

International Trade in Goods and Services in the Dominican Republic: Overview

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RECENT TRENDS

1. What are the recent trends affecting the regulation of international trade in your jurisdiction?

The Dominican Republic has established diplomatic relationships with China in 2018 and has increased its commercial relationships with China in 2019.

The Financial Action Group (*Grupo de Accion Financiera*) has amended its internal rules on how to prepare and document international trade operations.

The Dominican Republic is negotiating a trade agreement with the UK. The UK has recommended that the Dominican Republic approve its economic partnership agreement with the Caribbean Forum (CARIFORUM)

TRADE AGREEMENTS

2. Is your jurisdiction a member of the World Trade Organization (WTO)? What are the main international, regional or bilateral trade agreements to which your country is a party?

The Dominican Republic has been a member of the WTO since its creation in 1995 and a party to the General Agreement on Tariffs and Trade (GATT) since the 1950s. See *WTO: Dominican Republic and the WTO*. Other trade agreements are described below.

DR-CAFTA

The Dominican Republic-Central America Free Trade Agreement (DR-CAFTA) was signed on 5 August 2004 and has been effective in the Dominican Republic since 1 March 2007. The DR-CAFTA facilitates trade and investment between its member states, and promotes regional integration by eliminating tariffs, opening markets, reducing barriers to services, promoting competition, protecting intellectual property rights, and advancing transparency. Parties to the agreement are the US, Dominican Republic, Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. These last six countries represent the third largest export market for US goods in Latin America, after Brazil and Mexico.

The DR-CAFTA is the first free trade agreement (FTA) between the US and a small group of developing countries. It permanently guarantees the Dominican Republic the ability to export most of its products and services to other member states without customs duties. Signatories of the DR-CAFTA have access to services sectors including financing, insurance, investments, tourism, energy, transport, construction and engineering, government contracts, telecommunications, express delivery, electronic commerce, entertainment, professional services, computer and related services, and environmental industries. Laws that protect domestic dealers by locking companies into distributorship arrangements have been

loosened. See: *USTR: CAFTA-DR (Dominican Republic-Central America FTA)*.

CARIFORUM-EU Economic Partnership Agreement (EPA)

The EPA is a free trade treaty with financing and investment aspects signed in 2007 between the EU and CARIFORUM, an organisation of Caribbean nations whose members are Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Saint Lucia, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, and the Dominican Republic. The EPA allows duty-free access to Caribbean products to all EU member states and provides economic assistance to Caribbean countries with the stated purpose of reducing poverty, promoting regional integration, and encouraging regional consolidation into the world economy. The EPA also promotes free trade within the Caribbean region. The Dominican Republic entered into the EPA on 15 October 2008. See: *Europa: Countries and regions: Caribbean*.

CARICOM-Dominican Republic FTA

The Dominican Republic signed an FTA with CARICOM in 1998 and ratified it in February 2002. This FTA establishes free trade zones in the region along WTO guidelines. Trade between the Dominican Republic with other more developed Caribbean states takes place on an equal or reciprocal basis, but may be differentiated with those less developed, such as Antigua and Barbuda, Belize, Dominica, Grenada, Montserrat, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, and Haiti.

This FTA coexists with the CARIFORUM-EU EPA. In the case of a conflict in the treatment of a product or sector between the two agreements, the EPA provides that the agreement with the less restrictive treatment will prevail.

Partial Scope Agreement between the Dominican Republic and Panama

The Dominican Republic signed a Partial Scope Agreement with Panama in July 1985 and ratified it in June 1987, but the Agreement only entered into force in November 2003.

This commercial treaty guarantees duty-free access into Panama to 103 Dominican products and duty-free access into the Dominican Republic to 101 Panamanian products. The Agreements provides for the possibility to add more products.

TRADE NEGOTIATIONS

3. What are the authorities responsible for negotiating trade agreements? How long does it usually take to conclude a trade deal with your country?

The Foreign Trade Commission of the Ministry of Commerce and Industry negotiates commercial treaties. The Ministry of Foreign Affairs oversees all international relationships, including treaties.

There is no standard duration of trade negotiations.

SUPPLY OF SERVICES

4. Is your jurisdiction a party to international agreements on cross-border trade in services? Is your jurisdiction taking part in the negotiations of the Trade in Services Agreement (TiSA)?

Chapter 11 of the DR-CAFTA regulates cross-border trade in services. The CARIFORUM-EU EPA contains provisions on cross-border trade in services, but is not as flexible as the DR-CAFTA in this area.

The Dominican Republic is not taking part in the negotiations of the TiSA.

5. What domestic legislation and international rules apply to the supply of financial services and legal services in your jurisdiction? What are the main requirements that service providers must comply with?

Financial Services

Regulatory Framework. Law No. 183-02 (Monetary and Financial Code) and its enabling regulations are the main legislative texts governing financial services in the Dominican Republic. The Monetary Board of the Central Bank of the Dominican Republic and the Superintendence of Banks also issue binding regulations for the sector.

Main Requirements. Financial services are a heavily regulated sector. To do business locally, entities must obtain a permit from the Superintendence of Banks.

Legal Services

Regulatory Framework. Legal services are provided by lawyers and notaries. Lawyers are regulated by Law No. 3-19 and notaries by Law No. 140-15. The Dominican Republic is not a party to international agreements for the mutual recognition of legal qualifications.

Main Requirements. To practise law in the Dominican Republic, a person must:

- Have a law diploma from a Dominican university.
- Be authorised by the Supreme Court and the Dominican Lawyers Association (*Colegio de Abogados*).

Foreign lawyers must have their qualifications homologated by the Santo Domingo Autonomous University.

6. Are there restrictions on market access for specific services sectors?

The Dominican Republic has an open market for investments in all sectors, except national defence and the arms industry. Licences are required in regulated sectors such as banking, insurance, energy, telecommunications, tourism, health care, free zones, and education.

IMPORTS

Customs Authority

7. What is the authority responsible for enforcing customs laws and regulations?

The authority responsible for enforcing customs laws and regulations in the Dominican Republic is the *General Customs Directorate (Dirección General de Aduanas) (DGA)*.

The DGA is an autonomous entity within the Ministry of Finance. Enforcement and control activities are carried out in co-ordination with the Tax Administration, which is also an autonomous entity of the Ministry of the Finance.

The DGA has several offices in the main airports and ports, at the border with Haiti, and in the industrial free zones.

The DGA has the authority to:

- Enforce customs regulations, general import and export tariffs, and rules of origin.
- Produce and prepare customs forms and foreign trade annexes for the correct application of legal provisions.
- Accept and authorize customs preferential treatment under trade agreements (such as the DR-CAFTA).
- Impose sanctions set out in customs regulations and trade agreements.

8. Can customs decisions be challenged?

Decisions issued by the custom authorities can be challenged.

The first stage is to bring a request before the issuing authority for administrative revocation or amendment of the decision. If the request is denied, interest parties can seek remedy in the administrative courts.

Import Duties, Tariffs and Rates

9. Where can information be found about import tariffs and other customs charges?

General Tariffs and Rates

The main legislation relating to import tariffs and related charges is the Law No. 168-21 on Customs.

The main customs import tariffs and duties are:

- General import tariffs (*arance*). Import tariff rates vary from 0% to 20%.
- Value added tax (VAT), which is levied on imports at a rate of 18%.
- Luxury or excise tax (*Impuesto Selectivo al Consumo*), which is a consumption tax on luxury imports or "non-essential" goods with rates ranging between 10% to 20% of the "cost, insurance and freight" (CIF) price (a few products are taxed at up to 70% and 130%). Luxury goods include vehicles, perfumes, alcoholic beverages, jewelry, and tobacco.

Preferential Tariffs

The Dominican Republic grants preferential tariffs to countries with which it has entered into FTAs, such as countries that are party to the DR-CAFTA.

Local importers also benefit from relief from import taxes and duties under the Industrial Innovation Law No. 242-20, Free Zone Law No. 8-90, Renewable Energy Law No. 57-07, and Tourism Incentives Law No. 158-01.

Non-Tariff Barriers to Imports

10. Are there non-tariff barriers to imports into your jurisdiction?

Non-tariff barriers and regulations apply to certain items and must be publicised.

Additional requirements depend on the categories of products. For example, special registration requirements apply to imports of food products, cosmetics, and medicines.

Import quotas may apply to protect the national industry.

Imports of waste are prohibited or require special authorisation.

TRADE REMEDIES **Regulatory Framework**

11. What is the main legislation relating to trade remedies? What are the authorities responsible for investigating and deciding on trade remedies?

Regulatory Framework

The main law on trade remedies is Law No. 1-02 on Unfair Trade Practices and Safeguard Measures.

Law No. 42-08 on Fair Trade protects national manufacturers from unfair practices such as abuses of dominant position.

Regulatory Authority

Law No. 1-02 is enforced by the Commercial Defence Commission (*Comisión de Defensa de la Competencia*). The Commercial Defence Commission can start investigations when a domestic producer or an industry association submits a petition based on a claim of dumping or subsidies and injury to the domestic industry.

The Commission investigates and prepares proceedings, requesting information and investigating the case before issuing a decision. Most cases take more than one year for a final decision to be issued.

A petitioner must show that it is incorporated under Dominican laws and provide evidence of the affected products. A response to an official investigation questionnaire must be accompanied by information and evidence on dumping or subsidies, as well as injury to the domestic industry.

The Commercial Defence Commission can seek information from non-petitioning producers to know the position they would adopt in any future investigation and obtain economic and financial information.

If the Commission decides to start a formal investigation, it sends a notice to other interested parties (importers and exporters) containing the arguments and evidence presented by the domestic industry, the analysis of the injury, the applicable tariff item, and any other relevant information. After receipt of the notice, interested parties must submit their arguments and evidence. After then, the Commission issues a decision on the case.

Law No. 42-08 is enforced by the Fair Trade Commission (*Procompetencia*). The Fair Trade Commission has authority to investigate and rule over claims of fair trade violations.

The International Commerce Office of the Ministry of Commerce ensures compliance with FTAs.

Investigations and Enforcement

12. Does your jurisdiction apply a lesser duty rule and/or a public interest test in trade remedy investigations? Are there any other notable features of your jurisdiction's trade remedy regime?

Law No. 42-08 on Fair Trade allows the application of the lesser duty rule and/or a public interest test in trade remedy investigations.

The Dominican Republic applies international rules on trade remedies through the Commercial Defence Commission.

Appeals

13. Is there a domestic right of appeal against the authority's decision? What is the applicable procedure?

A party can bring an administrative appeal against a decision of the Commercial Defence Commission or Fair Trade Commission before the Administrative Superior Court.

A decision of the Administrative Superior Court can be challenged before the Supreme Court of the Dominican Republic.

SANCTIONS AND EXPORT CONTROLS **Regulatory Framework**

14. What is the main legislation governing sanctions and export controls? What are the authorities responsible for enforcing sanctions and export controls?

The main law governing export controls is Law No. 168-21 on Customs. The DGA can take measures to regulate, restrict or prohibit the export, import, circulation or transit of goods in the Dominican Republic for safety and public order reasons. If there is an issue affecting local producers, the Commercial Defence Commission will analyse the case to assist the DGA.

Companies and individuals that wish to export goods from the Dominican Republic must register with the:

- Commerce Registry of the Chamber of Commerce.
- Tax authorities.
- DGA (in some cases).
- Dominican Republic Investment and Export Center (CEI-RD, now Prodominicana). This is recommended to benefit from special government support.

To export goods, an exporter must also:

- Issue commercial invoices.
- Apply for the relevant export permits (for regulated items only).
- Submit the certificate of origin for the products.
- Submit an export application form.

An exporter must submit the following documents with its export application:

- Freight document.
- Commercial invoice or electronic proof of value.
- Packing list.
- Customs documents and certificates relating to the quality and quantity of the goods.

15. Are certain categories of goods subject to non-country specific export controls?

In principle, exports are not subject to any controls or quotas. Certain exceptions apply. For example, sanitary certificates or permits are required for the exportation of animal and vegetal products, and there are controls on exports from mining concessions.

16. Are there specific restrictions on trade with certain jurisdictions, entities or persons?

There are no specific restrictions on trade with certain jurisdictions. In some circumstances, the Dominican Republic may avoid trade with some countries, especially to comply with UN sanctions.

Penalties

17. What are the consequences of non-compliance with sanctions and export controls?

Importing prohibited goods into the Dominican Republic (including counterfeit products and imitation of registered products) is a criminal offence.

Customs and intellectual property regulations protect original and registered/authorised products against the introduction of prohibited and counterfeit products.

Additionally, criminal smuggling can be prosecuted under the Criminal Code and Custom Law, and is punishable with imprisonment and monetary sanctions.

The DGA will hold at port of entry all products for failure to comply with the necessary requirements and export regulations. Administrative penalties may apply on exporters for altering export documents or failing to provide information on matters relating to origin, licences, and quotas.

COMPLIANCE

18. Are businesses subject to specific compliance requirements? What practical steps should a business take to ensure compliance with trade sanctions and import/export requirements?

Businesses should identify the requirements applicable to their sectors. Contracts must contain all necessary provisions to ensure compliance.

FOREIGN TRADE BARRIERS

19. What is the procedure for local exporters to complain against foreign trade barriers contrary to the WTO or other trade agreements?

A local exporter can complain against trade barriers contrary to the WTO or other trade agreements to the International Commerce Office of the Ministry of Commerce.

A commission investigates and prepares proceedings by requesting information from the interested countries. It can also decide to challenge a trade restriction under the WTO dispute settlement mechanism. However, a trade barrier imposed by a party to a trade treaty with the Dominican Republic must be reviewed under the treaty dispute settlement provisions.

DEVELOPMENTS AND REFORM

20. Are there impending developments or proposals for reform affecting international trade in goods and services?

There are currently no impending developments or proposals for reform affecting international trade in goods and services. A new Competitiveness Commission was recently appointed to allow better access to certain business sectors, but has not yet made any specific proposals. Additionally, Law No. 168-21 on Customs establishes an improved regulatory framework for trade in goods and services in the Dominican Republic.

Practical Law Contributor Profiles

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Professional Qualifications. Dominican Republic, Expert Witness on Dominican Law

Areas of Practice. International trade; mergers and acquisitions; commercial and administrative litigation and arbitration; contracts and torts; energy; telecommunications and technology.

Recent Transactions

- Assisted the Ministry of Commerce of the Dominican Republic in the DR-CAFTA negotiation rounds with the US Government.
- Represented a client in the negotiation and review of contracts and documents for a PPP bidding process with the government.
- Advised hotel chains and commercial real estate developers on corporate and financing matters.

Languages. Spanish, English, French

Professional Associations/Memberships. Member of the Dominican Bar Association; Member of the Inter-American Bar Association.

Publications. *Secured Lending (co-author), Lexology-GTDT, 2016-2021; Project Finance Law Guide (co-author), Lexology-GTDT, 2016-2021.*

Professional Qualifications. Dominican Republic, Lawyer

Areas of Practice. Corporate and business law; international trade and foreign investments; arbitration; mergers and acquisitions; banking; free zones; intellectual property.

Non-Professional Qualifications. MS in Corporate Business Law, PUCMM

Recent Transactions

- More than nine years of experience in corporate and civil law.
- Assists international and local clients on their business activities and investments in the Dominican Republic.
- Experienced in developing commercial companies under Dominican regulations and in offshore jurisdictions.

Languages. Spanish, English

Professional Associations/Memberships. Member of the Dominican Bar Association.