

Law No.173 on Protection to the Importer Agents of Goods and Products & DR-CAFTA

For U.S. companies only

Since 1966 the contractual relations between the parties in any distribution agreement in the Dominican Republic, properly registered in the Central Bank, are regulated by Law No. 173 on Protection to the Importer Agents of Goods and Products and its amendments. Nonetheless, since March 1st 2007, distribution relationships between one Dominican party and one American party will be regulated by what is stated in Section B Chapter 11 on Cross- Border Trade in Services of the DR-CAFTA.

Section B of the Agreement establishes the guidelines that will regulate:

- 1) The distribution agreements signed after the date of the Agreement, and
- 2) The distribution agreements signed before the date entry into force of the Agreement. In addition, it also defines what shall be understood by covered contract, Law No. 173 and date of termination.

1. DISTRIBUTION AGREEMENTS SIGNED AFTER DR-CAFTA

This section establishes that the Dominican Republic shall not apply Law No.173 to any covered contract signed after the date of entry of this Agreement, unless the contract explicitly provides for the application of Law No. 173. The principal aspects are:

- (a) The principles of the Civil Code of the Dominican Republic apply to the covered contract;
- (b) Treat the covered contract in a consistent manner with the obligations of this Agreement and the principle of freedom of contract;
- (c) Treat the termination date of the covered contract, as just cause;
- (d) If the covered contract has no termination date, allow it to be terminated by any of the parties by giving six months advance termination notice;
- (e) Treat the indemnification in case of termination of the contract;

- (f) Allow disputes arising from the covered contract to be resolved through binding arbitration; and
- (g) Allow the parties to establish in the contract the mechanisms and forums that will be available in the case of disputes.

2. DISTRIBUTION AGREEMENTS SIGNED BEFORE DR-CAFTA

If Law No.173 applies to a covered contract, the Dominican Republic shall provide, consistent with articles 46 and 47 of the Dominican Republic Constitution, that:

- (a) The amount of any indemnity for termination of a covered contract based on the factors listed in Article 3 of Law No. 173 shall be no greater than would be available to the claimant under the Civil Code of the Dominican Republic;
- (b) The parties to a contract may agree to resolve the dispute through binding arbitration; and
- (c) The Government of the Dominican Republic and the conciliation authorities shall take all appropriate steps to encourage the resolution of disputes arising under covered contracts through binding arbitration.

3. OTHER ASPECTS

Finally, this Section establishes that goods or services suppliers shall not be required to pay damages or an indemnity for terminating a covered contract for just cause or allowing such a contract to expire without renewal for just cause. A contract shall be interpreted as establishing an exclusive distributorship only to the extent that the terms of the contract explicitly state that the distributor has exclusive rights to distribute a product or service; and the requirement that the parties to a contract seek a negotiated settlement of any dispute through conciliation, shall retain all their validity and force for all contractual relations Agreements signed before the date of entry into force of the Agreement.



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