

Law 173 Governing Distributors in the Dominican Republic

In the case of the **FTA DR-CARICOM, Article IV of the Protocol** Implementing the Agreement Establishing the Free Trade Area between the Caribbean Community and the Dominican Republic, establishes that “[...] Law 173 will not apply when the parties expressly agree that it will not.”

As a result of this agreement, CARICOM entrepreneurs may contractually agree with their Dominican counterparts to waive the application of Law 173. This disposition is contrary to the "public order" statute of this law. Without the registration of the agreement with the Central Bank it is not possible to obtain protection under Law 173.

Below is the recommended legal text provided by NEX Consulting for incorporation into any distributor agreement:

(Spanish Clause)

I. Las Partes declaran que el presente contrato es convenido entre un Concesionario (distribuidor) y un Concedente (Mayorista Exportador o Fabricante), el cual está regido exclusivamente por las normas del Derecho Común de la República Dominicana. Por tanto, _____ reconoce expresamente que a este contrato no le serán aplicadas las disposiciones de la Ley 173 del 6 de abril de 1966 y sus modificaciones, aún cuando le haya sido concedida la exclusividad para distribuir y vender en República Dominicana los productos del Concedente (Mayorista Exportador o Fabricante) y/o en el curso de sus operaciones comerciales tenga relaciones directas con el Concedente antes citado, ya que las mismas siempre serán operaciones de representación, importación, compra y venta de _____ que estarán sujetas a los términos y condiciones consignados en el presente contrato y, para lo no previsto en este acto, aplicarán las disposiciones del Código Civil de la República Dominicana.

II. En razón del anterior reconocimiento, _____ declara que no tiene ni tendrá derecho a inscribirse en el Banco Central de la República Dominicana como concesionario de

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_____, ni a reclamar de _____ indemnización ni compensación alguna de las establecidas por la mencionada Ley 173, por estar el presente contrato fuera del ámbito de dicha Ley, en virtud de lo establecido en el Artículo IV del Protocolo para la Implementación del Acuerdo para el Establecimiento del Area de Libre Comercio entre la República Dominicana y la Comunidad del Caribe.”

(English Clause)

“I. The Parties state that this agreement has been reached between the Concessionaire (distributor) and the Grantor (Wholesale Exporter or Manufacturer), which is exclusively governed by the Common Law norms of the Dominican Republic. Hence, _____ expressly acknowledges to waive the application of the provisions of Law 173 of April 6, 1966 and its modifications to this agreement, even though they have been granted exclusivity to distribute and sell, in the Dominican Republic, the products of the Grantor (Wholesale Exporter or Manufacturer) and/or, in the course of their commercial operations, they may have direct relations with the Concessionaire aforementioned, for the operations will always be those of representation, import, purchase and sale of _____ which will be subject to the terms and conditions agreed on this agreement and, for the unforeseen in this act, the provisions of the Civil Code of the Dominican Republic shall apply.

II. In keeping with the aforementioned acknowledgment, _____ state that they are not and shall never be entitled to register at the Dominican Republic Central Bank as a concessionaire of _____, nor to claim from _____ any forms of indemnity or compensation of what is established by the aforesaid Law 173, for the present agreement is not within the scope of this Law, in keeping with what is established by Article IV of the Protocol for the Implementation of the Agreement for the Establishment of a Free Trade Area between the Dominican Republic and the Caribbean Community.”