technician**

Dominican Residence for a period of one year for the management or technical staff of a foreign company. Temporary residence card gray, valid for one year. This permit is especially intended for management and technical staff of a foreign company and the applications is quite extensive, which is why only the main aspects of the process are listed here:



- Residence application form for investment filled out by the company
- Letter from the company authorizing to belong to the investment residence program
- Original employment contract
- Certified proof of the corresponding institution, depending on the regime to which the investment is accepted
- Copy of the complete passport with a minimum validity of one (1) year
- Current business visa issued in the Dominican consulate of the country of origin or residence
- Medical exam from institutions authorized by DGM
- Original birth certificate
- Certificate of no criminal record
- Four (4) recent photographs, two (2) in front and two (2) in right profile, size 2x2 inches, white background
- Guarantee policy contracted with ARS Reservas
- Special power of representation

There are also several possibilities to obtain a **temporary or permanent residence** in the Dominican Republic. The application process is essentially the same for both temporary and permanent residency, except for some additional documents required in permanent residency applications. The first step is to apply for a residency visa at the Dominican Consulate nearest to the applicant's domicile. It is no longer possible to apply for residency from within the Dominican Republic. It is estimated that processing time for residency applications will be at least between four and six months from the date as the applicant signs the application at the Immigration Department. After ten years, permanent residents will be issued a definitive residency card, not subject to renewal. Detailed descriptions of the services:

<https://migracion.gob.do/en/servicios/services/>

### **Ordinary temporary residence**

Temporary residence permit for foreigners entering the Dominican Republic with the purpose to settle temporarily in the country. The validity of this permit is for one (1) year. Requirements:

- Passport valid for a minimum of six (6) months
- Residence Visa (RS)
- Birth certificate
- four (4) recent photographs, of the same set: two (2) front and two (2), right profile, size 2x2 inches, white background
- Certificate of No Criminal Record of your country of origin or of the country where you have resided in the last five (5) years
- Marriage certificate, declaration of singleness or proof of living together, apostilled or legalized
- Guarantee policy contracted with ARS Reservas
- Medical examinations, in one of the institutions authorized by the DGM

### **Residence for foreign investment**

Residence permit for foreigners entering the Dominican Republic for making investments, exclusively. The validity of this permit is for one (1) year. The economic investments in the Dominican Republic must have a minimum amount of USD 200'000. Requirements:

- Passport valid for a minimum of (18) months
- Residence Visa (RS)
- Letter of Incorporation into the Foreign Investment Program
- Certified Certificate of Foreign Investment
- Birth certificate
- Four (4) recent photographs, of the same set: two (2) front and two (2) right profile, size 2x2 inches, white background
- Certificate of No Criminal Record of your country of origin or of the country where you have resided in the last five (5) years
- Marriage certificate, declaration of singleness or proof of living together, apostilled or legalized
- Guarantee policy contracted with ARS Reservas
- Medical examinations, in one of the institutions authorized by the DGM

### Further categories for temporary residences are

- Artistic and sporting activities
- Exchange students or volunteer service
- Religious and missionary purposes

### Applicable legislation

Law N° 285-04 – [Ley General de Migración](#)

## PROTECTION OF INTELLECTUAL PROPERTY

The Dominican Republic is one of the countries that grants one of the highest levels of protection for intellectual property in the Caribbean. The country is a member of the WTO since 9 March 1995, and it accepted the **Protocol amending the Agreement on Trade-Related Aspects of Intellectual Property Rights** (TRIPS). Furthermore, the Dominican Republic is a signatory of the Paris Convention for the Protection of Industrial Property, the Cooperation Treaty in Patents (PCT), and Chapter 15 of the DR-CAFTA and other international agreements. Law No. 20-00 on Industrial Property, and its implementing regulations, as well as Law No. 424-06 for implementation of the DR-CAFTA, constitute the legal framework applicable to aspects related to industrial property rights registered in the Dominican Republic. They include distinctive signs in general (trademarks, trade names, slogans, logos, patents, among others). The entity in charge of registering and maintaining said rights is **ONAPI**. Civil and criminal penalties may be applied in case of infringement of intellectual property rights by the courts, and these include payment of damages and fines and/or imprisonment.

### Trademarks

Dominican law protects all kinds of trademarks, including collective trademarks, certification trademarks, and sound and scent trademarks. Consequently, trademarks registered in ONAPI grant **exclusivity** of use to their owners. However, it should be noted that a trademark not used by its owner without just cause for an uninterrupted period of three (3) years prior to the trademark registration date, may be canceled by ONAPI at the request of an interested third party. In such case, the burden of proof (to demonstrate commercial use) shall fall on the owner and not on the applicant.

New trademarks are registered in favor of the person who first requests them. Trademark registrations are classified within a nomenclature of products and services. According to the provisions of Law No. 20-00 and its amendments, the Dominican Republic applies the **Nice Classification** established by the Nice Agreement of 1957, as revised and updated. Thus, the affected brands protect the products and services within the nomenclature under which they were registered. Registration is granted for a period of ten (10) years, renewable for consecutive periods of ten (10) years. It is possible to renew a registration by filing a simple application for such purposes. The ONAPI shall always reserve the right to require such evidence in case of reasonable doubt. Among the distinctive signs that may not be registered are some **prohibitions** relative to the sign itself, such as:

- Signs that may be used commercially to describe the product
- Generic or scientific denominations of products, colors, etc.
- Signs that are contrary to the public order or moral standards
- Signs that ridicule persons, religions, countries, or others
- Signs that may deceive the public in terms of the nature or the qualities of the product, etc.

Likewise, owners of distinctive signs may transfer their records through inter vivo or successive acts, register them jointly, grant licenses to third parties, and submit them as collateral in favor of creditors. Such records may be subject to embargo or other domain restrictions until requirements for such purposes have been met. A **trade name** not used by its owner without just cause for more than five (5) consecutive years may be declared abandoned by ONAPI, after exhausting a cancellation process for non-use, whereby a third party interested in the trademark may attempt such action based on the non-use thereof. The right to exclusive use of the trade name ends with its abandonment or disuse.

## Patents

Patents may be obtained to protect inventions, utility models, and industrial design and have validity of 20 years counted from the date of submission of the application in the Dominican Republic. The Dominican legislation defines patents as “any idea or creation of the human intellect, which is capable of being applied in industry and meets the conditions for patentability.” An invention can refer to a product or process. An invention is "**patentable**" when:

- it can have industrial applications
- it is novel
- it has a certain degree of inventiveness (i.e. it must be unknown in the relevant industry)

In particular, the following **are not considered** inventions:

- Discoveries that consist in making known something that already exists in nature
- Scientific theories and mathematical methods
- Economic or business plans
- Principles or methods
- Computer software
- Therapeutic or surgical procedures for the treatment of humans or animals
- All kinds of living matter and substances pre-existing in nature
- The juxtaposition of known inventions or mixtures of known products, a variation in their shape, dimensions or materials, unless said combination is such that it does not allow its elements to function separately or that the qualities, characteristics, or functions thereof are modified in order to obtain an industrial result that is non-obvious to a person skilled in the art
- Products or procedures already patented

## Copyrights

Law No. 65-00 and its regulations constitute the legal framework applicable to the protection of **literary and artistic works**, including all creations of the spirit. According to the legislation above, copyright arises with creating the work itself, and its registration is not mandatory. Any registration made before the National Copyright Office [Oficina Nacional de Derecho de Autor (ONDA)] establishes the presumption that the right contained therein is legitimate, unless proven otherwise. The ONDA has supervision activities, which are enforced by the obligation of any importer or distributor of commercial goods, services, and equipment with author or related rights to register the same.

Likewise, the Dominican Republic has ratified the following **international conventions**:

- Berne Convention for the Protection of Literary and Artistic Works from 1886
- Universal Copyright Convention from 1952
- Rome Convention for the Protection of Interpreters, Audio Producers, and Radio Transmission Organizations from 1961
- Treaties of the Intellectual Property World Organization (OMPI) for the Rights of Authors and Interpreters and Phonograms of 1996

Dominican copyright law protects all kinds of original intellectual creations that may be fixed, transmitted, or reproduced by any existing means or exist in print, reproduction, or dissemination. It also protects the independent creations derived from original works, such as those resulting from the adaption, translation, or in another manner transformed from its original version. According to Article 8 of Law No. 65-00, the following shall enjoy **protection**:

- Works whose author or at least one of the co-authors is a Dominican citizen or domiciled in the Dominican Republic
- Works published in the Dominican Republic for the first time or within 30 days of its first publication
- Works of nationals of - or persons domiciled in - member countries of the international treaties of which the Dominican Republic is a member or shall become a member in the future
- Works published for the first time in any of the member countries of said agreements or treaties, or within thirty days of their first publication
- Artistic representations, phonographic productions and broadcasts, in the terms provided in the title of this law concerning copyright-related rights. In the absence of an applicable international convention, foreign works, performances, sound productions, and broadcasts enjoy the protection established in this law, provided that in the respective country of origin effective

reciprocity is guaranteed to Dominican authors, artists, producers, or broadcasters, as appropriate

Pursuant to the provisions of Law No. 65-00, also modified by Law No. 424-06, the transfer of economic rights over a work, interpretation, performance, or phonogram may be free or onerous, exclusive, or non-exclusive. Unless otherwise agreed or expressly provided by law, assignment is presumed non-exclusive and for pecuniary interest. This same text allows the author to substitute the assignment for a simple, non-exclusive, and non-transferable license of use. The copyright owner or the owner of any related right, his heirs or whoever has the conventional representation thereof, has the right of option to decide by which means - civil, repressive, or administrative - of those stated in Law No. 65-00, such person will initiate and proceed in the exercise of the rights conferred thereby.

### **Data privacy**

The Dominican Republic's 2015 Constitution (Article 44) establishes as a fundamental right of people the right to **privacy and personal honor**. Its scope includes integrity, good name, own personal image, and access to information and existing data on the individuals and their registered assets in official or private registries, as well as to know the destination and use of said data within the limits established by law. It is Law No. 172-13, which regulates the exercise of said fundamental right.

In this context, the law establishes the legal framework applicable to all the protection of personal data recorded in public registers, data centers, or any other technical means for the processing of personal data with the aim to provide reports, whether public or private, and guarantee the non-violation of the rights of individuals, facilitating access to their information, as well as regulating the constitution, structure, activities, operation, and termination of credit bureaus [Sociedades de Información Crediticia ("SIC")]. The general principle of this law states that the processing and transfer of personal data is deemed unlawful when the owner of the data has not given their free, explicit consent in writing or by any other means. Such consent, provided with other statements, must appear explicitly and prominently, prior notification to the data owner.

### **Geographic indications**

Dominican legislation defines appellations of origin as "a geographical indication consisting of the name of a country, region or place used to designate a product originating therein, whose quality, reputation or other characteristic is essentially attributable to the geographical environment in which it is produced, including natural and human factors. A designation of origin shall also be considered to be that consisting of a denomination which, without being a geographical name, identifies a product as originating in a country, region or place".

Dominican law provides that it is the responsibility of the ONAPI to intervene in matters relating to appellations of origin or geographical indications. ONAPI maintains a register of appellations of origin, in which the national **appellations of origin** can be consulted, at the request:

- of one or several of the producers, manufacturers who have their production or manufacturing establishment in the region/locality of the country to which the appellation of origin corresponds
- of a legal person that groups them
- of any official public authority, as well as the competent public authorities of foreign countries

In the case of the Dominican Republic, there are several foreign appellations of origin registered with ONAPI, among them: "Habano" for Cuban cigars and "Pisco" for an alcoholic beverage made in Peru and Chile. There are only a few national products recognized as a denomination of origin from the Dominican Republic. Nevertheless, the years of commercialization have shown a good level of added value, e.g. being exported at an average price above the reference price of the New York Stock Exchange. It is to be hoped that in the coming years, this intellectual property tool will be more widely used in the country as part of the differentiation and valorization strategies for Dominican products.

In February 2023 there was introduced a new geographic indication "Made in the Dominican Republic" (Hecho en República Dominicana). This license is free of charge, has two (2) years of validity, and is accessible digitally. The application process takes 24 days. The requirements are:

- Be a local manufacturing industry or free trade zone
- Have an updated Industrial Registry, issued by the Center for Industrial Development and Competitiveness (PROINDUSTRIA)

- To have a current Sanitary Registration, issued by the General Directorate of Medicines, Food and Health Products (DIGEMAPS) (Only applies to medicines, food and health products)
- To be registered in the Local Manufacturing Directory (DML) of the MICM. (does not apply for free trade zones)
- Completion of the application form for the acquisition of the seal
- Current certification from the DGII, which certifies that the applicant is up-to-date in the fulfillment of its tax obligations
- Certification in force from the Social Security Treasury (TSS), which certifies that the applicant is up-to-date in the fulfillment of its social security obligations

### **Contact information of the national intellectual property and copyright authorities**

Oficina Nacional de la Propiedad Industrial (ONAPI)

Ave. de Los Próceres Núm. 11, Los Jardines del Norte, Santo Domingo, D.N.

Tel.: +1 809 567 7474

E-Mail: [servicioalusuario@onapi.gob.do](mailto:servicioalusuario@onapi.gob.do)

Web: <https://www.onapi.gov.do/>

Oficina Nacional de Derecho de Autor (ONDA)

C. Paseo de los Locutores #28, Piantini, Santo Domingo, D.N.

Tel.: +1 829 593 6632

E-Mail: [info@onda.gob.do](mailto:info@onda.gob.do)

Web: <https://www.onda.gob.do/>

### **Applicable legislation**

1994 [TRIPS Agreement](#) is annex 1C of the [Marrakesh Agreement](#) establishing the WTO

Law Nº 20-00 – [Ley sobre Propiedad Industrial de la República Dominicana](#)

Law Nº 65-00 – [Ley sobre Derecho de Autor](#)

Law Nº 424-06 – [Ley de Implementación del Tratado de Libre Comercio, entre la República Dominicana, Centroamérica y los Estados Unidos de América \(DR-CAFTA\)](#)

Law Nº 172-13 – [Ley de Protección de Datos](#)

2015 [Political Constitution](#) of the Dominican Republic

## **PROCEDURES FOR COLLECTING PAYMENT**

Before establishing a commercial relationship with a Dominican company, it is recommended to first check financial, legal information, and previous commercial references on the website of the DGII:

<https://dgii.gov.do/>

Furthermore, it is helpful to consult the commercial registry and tradename databases on the websites of the respective chambers of commerce. The Dominican Republic has an extensive judicial power website. Consultations can be made on their website about litigations or other judicial functions:

<https://poderjudicial.gob.do>

There are several **accepted methods** of payment in the Dominican Republic (see Business Travel Guide from the Embassy in Santo Domingo). The most common methods of payment are:

- Cash (since most Dominican companies maintain USD accounts abroad)
- Electronic/wire transfers
- Supplier credit (once a trading relationship has been established)
- Documentary letters of credit, including stand-by letters of credit
- Documentary collections through the banking system
- Commercial credit cards, however, it is recommended that firms accept these credit cards with caution because of the possibility of fraud

Regarding the last method of payment, there are local firms that perform **credit checks** on Dominican companies. The most popular and accepted card payment platforms are Visa, MasterCard, Dinners Club, American Express, and Discover. Instant payment applications are available in the Dominican Republic as well such as Azul, tPago, Ecollet, PayPal, and CardNet. The use of **electronic invoicing** in the Dominican Republic after the publication of the Electronic Invoicing Bill by the DGII establishes the mandatory entry of taxpayers gradually depending on their size:

- Large Nationals: January to December 2023
- Large, local and Medium: From January to December 2024
- Small, micro, and unclassified: As of January 2025

To be able to invoice electronically in the Dominican Republic, taxpayers must have been previously authorized by the DGII. Taxpayers must send the tax vouchers to the DGII for their accounting for tax control purposes. To check if the e-CFs have been correctly received, taxpayers must enter the DGII website and check if their status has been accepted or rejected. Any taxpayer authorized by the DGII can issue e-CF. Requirements to be an issuer of electronic tax receipts:

- To be registered in the National Registry of Taxpayers RNC
- Be up-to-date in the fulfillment of your tax obligations and formal duties
- Be authorized to issue tax receipts
- To have a digital certificate for tax processes, issued by a trust service provider (certification authority) that corresponds to the person who will act on behalf of the taxpayer
- To have software for the issuance of e-CF, which can be developed by your company or acquired through an electronic invoicing software provider certified by the DGII

Draft of the [Electronic Invoicing Bill](#) as of March 2022

There is no minimum amount to **collect a debt** in the Dominican Republic. The statute of limitation for the collection of debts is 20 years. The amount owed does not determine how the debt will be collected. Interim and enforcement measures of protection can be taken without a judge's authorization when there is a secured credit. A secured debt is based on a promissory note authenticated by a Public Notary or a court order. The Dominican Civil Procedure Code requires serving a warning or request for payment via bailiff and putting the debtor in arrears for at least three (3) calendar days in order to initiate a debt collection and file the lawsuit in court.

## ENFORCING COMMERCIAL CONTRACTS AND RESOLVING DISPUTES

The Dominican Republic only ranks 133<sup>rd</sup> in the sub-category "enforcing contracts" from the most recent version of the **Ease of Doing Business Report** (2020). The waiting time to resolve a dispute, counted from the moment the plaintiff decides to file the lawsuit in court until payment (including waiting periods) is 590 days in the Dominican Republic, which is better than the regional average. However, the cost in court fees, attorney fees, and enforcement fees expressed as a percentage of the claim value are substantially higher (40.9 %) in the Dominican Republic than in other countries of Latin America and the Caribbean. Similarly, the quality of judicial processes is low when enforcing contracts.

The Dominican Republic signed, but has not yet ratified, the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (Washington Convention of 1965) establishing the International Center for the Settlement of Investment Disputes (ICSID). The Dominican Republic implements the New York Convention and the Inter-American Convention on International Commercial Arbitration (ratified in 2008). The country is a member of the Multilateral Investment Guarantee Agency (MIGA) and of the Overseas Private Investment Corporation (OPIC). In the last years, one case was settled against the Dominican Republic by ICSID involving the mining sector, and other proceedings



are currently under way involving the construction and sugar industries. Two more cases were settled in the Permanent Court of Arbitration (PCA), and other proceedings are currently under way in the PCA.

To initiate a lawsuit for **breach of contract** in the Dominican Republic, it is possible to request the enforcement of the contractual obligation infringed, as well as damages resulting from a failure to comply with the obligation. The Dominican Civil Code establishes contractual liability, which institutes the violations to the pre-existence of a breached conventional obligation, arranged between parties who are bound by a contract. For contractual liability to be committed there must be a contract and damages resulting from the non-compliance of said contract. Many contracts establish penal clauses in which a breach is penalized with compensation. In the event that these penalties are specified as payments, a percentage may be established. The claim might also be for damages, although in general the party that was affected by the breach, can process the corresponding claim for damages, even if the contract does not specifically establish it.

The Dominican Republic made enforcing contracts easier by establishing specialized commercial court divisions and by adopting a framework for mediation and conciliation, including in commercial cases. Still, there is a lot of potential for improvement, especially in the fields of case management and court automation. Regarding the former, time standards are not respected in more than 50 % of the cases, adjournments are not regulated, and there are no electronic case management tools in place. The lack of digital services in the judicial field of enforcing contracts is a major setback in general.

## Applicable legislation

[Civil Code of the Dominican Republic](#)

## Bilateral investment agreement between Switzerland and the Dominican Republic

Switzerland and the Dominican Republic have ratified an agreement regarding the promotion and protection of investments in 2006. **Article No. 9** within the bilateral treaty explains the procedure to handle disputes arising between a party and an investor of the other party:

- (1) Consultations shall be held between the Parties concerned
- (2) If such consultations do not lead to a solution within six months from the written request to enter into such consultations, the investor may submit the dispute to either the courts or administrative tribunals of the Contracting Party on whose territory the investment was made or to international arbitration. In the latter case, the investor shall have the choice between:
  - a. the ICSID, if both Parties are Members of the Convention, or the Rules of the Additional Facility of ICSID, if only one Party is a Member of the Convention; and
  - b. an ad hoc arbitral tribunal, which, unless otherwise agreed by the parties to the dispute, shall be established in accordance with the Arbitration Rules of UNCITRAL
  - c. By this Agreement, each Party irrevocably and without reservation consents to submit disputes concerning investments to international arbitration
- (3) A company incorporated or constituted in accordance with the laws in force in the territory of a Party and which, before the dispute arose, was under the control of investors of the other Party shall be deemed to be a company of the other Party for the purposes of Article 25, paragraph (2), subparagraph (b), of the Washington Convention
- (4) The party to the dispute shall not, at any time during the proceedings, raise as a defense its immunity or the fact that the investor has received or will receive compensation for all or part of the damage suffered on the basis of an insurance contract
- (5) Neither Party shall pursue a dispute submitted to international arbitration through diplomatic channels unless the other Party fails to comply with the award
- (6) The award shall be final and binding on the parties to the dispute and shall be enforced immediately in accordance with the law of the Parties concerned

The entire agreement is accessible in [German](#), [French](#) and [Italian](#).

## OVERVIEW OF PUBLIC PROCUREMENT SYSTEM<sup>1</sup>

Since the Dominican Republic joined DR-CAFTA, one of the main concerns was government procurement. In fact, a whole chapter was dedicated to the matter in the free trade agreement. Because of DR-CAFTA, government procurement regulation in the Dominican Republic underwent a **major modification** to comply with the FTA's requirements. This led to the enactment on 18 August 2006 of Law No. 340-06 on Government Procurement and Contracting of Goods, Services, Works and Concessions (the Government Procurement Law), which governs any purchase made with taxpayer money nationwide.

Furthermore, the Dominican government issued Decree No. 543-12, which constituted a relatively new regime in government procurement. This decree served to develop in a more specific fashion the regulations of the Government Procurement Law. This Decree incorporated a mechanism that was new to the Dominican legal framework but well known in the government procurement world – a mechanism to fulfil collateral policies through state acquisitions.

Decree No. 543-12 establishes the obligation for every contracting agency to set aside 20 % of its purchases to be contracted from micro, small and medium-sized businesses (SMEs), as long as the goods or services to be acquired can be effectively delivered by a small business. In addition to the 20 % set aside in every government procurement process, the Decree establishes the possibility of SMEs submitting partial offers within the remaining 80 %. As a result, since 2012 the Dominican Republic has been familiar with the notion of making the trade-off against 'full and open competition', to achieve other high-priority social and economic goals, such as the growth of small businesses. In this context, there are no 'buy Dominican' laws, but in the agricultural area, local production is privileged.

The **General Directorate of Public Procurement (DGCP)** is the main body with competence for setting government procurement policy and enforcing compliance, and it is also vested with the power to oversee the bidding process. A dependency of the Ministry of Finance, the DGCP is a part of the central government. The DGCP has also the power to rule on bid challenges and its decisions can subsequently be appealed to the Superior Administrative Court. See here, for more detailed information:

<https://www.dgcp.gob.do/>

In light of the approval of the **Public–Private Partnerships Law** (the PPP Law) in February 2020, the government had to issue the corresponding implementing regulations. After some discussion, the executive branch issued Decree No. 434-20, widening the scope of the PPP regulations mandated by the law. With this legislation in place, the PPP Law is operational. The government has been emphatic in its support for PPP, with projects now expected to start very soon.

The DGCP has issued several new policies concerning different stages of the procurement process, including on the use of digital forms in tender documentation; however, it is not mandatory to use these. Also, regarding the principles that contracting agencies must follow in the preparation of submissions following requests for proposals, it has issued guidelines on the selection of experts participating in the evaluation process and various memos directed at the contracting agencies.

### Regulated authorities

The Government Procurement Law states that its provisions regulate the central government, decentralized and autonomous institutions, local and city governments and public enterprises and constitutes a main regulatory principle governing any entity that contracts the acquisition of goods, services, and works using public funding.

### Regulated contracts

All supply of goods, services, works, consulting and leasing for the government are regulated by procurement rules. Additionally, the PPP Law regulates infrastructure and development 'concession'

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<sup>1</sup> This chapter is adapted from [Martínez, Peña & Fernández law firm](#) – May 28<sup>th</sup> 2021

contracts. Furthermore, generally, the Government Procurement Law covers any government contract that is not expressly excluded by it or is not subject to a special regime.

### **Scope of procurement regulation**

The following are excluded from the application of the Government Procurement Law:

- Loans or grant agreements with other states or entities of international public law, when so stipulated in the agreements, in which case they will be governed by the agreed rules
- Public credit operations and public employment contracting, which are governed by their respective regulations and laws
- Purchases with petty cash funds, which will be made in accordance with the corresponding regime
- Any acquisition activity contracted between public sector entities
- Those who, for reasons of security or national emergency, could affect the public interest, lives, or the economy of the country, after declaration and support by decree
- The acquisition of scientific, technical and artistic, or restoration of historical, monuments, whose execution must be entrusted to companies, artists or specialists, provided that they are the only ones who can carry this out
- The purchase and contracting of exclusive goods or services or those that can only be supplied by a certain supplier
- Those that, because of emergency situations, do not allow the carrying out of another selection procedure in time (in all cases, this scenario must be based on objective reasons, prior qualification and support by resolution of the highest competent authority)
- Purchases and contracts made for the construction, installation, or acquisition of offices for foreign diplomats
- Rescinded contracts whose termination does not exceed 40 % of the total amount of the project, work or service
- Purchases aimed at promoting the development of SMEs
- The hiring of advertising through social media

Contracts cannot be transferred to a different supplier; however, it is possible for contractors to subcontract to complete the awarded contract. In the case of contract modification/variation, the Procurement Law provides that work contracts can be modified to an extent of 25 % of the object contracted, and services contracts to an extent of 50 % of the contract, without the need to tender the varied contract. However, contracts for the acquisition of goods cannot be varied at all. There is a financial threshold below which contracts are not regulated, which is determined in accordance with the yearly government planned budget. The law contemplates a formula, and the exact amount is updated annually by the government procurement agency.

### **Special contractual forms**

Framework agreements and central purchasing are not regulated in the Government Procurement Law. This type of contracting, such as indefinite delivery or indefinite quantity contracts, is not used. Joint ventures are admissible in the bidding process. Foreign companies can team up with locals to create **consortiums** to present a joint offer in any tender procedure. The rule of thumb in this case is that the consortium can jointly meet the qualifications as if it were one participant. Joint ventures can also take the form of a subcontracting relationship, where one company supplies the company that won the award for the government contract.

PPPs are governed by special legislation. The established procedure is that first there has to be an initiative brought by the private (interested party) or the public sector (any government agency with a PPP initiative). The presentation, evaluation, and selection of initiatives and winners of public-private alliances is held over the next phases: presentation of the initiative; evaluation of the initiative by the National Council of Public-Private Partnerships with the further declaration of public interest; a competitive selection process to determine the successful bidder; and, finally, the award of the PPP.

### **Bidding process**

It is mandatory for every procurement procedure that a notice be published in a **local newspaper**. The notice is also published on the applicable government agency website and on the DGCP portal. There

is no central journal for contract opportunities, although there are some companies that provide a service informing potential offers of contract opportunities in their field. After someone registers an interest in a procedure, the government sends out direct e-mails for every update during the process, until the final notice award.

There are six prescribed procedures that awarding authorities must follow for contractor selection. Depending on the type of contract and the amount involved, government agencies can choose between the following:

- National public tender: this is the main procedure and almost every procurement process is carried out using this procedure. Although it is meant only for big contracts, some contracting authorities prefer it because it guarantees high levels of competition and transparency
- International public tender: this is for procedures that involve international and foreign offers
- Restricted tender: reserved for procedures where only a handful of potential offers exist in the market. These possible interested parties are directly contacted to participate in the tender and no one else can take part
- Raffle of works: this is a very infrequently used procedure, where, haphazardly, offers are awarded with a contract
- Price comparison: this procedure is known as the 'lowest price technically acceptable' process. In this process, the contract should be awarded to the lowest price offer from among those that comply with the minimum technical requirements
- Reverse auction: offers bid for the prices at which they are willing to sell their goods to the government. This procedure is seldom used in the Dominican Republic

All these procedures are conducted physically. Although there is a portal through which awarding authorities send out notices and information, the procurement process is not electronic. Limits to changes in offers during the procurement process are set out in the **procedure specifications**. Usually, the government can ask for corrections to the offer before a deadline. However, there is no limit on the changes the contracting authority can make to the process. It is normal for several amendments to be made to conditions, among other things.

## Eligibility

Article eight of the Government Procurement Law states that anyone who wishes to contract with the state shall demonstrate its **capacity** by satisfying the following requirements:

- They must possess the professional and technical qualifications that ensure capacity, financial resources, equipment, physical means, reliability, experience and staff are necessary to execute the contract
- Their commercial purposes and activity must be compatible with the contractual object
- They must be solvent and not in a bankruptcy or liquidation process, nor must their commercial activities have been suspended
- They have complied with their tax and social security obligations

These requirements are not restrictive, however, and the contracting authority can require any additional elements it deems necessary to ensure the contractor is responsive and able to carry out the awarded contract. In addition, any contractor must be registered as a state provider to be able to participate. Conflicts of interest are regulated by law. As a principle, government officials and their relatives cannot directly or indirectly participate in a procurement process. In addition, some types of organizational conflicts of interest are in place. These conflicts of interest are screened during the first step of the evaluation process, which is the qualification of the offers. Foreign suppliers can only bid in an international public tender. However, foreign suppliers can participate in any other procurement process if they set up a local branch or subsidiary or have local tax residence through a mercantile registry.

## Evaluating tenders

The criteria for evaluating tenders are left to contracting authorities to determine following the principles of best value and full and open competition guidelines by law and depending on the type of procurement procedure selected. To ensure certain uniformity in evaluation standards in contracting authorities, the Dominican Republic government made it mandatory for government agencies to follow model specifications established by the DGCP. These specifications are sent out as soon as the procurement procedure is published and are very similar to what is known in the USA as a request for proposal. Nonetheless, evaluation guidelines will vary depending on the type of contract.

In the Dominican Republic, there is no such thing as 'buy Dominican' provisions. However, domestic suppliers are typically favored when it comes to food production. The government gives preference to local producers' products rather than imported products. However, authorities cannot specify that goods and services must have national quality marks and usually when they ask for certain quality specifications, they accept those that are of equivalent or superior quality. Full and open competition is at the core of the Dominican Republic government procurement system.

**Collateral policies** in government procurement are highly sought after in the Dominican Republic. Environmental products and procedures, energy-efficient electronic products, women-owned businesses, SMEs, depressed areas, etc. are elements taken into account at the evaluation procedure. In any case, if these considerations will be taken into account, they must be expressly stated in the procedure specifications.

### **Information flow**

Disclosure obligations are limited to the information required to identify the offeror and its corporate structure, as well as the representatives that will sign the contracts and so on. They will vary depending on the type of contract object. The information bidders have access to is limited to what is included in the procurement specifications. Bidders can ask questions and request any information they require in a specified period. The government is obligated to debrief bidders by responding to all these questions, within reason. After this period, no further questions or requests for information can be made.

For complicated procurement, some contracting authorities hold **public debriefing hearings**, so interested parties can ask questions and request information, but this is not mandatory. There is a general obligation of information and transparency for every stage and decision concerning procurement procedures. Changes, amendments and unsuccessful and disqualified bidders must be properly notified. Confidentiality is usually mandated in procedures where special and security items are procured; apart from that, all information must remain public.

### **Challenging awards**

Bid protests and award challenges are not very frequent, mainly because of the low chance of success, which is influenced by the very low response rate. It is not costly, but periods for award challenges in the administrative court and with the DGCP range from two to three years. Complaints procedures can be brought by offerors to the contracting authority directly appealed to the enforcement body and later challenged in court. One can also go directly to each of those stages without having to previously exhaust the other.

Limitation periods for challenges vary depending on the type of procedure. Court challenges must be brought within 30 days of the date of the act that is being challenged. Challenges to the contracting authority must be made within 10 days. The decision rendered by the awarding agency can be appealed within 10 days. Challenges can be brought on almost any grounds of breach of procurement law, whether a specific statute or a violation of a principle such as transparency or competition. It is possible to challenge the specifications, particular decisions taken by the contracting authority, the award, and even the contract.

Courts have broad powers to grant relief in government procurement cases; however, they cannot rule on areas of discretionary government authority. They usually order new tenders and fines in the event of breaches of procurement procedures, and may impose suspension and debarment sanctions, which are provided in law.

### **Applicable legislation**

Law N° 340-06 – [Ley sobre Compras y Contrataciones Públicas de Bienes, Servicios, Obras y Concesiones del Estado Dominicano](#)

Decree N° 543-12 – [Reglamento de Aplicación de la Ley 340-06](#)

Law N° 47-20 – [Ley de Alianza Público Privadas](#)

Decree N° 434-20 – [Reglamento de Aplicación de la Ley No. 47-20](#)

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