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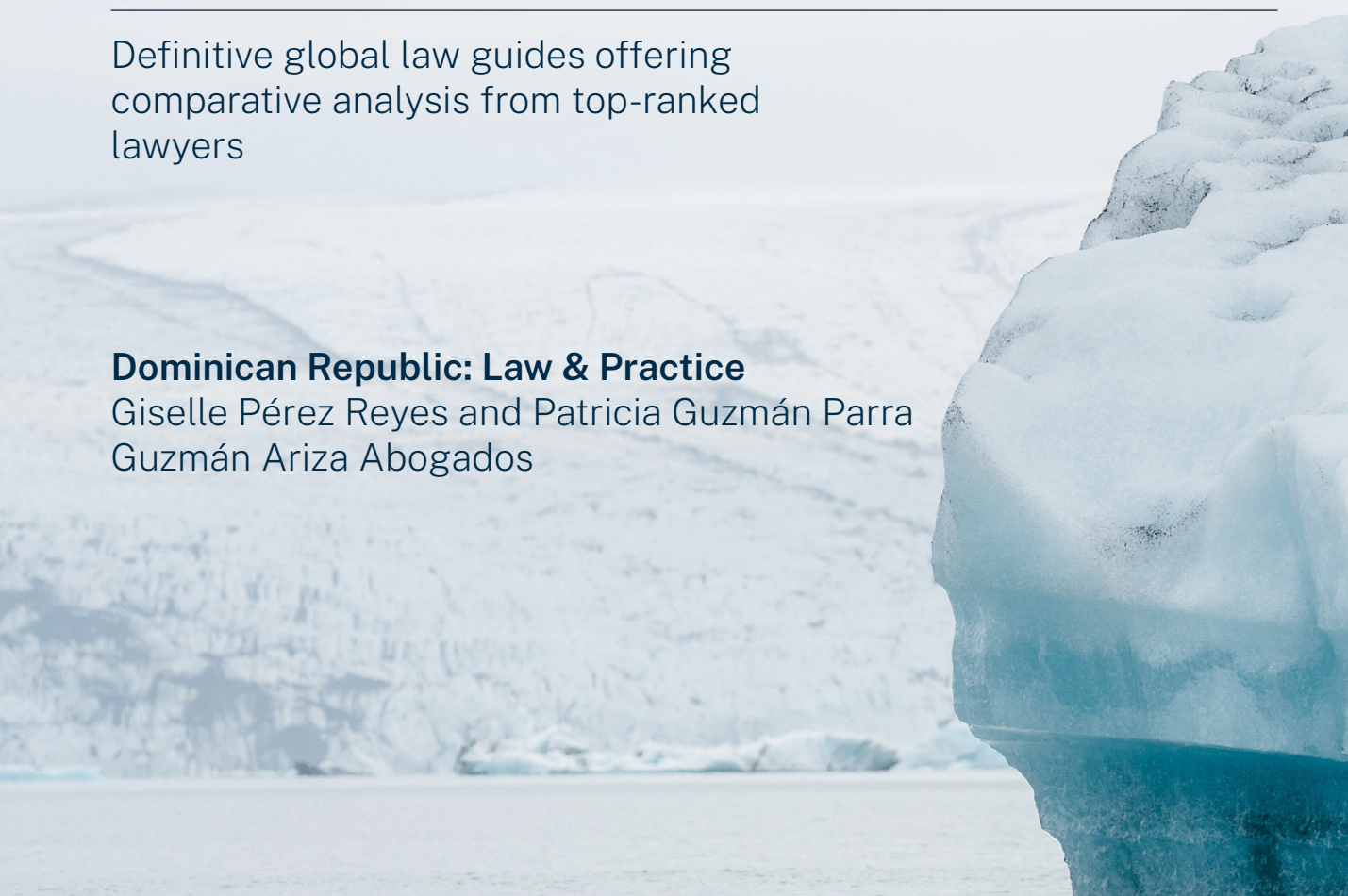
# Climate Change Regulation 2023

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## **Dominican Republic: Law & Practice**

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Guzmán Ariza Abogados



# DOMINICAN REPUBLIC



## Law and Practice

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**Guzmán Ariza Abogados** is a law firm based in the Dominican Republic, founded in 1927, and recognised as a top-tier firm by Chambers and Partners, the premier guide to the world's leading law firms. The firm is positioned to help clients mine the business opportunities present in the country, the largest and fastest growing economy in Central America and the Caribbean, and the region's most visited tourist desti-

nation. It is the first and only national law firm in the Dominican Republic, with eight offices strategically located to serve every major business and tourism centre in the country. The firm is full-service, meaning that it can assist across a wide variety of practice areas. As a member of global legal networks, the firm is able to advise effectively in international transactions.

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## 1. Multilateral and Regional Regimes

### 1.1 Multilateral Climate Change Legal Regime

The Dominican Republic participates in the multilateral legal regime on climate change. The country has participated in several international agreements and negotiations.

- United Nations Framework Convention on Climate Change (UNFCCC) – the Dominican Republic signed the convention on 11 June 1992 and ratified it on 25 March 1994.
- Kyoto Protocol – the Dominican Republic signed the protocol on 29 May 1998, and ratified it on 17 September 2001.
- Paris Agreement – this international treaty aims to combat climate change and limit global warming. The Dominican Republic signed the agreement on 22 April 2016, and ratified it on 18 October 2016.

On the other hand, it participates in climate change negotiations as part of regional and political blocs. It aligns its position with the Group of 77 representing developing countries.

In general, the Dominican Republic is committed to both mitigation and adaptation measures in relation to climate change. Its insular condition, its location that allows for the frequent passage of adverse atmospheric phenomena such as hurricanes, and its size, have contributed to determining this stance.

In terms of climate finance, due to its economic situation, the Dominican Republic requires financial support from other developed countries and international financial institutions, as it is not capable of facing all the challenges related to the impact of climate change on its own.

In terms of training and technology transfer, the Dominican Republic promotes greater specialisation of labour personnel and the transfer of technology from developed countries to better address the impact of climate change.

### 1.2 Regional Climate Change Legal Regimes

The Dominican Republic participates in regional legal regimes through various agreements and mechanisms.

- The country is a member of the Caribbean Community (CARICOM), a regional integration

organisation formed by Caribbean countries. Within CARICOM, climate change is a significant area of interest. Within CARICOM, the Caribbean Community Climate Change Centre (CCCCC) supports climate change related projects and capacity building efforts in the region.

- The Dominican Republic is also a member of the Association of Caribbean States (ACS), which promotes co-operation and sustainable development among Caribbean countries.
- Finally, the country participates in initiatives such as the Caribbean Sustainable Energy Roadmap and Strategy (C-SERMS) and the Caribbean Renewable Energy Forum (CREF).

In doing so, the Dominican Republic aims to make better use of resources and to take advantage of regional experience around climate change.

## 2. National Policy and Legal Regime (Overview)

### 2.1 National Climate Change Policy

The Dominican Republic is acting in accordance with the international organisations and treaties to which it is a party to address climate change, and therefore assesses its impact in economic, social, and environmental areas, among others.

In this sense, the Dominican Republic is aiming for a 25% reduction of base year emissions by 2030 as a Nationally Determined Contribution (NDC) target. This is conditional on favourable and predictable support, the viability of climate finance mechanisms, and the correction of the failures of existing market mechanisms.

The Dominican Republic is actively committed to the policy of adaptation and mitigation of cli-

mate change. In this regard, the sixth report of the Intergovernmental Panel on Climate Change (IPCC) integrates the previous ones about the planet and warns about the increase in global warming, as well as the existence of solutions from technology and local communities, for which the Dominican Republic is in favour.

### 2.2 National Climate Change Legal Regime

The Dominican Republic is changing its regulatory environment in relation to climate change. The 2010 Constitution of the Dominican Republic establishes the right to a healthy environment and based on this supreme norm, together with the international treaties to which it is a party, addresses the impact of climate change. It is therefore a flexible framework that helps the national policy response, which must necessarily be implemented through the corresponding laws and regulations.

In addition to Law 64-00 on the environment, Decree No 541-20, which creates the National System for the Measurement, Reporting, and Verification of Greenhouse Gases, the National Greenhouse Gas Inventory System, and the National System for the Registration of Greenhouse Gas Mitigation Actions, as well as the Unit for the Registration of Climate Action Projects and the National System for the Registration of Support and Financing for Climate Change, are important in the regulatory sphere.

Also, Resolution 141-10 approved the ratification of the Kyoto Protocol in the UN Convention for Climate Change, and Resolution 122-17 approved the Paris Agreement, and both were signed by the Dominican Republic on 22 April 2016. Furthermore, Decree 269-15 established the National Politics for Climate Change, and Decree 601-08, enacted on 20 September 2008,

created the National Council for Climate Change and Clean Development Mechanism (CNCC-CDM).

## 2.3 Bilateral Co-operation

The Dominican Republic co-operates with other parties to the Paris Agreement in the implementation of climate change policy actions.

In May 2022, Cuba and the Dominican Republic signed a Memorandum of Understanding for binational co-operation on climate change.

In January 2021, the Minister of Environment of the Dominican Republic, Orlando Jorge Mera, and of the Republic of Haiti, Abner Septiembre, reaffirmed the commitment of the governments of both nations to develop joint plans and actions for the conservation of the natural resources of both countries and to combat the adverse effects of climate change.

## 2.4 Key Policy/Regulatory Authorities

In the Dominican Republic, several authorities and agencies are competent in relation to climate change policies.

- The Ministry of Environment and Natural Resources (MIMARENA) is the main government agency responsible for the protection of the environment, and therefore co-ordinates everything related to climate change. The Vice Minister of Climate Change and Sustainability specifically co-ordinates all actions regarding this topic.
- The National Council for Climate Change and Clean Development Mechanism is the main institutional body for the co-ordination of climate change policies and develops national climate change strategies, co-ordinates climate change adaptation and mitigation

initiatives, and facilitates international co-operation on climate change.

- The Ministry of Energy and Mines is the State agency in charge of the responsible development of the national energy and mining sector. A key body within it is the National Energy Commission. Given the broad perspective of the impact of climate change, many other ministries are involved, most notably the Ministry of Agriculture and the Ministry of Industry and Commerce.
- The National Institute of Water Resources (INDRHI) is responsible for the management of water resources and in this sense contributes to the development and implementation of climate change adaptation measures in the water sector.

Rather than a problem of the need for other agencies, the main issues that could be identified in the Dominican Republic are the lack of resources, slow administrative processes, and lack of specialised staff.

## 3. National Policy and Legal Regime (Mitigation)

### 3.1 Policy/Regulatory Instruments and Spheres of Government/Sectors

The Dominican Republic has several policy and regulatory mechanisms to address climate change mitigation. The main framework instrument for climate change mitigation in the Dominican Republic is the General Law on Environment and Natural Resources (Law No 64-00), which, in addition to establishing the legal basis for environmental protection, includes provisions related to climate change mitigation.

The Dominican Republic, in its intended Nationally Determined Contribution, established in

August 2015 a 25% reduction of base year emissions by 2030, conditional on favourable and predictable support, the viability of climate finance mechanisms, and the correction of the failures of existing market mechanisms.

Law No 64-00 on Environment and Natural Resources and its Regulation on Environmental Impact Assessment, requires notification of greenhouse gas emissions in projects and activities that require environmental authorisations. The Ministry of Environment is responsible for collecting data on national emissions, based on which it will promote the policies that correspond to the sectors of mainly industrial, energy, and transport, that have a significant impact on climate change, to offer effective mitigation.

Also, the Dominican Republic has adopted control measures to reduce greenhouse gas emissions, for example through regulations to promote renewable energy, such as Law 57-01 on Incentives for the Development of Renewable Energy Sources and their Special Regimes.

## 4. National Policy and Legal Regime (Adaptation)

### 4.1 Policy/Regulatory Instruments and Spheres of Government/Sectors

As with mitigation measures, the Dominican Republic has several mechanisms to adapt the country to climate change. These mechanisms are framed in laws, regulations, and governmental strategies. Thus, in addition to Law 64-00 on the Environment and Natural Resources and the regulations that develop it, the National Climate Change Strategy (ENCCRD) and the National Adaptation Plan (NAP) should be highlighted.

It can be stated that, strictly speaking, no administrative sphere can be left out of adaptation measures, although the Ministry of the Environment should be the most involved. In the same way, the same sectors as mentioned above are also the most involved in adaptation. The adaptation measures to be taken are varied in nature, and one example is the water saving measures to be adopted in the agricultural, industrial, and domestic sectors.

## 5. Responses to International Developments

### 5.1 Carbon Markets

The firm has no information on the participation or intention of the Dominican Republic regarding carbon markets under Article 6.4 of the Paris Agreement. Beyond projects such as the study of the National Council for Climate Change and the Clean Development Mechanism, regarding the consultancy and technical support for the project “Estimation of the Social Price of Carbon for the Dominican Republic”, the firm has no information on specific regulations or policies related to the participation of the Dominican Republic in the carbon market, although there is always the possibility that emitters can voluntarily offset their greenhouse gas emissions with the purchase of carbon credits from projects that reduce emissions. Therefore, the authors have no knowledge of any plans to implement carbon projects or to impose export taxes on greenhouse gas emissions reductions.

According to the 2022 institutional memory of the National Council for Climate Change and Clean Development Mechanism, during 2022, work progressed to provide the country with a low-carbon development strategy, the Long-Term Strategy for Decarbonisation or Climate

Neutrality, the fundamental objective of which is to achieve climate neutrality by 2050. The Long-Term Strategy (LTS) will complement the efforts included in the NDC for 2020–2030, in compliance with the international commitments set out in the Paris Agreement.

## 5.2 European Union Carbon Border Adjustment Mechanism (CBAM)

Given the characteristics of trade relations between the two markets, it is unlikely that the Dominican Republic will be significantly affected by the EU Carbon Border Adjustment Mechanism (CBAM), although there is still no official pronouncement from the Dominican Republic in this regard.

## 6. Liability for Climate Change and ESG Reporting

### 6.1 Task Force on Climate-Related Financial Disclosures (TCFD)

An ESG report or sustainability report is a report published by a company or organisation about environmental, social, and governance (ESG) impacts. It enables the company to be more transparent about the risks and opportunities it faces. It is a communication tool that plays an important role in convincing sceptical observers that the company's actions are sincere.

The growing importance of sustainability reports is supported by the fact that investors and other stakeholders are calling on companies to disclose more about their sustainability and ESG strategies.

In the Dominican Republic's regulations, so far, there is no obligation to report ESG impacts.

### 6.2 Directors' Climate Change Liability

In the Dominican Republic, it is not possible to hold company directors liable in a generic way for the impacts of climate change. The administrators can only be held liable to the extent that there is a specific regulation that assigns liability. In this sense, Law 64-00 contemplates rules concerning the liability of legal persons and their administrators.

### 6.3 Shareholder or Parent Company Liability

Dominican Republic law does not provide for direct liability of shareholders or a parent company for damages caused by climate change or for breaches of climate change legislation. Law 64-00 establishes rules for attributing liability to the legal persons that represent a company in case of environmental damages, but there are no instruments yet to identify damages caused by climate change. This law also includes that where two or more persons participate in the commission of the act, they shall be jointly and severally liable for all economic damages caused. In the case of legal persons, the liability provided for in this legislation shall be established when it is found that the relevant management or administration authorised the actions that caused the damage.

### 6.4 Environmental, Social and Governance (ESG) Reporting and Climate Change

The authors are not aware of any ESG reporting requirements in the Dominican Republic. Neither the Dominican Republic's Securities Market Law 249-17 nor the implementing regulations establish requirements for ESG reporting in the Dominican Republic.

## 7. Transactions

### 7.1 Due Diligence

The share/asset purchaser should conduct climate change due diligence by assessing, from a current regulatory perspective, compliance with current and foreseeable regulations, considering international commitments on climate change and technical developments, as well as the costs of climate impacts on operations.

It is important to note that practices related to climate change due diligence may evolve over time, and that sector-specific standards and expectations may develop. For the most up-to-date and detailed information on climate change due diligence practices in the Dominican Republic, it is recommended that legal experts, financial advisors, and industry-specific resources be consulted.

## 8. Climate-Friendly Investment Support

### 8.1 Renewable Energy

The Dominican Republic has adopted several regulations and mechanisms to promote the use of renewable energy technologies. Among the regulations, Law 57-07 on Incentives for the Development of Renewable Energy Sources and its Special Regimes and its implementing regulations establish incentives for investments in this sector. Among the mechanisms, the development of a one-stop investment shop is foreseen so that foreign investors interested in the national renewable energy market can benefit from the incentives provided for in Law 57-07.

According to Article 1 of Law 57-07, renewable energy sources within the meaning of the law include all those sources that are capable

of being restored continuously after some use, without appreciable alterations to the environment, or are so abundant as to be usable for millennia without significant wear and tear, with urban, agricultural, and industrial waste derived from biomass falling within this scope.

The Dominican Republic also allows consumers to generate their own electricity using renewable energy sources and to feed surplus electricity back into the grid, which can offset future electricity consumption. The country promotes processes for the establishment of large-scale renewable energy projects.

### 8.2 Other Support

Regarding climate change investment, we are conducting long-term strategies. In this sense it is important to note that the Dominican Republic's Ministries of Finance and Environment and Natural Resources signed a landmark agreement with the World Bank's Forest Carbon Partnership Facility (FCPF), which will allow the country to receive payments of up to USD25 million for verifiable greenhouse gas reductions from forest carbon between now and 2025, through the country's emissions reduction programme.

The Dominican Republic's emissions reduction programme is a national initiative focused on reducing forest emissions from deforestation and forest degradation in the country's 4.8 million hectares of biodiversity and forest-rich lands, to improve local livelihoods and protect natural ecosystems. With the Greenhouse Gas Emission Reductions Payment Agreement (ERPA) in place, the Dominican Republic is expected to reduce five million tonnes of forest-related carbon emissions.

The Dominican Republic is the third country in Latin America and the Caribbean (after Chile and

Costa Rica) and the 14th globally to reach such an important agreement with the FCPF, which together have unlocked nearly USD670 million in results-based financing. ERPAs are innovative instruments that incentivise sustainable land management and help connect countries with other sources of climate finance. FCPF resources provide new opportunities to conserve and regenerate forest landscapes and biodiversity while supporting sustainable economic growth, which is critical for the Dominican Republic's future development.

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