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DOMINICAN REPUBLIC EXPORT AND INVESTMENT GUIDE

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DOMINICAN REPUBLIC EXPORT AND INVESTMENT GUIDE

WAIVER

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ACRONYMS

AAC	Common Customs Tariff Classification (Arancel Aduanero Común)
ACP	Africa, Caribbean and Pacific
AMCHAM	American Chamber of Commerce in the Dominican Republic
CAFTA-DR	US Free Trade Agreement with Central America and the Dominican Republic
CBI	Caribbean Basin Initiative
CBPTA	Caribbean Basin Trade Partnership Act
CEI	Dominican Republic Export and Investment Center
CNC	National Competitiveness Council
CNZFE	National Free Trade Zone Council
CEPAL	United Nations Economic Commission for Latin America and the Caribbean
DR	Dominican Republic
EPZ	Export Processing Zones
ET	Transnational Companies
EU	European Union
FDA	Food and Drug Administration
FTAA	Free Trade Area of the Americas
GSP	Generalized System of Preferences
IED	Direct Foreign Investment
INCOTERMS	<i>"International Commercial Terms"</i>
INDOTEL	Dominican Institute for Telecommunications
LDC	Less Developed Countries
NAFTA	North American Free Trade Agreement
OAS	Organization of American States
SEA	Secretary of State for Agriculture, of the Dominican Republic
SEGIR	Support for Economic Growth and Institutional Reform Project
SEREX	Secretariat of State for of Foreign Relations
UL	Underwriters Laboratories Inc.
US	United States of America
USAID	United States Agency for International Development
USDA	US Department of Agriculture
WTO	World Trade Organization

Executive Summary

Executive Summary

This report is part of a group of studies financed by the US Agency for International Development (USAID) through the Support for Economic Growth and Institutional Reform Project (SEGIR, by its English acronym), which are intended to support the National Competitiveness Council (CNC) and the American Chamber of Commerce of the Dominican Republic (AMCHAM) in the preparation, identification and development of a strategy to take advantage of commerce and investment opportunities presented by CAFTA-DR for the Dominican Republic (DR).

The set of studies consists of the following five modules.

- Module 1: Bilateral Trade between the Dominican Republic and the United States
- Module 2: Dominican Republic Exports and Investment Guide
- Module 3: Logistics Guide for the Dominican Republic
- Module 4: Analysis of imports and exports with the corresponding selling prices.
- Module 5: Identification of 200 Dominican Republic products with greater potential in the United States (US) analyzed to 10 customs tariff digits Design of computer software for this purpose.

The purpose of this Module is to design and develop a logistics guide to investment and exports for the Dominican Republic in order to provide updated information that will serve business owners as a guide for the development of their activities in the country.

This Module contains the following information, broken down into three major sections: INVESTMENT GUIDE IN THE DOMINICAN REPUBLIC, EXPORT GUIDE FOR THE DOMINICAN REPUBLIC and EXPORT GUIDE FROM THE DOMINICAN REPUBLIC TO THE UNITED STATES. Each of the subjects covered in this Module is summarized below.

INVESTMENT GUIDE FOR THE DOMINICAN REPUBLIC contains the following subjects: Foreign investment environment in the Dominican Republic, background of direct foreign investment, foreign investment regimen, characteristics of the new investment regiment, company structures, free zones, translational company strategies and investment sectors.

The Dominican Republic is noteworthy as one of the primary countries receiving direct foreign investment, within Central America and the Caribbean, not only due to its beneficial geographic location, but also due to the various instruments created by the government to improve the investment climate in the country.

The investments made in the past several years have focused primarily on the sectors of manufacturing, component assembly and services, through the creation of transnational companies.

The creation and development experienced by Export Processing Zones (EPZs) or free zones, have attracted significant foreign capital, leading transnational companies to locate there and benefit from the various exemptions and incentives provided by this regimen.

Foreign investment in the Dominican Republic is governed by Law 16 of 1995, which improved the investment climate in the country, facilitating processing for those parties wishing to invest. It also expanded nearly all sectors in which investments could be made, allowing investors to freely distribute capital and dividends in foreign currencies, among other benefits enacted by the law.

Also under the new law, the principle of equal treatment of domestic and foreign investments was applied, ensuring them the same legal protection, with no discrimination whatsoever.

In addition to the referenced law, the government, in the past decade, has enacted several laws that promote and facilitate foreign investment in the Dominican Republic, such as Law 8 of 1990, which permits companies that manufacture goods and provide services for export established in Free Zones to benefit from a special system of customs inspections and tax incentives of up to 100 percent, or Law 28 of 2001, which exempts companies established in EPZs from all taxes for a period of 20 years.

In addition to the incentives for companies located in free zones, the Government, through various legal provisions, has granted benefits to other sectors, as in the case of Law 158 of 2001 that stimulates investments in the tourism sector, granting benefits to areas which are relatively undeveloped and new areas in provinces and locations with great potential, granting tax exemptions for a period of 10 years, or as in the case of Law 183 of 2002, which allows foreign investment in the financial services sector.

In order to establish a business, the investor must be governed in accordance with the various company structures established by the commercial code. This is how the three classes of companies are described: Partnerships, in which the partners are jointly and severally liable for the obligations taken on by the company; stock companies, which must be organized with a minimum of seven persons, who shall be liable on a limited bases up to the amount of their contribution to the share capital, represented by shares; and joint stock companies, which are formed by two types of partners, those who have joint and several liability and those who are liable up to the amount of their contribution to the company. The code establishes a fourth form or organization called a joint venture, which permits its members to act as a legal entity without having legal personality vis-à-vis third parties.

In addition to the companies described above, foreign investors may channel their investments through the establishment of branches, subsidiaries, the establishment of consortia with domestic companies, joint ventures or they may sell their products through distributors, agents or concession holders.

Several sectors have been identified in the Dominican Republic as being most attractive to foreign investors, taking into consideration the development of the past several years and the various standards that permit and encourage foreign investment. These sectors are:

- The energy sector, which permits the participation of private capital and the presence of foreign investment in the distribution and generation of electricity. This has brought about an increase in the participation of transnational companies.
- The telecommunications sector, which is one of the greatest strengths of the country's economy, due to the introduction of new technologies, products and services, and also due to the competition generated in the area of mobile telephone service. Similarly, the 1998 Telecommunications Act liberalized services and established the freedom to construct and operate telecommunications systems, thus promoting free competition. This regulation, together with Law 16 of 1995, has encouraged the arrival of foreign investors, who have also seen a high potential for growth in the country.
- The tourism sector has been characterized by various private and foreign investments that have been made during the past decade. Business owners have taken advantage of the geographic location of the country and its climatic conditions. That is how, at the present time, most tourism and hotel projects correspond to various international chains. It is important to note the tourism promotion law, intended to promote foreign investment in various areas of the country, in particular in those areas where successful development has not yet occurred.
- In the financial sector, the government has established that subsidiaries or branches of foreign banking institutions authorized to carry out this type of operation in their country of origin may operate here, after having obtained the proper government authorization.
- In addition to the services in which foreign investment has increased, the manufacturing sector and clothing and undergarments are of particular note. These sectors have benefited from the proximity of the United States, which country has reestablished its strategy due to the large quantity of Chinese products that have entered the country at very low cost. This has led to the United States installing companies in the Dominican Republic in order to reduce production costs and be able to compete with Asian countries.

- The agro-industry sector benefits from the growing local market and increases in consumption by tourists who visit the country during the different seasons of the year. Similarly, exports of fruits from the Dominican Republic to the United States have experienced a significant increase.
- The country has great potential for development of the mining sector since it has an excellent geological profile and a varied range of mining resources such as gold, bauxite and ferronickel. The government has granted various benefits to this sector, for example, ore refineries and foundries are exempt from the payment of royalties, which may be deducted from the tax owed on the profits earned during the fiscal year.
- In the construction sector, foreign investors may participate in tenders for Government projects, through the establishment of consortiums, taking into consideration the requirements established in Law 322 of 1981, thus encouraging the attraction of foreign capital.

INVESTMENT GUIDE FOR THE DOMINICAN REPUBLIC contains the following subjects: commercial agreements, export procedures from the Dominican Republic, and export incentives.

The Dominican Republic, in addition to its regulatory incentives to attract investment, benefits from multiple commercial agreements promoting the country's exports, thus benefiting from customs tariffs at low levels or no tariffs at all. This is the case of CAFTA-DR, which promotes an increase in trade with the United States, or the treaty with Central America and the countries of the Caribbean, establishing a free trade area between countries party to these agreements. Likewise, the Dominican Republic benefits from unilateral preferential treatment, as in the case of the Generalized System of Preferences, by means of which certain products coming from developing countries such as the Dominican Republic receive a partial or total reduction of customs duties.

In the same manner that the government of the Dominican Republic has established incentives to attract foreign investment, in the same sense there are incentives for exports, which are framed in Law 84 of 1999. This law primarily presents the following benefits:

- i) Repayment of Customs Duties and Fees paid on raw materials, supplies, intermediate goods, labels, packaging and packing material imported by the exporter or by third parties (indirect), when the same have been incorporated into goods for export, or in the case of those products that are reshipped abroad in the same condition in which they entered Dominican customs territory.
- ii) Simplified Payment of Customs Fees, where the exporting companies are entitled to repayment of customs fees paid in advance in an amount not to exceed three percent (3.0 percent) of the free on board (FOB) value of the exported goods; and

- iii) Establishment of the Regimen of Temporary Entry for Active Perfection which suspends the import taxes and duties, for those products entering the country and that are subsequently reexported within a term of 18 months.

Lastly, the documents required for export from the Dominican Republic are: the exporter's registration, the single export form, commercial invoice, bill of lading, insurance policy, certificate of origin, packing list, phytosanitary certificate and zoo-sanitary certificate, depending on the product to be exported.

GUIDE FOR EXPORTS FROM THE DOMINICAN REPUBLIC TO THE UNITED STATES Contains the following subjects: How do I sell my product in the United States? - Ways to promote products in the United States – Negotiation. What standards must I comply with? How to import into the United States. Similarly, subjects related to business opportunities are included, broken down by sector and by region, and lastly, a sector analysis.

The primary purpose of this guide is to illustrate for Dominican business owners who want to introduce or sell their products in the United States or who wish to set themselves up in that country. Taking this into account, various subjects are examined, from ways of promoting a product, import, sales and distribution requirements, to legal aspects that must be considered. Lastly, an analysis of the regions of the country and a sector study are included, in order that business owners may have a clear vision and practical information to prepare strategies for entering this market.

The business owner who wishes to sell his products in the United States must first have basic information on this country, such as business working hours, holidays, the system of weights and measures, as well as the US business culture.

Once the business owner has this information, the second aspect to consider is the manner in which its products are to be promoted in this market; this is how mechanisms are presented, including fairs, trade missions and business roundtables. Similarly, products may be promoted through the distribution of catalogs or by the creation of a web page.

Once the promotion strategy has been firmed up, the manner in which the products are to be distributed and sold must be dealt with, in order to select the most appropriate option (whether the business owner does this directly, or through an intermediary).

Likewise, it is necessary for the business owner to be clear on import requirements, the procedure to be followed and the documents that must be included, as well as the required standards for certain products¹ which are required by this country, and whether the products will enter domestic territory or only the free trade zone.

Furthermore, the business owner must clearly understand the liability incurred from the manufacture of the products, therefore the types of potential defects must be studied, as

¹ Such as the Bioterrorism Act, which requires registration of the organization and notification of entry of the products.

well as the precautions to be taken to reduce the risk. The business owner must also be familiar with arguments that may be made in the face of a possible lawsuit.

Lastly, it is very important to be acquainted with regions of the United States and to be able to determine the most representative sectors of those regions (South, Midwest, West and Northeast) in order to determine whether it will be helpful to export the selected products or establish a location in a specific region.

SECTION I

INTRODUCTION

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INTRODUCTION

This report is part of a group of studies financed by the US Agency for International Development (USAID) through the Support for Economic Growth and Institutional Reform Project (SEGIR, by its English acronym), which are intended to support the National Competitiveness Council and the American Chamber of Commerce of the Dominican Republic (AMCHAM) in the preparation, identification and development of a strategy to take advantage of commerce and investment opportunities presented by CAFTA-DR for the Dominican Republic (DR).

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The purpose of this Module is to create a logistics guide to investment and exports for the Dominican Republic, corresponding to Module 2, in order to provide updated information that will serve domestic and foreign business owners as a guide for the development of their activities in the country.

In this regard, this study is divided into three main subject areas:

INVESTMENT GUIDE IN THE DOMINICAN REPUBLIC, EXPORT GUIDE FOR THE DOMINICAN REPUBLIC and EXPORT GUIDE FROM THE DOMINICAN REPUBLIC TO THE UNITED STATES.

The Investment Guide contains information related to the standards governing direct foreign investment in the country, by identifying the primary features of the regimen and the incentives that it presents. Likewise, the primary sectors which are attractive to the foreign investor are identified and described, as well as the free trade zones system and the forms of doing business, in order that the investor may have the basic tools required to initiate investments in the country.

The second part includes a guide for exports from the Dominican Republic, which describes the steps and documents required for export, as well as the commercial agreements and unilateral preferences which the country enjoys.

The last part of this Module presents the Guide for Exports from the Dominican Republic to the United States, which includes the following topics: how to promote and sell products in the United States; standards to follow in negotiations; complete information regarding how to import into the United States; and aspects to be

considered during negotiations. In addition, subjects related to business opportunities by sector and by region are presented.

PART I

INVESTMENT GUIDE FOR THE DOMINICAN REPUBLIC

SECTION II

FOREIGN INVESTMENT ENVIRONMENT IN THE DOMINICAN
REPUBLIC

SECTION II

FOREIGN INVESTMENT ENVIRONMENT IN THE DOMINICAN REPUBLIC

Among Central American and Caribbean countries, the Dominican Republic is noteworthy since it is one of the primary destinations for Direct Foreign Investment. Direct Foreign Investment primarily takes place in the manufacturing sector, assembly of components and services, by the creation of transnational companies. The Dominican Republic has created instruments of interest for foreign investors such as Export Processing Zones or Duty-free Zones.

In order to attract greater investments, the government of the Dominican Republic is actively eliminating the former barriers to trade and investment, while the Supreme Court of Justice is taking a series of steps intended to reform the judicial system, in order to improve the economic and legal stability of the country, thus improving the investment climate.

In order to quickly bring the Dominican Republic into the age of globalization, emphasis has been placed on the development of a new business environment in which the resources of the country and their competitive advantages are leveraged, as summarized by the following points:

- A high degree of political and macroeconomic stability
- Abundance of highly skilled labor
- Excellent telecommunications infrastructure
- A highly developed banking and insurance system
- An operating environment for Duty-free Zones with no risks
- Attractive financial and fiscal incentives
- Excellent training programs to improve skills and increase labor productivity
- A strategic geographic location

SECTION III

BACKGROUND REGARDING DIRECT FOREIGN INVESTMENT IN THE DOMINICAN REPUBLIC

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BACKGROUND REGARDING DIRECT FOREIGN INVESTMENT IN THE DOMINICAN REPUBLIC

During the early 20th Century, Direct Foreign Investment was focused on the primary export products for which the Dominican Republic had been competitive, such as tobacco, cigarettes, coffee and sugar.

Toward the end of the 1960s, economic policies of the Dominican Republic were focused on the following points:

- Incentives for the replacement of imports
- Promotion of exports in Export Processing Zones or Duty-free Zones

The purpose of this policy was an increase in the exportable basis and diversification of exports of other non-traditional products.

This strategy “attempted to provide incentives through Law 69 of 1979, which included measures such as the Tax Payment Certificate, exchange incentives and the temporary entry regimen. Nevertheless, the practical implementation of the law had serious administrative problems, inconsistencies and other obstacles that rendered it useless.”² This model created two opposed situations: as a first measure, it provided radical incentives on exports from the Export Processing Zones, and secondly, it caused a stagnation of exports from the country from beyond these zones.

Therefore, the Export Processing Zones came to play an important role in the country’s exports, in particular in the manufacturing and assembly sector, which attracted greater foreign capital from the United States, taking into account that this great potential was seeking to compete with the production costs of Asian countries. That is how, at the end of the 1970s, more than 70 percent of the companies located in the Export Processing Zones came from the United States.

In spite of the creation of the Export Processing Zones, foreign investment was moderate during this period, and the primary recipients of investment were the financial and tourism services (20.3 percent), food products (24.4 percent), trade (17.1 percent), beverages and tobacco (8.6 percent)³.

² Sebastián Vergara M. “Direct foreign investment in the Dominican Republic and its impact on the competitiveness of its exports.” Network of Company Strategies and Investments, Company Strategies and Investments Unit, CEPAL, Santiago de Chile, June 2004.

³(CEPAL and PUCMM, 2000). Sebastián Vergara M. “Direct foreign investment in the Dominican Republic and its impact on the competitiveness of its exports.” Network of Company Strategies and Investments, Company Strategies and Investments Unit, CEPAL, Santiago de Chile, June 2004.

Subsequently, in 1978 a new law (86) was enacted regarding Direct Foreign Investment, which was intended to attract new capital and optimize the payment balance of the country; unfortunately this law did not have the expected results.

During the 1980s, not only did the Export Processing Zones begin to have significant growth, but they also saw major development of Transnational Companies that began to carry out more assembly operations, taking into account factors that favored them, such as a decline in wages and monetary devaluation.

During the same period, with the creation of the Caribbean Basin Initiative, the Special Access Program, the Generalized System of Preferences and the Shared Production System⁴; the Dominican Republic was preferred vis-à-vis other countries, which led the transnational companies to set up offices in the country for the development of assembly operations, undergarment and clothing factories. This is how Transnational Companies benefit from the shared production system, in order to reduce costs for the assembly of components; therefore the number of companies located in the Export Processing Zones increased as did the number of workers.

The country recorded the most significant number of transnational companies locating in the Export Processing Zones in the Caribbean and Central America, surpassing countries with similar programs (such as Costa Rica, Jamaica and Honduras).

During this same period, the government began to support the tourism sector and at the same time, significant investments took place.⁵

During the 1990s the country had one of the most successful performance records in terms of direct foreign investment in Central America and the Caribbean, setting itself up as one of the leading destinations for investors in the sub-region. Its significance is reflected by its high share of the sub-regional total figures, at around 15 percent in 1990-1994 and in excess of 17 percent between 1995-2003.⁶

This decade was characterized by political and economic stability, accompanied by structural reforms in various areas (commercial in 1990 and 2000, tax and labor in 1992, financial in 1996, public areas in 1997 and capital markets in 2000) which encouraged

⁴ The Caribbean Basin Initiative (1984) unilaterally allows a broad range of products to enter the US free of customs duties. Excluded products are textiles and clothing, footwear, oil and oil by-products. The Special Access Program is bilateral and includes guaranteed access for clothing reinforced with fabrics cut in the US, and regular fees for clothing made with other fabrics. The Generalized system of Preferences, inasmuch as it is a program of customs duty preferences given by industrialized countries to developing countries, unilaterally grants reduced tax access to a broad group of products, provided that at least 35 percent of the value added is produced in the beneficiary country. The Shared Production System allows imported products assembled in the Dominican Republic, but that use supplies from the U.S. to only pay taxes on the value added outside of the U.S. Source: CEPAL, Company Strategies and Investments Unit, Company and Productive Development Division.

⁵ In terms of figures, during the 1980s the flows of direct foreign investment oscillated with an annual average of less than USD 100 million and an average share of the GDP of less than 1 percent (CEPAL and PUCMM, 2000).

⁶ Sebastián Vergara M. "Direct foreign investment in the Dominican Republic and its impact on the competitiveness of its exports." Network of Company Strategies and Investments, Company Strategies and Investments Unit, CEPAL, Santiago de Chile, June 2004.

the attraction of foreign capital, achieving advances in privatization of the public sector, trade liberalization and deregulation of productive and service-related activities.

But the most significant legal advance was the new Law 16 of 1995, which modified the direct foreign investment regulations, facilitating even further the establishment of transnational companies.

SECTION IV

REGIME OF FOREIGN INVESTMENT IN THE DOMINICAN
REPUBLIC

SECTION IV

REGIME OF FOREIGN INVESTMENT IN THE DOMINICAN REPUBLIC

Currently, foreign investments in the country are governed by Law 16-95 (See Appendix A) regarding Foreign Investment, adopted on November 20, 1995, together with its enabling legislation contained in Presidential Decree 380-96, later modified by Presidential Decree 163-97. These legal provisions are one of the most significant steps in the process of liberalizing and opening up the national economy.

A table is presented below which explains the differences and benefits of Law 16 of 1995, with respect to the previous legislation (Law 86 of 1978 and Law 138 of 1983).

DOMINICAN REPUBLIC – COMPARISON OF REGULATIONS RELATED TO DIRECT FOREIGN INVESTMENT – 1978, 1983 AND 1995		
Item	Law 86 (1978), 138 (1983) and other regulations	Law 16, (1995)
Authorization of the Regimen	Prior authorization by Banco Central	No prior authorization required
Registration	Mandatory	Optional
Foreign remittances	Net profits and dividends may be transferred up to 25% of the amount of the recorded direct foreign investment. Up to 100% of the registered share capital may be transferred	No restrictions
Opening of the sector	Prohibited in public utilities, use of radioactive materials, mines and hydrocarbons. Reserved for domestic companies in: <ul style="list-style-type: none"> - Production of materials and equipment for national defense. - Advertising, radio broadcast, television, newspapers, magazines - Air and ground transport, domestic and maritime, international and domestic (short-haul) - Exploitation of forests up to 40% owned by foreign interests in agricultural, livestock and poultry operations; commercial banks and investment and other financial institutions; insurance. 	Activities related to toxic waste, weapons, the environment, merchant marine and insurance are prohibited.
Legal treatment	National treatment	National treatment
Source: PUCMM and CEPAL, (2000)		

In effect, the new legislation liberalized the repatriation of capital and profits and eliminated practically all sector restrictions.

In the end, the Dominican Republic was positioned during the 1990s as a significant recipient of foreign investment, through the establishment of many transnational companies involved in service-related and productive activities. Economic growth, political stability and structural reforms, as well as the correct operation of Export

Processing Zones, and the reform of public companies, were all central causes of this phenomenon.

The economic areas that have benefited directly from foreign investment are the mining industry, the textile industry, telecommunications, electricity and informatics, as well as the financial sectors.

A. Law 16 of 1995

This law (16 of 1995) and its enabling legislation (380-96), amended by Decree 163-97, presents the following characteristics:

- This legislation provides substantial incentives to foreign investors, granting them rights.
- The Law also deregulated the working framework for investors.
- Investments now may be made in real property, for the acquisition of fixed capital and in the form of working capital for companies (whether existing or new branches).
- It allows investors to freely repatriate capital and dividends in foreign currencies. The investors only need register, purely for statistical purposes, with Banco Central de la República Dominicana, within the first 90 days of having made their investment. Then they will receive a registered Investment Certificate.
- The principle of equal treatment of domestic and foreign investments is applicable, ensuring them the same legal protection, with no discrimination whatsoever. This principle translates first into the elimination, for the purposes of the law, of the prohibitions and restrictions established on foreign investment in some sectors, such as public utilities, mining, banking, insurance, transport, etc. The new law only restricts the investment of foreign capital to activities related to toxic waste, arms, the environment, the merchant marine and insurance.
- It facilitates the operations of Transnational Companies.

A1. Forms of Investment. Article 1 of the law specifies what is considered to be an investment, allowing three categories, as follows:

A1a. Direct Foreign Investment. Contributions coming from abroad, from foreign individuals or legal entities, or from Dominican Republic nationals (individuals) residing abroad, to the capital of a company operating in domestic territory.

A1b. Foreign Reinvestment: Foreign investment carried out in whole or in part with the profits coming from a Registered Foreign Investment in the same company as the one that generated the profits.

A1c. New Foreign Investment. Foreign investment is carried out in whole or in part with the profits from registered direct foreign investment in a company other than that which generated the profits.

A2. Who may invest. Furthermore, the law establishes various classes of investors:

- Individuals
- Foreign legal entities
- Dominican Republic nationals residing abroad

A3. The Foreign Investment may assume the following forms. Freely convertible cash contributions can be exchanged at a banking institution authorized by the Central Bank.

- Contributions in kind, such as industrial plants, new and reconditioned machinery, new and reconditioned equipment, spare parts, components and pieces, raw material, intermediate products and final goods, as well as intangible technological contributions.
- The financial instruments that the Monetary Board assigns to the category of foreign investment, except for those that are the product of contributions or entry of a Dominican foreign debt reconversion transaction.
- Technology transfer agreements may be executed with foreign individuals or legal entities, in the form of technology license agreements for technical assistance, technical services, basic and detail engineering.

A4. Destinations of Foreign Investment

- Investments in the capital of an existing or new company, in accordance with the provisions set forth in the Commercial Code of the Dominican Republic, including the establishment of branches, in accordance with the conditions determined by law. Foreign Investment in joint stock companies must be represented by registered shares.
- Investments in immovable assets located in the Dominican Republic, with the current limitations applicable to foreigners, and
- Investments intended for the acquisition of financial assets, in accordance with the general standards in this regard issued by monetary authorities.

A5. Registration of the Investment. The law specifies that within 90 days following the investment, any investor must register with Banco Central de la República Dominicana by filing the following documents:

- Application for registration indicating the amount and area of the investment.
- Proof that the foreign currency or the physical or tangible assets have entered the country, and
- Organizational documents of the commercial company or authorization of operation of branches by establishment of domicile.

Once these requirements have been fulfilled, Banco Central shall immediately issue a Certificate of Registration of the Direct Foreign Investment to the applicant.

Failure to register the investment with Banco Central does not in any way affect the validity of the investment. Nevertheless, the investor shall have difficulty freely repatriating its funds, since without a Foreign Investment Registration Certificate, it may not use commercial banks to remit the dividends obtained or the invested capital abroad in freely convertible currency.

No foreign investments shall be permitted in the following categories:

- Disposal and discarding of toxic, hazardous or radioactive waste not produced in the country
- Activities affecting public health and the environmental balance of the country, in accordance with the corresponding standards
- Production of materials and equipment directly related to national security and defense, unless expressly authorized by the Executive Branch

When the foreign investment affects the ecosystem in its area of influence, the investor has to submit a draft with provisions that may recover any ecological damage.

A5. Free repatriation of benefits and capital. An investor with a Foreign Investment Certificate shall be entitled to freely remit the following in foreign currency, through the private exchange market:

- All capital invested, including capital gains
- All the benefits declared during each fiscal year, after payment of the corresponding taxes

Within 60 days, the investor must submit the following documentation to Banco Central:

- The annual statement of dividends, duly certified by an authorized Public Accountant.
- Proof of payment of the corresponding taxes.

B. Other Standards Promoting Foreign Investment

After Law 16 of 1995 has been examined, we have presented below the primary laws that grant incentives on foreign investment, which favor various types of investment:

B1. Law 8 of 1990 and its enabling legislation, No. 366-97 of 1997. This law, together with its enabling legislation, allows companies that manufacture goods and provide services for export established as Duty-free Zones, to benefit from a special system of customs controls and tax incentives of up to 100 percent.

B2. Law 28 of 2001. This law establishes that companies that come under the regimen of Special Border Development Zones shall be exempt from all taxes for a period of 20 years.

B3. Law 158 of 2001. This law stimulates investments in the tourism sector, granting benefits to areas of low development and new focal points of development in provinces and locations with great potential, by granting tax exemptions for a period of 10 years.

B4. Law 183 of 2002 regarding the Monetary and Financial Code. This law permits foreign investment in the financial services sector.

B5. Decree No. 950-01, dated September 20, 2001. The Residency through Investment Permit Program was conceived in order to benefit foreigners who make a considerable investment in the Dominican Republic, by granting special residency, with the same rights as granted by Law No. 95 regarding Immigration on foreigners residing in the country.

SECTION V

FORMS OF DOING BUSINESS

SECTION V

FORMS OF DOING BUSINESS

According to the commercial legislation of the Dominican Republic, any party that wishes to invest in this country, by establishing a business, may do so through the following business organizations.

A. General Partnership

According to the Commercial Code, this company is governed by the following articles.

Art. 20 – A general partnership is a partnership entered into by two or more persons, which has as its purpose doing business under a business name.

Art. 21. – The names of the partners are the only names that may be part of the business name.

Art. 22. – The general partners, indicated in the articles of association, shall be jointly and severally bound to respect all the commitments of the company, even if not one of them has been signed, inasmuch as such actions have been taken under the business name.

B. Stock Company

Type of company established by seven or more partners (Article 56 of the Commercial Code), with their responsibility being limited to their contribution to the share capital, which is divided into transferable and transmissible shares.

According to Article 35 of this code, the shares may be registered, indicated to order, or bearer shares.

Art. 36 – Registered shares shall be those issued in favor of a person whose name appears in the text of the document as well as in a register that the company must maintain. Shares to the order of a party are those issued in favor of a person whose name is indicated in the text of the document, preceded or followed by the words "to the order of" or another equivalent phrase. Bearer shares are those that are issued without indicating the name of the holder, containing the phrase "to the Bearer" or another equivalent phrase. In this case, transfer of the share shall be accomplished by delivering the security [to another party].

C. Limited Partnership

This type of company comprises two classes of partners, as described by Article 23 of the Commercial Code:

- **General partners:** who have joint and several liability vis-à-vis the obligations assumed by the company.
- **Limited partners:** who are liable up to the amount of their contribution to the company (Article 25 of the Commercial Code of the Dominican Republic).

D. Joint Venture

The Commercial Code establishes a third option for commercial organization, called a Joint Venture, which allows its members to act as an entity but which does not have any legal personality vis-à-vis third parties (Articles 48-51 of the Commercial Code of the Dominican Republic).

E. Other Forms of Commercial Organization

Although these forms are not specified in the Commercial Code of the Dominican Republic, they are used by foreign investors as forms of channeling their investment, as described below:

E1. Branch. The foreign investor may establish a branch in the Dominican Republic (Law No. 16-95). This allows the investor, once domicile is obtained in the country, to enjoy the same rights and obligations as a Dominican company.

Foreign investors interested in establishing themselves in the Dominican Republic through a branch may do so using the procedure for establishing legal domicile, which is applicable for individuals as well as legal entities (Appendix B details the steps required to obtain domicile.)

E2. Subsidiaries. In order to be able to establish a subsidiary in the country, the investor must comply with the requirements for nationals in order to establish companies in general, which are set forth in the Commercial Code of the Dominican Republic.

Unlike a branch, which does not have legal personality, in the case of a subsidiary a company must be established as a Dominican subsidiary.

E3. Consortiums. In practice, agreements may be executed between foreign companies and Dominican companies, in order to carry out projects in which the Dominican Government is participating.

Law 322 of June 2, 1981 and Regulation 578 of 1986 establish that in order to participate in competitive bidding, lotteries or other award method, it is required that the foreign company be associated by means of a consortium agreement with one or more Dominican companies. Foreign participation in the consortium may not exceed 50 percent. Nevertheless, depending on the technical complexity of the project, this percentage may reach 70 percent.⁷

⁷<http://www.cei-rd.gov.do>

E4. Joint Venture. This format, also called “asociaciones en participación,” is permitted in the Dominican Republic. The Joint Venture is characterized by having a flexible conceptual structure, which to a certain extent may be similar to a “sociedad en participación,” although it is likely to overlap with other forms of association.

E5. Distributors, Agents or Concession Holders. Foreign companies that wish to designate agents or concession holders in the Dominican Republic must take into consideration Law 173 regarding the Protection of Agents and Importers of Goods and Products, and Law 16-95 regarding Foreign Investment⁸

The purpose of Law 173 is to protect local agents against unfair termination of their contracts by their foreign principals. This law is applicable to any type of agency, representation, distribution, license, concession, franchise or other agreement with respect to foreign services or products.

⁸ Business Guide for the Dominican Republic, legal perspective. Presentation by: PELLERANO & HERRERA.

SECTION VI

FREE TRADE ZONES

SECTION VI

FREE TRADE ZONES

Duty-free Zones in the Dominican Republic have approximately 40 industrial parks and nearly 500 companies which make a significant contribution to the national economy by providing employment to approximately 7 percent of the population, and together with the tourism sector, generating the majority of foreign currencies in the country.⁹

Companies that operate in Duty-free Zones enjoy a tax exemption and contributions, and they shall enjoy the political and social stability achieved by the country under a stable democratic regimen. The Caribbean Basin Initiative and the Generalized System of Preferences guarantee preferential access to the United States market, while the Lomé Convention guarantees preferential access to the European market.

The work force is highly productive, educated, capable, innovative and efficient in the production of quality products for export markets.

Export Processing Zones operate in a competitive environment and have benefited from commercial deregulation and preferred access to the largest international markets. So the development of Export Processing Zones has become one of the primary sources of growth for the country. Their activities in general are not very complex from an industrial perspective, and the companies for the most part are run using assembly routines.

The presence of Transnational Companies with a strategy to seek out efficiency is focused in the Export Processing Zones. Various factors, in the local context and in new competitive trends in certain industries, have influenced this phenomenon. In the local context, beginning with the New Economic Program in 1990, the Dominican Republic began to follow an open development model, with emphasis on Direct Foreign Investment and on exports. In addition, in 1990 Law 8-90 was enacted, unifying the establishment and encouragement of Export Processing Zones, and it also created the National Council of Duty-free Export Zones. The approval of this Law represented a major advance toward consolidation of the system of Export Processing Zones, and the provisions thereof have ensured a high degree of automation and transparency. It was as of that moment that the Export Processing Zones became a central element of national policy intended to promote non-traditional exports.

It is clear that the development of Export Processing Zones in the Dominican Republic is closely tied to the undergarments and clothing industry, and its exports to the United States market. Some other more minor sectors but which have achieved a certain momentum are electronics and medical equipment.

⁹ www.dominicandream.com

A. Legal Framework of Free Zones

A1. Category. Duty-free Zones are legal entities authorized by the government and managed by the operators of Duty-free Zones. These may be individuals or companies, which must acquire or rent the land where the Duty-free Zone will operate, develop the infrastructure and rent or sell the buildings or industrial bays where the companies will operate, and offer the major facilities necessary for the companies to be able to operate correctly.

According to Article 2 of Law 8 of 190, duty-free zone is understood to be: *“A geographic area of the country, subject to special customs and fiscal controls established in this law, where companies may be located which direct their production or services to the foreign market, by granting the incentives necessary to encourage their development.”*

Law No. 8-90 governs matters related to Duty-free Zones and the National Council of Duty-free Export Zones (the entity responsible for monitoring the correct application of the same).

A2. Classes of Free Trade Zones¹⁰

A2a. Industrial Duty-free Zones. Encourage the manufacture of goods and the provision of services, such as undergarments, footwear, medical equipment and instruments, jewelry, cigars and certain electrical and electronics items, as well as the manufacture of miscellaneous products. This class of duty-free zone may be located throughout domestic territory for the purpose of manufacturing goods and providing services.

A2b. Border Duty-free Zones. Produce the same goods as Industrial Duty-free Zones, but due to their location in relatively unbeneficial areas, they are granted special incentives.

- Tax exemption for a period of 20 years, compared to 15 years for other types of Duty-free Zones
- Reduction in the rental fee for facilities
- Preferential treatment for products subjected to import duties in certain countries
- Application of preferential treatment and preferential rates when granting funds for financing
- A period of apprenticeship for employees increased to six months, not the standard three-month period

According to Article 3 of Law 8 of 1990, “These Duty-free Zones must be located no less than three (3) nor more than twenty-five (25) kilometers from the border separating the Dominican Republic from the Republic of Haiti.”

¹⁰ Article 3 of Law 8 of 1990.

A2c. Special Duty-free Zones. Granted only in cases in which the nature of production or processes requires the use of unmovable resources, the transformation of which would be made more difficult if the companies were not located near the sources of raw materials.

A2d. Digital Duty-free Zones. These are technology centers constructed through collaboration of the Dominican Government with local companies and foreign investors, offering all the services necessary (physical infrastructure, telecommunications system, technical schools, residential and commercial areas) for the production of software, hardware, telecommunications services (call centers, telemarketing), Internet businesses, translation services.

B. Incentives and Exemptions¹¹

Duty-free Zones enjoy various incentives, primarily related to customs and taxes. These incentives vary up to 100 percent income tax or earnings tax exemptions, and taxes on construction, loan recording fees, property transfer taxes, company organization taxes or share capital increase taxes, import duties, municipal taxes, customs duties and taxes, export or reexport taxes, licenses, consular invoices, import taxes on machinery and equipment, and taxes on the transfer of industrialized goods and services (ITBIS).

The tax and customs exemptions are applicable to operators of Duty-free zones and companies in the Duty-free Zones as of the start of their operations and for a period of time as specified below:

- Border Duty-free Zones. 20 years.
- Duty-free Zones established in any other part of the country: 15 years.

¹¹Chapter 7 of Law 8 of 1990

SECTION VII

STRATEGIES OF TRANSNATIONAL COMPANIES

SECTION VII

STRATEGIES OF TRANSNATIONAL COMPANIES

Transnational companies in the Dominican Republic have basically developed the following strategies:

- **Search for efficiency (low cost) to break into third-party markets.**¹²
Transnational Companies have established manufacturing locations in Export Processing Zones in order to develop manufacturing exports. This phenomenon has been demonstrated in the clothing and undergarments sub-sector, with the goal of the companies being to take advantage of the low cost of labor, the strategic geographic location and preferential access to the North American market. Among Transnational Companies with this strategy, United States and some Korean and Taiwanese companies are noteworthy.
- **Search for local markets for services.** The Transnational Companies have established activities in services sub-sectors such as energy and telecommunications. This phenomenon is associated with the arrival of transnational companies motivated by the privatization processes and regulatory modifications that opened new doors to foreign investors. Investments related to the activities of these companies are the primary reason for the increase in direct foreign investment during the second half of the 1990s. These companies are mostly North American and Spanish. Furthermore, investments in tourism, in particular related to Spanish capital, are noteworthy.
- To a lesser extent, it has also been observed that certain transnational companies have developed strategies to search for raw materials for export, primarily in mining, and to search for local and regional markets for manufacturing, for example sugar production, tobacco, food and cement.

The transnational companies have begun to be of increasing importance at the entrepreneurial level in the Dominican Republic, in relation to manufacturing activities as well as in the various services sub-sectors.

Among the transnational companies established in the Dominican Republic, telecommunications companies such as Verizon (US) and Tricom, with the participation of Motorola (US) are noteworthy. The energy companies of note include AES Corp. (US), Coastal (US), Seaboard (US) and Unión Fenosa (Spain). For their part, Central Romana (US), E. León Jiménez (US), Colgate (US) and British American Tobacco (United Kingdom) are noteworthy in the manufacturing sector.

¹² Sebastián Vergara M. "Direct foreign investment in the Dominican Republic and its impact on the competitiveness of its exports." Network of Company Strategies and Investments, Company Strategies and Investments Unit, CEPAL, Santiago de Chile, June 2004.

SECTION VIII

SECTORS FOR INVESTMENT

SECTION VIII

SECTORS FOR INVESTMENT

The following section analyzes the business environment for the sectors of greatest interest for foreign investment in the Dominican Republic.

A. Services Sector

In the mid-1990s, foreign capital began to focus on the services sector, taking into account the phenomenon of deregulation and opening created by the amendment of regulations and privatization of the public sector.

Currently, flows of investment capital are focused on the energy, telecommunications and retail commerce sectors, and to a lesser extent on infrastructure and financial services.

B. Energy Sector

Flows of foreign investment and the establishment of Transnational Companies in the electrical sector of the Dominican Republic are recent, with development due to two factors:

- The amendment of regulations, which permitted the participation of private capital in the sector. In this manner the General Electricity Law in 2001, as the general framework for the provision of electrical services, allowed the presence of foreign investment in the distribution and in all forms of generation of electricity, except for hydroelectric power.
- A predominant participation by transnational companies, which have positioned themselves using a strategy of seeking out electrical services markets in Latin America and in the Caribbean.

C. Telecommunications Sector

The telecommunications sector is well developed, and it is one of the greatest strengths of the country's economy, due to the introduction of new technologies, products and services, and also due to the competition generated in the area of mobile telephone service.

Another of the factors that has allowed the development of this sector is the fact that historically the country has received a significant flow of capital, and at the same time of technologies and training of human resources, through the Compañía Dominicana de

Teléfonos (Codetel),¹³ now Verizon. At present, Verizon has digital exchanges, land-based satellite stations for transmitting voice and data, and underwater fiber optic cables, which gives the country an excellent infrastructure and allows direct dialing, email, Internet access, mobile telephone services and pager service.

For its part, the new Direct Foreign Investment law passed in 1995 eliminated certain sector-related barriers to foreign investors, and furthermore, the Dominican Republic signed the WTO agreement regarding telecommunications services and committed to deregulating the market and implementing the general principles of the WTO in the corresponding legislation. So the telecommunications law that entered into force in 1998 deregulated and modernized the legislation in this industry and also created the Dominican Telecommunications Institute (INDOTEL), which regulates and promotes activities in this sector. This law deregulated services and established the freedom to build and operate telecommunications systems, by promoting free competition. The new regulatory standards have encouraged the arrival of foreign investors, who have also seen a high potential for growth in the country.

In turn, the arrival of transnational companies has reinforced the dynamic nature and competition of this sector, primarily in regards to mobile telephone service, where operations of the transnational companies lead to a significant increase in subscribers and price wars between Verizon, Tricom, Centennial and Orange.¹⁴

The largest cable television companies are: Telecable Nacional, Cable TV Dominicana and Aster.

D. Tourism Sector

Beginning in the 1990s, tourism has increased in importance to the economy, and many private investments have materialized, taking advantage of the geographic and climatic conditions of the country. Correspondingly, the number of hotels, trips and tourists has increased.

In this context, foreign investment in tourism increase substantially and various foreign companies have worked on several projects. Currently close to 80 percent of hotels are owned by large and medium-sized international chains. The largest foreign investments have been European, in particular from Spain.

The Dominican Republic currently continues its strong growth in this sector, and it has also had determined support from the government. In 2001 the 0 was enacted, which has the primary purpose of encouraging foreign investment and particularly in geographic areas where the potential has not been developed. This legislation includes

¹³ Codetel, organized in 1930 as a subsidiary of Anglo Canadian Telephone Company, and later controlled by GTE (USA) since 1955, continuously implemented new technologies.

¹⁴ Sebastián Vergara M. "Direct foreign investment in the Dominican Republic and its impact on the competitiveness of its exports." Network of Company Strategies and Investments, Company Strategies and Investments Unit, CEPAL, Santiago de Chile, June 2004.

tax exemptions from various duties related to the development and operation of tourism-related projects, and direct subsidy funding.

The primary tourism-related segments in the Dominican Republic are:

- **All-inclusive packages.** This segment represents most of the tourism in the Dominican Republic. The type of tourist in this segment is characterized by a 1- to 2-week stay at a resort where all the basic expenses are covered.
- **Adventure Tourism.** This segment has begun to grow in the past several years. This tourist generally buys air travel and reserves a hotel for several days, once in the country rents a vehicle and begins to travel across the island.
- **Residential Tourism.** This segment at the present time is low in volume, but it is characterized by a high level of buying power. The tourist in this segment regularly visits the country, and generally owns property here.

The primary investors in this sector are the Spanish, although a large number of resorts are owned by Italian, German and US investors. The primary tourist attractions are found in: Punta Cana, Bayahibe, Puerto Plata, Santo Domingo and La Romana.

E. Financial Sector

The national financial sector comprises various banks, whether commercial, development, mortgage or full-service banks. The General Banking Act and other special laws such as the Mortgage Banks Act establish the form and function of said banking entities.

The Monetary Board dictates the rules for full-service banks. Only companies organized in accordance with domestic laws, whose express and sole purpose is banking, may operate as banks in the Dominican Republic, in addition to subsidiaries or branches of foreign banking institutions authorized to carry out these types of transactions in their country of origin, and after having obtained the proper authorization in the Dominican Republic.¹⁵

F. Manufacturing Sector

The manufacturing sector has three significant benefits: The first is geographic location, the second is preferred commercial access under various market agreements with the United States and the European Union, and third, the successful development of Export Processing Zones.

Export Processing Zones operate in a competitive environment and have benefited from commercial deregulation and preferred access to the largest international markets.

¹⁵ www.dominicandream.com

G. Clothing and Undergarments

The sector of clothing and undergarments has been the driving force for development of Export Processing Zones in terms of employment, exports and productivity, and during the first half of the 1990s transnational companies widely strengthened their assembly and export operations. This was due to the fact that, in the international context, US transnational companies were facing increasing competition due to imports from Asia, in the face of which they had to reorganize their strategies. So, the transnational companies began to form an internationalization of activities in order to reduce production costs, and the Dominican Republic, in the context of the Caribbean and Central America, was the central axis of this restructuring. The companies have taken advantage of the incentives established in the Export Processing Zones, the availability and low cost of labor, and a preferred geographic location (near to the market of origin of the supplies as well as the destination for the end products), and they strengthened their strategy of pursuing efficiency in order to conquer third-party markets.

In general, transnational companies located in the Export Processing Zones were responsible for carrying out the last stage of production of clothing or the final assembly and finishing. Similarly, there were integrated transnational companies producing stitched clothing, which have a production capacity ranging from the thread onward, and they perform all the activities in the country. Furthermore, there are commission contractors, which are domestic or foreign companies that produce clothing from materials owned by other companies. These companies depend to a large extent on contracts from the primary manufacturers of undergarments in the United States. In general, commission contractors place their work orders with subcontractors, which only perform assembly and finishing work.

H. Agroindustry Sector

The Dominican Republic offers excellent land for the cultivation of fruits and vegetables. The agro-industrial sector offers significant benefits due to the existence of a growing domestic market and the consumption of nearly two million tourists who visit the country. Traditional agriculture includes the production of sugar cane, coffee, cacao and tobacco. The primary non-traditional export products include fruits such as bananas, oranges, avocado, coconut and melons, and it is one of the primary suppliers for the US market in some of these categories.

Taking into consideration that there is still a great deal of room for innovation and financial and technical assistance in the field, the Dominican Republic offers great investment opportunities for the development of agricultural projects.

I. Mining Industry Sector

The Dominican Republic has great potential for development of the mining sector, since it has an excellent geological profile and a varied range of mining resources, such as

gold, bauxite, ferronickel, silver, marble, gypsum and salt. Ore refineries and foundries are exempt from the payment of royalties, and they may deduct the same from their taxes owed on profits earned during the fiscal year.

During the past several years, the value added for mining has grown, primarily due to the increase in the levels of gold production and the primary construction aggregates, as well as the reactivation of marble production¹⁶.

J. Construction Sector

Law 322 of 1981 establishes certain requirements for foreign companies that wish to bid on projects contracted by the Government and its agencies. It orders that these companies must be affiliated with a Dominican company (which is normally achieved through formation of a consortium), or establish a mixed capital company, belonging jointly to Dominican and foreign investors.

The foreign share of the contract may not exceed 50 percent, although up to 70 percent may be acceptable when the domestic share cannot exceed 30 percent. Furthermore, on complex projects, foreign companies may request that the government agency classify the project as beyond the scope of the law, and may thus have all rights to the contract, without requiring domestic participation.

¹⁶ www.dominicandream.com

PART II

EXPORT GUIDE FOR THE DOMINICAN REPUBLIC

SECTION IX

FREE TRADE AGREEMENTS AND CUSTOMS TARIFF
PREFERENCES

SECTION IX

FREE TRADE AGREEMENTS AND CUSTOMS TARIFF PREFERENCES

The commercial agreements and system of customs tariff preferences,¹⁷ to which the Dominican Republic is a party, are described below.

A. CAFTA-DR

The CAFTA-DR is the regional free trade agreement between the United States and five countries of Central America: Guatemala, El Salvador, Nicaragua, Honduras and Costa Rica. The Dominican Republic was party to the agreement as of August 5, 2004.

The CAFTA-DR treaty is important for all parties, taking into consideration that the United States is the most important commercial partner of the Central American countries and the Dominican Republic, and nearly 80 percent of the exports coming from the area to this country already enter duty-free.

The new agreement reportedly increases these benefits and makes them permanent. For its part, the United States already exports some 16 billion dollars annually to these countries, and therefore the treaty will be advantageous for all parties.¹⁸

A1. Contents of the Treaty. The CAFTA-DR treaty covers the following subjects:

- National Treatment and Market Access for Goods
- Rules of Origin and Origin Procedures
- Customs Administration
- Sanitary and Phytosanitary Measures
- Technical Barriers to Trade
- Trade Defense
- Government Procurement
- Investment
- Cross-border Trade in Services
- Financial Services
- Telecommunications

¹⁷ The various agreements may be consulted in their entirety at the Ministry of Foreign Relations of the Dominican Republic. SEREX. www.serex.gov.do.

¹⁸ CAFTA, beneficios y despropósitos (Spanish), by Frances B. Smith *Smith op ed in Venezuela Analitica (Spanish)* by [Fran Smith](#) July 26, 2005

- Electronic Commerce
- Intellectual Property Rights
- Labor
- Environment

A2. Regulatory stages in each country for the ratification of the Treaty. A chronological summary of the legal process that must take place prior to the entry into force of the treaty is presented below.

In the case of the United States, the Senate ratified the CAFTA-DR on June 30, 2005, the House of Representatives approved it on July 27, 2005, and President George W. Bush signed it into law on August 2, 2005.

Similarly, last September 6, 2005 the treaty was approved by the Congress of the Dominican Republic.

The process used in Central American countries and in the case of the Dominican Republic is that described below:

CENTRAL AMERICA: CHRONOLOGICAL SUMMARY OF THE LEGAL PROCESS PRIOR TO THE ENTRY INTO FORCE OF THE FREE TRADE AGREEMENT BETWEEN THE DOMINICAN REPUBLIC, CENTRAL AMERICA AND THE UNITED STATES								
Stages of the process	Costa Rica	El Salvador	Guatemala	Honduras	Nicaragua	Dominican Republic	Resp. for Central America	Headquarters (Country)
Review of the legal text	May 24, 2004	May 24, 2004	May 24, 2004	May 24, 2004	May 24, 2004	May 24, 2004	Review Commission (Team of Experts)	Wash. D.C.
								United States
Approval of the final text	May 27, 2004	May 27, 2004	May 27, 2004	May 27, 2004	May 27, 2004	May 27, 2004	Ministers of Economy and Trade	Wash. D.C.
								United States
Signature of the Treaty	May 28, 2004	May 28, 2004	May 28, 2004	May 28, 2004	May 28, 2004	May 28, 2004	Ministers of Economy and Trade	Wash. D.C.
								United States
Entry of the Dom. Rep. to the Treaty	Aug. 5, 2004	Aug. 5, 2004	Aug. 5, 2004	Aug. 5, 2004	Aug. 5, 2004	Aug. 5, 2004	Ministers of Economy and Trade (with full authority of the Exec. Branch)	Wash. D.C.
								United States
Filing of the Treaty with the OAS	Aug. 5, 2004	Aug. 5, 2004	Aug. 5, 2004	Aug. 5, 2004	Aug. 5, 2004	Aug. 5, 2004	Ministry of Foreign Relations	Wash. D.C.
								United States
Remission to the National Legislative assembly for its approval	Pending	Dec. 7, 2004	Feb. 1, 2005	Nov. 2004	Pending	Aug. 25, 2005	Executive Branch (President of the Republic, Ministers of Economy and Trade)	In each country
Approval of the full Legislative Entity	Pending	Dec. 17, 2004	Mar. 10, 2005	Mar. 3, 2005	Pending	Sep. 6, 2005	Resolution of the Executive Board of Congress	In each country
Sanction or veto by the Executive Branch	Pending	Jan. 25, 2005	Mar. 15, 2005	Mar. 1, 2005	Pending	Pending	Executive Branch (Congress of the Republic)	In each country
Publication in the Official Gazette	Pending	Jan. 25, 2005	Mar. 16, 2005	Aug. 2, 2005	Pending	Pending	Legislative Branch (Congress of the Republic)	In each country
Filing of the Treaty Ratification with the Organization of American States (OAS)	Pending	Pending	Pending	Pending	Pending	Pending	Ministry of Foreign Relations	Washington D.C. (United States)

SOURCE: SIECA, Press Releases System.

B. San José Accord

The San José Accord was signed between the countries that import oil in Central America and the Caribbean with Mexico and Venezuela. Recently, Colombia signed an agreement similar to the San José Accord for the supply of oil to the Dominican Republic. These agreements permit access to lines of credit for approximately 20 percent of the cost of oil supplied by Mexico, Venezuela and Colombia. These funds are then used for economic development projects in productive sectors with preferential terms.

C. Central American Free Trade Agreement

On April 16, 1998, the Presidents of Costa Rica, El Salvador, Honduras and Nicaragua, and the Ministry of the Economy of Guatemala, on behalf of its President, executed the Central American Free Trade Agreement – Dominican Republic with the President of the Dominican Republic. This Treaty covers trade of goods, services and investments. This is a modern, third generation agreement, consistent with the positions of the WTO and the process of creating the FTAA. In addition to being advanced and complete, it has the specific features of reciprocally granting immediate trade openness for the entire customs tariff universe, except for a limited list of products that will be subject to a process of gradual incorporation into free trade.

Together with the Treaty, the Presidents of Central America and of the Dominican Republic agreed on a Plan of Action for the entry into force of the same, which includes the definition of a list of excluded products, specification of the specific standards of origin and the treatment for goods and services produced under duty-free zone regimens.

D. Agreement Establishing the Free Trade Area between the Dominican Republic and the Caribbean Community

Through the Free Trade Agreement, the Dominican Republic and the member nations of CARICOM have established the standards that will facilitate a free trade area for goods and services, as well as a general framework to protect and promote investment. The objective of the agreement is to strengthen commercial and economic relations between the countries via¹⁹:

- The Establishment of a Free Trade Area between the Parties.
- The promotion and expansion of the sale of goods originating from different countries, through free access to markets, the elimination of non-tariff trade barriers and the establishment of a system of Rules of Origin, Customs Cooperation and the Harmonization of Technical, Sanitary and Phytosanitary Procedures.

¹⁹ Agreement Establishing the Free Trade Area between the Dominican Republic and the Caribbean Community, Articles 1 and 2. www.sice.oas.org.

- The gradual deregulation of trade in services and the movement of capital.

The agreement includes a plan of action to establish the free mobility of persons and capital in the region.

The agreement was executed by the Dominican Republic and CARICOM, which includes Antigua, the Bahamas, Barbados, Belize, Dominica, Guyana, Jamaica, Montserrat, St. Vincent and the Grenadines, Surinam, St. Lucia, St. Kitts-Nevis, and Trinidad and Tobago, and it entered into force on January 1, 1999.

E. Trade Agreement between the Republic of Panama and the Dominican Republic²⁰

A regimen of preferred exchange was established, that could be free trade, preferential treatment or removal of customs tariffs. The products exchanged under the treaty must originate in these countries and comply with the coding of the customs tariff nomenclature and the certificate of origin. In the case of products produced with imported raw material, the domestic value added must not be less than 35 percent.

F. Agreements with countries of Africa, the Caribbean and Pacific – Lomé Convention

Free trade and unilateral assistance programs were signed by 15 countries of the European Union and 69 countries of Africa, the Caribbean and the Pacific in 1989. This non-reciprocal agreement for financial and technical cooperation provides emergency assistance and a preferential trade system for the European Union to the group of independent countries of Africa, the Caribbean and the Pacific, which for the most part were former European colonies.

Through this agreement, the countries of the European Union and its Countries or Overseas Territories allow the free entry of products originating from African, Caribbean or Pacific (ACP) Countries, with no quantitative restriction and non-reciprocity for equal treatment by the ACP Countries to the European Union, even if the treatment established in the most favored nation clause of the World Trade Organization is to be applied. Certain rules of origin apply.

The concession of preferences to ACP countries is intended to increase their exports to the European Union; nevertheless these do not guarantee free access to the EU market throughout the entire year. There are a series of agricultural products subject to tariffs that vary according to the levels of intra-community production. Based on the review of the Lomé IV Convention, the ACP countries enjoy preference of at least 16 percent of the Common Customs Tariff Classification (AAC), with wine, lemons and olives being the only exceptions.

²⁰ www.sice.oas.org

In February of 2000, the EU and the countries of the ACP agreed that the Partnership Agreement of Suva (Acuerdo de Asociación de Suva), which replaced the Fourth Lomé Convention, which expired in February of 2000 [sic]. With this new agreement the non-reciprocal customs tariff preferences for ACP countries were extended until 2007. It is expected that with this new term, the next agreements will be compatible with the guidelines of the WTO.

According to the foregoing, on June 23, 2000, the Cotonou Accord was signed to replace the Lomé Convention. This Accord clearly defines a perspective that combines politics, trade and development.

G. Caribbean Basin Initiative (CBI) ²¹

The Caribbean Basin Initiative (CBI) is a program permitting the entry without payment of customs duties of certain goods from countries and territories designated as beneficiaries. This program was enacted by the United States as the Caribbean Basin Economic Recovery Act, which entered into force on January 1, 1994.

The Central American countries, including Panama and the Caribbean countries, whose products must meet the requirements of origin established to enjoy preferential access in the US market are beneficiaries of this program.

H. CCI II Sections 215 and 222

In addition to the guidelines of origin described above, the Customs and Foreign Trade Act of 1990 has added other criteria to customs exemptions, in virtue of the Caribbean Basin Initiative (CBI). First, products cultivated, produced or manufactured in Puerto Rico and which are subsequently processed in a beneficiary country of the CBI, shall also enjoy customs exemption, provided that they comply with several conditions.

Similarly, products assembled or produced entirely from components or ingredients from the United States in a beneficiary country may enter under a customs exemption. The exemption shall be granted if the components or ingredients are exported directly to the beneficiary country and the finished product is imported directly into the customs territory of the United States.

I. CBI Parity – Trade and Development Act of 2000

Beginning on October 1, 2000, this law entered into force, favoring clothing assembled in the countries of the CBI from fabric cut and/or formed in the United States with North American threads and filaments.

Clothing woven and/or cut in the CBI with threads or filaments from the United States shall also enter with a customs tariff of zero, up to a limit of 250 million “square meters equivalent” (SME) and, in the case of t-shirts, up to a quantity of 4.2 million dozen.

²¹ www.proexport.com.co

Other products that were included in the CBI, primarily oil, footwear, certain leather goods, work gloves and canned tuna, shall immediately enjoy the same customs tariff reduction applicable in the framework of NAFTA and the North American importers may claim it retroactively for 1999. In order for any imported product from the beneficiary countries of this initiative, may enjoy the preferences established in the same, which must comply with the standards of origin established in the cited program.

J. Generalized System of Preferences ²²

A preferential system, implemented by several developed countries, by means of which certain quantities of products coming from developing countries shall receive a partial or total reduction in customs duties.

“Preferences” is used because these products enjoy a benefit over those coming from industrialized countries. “Generalized” because it is granted to all developing countries by a majority of the developed countries. These preferences are not reciprocal, i.e. the beneficiary countries are not required to grant equivalent reductions of their own customs tariffs.

The Generalized System of Preferences currently consists of 16 different systems, applied by 27 countries. Each system is independent, although they have many elements in common.

The granting countries are as follows: Australia, Austria, Canada, Finland, Japan, New Zealand, Norway, the United States, Sweden, Switzerland, Bulgaria, Czechoslovakia, Hungary, Russia, Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, Holland, England, Spain, Portugal and Poland.

The country benefits from programs 807A and 809 under which the United States practically eliminates the textile import quotas for clothing manufactured in other countries, provided that fabric originating in the United States is used and the clothing is made with North American thread.

K. Japanese Generalized System of Tariff Preferences

The Japanese Generalized System of Preferences was first applied on August 1, 1971, authorized by the Temporary Customs Tariff Measures Act, in order to grant preferences for an initial term of 10 years. The authorization to grant Generalized System of Preferences treatment has been renewed three times. In 1981 for 10 years, in 1991 valid through March 31, 2001, and in 2001 it was renewed through March 31, 2011.

In 2001, the system granted preferential entry with duty exemption for 226 agricultural and fish-related products (of 9 digits in the Harmonized System) and all the manufactured product, except for the 105 entries listed in the exclusion list, which

²² www.proexport.com.co

products were not granted customs tariff preferences (crude oil, some textiles, plywood and some furs and footwear), coming from 149 developing countries and 15 territories designated as beneficiaries. Under this system, Japan grants preferential unilateral access to the market for products from countries that request preferential treatment.

Forty-two countries considered to be less advanced are entitled to preferential customs tariffs. These countries were chosen by the Japanese Government from among the less advanced countries designated by the United Nations. (This preferential treatment started on April 1, 1980).

The classifications covered by the program were chosen based on the effects of the Generalized System of Preferences on national industries, and for budgetary reasons. In virtue of the Temporary Customs Tariff Measures Act, the Government (among other entities, the Ministry of the Treasury) was authorized to designate, withdraw, suspend or limit the countries and products granted treatment under the Generalized System of Preferences.

SECTION X

EXPORT PROCEDURE FOR THE DOMINICAN REPUBLIC

SECTION X

EXPORT PROCEDURE FOR THE DOMINICAN REPUBLIC

The primary steps to be followed by an exporter located in the Dominican Republic are indicated below.

A. Purchase-Sale Agreement

Once the seller has made contact with the buyer, offered the product and sent samples, if the importer (buyer) believes the offer to be beneficial, it is recommended that the purchase be formalized through an International Purchase-Sale Agreement.²³

The contract shall set forth the rights and obligations of the exporter as well as the importer, in relation to specified goods. It is important that the agreement set forth the needs of the exporter, in particular payment and delivery terms.

The clauses that must be included in the agreement are as follows:

- Exporter and importer's information
- Delivery terms - INCOTERMS²⁴
- The law applicable to the contract
- A description of the goods which are the subject of the contract, specifying the weight, packaging, quality, quantity
- Unit price by grade and total price
- Payment term and conditions
- Banks participating in the operation
- Documents required by the importer
- Delivery terms
- Insurance method (if applicable to the product)
- Means of transport and payment for freight
- Loading and unloading location
- Inclusion of costs in the price of the goods, in order to obtain the documents required for export
- Sales commission, if a broker is involved

B. Documents Required for Export

B1. Exporter Registration.²⁵ According to Article No. 11 of Law 84-99 for the Reactivation and Development of Exports, any party wishing to export, must have an Exporter Registration booklet, which is issued by the Investment and Export Center of

²³ Appendix D presents a sample international purchase-sale agreement.

²⁴ Complete information on INCOTERMS is found in Appendix E.

²⁵ www.cei-rd.gov.do

the Dominican Republic, received by applying on Form No. 3555, and the following documents must be attached:

- Organizational documents of the Company, bylaws, National Taxpayer Registration and list of shareholders.
- Ownership title or lease agreement for the facilities where it operates.
- Any other document that the Dominican Republic Investment and Export Center considers necessary to terminate its evaluation, pursuant to the provisions of Article No. 8 of the Enabling Legislation of the aforementioned Law.

Once the form has been submitted with the corresponding documents, the Dominican Republic Investment and Export Center shall evaluate the application and if the exporter complies with the requirements, it shall issue the Export Registration booklet, within a term of five business days.

B2. Single Export Form. According to Decree 646 of 1996, the Single Export Form was established, to which the commercial invoice must be attached, and which must be signed by the exporter.

B3. Commercial Invoice. Document issued by the exporter to the order of the importer/buyer which shows the sale in question. Information may be found here regarding the price paid or to be paid, that will serve as the basis for determining the taxable basis on which the import duties shall be paid in the buying country, and data may also be found regarding the name of the importer, a description of the goods, the price, location and final conditions of sale.

B4. Bill of Lading. Receipt showing shipment of the goods. Without this document the goods may not be removed from the delivery location. Based on the means of transport used, this document shall be called:

- Bill of Lading or “conocimiento de embarque marítimo” if shipment is by ocean.
- Air waybill (“conocimiento de embarque aéreo” if shipment is by air.
- Manifest (“carta de porte”) for ground transport.

The bill of lading shall contain information regarding the freight paid or to be paid, which depending on the importing country shall be part of the taxable basis on which import duties shall be paid.

B5. Insurance policy. If the Incoterm selected includes an obligation on the part of the seller to purchase transport insurance in favor of the buyer, then the exporter must purchase an insurance policy (coverage agreed upon by both parties) with an insurance company. As an option, the buyer may purchase insurance for its own account.

B6. Certificate of Origin. Allows the provenance of the goods to be identified and guaranteed, allowing the exporters to make use of the customs tariff preferences granted by the importing country.

Depending on the market to which the exports are sent, the exporter must send a certificate of origin with each shipment (if so requested by the importer) as follows²⁶:
Centroamérica: Certificado de Libre Comercio entre la República Dominicana y Centroamérica.

- Panama: Trade Agreement Certificate of Origin between the Republic of Panama and the Dominican Republic.
- The Caribbean: CARICOM Certificate of Origin.
- United States: SGP Form A, Caribbean Basin Trade Partnership Act (CBTPA).
- The European Union: Goods Circulation Certificate EUR-1, SGP Form A.
- Canada, Japan, Switzerland, Norway, Eastern Europe, New Zealand and Australia: SGP Form A
- Other countries: Dominican Republic Certificate of Origin.

The certificates of origin shall be signed and sealed by the Dominican Republic Investment and Export Center, provided that the product complies with the rule of origin established by the various Preferential Systems and Trade Agreements executed by the country.

B7. Packing List or “Lista de Empaque”: A document issued by the exporter, containing data related to the product to facilitate its location and handling (details of all goods shipped or all components of the same product).

It is important to clarify that more requirements may exist, such as domestic procedure depending on the product to be exported, as well as requirements of the country to which the products will be exported, such as documents required by the importer.

B8. Phytosanitary Certificate. Certificate issued for fresh agricultural and agro-livestock products. In order to receive this certificate, it is necessary that the exporter approach the port of departure and that the inspector of the plant quarantine of the Secretary of State for Agriculture conduct an inspection of the goods and review the commercial invoice as well as the single export form; in the event that the inspector does not find any discrepancy, the phytosanitary certificate shall be issued.²⁷

B9. Zoosanitary Certificate. Certificate issued for the export of animal species. In order to receive a zoo-sanitary certificate, the following steps must be carried out in advance²⁸: For the export of animals, it is required that they be examined in advance by the Central Veterinary Laboratory.

- In the case of honey and honey products, the product must meet the quality requirements specified by the apiculture section of the Secretary of State for Agriculture. In the case of wax, in addition a fumigation certificate must be obtained.

²⁶ www.cei-rd.gov.do

²⁷ www.cei-rd.gov.do

²⁸ www.cei-rd.gov.do

- In the case of leathers (animal skins), it is necessary to obtain an official certificate from the Department of Food Protection of the National Environmental Cleanup Office of the Secretary of State for Public Health and Welfare (SESPAS).
- In the case of the export of foods for animals, a plant inspection must be carried out by the Department of Animal Health (Ministry of State for Agriculture) and a fumigation certificate must be obtained.
- In order to export shellfish, certification from the Inspection Office of the Department of Food Protection of the National Environmental Cleanup Department of SESPAS. Once these requirements are fulfilled, the exporter must appear at the port of departure, so that the inspector from the Office of Animal Quarantine of the Ministry of State for Agriculture (SEA) may inspect the product and verify it in comparison to the documents and certificates presented by the exporter, together with the commercial invoice and the single export form. If the inspector has no objection to the examined products, he shall issue the zoo-sanitary certificate.

B10. Sanitary Certificate. Certificate issued for the export of foods and beverages.

These certificates (phyto, zoo and sanitary) are intended to ensure that the exported products are free of disease and contamination and that they are harmless. They shall be issued by the public health authorities of the country.

SECTION XI

EXPORT INCENTIVES

SECTION XI

EXPORT INCENTIVES

Dominican Republic export incentives are described in the following texts:

- Law No. 84 of 1999²⁹ regarding the Reactivation and development of Exports: which presents 3 incentives for exports.
- Decree 213 of 2000, which governs the application of Law 84-99, which sets forth the process to be followed by exporters in each of the mechanisms described in the law.

The mechanisms described in Law 84 of 1999 are described below:

A. Repayment of Customs Duties and Fees

Pursuant to Article 2 of Law 84-99, the Repayment of Customs Duties and Fees paid on raw materials, supplies, intermediate goods, labels, packaging and packing material imported by the exporter or by third parties (indirect) is established, when the same have been incorporated into goods for export, or in the case of those products that are reshipped abroad in the same condition in which they entered Dominican customs territory.

This reimbursement may not exceed the amount of the customs tariffs paid. It shall be accomplished by Registered Check and/or Repayment Voucher, as specified by Article 3 of the Law.

B. Simplified Compensation of Customs Duties

Owners of export companies (whether individuals or legal entities, domestic or foreign), shall be entitled to repayment of the customs duties paid in advance in an amount not to exceed the equivalent of three percent (3.0 percent) of the free on board (FOB) value of the exported goods, which shall be called by delivery of the Registered Checks and/or Tax Repayment Vouchers (Article 6).

The return may not exceed the amount of the custom duties paid in advance.

C. Regimen of Temporary Entry for Active Perfection

In accordance with the law, “temporary entry” is understood to mean “the entry of certain goods into Dominican customs territory, with suspension of the import rights and duties and coming from abroad or from duty-free export zones, in order to be reexported

²⁹ See the complete text of the law in Appendix C

within a term of no more than eighteen months counted after 30 days following the entry of goods into domestic customs territory” (Article 8).

It is important to clarify that this incentive is applicable to all export goods.

PART III

GUIDE FOR EXPORTS FROM THE DOMINICAN REPUBLIC TO
THE UNITED STATES

SECTION XII

MARKETING AND PROMOTION

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MARKETING AND PROMOTION

It is important to be familiar with all relevant aspects of international marketing and promotion mechanisms in order to successfully operate in the international market. Companies may distribute offers for their products internationally by various means, which vary in cost based on the intensity of their implementation.

The primary means of promotion and communication are as follows:

- Participation in Fairs
- Delivery of samples and price lists to customers
- Business roundtables and Trade missions for sellers and buyers
- Preparation of catalogs, brochures and Web pages

The use of these options shall depend on the promotional strategy of the company. The primary means for promotion by which a company may offer its products and make them known on the United States market are described below.

A. Promotion and Sale of Products

A few tips for accessing the United States market are presented below.

A1. Offer products that meet market trends and requirements. Many companies wish to export in the same way that they sell products on the domestic market, and this is a serious error since the requirements and tastes of consumers vary from one country to another. It is important that you be familiar with economic, cultural and commercial aspects of the market to which you are attempting to export.

A2. Have a long-term business plan. Often times, companies believe that exporting is a single sale, and not a long-term business relationship that involves making serious and committed efforts. An export project is an opportunity for the company to become a competitor at the world level.

A3. Learn to say “NO.” It is preferable to say “no” on time than to close a door for your company. The businessman must not make any promises that he knows he cannot fulfill. It is very important that the business owner understand that if things go bad abroad, it will also be bad in the exporting country.

A4. Make proper preparations for business appointments. It is necessary that companies have the basic elements such as business cards, product catalogs and a profile of the company in English, as well as a price list for reference purposes in United States dollars.

A5. Make contact with the customer. There are companies that believe they can do business via email or fax, which is difficult, since the customer needs to be familiar with

the physical product, through web pages or through catalogs. It is important that any company with an interest in exports personally visit its potential customers, so that buyers may have a better idea of the company with which they will be doing business.

A6. Follow up on your contacts. After the first contact with a potential customer, it is important to follow up on commitments made, and to comply with the quality offered, as well as prices and delivery terms. It is necessary to respond to customers' requests for information in a timely manner. It is important that the exporter know that the customer will wish to contact the seller at a later time, therefore the business owner must have a person who speaks English, a 24-hour fax number and an email address. This will allow buyers to trust that they can contact the exporter at any time.

A7. Participate in International Fairs. A fair not only allows you to show your products to potential buyers in a designated location, but it also allows you to know what your competitors are doing in terms of new designs, fashions and prices. A fair is a way to create an image of the company and create trust on the part of customers.

A8. Maintain quality and customer service. When the business owner has solidified sales in the region, the best way to consolidate relationships with your customers is to maintain the quality of the product and frequently contact your customer to find out if there is any way to improve the commercial relationship. To improve sales service and delivery terms, as well as to listen to the opinion of the buyer, it is necessary to make long-term deals.

A9. Market Surveys or Studies Carry out a study of production capacity in order to be sure that you have the supply necessary in order to increase your sales to a new market, and to ensure that the product has the correct presentation required by the market. In order to achieve this, it is recommended that you make a prospecting trip to a fair, or visit the city and evaluate the products that are found in retail stores.

A10. Define the Market of Interest. First, the exporter must specify the market in which he is interested. Why choose one region and not another? Know that the product can be sold in a specific region. Consider factors of culture, climate and customs that prevail in the region.

A11. Preparation of a Promotional Package. Once this analysis has been carried out, prepare a package including an image, quotes, designs and features of the products, in English, for presentation to potential customers. Catalogs are a basic tool for promoting and presenting your product to the customer.

A12. Knowledge and study of permits, certifications and requirements for the products in question. This will depend on each product since there are various entities that certify different products. For example, the FDA certifies food products, as well as the USDA, Department of Agriculture. UL Laboratories certifies electrical devices, etc.

A13. Professionalism and Seriousness. It is very important to live up to what is offered to the customer (sending quotes, samples, more extensive information, etc.) and to respond to all communication from the potential customer, either to continue negotiations, or, if not interested, to so inform the customer.

A14. Punctuality. "Time is money" is a phrase that correctly reflects that way that a US business owner thinks. Punctuality is a very serious matter, and negotiations generally are fast and straight to the point. Based on the foregoing, it is very important to arrive on-time for appointments and to have sufficient information to be able to respond to any question on the spot.

A15. Establish clear, written agreements. In the United States it is customary to formalize agreements through written agreements, which clearly set forth the liability assumed by each of the parties. In addition, this avoids possible differences in interpretation in the future.

A16. Avoid bargaining over prices. Americans seek to reach good agreements, and their negotiations focus on finalizing details and establishing a fair price. In their negotiations, they regularly include small reciprocal concessions on each of the details, nevertheless they do not like to have to negotiate substantial reductions in price, therefore before negotiating, we recommend that you determine the export price and terms at which you are prepared to work in advance.

A17. Be familiar with and understand the business culture of the buyer. It is important to know what the rules of courtesy and business are before making first contact in the market. In the case of Americans who have contact with various cultures and nationalities, they like to be direct and clear in their business relationships.

A18. Language. Learn the language used in international business, since the context in which certain terms are used may completely change the sense of a document or a purchase-sale agreement. Preparing documents before traveling or making a business proposal will affect the final results that are obtained.

A19. Identify a niche for the product. The United States market is very complex, added to the fact that the degree of development of individual states varies widely. Consumer preferences are not uniform throughout the country, therefore export efforts must be focused regionally.

A20. Selling Price. Pricing an exported product must be the subject of consulting before you send an offer to a potential customer. Generally, in the United States it is preferred that your product be delivered to the store or plant, and often the import and customs processing procedures are generally not known, therefore business owners must be perfectly familiar with these procedures and the corresponding export costs.

A21. Innovation. The United States market is the most competitive in the world, and therefore the consumer is always looking for new products, in particular those that are in

fashion. In addition, styles are of fundamental importance for the consumer to purchase the product.

A22. Flexibility. Due to the high degree of competition on the market, the business owner must have an open mind and know his skills in order to be able to customize his product to the customer's needs, and not think that because he was successful one time that he will always be successful.

A23. Knowledge of the support offered by the Federal Government to export companies and suppliers of exports. It is recommended that companies be familiar with and consult regarding promotional and financial services and products that are offered by government offices and entities responsible for promoting exports and investment, which may represent a high level of support for small and medium-sized companies that are getting started with exports.

B. Trade Fairs

Trade fairs are one of the most traditional activities, and one of the most important (from the point of view of investment). They are also the most useful for promoting exports, provided that appropriate advantage is taken of the opportunity.

They are part of the communications strategy of the company (advertising, promotions, participation in trade missions, samples). Furthermore, parallel activities are conducted, such as technical workshops, seminars, business roundtables, samplings, etc., which at times are supplemented with visits to importers, representatives and local agents.

Exporters must make the efforts necessary to be familiar with corporate culture and management attitudes among their potential customers, and in particular, they must enter an adaptation phase in order to adjust differences, if they wish to succeed in the international marketplace.

Participation in international fairs is one of the most direct and immediate forms for communicating with a new market. These international exhibitions are unique events that bring together the world supply in a given sector of activities, at one place and time.

Participating in an international fair is also an opportunity to study a market in greater depth. Knowing how potential customers conduct business is very important. Fairs allow elements of promotion, advertising, market research and public relations to be combined. Trade expositions or fairs are one of the best ways to get to know and meet current customers, reach out to potential, unidentified customers and offer goods and services on the international market.

Fairs are one of the primary tools to promote products in other countries; therefore good preparation for promotion strategies is fundamental in order to succeed on international markets and to choose the appropriate fair.

B1. Participation The primary forms of participation in a trade fair are: as an exhibitor, where the company attends the fair in order to promote and sell its products; and as an observer, where the company uses the fair in order to motivate it to seek out and purchase various products.

B2. Other means for participating in a fair. In spite of the primary intention of any company to participate in a fair to offer its products for sale, there are other possibilities that may be considered prerequisites to solidify operations, i.e.:

- **Select new suppliers.** The purchase of imported supplies of international quality may represent a prerequisite for the internationalization of the company.
- **Test a market.** Many international fairs serve as an indirect point of entry to some difficult markets (such as the United States), giving the opportunity to get in contact with local buyers.
- **Study competence.** A relatively common practice in major industries is to attend fairs in order to investigate manners of operating, the type and condition of the offerings of a competitor, production technologies, etc., in order to establish a strategy as competence.
- **Search for a Representative.** Some companies use international fairs to locate a representative to promote its products in its own market. It must be kept in mind that a high percentage of observers and buyers are professionals working in this field.

B3. Types of fairs. Taking into account the large number of fairs that are held around the world, it is necessary to classify them. So fairs may be grouped together as follows, based on their characteristics:

- **Universal.** All countries of the world participate in order to advertise their most significant features. Each of these fairs is carried out around a central theme, e.g. Expo Sevilla.
- **Trade.** These are organized in order to meet people wishing to export their products and do business.
- **Specialized.** In a specified range or family of products (by sector).
- **Institutional Fair or Exhibition.** This is a large-scale event of extended duration, carried out at varied sites, where countries and companies present their degree of development, integration achieved, without direct commercial purposes and in order to attain prestige among widespread audiences.
- **Permanent Exhibition or Showroom.** These are stationary stands, where the products on display may be rotated.

The following classifications are also possible:

- **Vertical.** When the purpose is to only attract buyers and sellers.
- **Horizontal.** When the fair is general in nature and does not cover a specific subject, open to a broad public audience.

B4. Ways to find a fair. There are many sources of information regarding international fairs. Fair organizers may be used, as well as public and private organizations that have compiled information regarding the largest fairs.

There are also Internet sites that provide locations of fairs and exhibitions at the world level. Although several sources, guides and directories may be consulted that contain information regarding specific and country-specific trade fairs, it is important to identify information related to the following aspects.

- Date and location of upcoming fairs and exhibitions.
- Contact information for the administration of the fair or exhibition.
- Product and exhibitor profiles.
- Registration fees and charges for admission to the expositions or seminars.
- Data regarding the organization and frequency of the event.
- Number of attendees, spaces, stands, etc.

B5. Planning Schedule: The following summary lists the primary activities that must be taken into consideration, before during and after the fair is held, included in a tentative schedule, which helps the business owner to successfully plan and participate in a fair.

TIME FRAME OF A FAIR	
Time	Activities
Activities to be carried out before the fair	
12 months before	- Area for the fair
	- Products exhibited.
	- Visitors and countries attending previous fairs.
	- Level of participation by companies in previous fairs.
	- Cost of the booth and services, cost of services not included.
	- Registration deadline.
	- Customs and import requirements for products to be on exhibit.
	- Facilities to return products to the country of origin.
	- Business or exhibit opportunities available during the fair.
	- Cost of a translator/interpreter.
9 months before	- Send fair contracts and the reservation deposit.
	- Select personnel for the exhibit and make all reservations (travel, hotel, etc.).
	- Plan the exhibit at the stand.
	- Decide who will be responsible for designing, constructing and setting up the exhibit or whether people will be contracted for this work.
	- Decide on the pre-fair advertising strategy, such as literature, promotional material and translation of the same, if necessary.
	- Select a cargo agent and agree on the material to be exhibited.
6 months before	- Verify the design of the stand and its construction schedule.
	- Select samples and order gift items.
	- Determine the system for the exhibit (demonstrations, written material, conversations with the manufacturer).
	- Plan the public relations method (by sending invitations, media relations and by developing publicity activities)
	- Plan the personnel necessary for the booth.
	- Order the supplies necessary for the exhibition.
4 months before	- Finalize all preparations for shipping.
	- Review promotional and sales materials.

	- Assign the personnel to staff the booth.
	- Prepare price lists.
	- Train the personnel who will staff the booth and prepare schedules and shifts. They must be familiar with the products, prices, shipping and delivery capacity and customs requirements.
3 months before	- Check supplies, materials and equipment again.
	- Coordinate shipping and insurance for the exhibition.
	- Approve local advertising and promotions.
	- Prepare identification for the personnel staffing the booth.
2 months before	- Send a list of personnel who will attend, to the fair organizers.
	- Send invitations to potential customers and agents to visit your booth.
	- Review flight and hotel reservations and other preparations for the trip.
1 month before	- Check that the material for the exhibit has arrived in the destination country.
	- Make preparations for repacking and shipping the exhibit materials, samples, etc. back.
	- Check on construction of the booth.
1 week before	- Check hotel and flight reservations.
	- Confirm appointments with possible customers.
	- Confirm domestic entry of the exhibit material.
	- Coordinate the contracting of photographs and/or video recording.
The day before the Fair opens	- Final arrangements to decorate the booth, furniture, samples and equipment.
	- Final review of the schedules for booth personnel.
	- Visit the entire fair, locate your competitors, and observe trends and ideas for future exhibits.
Activities to be conducted during the fair.	
	- Plan a daily meeting with the staff for the first hour in the morning to plan and coordinate the day's activities.
	- Observe competitors every day.
	- Look for vendors of complementary products, in order to set up possible distribution alliances.
Activities to be carried out after the fair	
	- Coordinate packing and reshipment of samples and exhibit materials.
	- Review billing for services.
	- Plan to stay one or two more days to hold additional meetings, follow-up with local contacts and visit the market to see competitors' products, their prices, presentation, packing and promotional practices.
	- Send thank-you notes and follow up with contacts made during the fair.
	- Hold a meeting with the personnel who staffed the stand. Ask for their comments, recommendations and suggestions to make improvements in future exhibits.

Source: Table prepared by ARAUJO IBARRA & ASOCIADOS S.A.

B6. Benefits of participating in a Fair

- **Concentration.** Companies may find the world supply in a given sector in a concentrated form, in a single place for a short period of time, allowing the business person to make a large number of personal contacts with potential customers, intermediaries and operators in general. They bring together a large number of buyers.

- **They allow the level of interest and the reaction of buyers to be evaluated.** Feedback is given, since the exhibitor can see whether its product is suitable for the market in question.
- **Knowledge of competitors.** Exhibitors may analyze products and prices of its worldwide competitors.
- **Find distributors.** The majority of distributors visit fairs to become familiar with new products and to evaluate competition. If the business owner is ready to launch its product or service, it is necessary to rent space for a booth in the exhibit area, and many distributors will visit the booth. Even if the business is just starting, and is not yet ready to export, the fair should at least be visited, in order to be able to speak with manufacturers in the industry who are not competitors, and that could offer the names of distributors. Occasionally, individual appointments may even be set up with distributors.
- **Evaluation of the Company.** Allows evaluation of the ability of the company to meet orders made on the international market.
- **Access to technical and advertising documentation from competitors.** Exhibitors may obtain technical and advertising documentation from the competition (catalogs and brochures, sales arguments, sales and delivery terms, etc.)
- **Updates of Technical Data.** Exhibitors can become informed regarding technological innovations and new market trends, which may be very useful for the possible creation of new products or for the evolution of what is already being offered.
- **Specialized Seminars.** Regarding various technical aspects and market trends.
- **Expand commercial activities.** Regarding current and potential buyers and contacts in general, in a more personalized context, such as working breakfasts, lunches, dinners, meetings.

C. Business Roundtables

A Business Roundtable is a commercial activity that allows a group of companies from a specific exporting country to hold meetings or business appointments with companies from an importing country.

Said meetings shall include private negotiations, where the exporter and the importer announce their commercial interests and evaluate the possibility of doing business, through analysis of trade opportunities that the counterpart may provide and the corresponding potential benefits.

In order to participate in this type of activities, interested companies register in advance, indicating the products or services that they offer and their requirements or demands. These lists are exchanged by the registered parties and with the assistance of the organizer they will prepare interview schedules that are conveyed and confirmed between attendees.

At other times, the interested parties meet their supply or demand requirements and make the organizers responsible for identifying and making contact with an appropriate counterpart in order to agree on appointments for the specified event dates.

D. Trade Missions

The missions may be classified in two large groups, i.e.:

A Mission of salespersons is comprised of a delegation of companies from a specific country, normally an exporting country, that are organized to travel to a target market, in order to explore the market, identify customers, consolidate businesses, follow-up with distributors, launch new products or participate as an observer in specific events or fairs.

A Mission of buyers (also called “Reverse Missions”) is comprised of companies from a specific country, normally coming from the “importing country,” organized most often by the destination country, whose specific interest is to facilitate and identify among counterparts (exporters) the products of interest (manufacturing capacity) in order to subsequently establish a sale or import opportunity.

E. Price Lists

E1. Strategies for Determining Prices. The options for an exporter to negotiate prices with its customers depends a great deal on how much information it has regarding its resources and values; these factors determine their strength in the negotiations process, by applying an adequate price strategy.

- **High Prices Strategy.** When dealing with a new or unique product, or if the company wishes to establish a high quality image for the product, it may use a high prices strategy. The benefit of this focus is high profit margins. The business person must be careful when selecting this type of strategy because it may limit the volumes of the product sold and it probably will attract the competition.
- **Low Prices Strategy.** Ideal when the company wants to shed excess inventory. Generally this is a short-term strategy. The result will be a low profit margin. By applying this strategy, the company risks giving a wrong impression, i.e. that it is not serious with respect to long-term commitments to the international market, or that it has a low-quality product.
- **Moderate Prices Strategy.** This is a safe alternative, in comparison with the foregoing low and high price strategies. It allows a company to face the competition, while maintaining an adequate margin and expanding its market share. Moderate prices result in a long-term positioning in the market. The disadvantage is that it could cause significant price competition from [other] suppliers. For this reason, before entering a market, it is very important to be familiar with competitor’s prices.

When the buyer indicates that the initial price is too high and requires a substantial reduction, it is important to ask what the basis is for the reduction, and before dealing based on price, the quality of the product and its benefits must be emphasized.

It is normal for the buyer to indicate that it has received better offers from other exporters. When this is successful, the company must request more details regarding these offers and attempt to convince the buyer that his company offers the best option.

If the buyer makes a counteroffer or asks for a price discount, before accepting it, you must try to ask for something in return, suggesting for example that if the discount is given, the customer will be responsible for ground transport or storage costs.

If the buyer states that the product is acceptable, but that the price is too high, the details of costs must be discussed.

E2. Determination of Price. The correct calculation of price, a clear and complete offer and the proper choice of sales and payment terms are fundamental components when selling internationally.

Like in the domestic market, the price at which a product is sold is one of the factors determining company profits. Therefore, it is essential that the objective market study include the evaluation of variables that may affect the sales price. If it is too high, the product will not sell; if it is too low, the profit level may not be sufficient to cover costs. Therefore, determination of the selling price varies between a fixed lower limit (cost) and an upper level negotiated and established by the market and the product.

A significant aspect for establishing the price of a product is the objective of the company, taking into consideration that for some business persons the objective will be to break into a new market, while for others what is most important is company growth in the long-term, or there may be other types of interests such as the shipment of inventory that has remained unsold on the domestic market.

In order to establish prices abroad, many of the same factors used to establish prices for the local market. These factors include: production costs, packing, transport and handling, promotional and sales expenses; the demand that exists for the product or service and the maximum price that the market is prepared to pay.

The traditional basic components that determine price are: Costs, market demand and level of competition (Supply).

E2a. Costs. The calculation of production and sales cost on the foreign market is an essential component for determining whether the export activity is viable. If the product must be modified, this will affect cost, either upwards or downwards, depending on the type of modification in question.

If the export entails producing more without increasing fixed costs, working only on variable costs, the additional products intended for export shall be produced at a lower unit cost.

The following is a very simple diagram for integrating and distributing the various types of costs, based on their corresponding identification and classification:

- **Production Costs.** Production cost includes all categories related to the production of a product, until it reaches inventory. Said costs may be fixed or variable.

Variable Production Costs.

- **Raw Materials.** Cost for supplies or goods to be transformed.
 - **Labor.** When the use of labor is a function of the volume to be produced, the labor cost will vary based on parameters related to production volumes, seasonal issues and the degree of skill required.
 - **Other Variable Costs.** Costs incurred based on production and that are distinct from the two previous items (For example, consumption of energy, depreciation of equipment when a function of the volume produced).
- **Marketing Costs.** This category includes all costs incurred when the product is in inventory, in order to get the consumer to buy it. These costs arise from the following activities, among others:
 - Market studies and research.
 - Sales promotion.
 - Advertising.
 - Distribution.
 - Sales and the corresponding overhead.

These activities include some that always generate expenses. These expenses are called fixed sales costs (sales personnel wages, contract advertising).

- **Export Costs.** This is total expenses of export activities, which vary depending on negotiations or the quote provided. Activities are prepared based on the international sales term used (INCOTERMS). In comparison to domestic sales, additional costs related to international sales include:
 - Market studies specific to the target country
 - Business travel
 - International mail, telephone/fax
 - Commissions and costs related to the activities of the foreign representative (as applicable)
 - Consultants, customs officers
 - Adaptation/modification of the product; special packaging

In general, primary export costs may be broken down into two distinct categories: fixed export costs and variable export costs.

- **Fixed export costs** arise primarily from maintaining operations in an export office or unit. These costs are incurred though no export is carried out, and when necessary to stay in business.
- **Variable export costs.** The total variable unit cost of a product for export is composed of the variable production cost added to the variable export cost. The variable export cost is the variable sales costs for export.

This cost category includes: bank/financial, packaging and special packing expenses, marks, specific labels, domestic transport, and insurance to the port, port charges, customs processing fees, and possible export duties. In international sales, the customer is not prepared to pay for possible inefficiencies and failures in scheduling or calculation errors by the exporting company, since it may easily select another supplier.

As a result, a company that intends to export should conduct a precise analysis to verify whether the price is competitive on the world scale, based on the product cost.

E2b. Demand in the Target Market. The scope of demand for a product indicates the price level that the market is prepared to pay. For example, if the product is very much in demand in a foreign market that does not have intense competition, the selling price may be substantially greater than on the domestic market. Market demand, relative to the product to be sold, indicates the level of “need” that the market has for the product.

E2c. Level of Competition. Determining a selling price is difficult without considering the prices of the competition. When multiple competitors sell a similar product in the same market, and there is no substantial difference in brand image, the margin of action is reduced, and new exporters are limited to asking the existing market prices, or even lowering their prices slightly.

Price determination depends on the type of strategy the new exporter chooses. In the long term, the best export price complies with the foregoing instructions while contributing to consolidating customers and markets. Prices and costs must be periodically reviewed when changes to the internal or external conditions warrant an update.

Elements of costs, demand and competition are valid for the domestic market and international market. These elements may vary from one market to the next; often the export price is not the same as the domestic price.

E2d. Export Price. After calculating production and export costs, government must provide mechanisms to stimulate exports (Example: draw back). The export price calculation must include those taxes that may not be recoverable.

Lastly, possible financial expenses may be generated based on operations in which financing is used. Considering aspects indicated, export price components of the FOB (Free on Board) type, which is a sales term frequently used to establish an international offer, are:

- Production costs (fixed and variable) **[CP]**
- Export costs (fixed and variable) **[CE]**
- Possible financial costs **[CF]**
- Unrecoverable domestic taxes **[Imp]**
- Possible incentives **[Inc]**
- Desired profit **[U]**

$$\text{FOB Export Price} = \text{CP} + \text{CE} + \text{CF} + \text{IM} - \text{In} + \text{U}$$

For export under CIF terms, the following must be added to above FOB terms:

- International freight transport.
- Destowage and unloading at the destination port.
- Transport insurance.

It is helpful to monitor the final price of the product on the destination market, i.e., the product price the end consumer pays on the foreign market. This gives a notion of the potential for product sales amid competing products at the end consumer level. This practice is useful even when selling to distributors and intermediary parties, since it is the end consumer who “looks, buys and consumes” the product.

E2e. Other aspects that must be considered. Although the product selling price on the international market has a firm basis in accounting, it is not the only supporting basis, but rather it works in an integrated manner with other factors external to the company, such as: the customer’s needs in terms of size, frequency of purchases, terms and delivery location, currency of negotiation, domestic and international competition for the product, and other competitive instruments, such as duty-free zones, use, trade agreements or incentives that exist for exports.

E2f. Contents. Price lists and photos are the first items requested by a potential buyer to become familiar with all information about the products.

On first contact with the customer, the product price list must include photographs be sent with the following information in English.

- Shipping date
- Consecutive offer numbers or customer identification number
- Buyer’s name, company name, address, city, postal code, city, country
- Item number. Six numbers may be used to identify them, of which two are the product category; another identifies the material comprising the goods, and the remaining three identify the style, which facilitates identification of the product within the company

- Product description. Material, format, measurements and uses
- Unit of measure: If the product is delivered by the piece, in sets, or otherwise
- Total freight cost and cost per unit
- Import duty
- Packing specifications
- Comments on the product. Colors, finishes, availability
- Offered price, recommended to be presented in two formats: FOB or CIF
- Establish a deadline for the price specified above
- Determine payment terms.

F. Web Page

The Internet to promote the sale of products throughout the world and/or to locate buyers abroad is the most powerful commercial instrument exporters have today.

Having a Web page is having presence in all markets. Possible buyers can access product information on company Web pages, which is important for doing business.

In the United States, Internet use in business is a daily occurrence. Any company that wishes to enter this market must have a Web page in English.

Development of an Internet site is economical when considering the benefits to the company. Information on products may be read at any time throughout the world, promoting products or services 24 hours a day, 365 days a year.

Promote the company's Web page is important or foreign customers will not have the means of finding the products.

Fortunately, Internet promotion and announcements are much easier and cheaper than people believe. The business person must first register with the primary search engines and Internet directories, such as: Yahoo (<http://www.Yahoo.com>) Altavista (<http://www.Altavista.com>) Lycos (<http://www.Lycos.com>) Excite (<http://www.Excite.com>) Google (<http://www.Google.com>) or Infoseek (<http://www.Infoseek.com>), which are available throughout the world.

For the Latin American market, businesses may register at StarMedia (<http://www.Starmedia.com>) El Sitio (<http://www.ElSitio.com>) or Adnet.

Furthermore, we recommend publishing the company's Internet address in all possible media, journals, directories, periodicals, or to use banners (strips that appear in the upper part or on the side of a Web page) to publicize the product in various media.

Information on competitors' modus operandi may be obtained over the Internet, as well as information on producers, their goods, quality of products on the market, designs used, and data on company development.

G. Catalogs

Companies need an up-to-date catalog available of the products they wish to sell.

Catalogs must have sufficient information to briefly communicate the positive aspects of the product. Photos should accompany brief explanations of technical features (which must be described using the US system of units).

If possible, the catalog must be written in two or more languages, one of them English.

Another option is to publish the catalog online. By using an electronic catalog the business presents its products on the Internet, and this catalog can be easily updated online.

SECTION XIII

IMPORT REQUIRMENTS

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A. US Customs Service

The US Customs Service is controls entry of products into the US market. This office is an agency of the Department of the Treasury, with an organization consisting of seven geographic regions divided into districts, with ports of entry within each district. This authority administers and enforces import laws and regulations set forth in the Customs Act of 1930.

The Customs Service sets and collects taxes, duties and fees on imports. In its capacity as a federal agency, it is responsible for enforcing the law, and enforcing the regulations of other entities at ports of entry throughout the land and maritime borders of the United States.

Furthermore, it combats and suppresses contraband and fraud at any point of entry to the 50 States, the District of Columbia, Puerto Rico and the US Virgin Islands.

To accelerate entry of goods, the association of importers and the Customs Service have automated the process through the Customs Automated Commercial System (ACS), which electronically receives, processes entry documentation and provides information regarding the disposition of the cargo. The cargo carriers, customs brokers, and importers may use the system to reduce entry time. Parties involved in the import without any type of intermediary agent may use this system to archive their own documentation.

Parties that import goods for their own use or for commercial transactions assisted by a customs broker for processing shall use the Automated Broker Interface (ABI) in combination with the ACS.

A1. Shipments that require a License or Permit. A license or permit is required from the entity responsible for importing:

- Alcoholic beverages
- Animals and animal products
- Some medications
- Fire arms and ammunition
- Fruit, dried fruits
- Meats and cold cuts
- Milk, dairy and cheeses
- Plants
- Caged birds and bird by-products
- Oil and oil by-products
- Registered trademark items

- Vegetables

Some of these goods are governed by these Federal Offices:

Bureau of Alcohol, Tobacco, and Firearms

Washington, D.C. 20226
(202) 927-8110 (alcoholic beverages)
(202) 927-7920 (firearms and ammunition)

Animal and Plant Health Inspection Service

(Animals and animal products)
USDA-APHIS-VS
Hyattsville, MD 20782
(301) 734-7885

Agricultural Marketing Service

(Fruits and vegetables)
USDA-AMS-MOAB
14th & Independence Ave. S.W.
Room 2525-South,
Washington, D.C. 20250
(202) 720-2491

US Fish and Wildlife Service

Office of Management Authority
4401 N. Fairfax Drive
Arlington, VA 22203
(703) 358-2093

Food and Drug Administration

Division of Import Operations and Policy
5600 Fishers Lane
Rockville, MD 20857
(301) 443-6553

Today a large volume of goods and products such as textiles, clothing, automobiles, ships, radios, televisions and medical equipment are subject to special standards, declarations, certifications and marking requirements. Other goods must comply with certain utilization or contamination control requirements or be subjected to import fees.

All requirements must be met before the goods arrive at Customs.

B. Import Procedure

B1. Packaging. Orderly packaging allows the customs officials to examine, weigh, measure and allow delivery of the goods without delay. The importers may accelerate

the inspection process by establishing a series of standard packaging guidelines with the Customs Service that will allow effective recognition of the goods with a minimum delay and cost. This facilitates the work of recognizing whether the packages carry a single type of product, or whether its content and value are uniform. If the content and values vary, the possibility of a delay and confusion are increased.

Some suggestions for streamlining goods through Customs include:

- Ensure that the goods are indicated systematically on the invoice.
- Show the exact quantity of items contained in each box, bundle, carton or other package.
- Place markings and numbers on each bundle.
- Show the same markings or numbers on the commercial invoice as appear on the packages.

B2. Inspection. Before releasing the goods, the District Director or the Port Manager will set aside representative quantities to be inspected by the customs officials, under the conditions that provide appropriate protection for the goods.

In cases involving small shipments or certain classes of goods such as bulk shipments, inspection may be conducted at the docks, at container stations, loading terminals, or at facilities of the importer; once this process is carried out, the goods shall be delivered to the importer.

In the case of other shipments, Customs may withhold a sample of the goods in order to evaluate them or correct the classification, and release the rest of the shipment. The sample withheld will be returned to the importer after being inspected.

The inspection of goods is necessary to determine:

- The value of the goods for customs purposes, and whether they are subject to duties.
- Whether the goods must be marked with the country of origin or any special labeling or markings. Generally, the imported goods must be marked in a visible location, and with the name of the country of origin in English. Certain specific articles are exempted from this requirement. (More information regarding this subject may be found in Customs Publication No. 539 - Marking of Country of Origin on US Imports).
- Whether the goods have been properly invoiced.
- If the shipment contains any prohibited articles.
- Whether the requirements of other federal agencies have been complied with, and
- Whether there are surpluses or fewer items than what appears on the invoice.

If necessary, the goods shall be analyzed in a Customs laboratory to determine appropriate classification and duty rates. When the inspection or evaluation of the goods by Customs reveals discrepancies with the description in terms of features, quantity or amount, or if Customs believes that another customs tariff classification should have been applied other than that indicated by the Importer, an increase in the tax rate may be specified.

B3. Payment. Once all the information has been collected, including the customs report of the import specialist, as well as the customs value of the goods and the laboratory report, if required, the final customs duty is determined. This stage is known as entry payment. During this period, overpayments of customs duties are returned, and additional amounts are invoiced if underpayments have been made.

B4. Advance Requirements. A party may make its own customs declaration for goods imported for personal use or those which are commercial in nature.

B5. Identification as an Importer. The US Customs Service does not require the importer to have any license or permit. Other government entities may request a permit, license or other type of certification, depending on the product. For the processing of customs entry documents, an importer identification number; this number refers to the IRS business registration number. If the business is not registered with the IRS or if it does not have a business, it shall be the social security number.

B6. Customs Duties. All goods entering the United States must be declared at Customs and a customs duty shall be paid unless the law stipulates otherwise. The customs declaration consists of a series of stages: entry, inspection, rate classification and payment.

Goods are subjected to three types of customs duties. Generally, duties are ad valorem rates, which correspond to a percentage of the value of the imported products (Percentage of the customs value). Nevertheless, some articles incur a specific duty (specific rate) (specific amount to be paid by unit or weight or other quantity) and others with a compound rate (combination of the 2 preceding duties).

Customs shall determine the taxable value of the goods. To this end, various methods are used to determine rates. Generally, the value of the transaction of the goods serves as a basis for determination of rates. The value of the transaction corresponds to the actual price that the buyer pays to the seller for the imported goods.

B7. Arrival of the Product. When a shipment arrives in the United States, a consignee must file the entry documents with the District Director at the port of entry. To this end, the importer or agent must present the relevant documents. These entry documents are generally presented before the arrival of the goods.

The customs service is not responsible for notifying the arrival of the goods shipment. The transport company shipping the goods notifies the recipient who must contact the company to immediately process entry of goods. There is a term of 30 days to claim the goods, and if they are not claimed, the customs service will send them to a customs storage facility and the importer will have to pay to retrieve them. If the goods are not claimed within a period of six months, they shall be sold at auction. Nevertheless, perishable products, products which will be devalued and explosive substances will be sold before the specified term has expired.

Any type of entry through customs must be carried out at the first port of arrival. If the business person cannot be there to prepare and process the entry, commercial brokers, known as customs brokers, may carry out these procedures. These customs brokers charge a fee for their services. A list of customs brokers may be obtained at your local customs office.

For non-commercial shipments, any person may be appointed to serve as the agent for customs purposes. This person must be familiar with all facts related to the shipment, and he/she must have written authorization of representation.

B8. Nationalization. Any goods that arrive in the United States through commercial transport must be brought in by their owner, the buyer or a regular employee authorized by either of the parties.

US Customs officials and employees are not authorized to act as importing or transport agents, although they may provide any information and assistance to the importer.

The only persons authorized by US law to act on behalf of the importer are customs brokers, who are private individuals or companies authorized by the Customs Service. Customs brokers will prepare and file the customs documents required and will make arrangements for payment of duties. They will also arrange for delivery of goods in customs custody and other processing required.

The process of nationalization or entry of the goods primarily consists of two parts.

- Delivery of the documents containing the information to determine whether the goods may be released.
- Delivery of the documents containing data for the calculation of taxes and the preparation of statistical data.

Both procedures may be carried out electronically through the “Automated Broker Interface” program of the Automated Commercial System (ACS).

Within five business days following the arrival date of a shipment at the port of entry, the following documentation must be delivered to the location specified by the District or Area Director, unless an extension is granted.

- Any of the following documents. Entry Manifest, (Customs form 754333), Application and Special Permit for Immediate Delivery (Customs form 3461); any other delivery form required by the District Director. The delivery declaration of the goods must be accompanied by proof that a bond has been established to cover possible duties, taxes and sanctions. It is generally presented in the form of a bond secured by a surety company domiciled in the United States.
- Proof of the right of entry into the country for the goods.
- Commercial invoice, provided by the seller, containing the value and description of the goods, or proforma invoice when the commercial invoice cannot be submitted. Invoices must contain the following information required by the Tariff Act.

- The port of entry of the goods.
 - If the goods have already been sold or there is an agreement for their sale, the invoice must indicate the time of the sale, the location and the names of buyer and seller. If consigned, the date and origin of the cargo and names of the shipper and recipient.
 - A detailed description of the goods, including the name by which each item is known, the degree or quality of the same and any marks, numbers and symbols under which they are sold in the country of origin. In addition, the marks and numbers printed on the packages of the goods must be specified.
 - The quantity of the goods, in weight and measure.
 - If the goods have been sold or there is an agreement for their sale, the purchase price of each item in the currency of the sale.
 - If the goods are consigned, the value of each item is in the currency normally used for such transactions. If this value is not known, indicate the price, in that same currency, that the manufacturer, seller, shipper or owner would have received or would have agreed to receive for such goods, if sold under normal market conditions and in normal wholesale quantities in the country of origin.
 - The type of foreign currency.
 - All expenses related to the goods, detailed by name and quantity, including freight, insurance, commissions, boxes, packages, packaging and packing costs, if not included in the aforementioned figures, must also include all expenses incurred in transporting the goods from the shipping port to the first port of entry into the United States. Nevertheless, costs related to packaging, boxes, containers and domestic freight required to bring the goods to the port from which they were exported need not be specified. When all this information is not specified on the original invoice, it must be included on an attachment.
 - List any reduction, reimbursement of customs fees, subsidy or discount on export that has been granted.
 - The country of origin.
 - All goods and services used for the production of goods whose value is not included in the price of the commercial invoice.
 - The invoice and all attachments must be in English or be accompanied by an exact translation. If the required commercial invoice is not submitted when the goods are shipped, a declaration in the form of an invoice (such as a proforma invoice) must be supplied in its place. A bond must also be provided to secure the submission of the required invoice within 120 days following the shipping date. If the invoice is required for statistical purposes, in general it must be submitted within 50 days following the date of submission of the shipping-transport summary, air waybill or carrier's certificates, naming the consignee for customs purposes, as proof of the right of the consignee to bring the goods into the country.
- Packing list, as applicable.

- The packing list is a document that allows the exporter, transporter or insurance company, customs service and the buyer to identify the goods and to know what each bundle or box contains, therefore packing must be methodical to match the invoice. The latter is used to supplement the commercial invoices, and it shall be delivered to the transporter.
The corresponding breakdown must indicate the customs tariff classification of the goods, as well as the value, weight and volume (by describing the type of packaging and packing used).
- Certification of the quality and quantity of goods.
- The risks of foreign trade transactions are reduced by dealing with international companies that oversee and inspect cargo to ensure compliance with the agreed upon conditions. These certifications are voluntary and may refer to the following subjects, among other items: Supervision of quality, quantity and weight; supervision of loading, stowage or unloading; supervision of temperatures; supervision of fumigation; quality control; supervision and inspection of packing; prior inspection to ensure the cleanliness of the means of transport; inspection and evaluation of products in accordance with international standards.
- Other documents to determine the admissibility of the goods.

If the goods must be released from customs against the entry documents, an entry summary must be presented for consumption, and the customs duties calculated at the port of entry must be deposited within 10 business days following the date on which the goods enter and are released.

Once the documents required for entry have been presented, the importer shall indicate the tariff classification and pay the estimated customs fees and the processing costs. The Surety Bond shall cover customs fees, taxes and possible sanctions that may be levied.

B9. Challenge. The importer shall be entitled to request an administrative review within a period of 90 days following payment or any other decision. Notification of the denial of a challenge, in whole or in part, shall be sent by mail to the importer or to his agent.

The importer may then decide if it wishes to file a claim. If the importer wants a judicial review to be conducted, he must submit a judicial request to the Court of International Trade (Corte de Comercio Internacional).

C. Other Types of Entry

Imported goods may be sent “in bond” from the first port of arrival to another customs port. All arrangements related to bonded shipments must be carried out before the goods leave the country from which they are exported. Bonded entries postpone final customs processing, including the payment of duties and processing fees, until the goods arrive at their destination point.

The imported goods may also be sent to a customs storage facility with a storage entry document. The customs duties and processing fees are paid when removed for consumption. The importer must pay storage fees to the owner of the customs storage facility.

Goods entering a foreign trade zone shall not be declared at customs.

Imported goods are not considered to have entered legally until the cargo has arrived at the port of entry, the entry of the goods has been authorized by customs and the duties imposed have been paid.

Samples. Once the buyer requests a physical sample of the product, it is considered the surest way to obtain a purchase order; therefore the sample must be received by the buyer with no damage, in perfect condition, and without any delay, together with the appropriate information.

Likewise, samples sent to potential buyers must be representative of the products offered. Special care must be taken in shipment as they reflect the image of the exporting company.

C1. Procedures Prior to Shipment. In order to ship samples, it is important to prepare labels adhered to the product that contain the following information:

- Name of the company.
- Number of items being sent.
- Price in US Dollars.
- Quantity of items per box or package.
- Country of origin.
- Name of the buyer.
- In addition, it is recommended that a business card be included with the sample for buyers to have ready company information (telephone, fax, email).

C2. Number of Samples Required. Upon offering the products, a minimum of three samples are required as follows: The first will be sent to the customer to obtain a purchase order. The second shows the manufacturer, in order to have a means for comparing the sample sent and what is being produced to show that they are identical; and lastly one for the business person.

C3. Means of Shipment. The means to send the samples are as follows:

- **Couriers.** Companies most often used to deliver samples. They provide door-to-door service, including transportation and customs processing for samples.
- **Postal Services.** Postal companies also offer standard services for the shipment of envelopes and packages. Customs services are not included.

Customs administration procedures must be understood in order to ensure samples received by the Customers in good condition and in a timely manner.

C4. Forms of Entry

C4a. Duty-free. Any sample material entering the United States by traditional means (as luggage) or via mail, must be accompanied by the documentation required for import for consumption of these products. In order to be exempted from the payment of customs duties, the samples must be marked, or broken, perforated or otherwise modified so that they may not be sold or used other than as samples.

C4b. Duty-free. It is possible to elect to pay duties upon entry, releasing the samples to the authorized importer, thus enabling their free transit within the United States to be sold or exported, as desired.

If the imported goods are exported in the same conditions as declared upon payment of the duties, they may be subject to a draw-back.

C4c. Temporary import (TIB – Temporary Import under Bond). Samples used only for the sale of products (samples for making orders or issuing purchase orders) may be admitted into the United States without payment of duties under the TIB regimen (Temporary Import under Bond), provided that the samples are not sold and are exported within one year of their entry, otherwise damages must be paid, generally equal to up to two times the normal customs duty. This period may be extended to three years.

C5. Packing. Once the product has a label, it must be packed in a box or container designed for this purpose, which on the exterior must bear complete contact information for the recipient.

The sample must be correctly packed to ensure that the buyer receives it in perfect condition.

It is recommended that the sample be sent with the packing normally used so that the buyer may analyze and accept the type of packing used.

C6. Collection. Collection for the delivery of samples is relative, since it depends on the value of the sample and the relation that exists between the exporter and the potential buyer; it is recommended that the invoice must be inside the sample box of each buyer, because it is not sufficient to post the invoice on the exterior of the packaging as it may become detached.

Once the sample and the invoice are ready, the bill of lading must be prepared, verifying first of all the name of the transport company the customer works with and the account number to be charged, in the event that the piece is sent for the account of the buyer; otherwise the business person must cover the cost of shipment.

C7. Aspects to be taken into account

- The time of arrival of the sample to the buyer and the name of the person who accepted the package must be verified with the transport company.
- It is recommended that a fax or email be sent to the buyer informing the date the sample arrived, and the name of the employee that accepted the delivery.
- Wait a reasonable time period to contact the buyer.

D. Customs Tariff Classification

The Harmonized Tariff Schedule of the United States, published by the International Trade Commission, specifies the types of duties and the classification of goods based on the type of product, for example, plant and animal products, textile fibers and products made of these materials. This guide may be accessed at the following Web address: <http://dataweb.usitc.gov/scripts/tariff2005.asp>.

The importer must determine this number according to the goods to be brought into the country, pay the corresponding tariff and the processing fees, if applicable. Lastly, US Customs will verify whether this customs rate corresponds to the goods to be declared.

The classification of the customs duties establishes a variety of customs duty rates for each item: “General” tariffs, for most favored nations; “Special” tariffs for special trade programs and tariffs referred to as “Column 2” for imports to which neither the general nor the special tariffs are applicable. Processing fees may also be applicable.

It is the responsibility of the importers to comply with the requirements corresponding to the goods at the time of entry into the country, such as: security, packing, and standards, in addition to permits that must be obtained before arrival of the goods into the United States.

In addition to contacting the Customs Service of the United States, interns must contact other entities when questions arise over specific products. For example, concerns about products regulated by the Food and Drug Administration (FDA) must be submitted to the nearest jurisdictional office of the FDA or to the Import Division of FDA (301) 443-6553. This is valid for alcohol, tobacco, firearms, and natural products (pelts, hides, and shells), motorized vehicles, and other products and goods governed by other general entities for which the Customs Services imposes entry laws.

SECTION XIV

SPECIAL REGULATIONS FOR THE IMPORT OF SOME PRODUCTS

SECTION XIV

SPECIAL REGULATIONS FOR THE IMPORT OF SOME PRODUCTS

A. Sanitary and Phytosanitary Requirements

The special requirements and regulation to import products into the US market are primarily applied to protect national security, the economy, domestic animals and plant life, and to safeguard the health of consumers.

Some regulations, in addition to those established by US Customs, for example, entail banning and/or limiting the entry of products, establishing specific ports for the entry of goods and applying standards to marking and labeling. This applies to all types of imports, including those that are mailed.

There are regulatory standards for specific products such as: milk, cheese and dairy products, fruits, greens and walnuts, live animals, foods, drugs and cosmetic products, wood and furniture, leather and leather goods, textile products, chemical products, information technology, medical equipment, power and consumer protection.

Sanitary and phytosanitary measures include all regulations that a state adopts to protect the health and life of persons and animals and to preserve plants within its territory against risks arising from the entry, establishment or propagation of plagues, diseases and pathogenic or disease-carrying organisms, as well as the presence of additives, contaminants, or toxins.

Sanitary and phytosanitary measures may take on many forms. They include, but are not limited to: a) requiring that animals and animal products come from regions that are free of diseases; b) inspecting products to detect microbiological contaminants; c) requiring specific fumigation for products; and d) establishing maximum permissible levels of pesticide waste in foods.

A1. Legal Framework. Sanitary and phytosanitary measures are regulated or framed in the WTO Phytosanitary and Sanitary Measures Application Accord, executed by several countries, including the United States, during the Uruguay rounds. This agreement establishes the overall legal framework to which the countries shall be subject when establishing sanitary or phytosanitary measures.

The accord specifies that sanitary or phytosanitary measures takes in all relevant laws, decrees, regulations, requirements and procedures, including, but not limited to, the following: Criteria related to the end product; processes and methods for production; testing, inspection, certification and approval procedures; quarantine regimens, including requirements on transport of plants or animals, or materials required for their

subsistence during transport; provisions on statistical methods, sampling procedures and methods for the evaluation of risk; and requirements on packaging and labeling directly related to the harmlessness of foods.

Furthermore, the accord establishes a series of principles and guidelines that must be followed by countries upon establishing such measures, for example it states that the countries may take any measures necessary to protect the life and health of persons and animals or to preserve plants, provided that these measures are not applied in such a way as to constitute arbitrary or unjustifiable discrimination among members where the same conditions or a restriction related to international commerce may prevail.

A2. Regulation of sanitary and phytosanitary measures in the United States. In the United States sanitary and phytosanitary measures may be established at the federal or sub-federal level, and they shall be directed primarily at animals, organic products and food items in general, but they may also refer to procedures, services and plants.

When preparing sanitary or phytosanitary measures, the federal and sub-federal entities must consider international standards, and if applicable, base regulations on these standards.³⁰ Nevertheless, the Phytosanitary and Sanitary Measures Application Agreement specifies some reasons that it may not be appropriate to base a sanitary or phytosanitary measure of a government on an international standard; these reasons include: protecting human health and safety, national security, the health or life of animals or plants, or the environment.

In the United States sanitary and phytosanitary measures and the technical standards and regulations may be established at the initiative of an entity, in accordance with the provisions enacted by Congress, or in response to a public request. Once the technical standard or regulation has been issued, the sanitary and phytosanitary measures must be published in the *Federal Register* and it must be codified in the Code of Federal Regulations (<http://www.gpoaccess.gov>). The National Institute of Standards and Technology (NIST), which is part of the Department of Commerce, has a reference collection of technical regulations, specifications, test methods, codes and recommended practices.³¹ The NIST provides information regarding specific regulations or contact points in response to requests received from interested parties.

A3. Sanitary and Phytosanitary Measures Regulatory Agencies APHIS is responsible for the regulation intended to safeguard animal and plant resources in the United States from exotic diseases and plagues. It has an Import Authorization System (IAS) that allows importers to present applications to import fruits and greens, and products from the animal kingdom and organisms. APHIS publishes a list of the zoosanitary status of countries/regions known by the US Department of Agriculture in

³⁰ Refers primarily to the WTO Phytosanitary and Sanitary Measures Application Act.

³¹ Information from NIST available at <http://www.nist.gov/>.

relation to certain livestock, caged birds and diseases transmitted by meat.
<http://www.aphis.usda.gov>

FSIS is responsible for safety of meat, caged birds and certain egg-based products. To import meat products and caged birds into the United States, a determination of equivalence is required. Once granted, FSIS includes the country in the list of countries that may export to the United States. FSIS has established and published a procedure for evaluating whether the regulation system for meat and caged birds and health measures of a foreign country are equivalent to the system and the measures of the United States; it requires an annual audit. <http://www.fsis.usda.gov>.

The Environmental Protection Agency (EPA) is responsible for ensuring compliance with the environmental regulations of the United States. The role of the EPA in international trade is to guarantee that commercial agreements are negotiated and applied to protect national environmental standards and interests. In the framework of its Import-Export Program (IEP), the EPA works with the regional offices, the states, other Federal entities and foreign governments in order to ensure compliance with and the preparation of laws governing the import and export of materials that may present a risk to human health and the environment, by including hazardous waste, toxic chemical products,³² pesticides and substances that deplete the ozone layer. <http://www.epa.gov>

The FDA is the primary agency responsible for the safety of all other food products and veterinary medications, and to apply the Federal Food Products, Medications and Cosmetics Act and other related Federal laws intended to protect the health and safety of consumers and avoid commercial fraud. <http://www.fda.gov>

The Federal Food Products, Medication and Cosmetics Act, as the primary foundation of the sanitary and phytosanitary measures, is part of the US Code, which is a codification of the general, permanent laws of the United States by subject. The code is divided into 50 titles and is published by the Office of the Law Revision Counsel of the US House of Representatives.

A4. Some sanitary and phytosanitary measures in the United States – by sectors.

The measures indicated by sector are for illustrative purposes, since one must not forget that each sector is divided into multiple sub-sectors for which there exist specific and concrete regulations issued by the various governing agencies indicated above. The measures indicated here are some of those that appear in the US Code, which are general in nature. So, according to the various sectors, the following are found:

A4a. Live Animals. In regard to the import of livestock, a regulation is established which prohibits the import into the United States of cattle, sheep, pigs and any ruminant animal that is “ill” or has been exposed to any infection, in the interest of preventing the

³² The Toxic Substances Audit Act, in Paragraph 12 b) and 40 CFR Part 707 requires the EPA to notify importing countries of the export of chemical products or combinations of chemical products that are subject to certain standards and orders. This requirement affects some 1,100 chemical products.

spread of infections within the United States. Failure to be familiar with this provision shall warrant the imposition of civil and criminal penalties. (US CODE, TITLE 21, CHAPTER 4, SUB-CHAPTER II). For more information, visit:

http://www.access.gpo.gov/uscode/title21/chapter4_subchapterii.html

The import or offering of the import of bees or bee semen must be carried out in accordance with the standards of the Department of Agriculture, under penalty of destruction. (See US CODE, TITLE 7, CHAPTER 11) for more information, visit:

<http://www.access.gpo.gov/uscode/title7/chapter11.html>.

It has been established that in order to import pigs and products derived from pigs into the United States, they must be in good health condition, suitable for human consumption, and they must be free of chemicals, preservatives, dyes or any ingredient that may make them unhealthy, contaminated or unsuitable for human consumption (US CODE, TITLE 21, CHAPTER 10).

Likewise, provisions were established for the import of pigs under the rules established by the Department of Agriculture, which may be consulted at:

http://www.fsis.usda.gov/Regulations_&Policies/.

Requirements were established for pigs and products derived from pigs in terms of packaging material and labeling for entry and inspection of the goods. For more information, consult: <http://www.access.gpo.gov/uscode/title21/chapter10.html>

Any import into the United States of any virus, toxin or similar products used for the treatment of domestic animals is prohibited unless the importer has a license issued by the Department of Agriculture (US CODE, TITLE 21, CHAPTER 5). For more information, we recommend that you consult:

<http://www.access.gpo.gov/uscode/title21/chapter5.html>

For complete and detailed information on US requirements for the import of live animals, visit the following addresses.

- US CODE (Primarily Titles 7 and 21)
<http://www.gpoaccess.gov/uscode/browse.html>.
- US CODE OF FEDERAL REGULATIONS (Primarily Titles 7 and 21)
<http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1>.
- APHIS Web Page on regulations to safeguard animal and plant resources in the United States from exotic diseases and plagues. <http://www.aphis.usda.gov>
- FSIS Web Page on the safety of meat, caged birds and certain egg-based products. <http://www.fsis.usda.gov>.
- FDA Web Page on the safety of the majority of food products and veterinary medications. <http://www.fda.gov>

A4b. Meat and Comestible Scraps. No body or parts of a body, or meat or products from cattle, pigs, goats, horses, mules or other equines likely to be used as food for humans may be imported into the United States if such items are contaminated; they

must comply with requirements in the US Code, Title 21, Chapter 12. For more information, consult the US Code, Title 21, Chapter 12 at:

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+21USC620.

All bodies or body parts, or meat or products from cattle, pigs, goats, horses, mules or other equines likely to be used for human food, offered for import into the United States shall be subject to sanitary inspection, as well as inspections to verify quality, species and standard waste, in accordance with the requirements applicable to the same products produced in the United States. If said requirements are not respected, such products will not be allowed entry into the United States. For more information, please consult the US CODE, Title 21, Chapter 12, available at:

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+21USC620.

Any foreign country offering meat imports to the United States must obtain certification from the Department of Agriculture specifying that said country maintains a program for the safety analysis ensuring compliance with production standards for meat processing in relation to US standards. Entry will be denied without said certification. For more information, consult the US Code, Title 21, Chapter 12 available at:

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+21USC620.

For more detailed information on individual requirements of the United States for the import of meat and animal scraps, visit.

- US CODE, Title 21, Chapter 12. <http://www.gpoaccess.gov/uscode/browse.html>.
- US CODE OF FEDERAL REGULATIONS (Primarily Titles 7 and 21) <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1>.
- APHIS Web Page on regulations intended to safeguard animal and plant resources in the United States from exotic diseases and plagues. <http://www.aphis.usda.gov>.
- FSIS Web Page on the safety of meat, caged birds and certain egg-based products. <http://www.fsis.usda.gov>.

A4c. Milk and dairy products, bird eggs, natural honey, comestible products of an animal origin not stated in or covered by another section. Import into the United States of milk is prohibited unless the party attempting to import the product has a valid permit issued by the Department of Health and Human Services. For more information, consult the US Code, Title 21, Chapter 4 at:

http://www.access.gpo.gov/uscode/title21/chapter4_subchapteriv.html.

Milk and cream shall be considered unsuitable for import into the United States when cows producing these products are not healthy as evidenced by a physical examination performed one year prior to import. In addition, unprocessed cream or milk shall be considered unsuitable if it was produced by cows that have not passed the tuberculosis test by a US veterinarian or an authorized veterinarian in the exporting country showing

that the cow is free from tuberculosis. This examination must be carried out one year prior to import.

In addition, it is required that any company exporting dairy products successfully submit to the sanitary conditions test established by the Dairy Industry Division of the Department of Agriculture of the United States.

For more information, consult the US Code, Title 21, Chapter 4, Subchapter at: http://www.access.gpo.gov/uscode/title21/chapter4_subchapteriv.html.

Unprocessed milk shall likewise be considered unsuitable for import if it exceeds 300,000 bacteria per cubic centimeter; unprocessed cream shall be rejected if it exceeds 750,000 per cubic centimeter. Pasteurized milk will be rejected if the bacteria level is 100,000; as will pasteurized cream if it exceeds 500,000.

Likewise, the import of milk or cream with a temperature upon entry in excess of 50 degrees Fahrenheit shall be rejected. For more information, consult the US Code, Title 21, Chapter 4, Subchapter 4 at:

http://www.access.gpo.gov/uscode/title21/chapter4_subchapteriv.html.

For complete and detailed information on US requirements for the import of dairy products, visit the following addresses.

- US CODE, Title 21, Chapter 4. <http://www.gpoaccess.gov/uscode/browse.html>.
- US CODE OF FEDERAL REGULATIONS (Primarily Titles 21) <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1>.
- FDA Web Page on the safety of the majority of food products and veterinary medications. <http://www.fda.gov>

A4d. Fruits and comestible fruits, rinds of citrus fruits, melons of watermelon.

Certain standards and requirements established by the Department of Agriculture must be met for the import of grapes and plums into the United States; these shall be verified by prior inspection before entry of the product into the United States. In addition, for certain importers, based on the country of origin, a special certificate may be required for specific cases. For more information, consult the US Code, Title 7, Chapter 25A at:

<http://www.access.gpo.gov/uscode/title7/chapter25a.html>.

To import apples and plums into the United States, it has been determined that before importing the product, these fruits must comply with certain standards and requirements established by the Department of Agriculture, which shall be verified by prior inspection before entry into the United States. In addition, for certain importers, and based on the country of origin, a special certificate may be required for specific cases. For more information, consult the US Code, Title 7, Chapter 25 at:

<http://www.access.gpo.gov/uscode/title7/chapter25.html>.

For more complete and detailed information regarding the US requirements for the import of fruit and comestible fruits, visit:

- US CODE, Title 7, Chapter 25. <http://www.gpoaccess.gov/uscode/browse.html>.
- US CODE OF FEDERAL REGULATIONS (Primarily Title 7) <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1>.
- FDA Web Page on the safety of the majority of food products and veterinary medications. <http://www.fda.gov>
- EPA Web Page (EPA) on environmental regulations of the United States. <http://www.epa.gov>.
- APHIS Web Page on regulations on safeguarding animal and plant resources in the United States from exotic diseases and plagues. <http://www.aphis.usda.gov>.

A4e. Coffee, tea, yerba mate and spices. The US Code does not contain specific provisions on the import of coffee, tea, yerba mate and spices into the United States; however the US Code of Federal Regulations contains provisions such as the following:

Regulations on nurseries, plants, roots, bulbs, seeds and other plant products prohibit the import into the United States of any type of seeds coated with pulp, coming from any country except Canada. This prohibition is applicable to coffee berries or plants. Nevertheless, regulations on coffee only prohibit imports in Hawaii and Puerto Rico. Faced with the possibility that bans against importing coffee berries or plants in other regions of the country may not be clear to the public, since it does not appear in the regulations related to coffee, the Zoosanitary and Phytosanitary Inspection Service has proposed that in Section 319.73-2 there appear a prohibition against importing coffee berries or beans in all regions of the United States, in accordance with the provisions of Title 7 of the US CODE OF FEDERAL REGULATIONS, Section 319.37-2(A).

For more information, consult the US CODE OF FEDERAL REGULATIONS, Title 7 at: <http://www.access.gpo.gov/cgi-bin/cfrassemble.cgi?title=200507>.

For more complete and detailed information regarding US requirements on the import of coffee, tea, yerba mate and spices, visit:

- US CODE OF FEDERAL REGULATIONS (Primarily Title 7) <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1>.
- FDA Web Page on the safety of the majority of food products and veterinary medications. <http://www.fda.gov>
- EPA Web Page on compliance with the environmental regulations of the United States. <http://www.epa.gov>.
- APHIS Web Page on regulations intended to safeguard animal and plant resources in the United States from exotic diseases and plagues. <http://www.aphis.usda.gov>.

A4f. Oleaginous saplings and seeds; miscellaneous saplings and seeds; industrial or medicinal plants; straw and fodder. In relation to the import of seeds into the United States, a series of prohibitions have been established, which ban import when:

- The agricultural or plant seed contains harmful elements or the label does not match the content.

- The seeds have deteriorated, with a few exceptions as specified by the Law.
- Any seed containing 10 percent or more agricultural or plant seeds, with the exceptions specified by the Law.
- Any agricultural seed or mixture of seeds intended for planting and that has been treated, unless it meets the labeling requirements.

For more information, consult the US Code, Title 7, Chapter 37, Subchapter III at: http://www.access.gpo.gov/uscode/title7/chapter37_subchapteriii.html.

For more complete and detailed information regarding the individual requirements of the United States for the import of oleaginous saplings and seeds, miscellaneous saplings and seeds, industrial or medicinal plants, straw and fodder, visit:

- US CODE, Title 7, Chapter 37. <http://www.gpoaccess.gov/uscode/browse.html>.
- US CODE OF FEDERAL REGULATIONS (Primarily Title 7) <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1>.
- FDA Web Page for the safety of the majority of food products and veterinary medications. <http://www.fda.gov>
- EPA Web Page ensuring compliance with the environmental regulations of the United States. <http://www.epa.gov>.
- APHIS Web Page for the regulations intended to safeguard animal and plant resources in the United States from exotic diseases and plagues. <http://www.aphis.usda.gov>.

A4g. Live Plants and Floriculture Products. Certain notifications for plants are required before these items may enter United States territory.

Such plants may be withheld at the port of entry until verified as harmless and entry or transit into the United States is permitted. The Secretary of the Treasury must notify the Secretary of Agriculture of the arrival of any plant or plant product, biological control organism or disease in plants, at the port of entry.

The party responsible for any plant, plant product, biological control organism or disease in plants, and in general with respect to all products that require authorization, must issue notification as soon as possible once the plant, and its products have arrived. No party may move any plant from a port of entry before it is inspected and authorized to enter the United States, or transit through the United States. For more information, consult the US Code, Title 7, Chapter 104 at:

<http://www.access.gpo.gov/uscode/title7/chapter104.html>.

For more on the import of plants and plant products, visit:

- US CODE, Title 7, Chapter 104. <http://www.gpoaccess.gov/uscode/browse.html>.
- US CODE OF FEDERAL REGULATIONS (Primarily Title 7) <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1>.
- EPA Web Page for ensuring compliance with the environmental regulations of the United States. <http://www.epa.gov>.

- APHIS Web Page for the regulation intended to safeguard animal and plant resources in the United States from exotic diseases and plagues.
<http://www.aphis.usda.gov>.

A5. Systematic Search. The sanitary and phytosanitary measures imposed by the United States cannot be deemed minimalist, nor are they easy to find, despite codification in the US Code, the Code of Federal Regulations, and published in the Federal Register; searching for them can be exhausting and in some cases, unsuccessful due to the multiplicity of provisions and complexity of the organization of such statutes. This does not even consider language barriers since most measures are written in highly technical and scientific language that is not easy to understand.

Interested parties can consult the International Portal regarding Safety of Foods, Animals and Plants. Refine the search using the portal's features to search by country and by product, thus limiting the scope of the search, and allowing the interested party to become familiar with these measures and their location. Not all US sanitary and phytosanitary are listed but it is a very useful tool

The FAO developed the portal in cooperation with organizations responsible for establishing international standards governing animal and plant health. The portal provides a single point of access to authorized, official national and international information for all sectors in regard to safety of foods and health of animals and plants. Traditionally, sanitary and phytosanitary matters have been covered on a sector by sector basis. Typically this would mean that matters of animal health or plant health or food safety were considered separately. With the increase in economic interdependency, international trade and the ease of travel, and with the use of new production and processing technologies, a new, multi-disciplinary method was needed. The portal was the answer to this need for an official information site on sanitary and phytosanitary measures that have heretofore been widely dispersed.

The benefits of the portal include: authorized access to official information, search engines that the Internet does not provide, free access for all users, greater transparency on sanitary and phytosanitary measures, essential information to protect human life, animals and plants, all of which create greater trust between trade partners, and increased international trade. Improvement in national laws and regulations is yet another benefit in that parties drafting legislation have ample access to examples through the portal at <http://www.ipfsaph.org/Es/default.jsp>.

B. Other Requirements

Other requirements for the entry of goods and particularly of foods into the United States include but are not limited to:

B1. Prior Import License. The prior license is a permit for the import of certain plants, animals and foods. For example, a majority of the plants and some plant products require a prior license for import into US territory to avoid introduction of diseases and

plagues. Permits or licenses are required to import certain animals and products from the animal kingdom, as well as organisms and vectors and biological veterinary products, so as to safeguard livestock and caged birds in the United States against foreign disease. For more information consult: www.fda.gov.

B2. Marking and Labeling of Products. US legislation establishes that for a product to enter (generally finished products), certain marking and labeling requirements must be met to identify the product and content. For example, a product label must be located on the front panel of the product, or, for example, two labels may be affixed to a product, provided that certain information is indicated on the label on the main panel, and other information on the rear panel. Requirements govern form, size and color of characters on the label and regulate information that must appear there, for example, produce must label nutritional information, net package contents, and other characteristics or face rejection of their products. For more information consult: www.fda.gov.

B3. Good Manufacturing Practices for the Manufacture, Packing or Storage of Foods for Human Beings. This regulation, as its name indicates, refers to good manufacturing practices required of companies and their agents throughout the preparation, production, manufacturing, packing, storage and other stages that contribute to the production of the final product. These practices include standards on cleanliness and hygienic conditions that must be met at the production plant, as well as parameters that govern the physical infrastructure of the plant, among other regulations imposed on the manufacture of foods intended for human consumption. For more information consult: www.fda.gov.

B4. Procedure for Food Products Entering the United States. Below are steps to bring foods into the United States that must be followed with the US Customs Service.

1. The importer or agent in the United States delivers the entry documents to Customs within five business days following the date of arrival of the goods at the US port.
2. The FDA receives notification of the entry of a food through three documents. "A copy of Customs Document 7501 (Summary Sheet for Consumption Entry), "Copy of the commercial invoice," "Bond covering customs duties, taxes and possible sanctions."
3. The FDA examines the notification of entry to determine if a physical inspection will be conducted at the dock or through a sample.
- 4.1. The decision is made not to take any samples. The FDA sends notice of entry (May Proceed Notice, formerly referred to as Form FD 702) to Customs and to the registered importer. The shipment is delivered by the FDA.
- 4.2. The decision is made to collect a sample based on: * the nature of the product, * the priorities of the FDA, * the history of the product.
The FDA sends notification to take a sample of the goods (Notice of Sampling) formerly Form 712) to Customs and to the registered importer. The shipment is kept intact while waiting for subsequent notifications. A sample is taken. Meanwhile, the importer must move the goods from the dock to another port or to a warehouse.
5. The FDA obtains a physical sample. The sample is sent to an FDA District Laboratory for analysis.
- 6.1. The FDA analysis finds that the sample meets the necessary requirements. The FDA sends notice of shipment (Release Notice, formerly referred to as Form FD 71) to Customs and to the registered importer.

6b- The FDA analysis determines that the sample violates FDC Law, and other laws. The FDA sends Customs and the importer a Notice of Detention and Hearing (formerly Form FD 777), specifying the nature of the violation and granting the importer 10 business days to present testimony regarding the admissibility of the shipment. The hearing is the only opportunity the importer will have to defend the import or present claims to show that the shipment should be accepted into the United States.

7a- The consignee, owner, registered importer or an authorized representative shall respond to the Notice of Detention and Hearing. The response shall provide first testimony, orally or in writing, in favor of the admissibility of the shipment.

7a- The consignee, owner, registered importer or an authorized representative shall respond to the Notice of Detention and Hearing, does not request an extension of the term granted.

8a- The FDA grants a hearing regarding the admissibility of the product. The hearing is an opportunity to present claims and is subject to the presentation of the relevant evidence.

8b- The FDA issues a Notice of Refusal of Admission (formerly Form 772) to the registered importer, who must be the same person to whom notification was sent to take the sample of the goods. All recipients of the notification to take a sample (Notice of Detention and Audition) shall also receive the notification of rejection.

9a- The registered importer shall present proof indicating that the product meets the required conditions. Acceptable evidence, for example, includes analytical results of the samples carried out by recognized, duly certified laboratories, that must show that the products are within the limits established in regards to contamination and risks to human consumption.

9b- The registered importer presents a request to review the product (Application for Authorization to Recondition or to Perform Other Action, formerly Form FD766). A permit is requested to transform a product that is contaminated, or has the wrong name, into a standardized product, by renaming it, making it into a non-food product or by taking other measures. A detailed report of the method that will be used to bring the product into compliance with standards must be submitted.

9c- The FDA receives verification that the shipment has been reexported or destroyed. The reexport or destruction of the goods referenced in the Notice of Refusal of Admission shall be carried out under the supervision of the Customs Service.

10a- The FDA collects a sample to determine whether the product complies with the required regulations.

10b- The FDA examines the reconditioning process proposed by the importer. A deposit on the payment of possible damages is required.

11a- The FDA believes that the sample complies with requirements. A notice of shipment of the goods is sent (Release Notice, formerly Form FD71) with the statement Originally Detained and Now Released to customs and to the importer.

11b- The FDA believes that the sample does not comply with requirements. The importer may request reconditioning of the product using the "Application for Authorization to Recondition or to Perform Other Action" (See 9b). If this is not done, the FDA shall issue a Notice of Refusal of Admission (See 8b.).

11c- The FDA approves the reconditioning process proposed by the importer. The approved reconditioning request shall contain a statement to the effect that the goods shall be kept intact until a notification of release of the goods is issued by the FDA (Merchandise Should Be Held Intact Pending the Receipt of FDA's Release Notice).

11d- The FDA rejects the reconditioning process for the product, if prior experiences have shown that such a process is invalid. A second request shall not be considered unless it contains significant modifications to the reconditioning process, so as to ensure a reasonable possibility for success. The applicant shall be informed of everything in the form – application submitted (Application for the Authorization to Recondition or to Perform Other Action).

12- The importer completes the entire reconditioning process for the product and informs the FDA that the goods are ready for a second sampling or inspection.

13- The FDA inspects the goods or collects a sample to determine conformity based on the requirements of the reconditioning authorization.

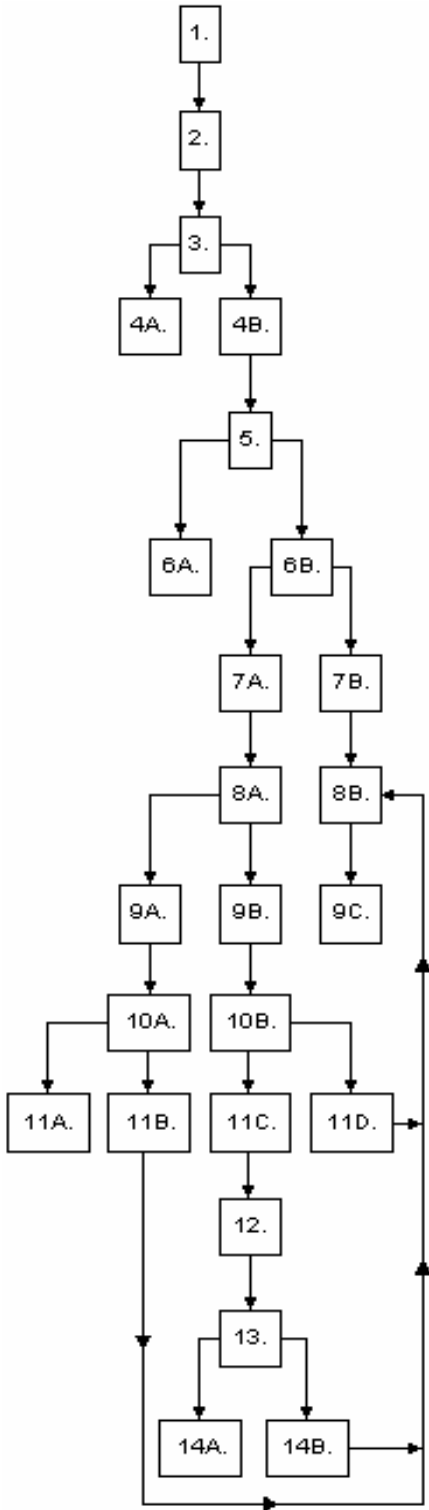
14a- The FDA analyses show that the sample complies with regulations. A Release Notice is sent to Customs and to the importer. The FDA supervision costs (formerly FDA Form FD 790) are

recorded and copies are sent to Customs, which is responsible for collecting payment in full, including the expenses incurred by its personnel.

14b- The FDA analysis finds that the sample does not meet the necessary requirements. The FDA supervision costs (formerly FDA Form FD 790) are recorded and copies are sent to Customs, which is responsible for collecting payment in full, including the expenses incurred by its personnel.

The following diagram [next page] presents the steps described above, in accordance with the numbering indicated.

Diagram of Procedure for Food Products Entering the United States:



C. Bioterrorism Law

Bioterrorism is the term used to define the criminal use of pathogenic microorganisms, toxins or hazardous substances against the population in order to cause illness, death, panic and terror. It also covers biological material with phytopathogenic agents, diseases subject to quarantine, chemical supplies, or any other type of material that, when it enters a country, harms the life and health of its people.

The September 11 terrorist attacks in New York led the US government to strengthen its security; therefore the US government has been taking a series of actions to minimize the possibility of suffering another terrorist attack.

The US government has enacted initiatives to improve and increase its control over the entry of goods and persons under the auspices of the Bureau of Customs and Border Protection. Through this office, a series of mechanisms have been implemented to ensure the security of shipments, such as C-TPAT (Custom Trade Partnership Against Terrorism), CSI (Container Security Initiative) and other security programs.

Among other measures adopted, the US Congress has enacted the Public Safety and Bioterrorism Response and Preparation Act, known as the Bioterrorism Act, which was signed by President George Bush on June 12, 2002.

This law entrusts the Secretary of Health and Human Services with protecting the food supply in the United States against the threat of intentional contamination.

The Food and Drug Administration (FDA), as the regulatory arm of the Department of Health and Human Services, is responsible for developing and implementing the food safety measures, "including four major areas":

- Registration of food facilities
- Prior notification of food imports
- Establishment and maintenance of records
- Administrative detention

C1. Entry into Force. This law went into effect December 12, 2003. Now the FDA has new tools allowing it to act rapidly in response to a terrorist threat or attack against the food supply, and to determine the location and cause of the threat.

C2. Importance of being Familiar with the Bioterrorism Law. It is important to be familiar with the scope of this Law because it establishes new requirements for the export of agricultural food products to the US market.

C3. Contents of the Law: The Public Health Safety and Bioterrorism Response and Preparation Act of 2002 (the Bioterrorism Act) consists of a large number of legal provisions intended to improve the ability of the United States to prevent and respond to a terrorist attack using biological agents, and to perfect the management of emergencies and the wellbeing of public health.

The Bioterrorism Law is broken down into five “Titles,” then divided into “Sub-titles” and “Sections.”

Title I	National Preparation against Bioterrorism and Other Public Health Emergencies
Title II	Improving the Control and Management of Hazardous Biological Agents and Toxins
Title III	Protection and Safety of Medications and the Food Supply
Title IV	Protection of the Potable Water Supply.
	Title V Final Provisions

Pursuant to the provisions of the Bioterrorism Act and its enabling legislation, exporters of foods to the United States must comply with the following requirements:

C4. Registration of Facilities. On October 10, 2003, the FDA published a provisional final standard, Registration of Food Facilities, specifying that all domestic and international facilities that manufacture and/or process, package, or retain food for animal or human consumption in the United States must be registered with the FDA. Pursuant to this provisional final standard, all corresponding facilities must have registered by December 12, 2003. This standard includes companies that even though they do not export directly, still process, package or store products for exporters.

Facilities is understood to mean any establishment or structure that is under the same ownership and in the same physical location.

The FDA has established clear definitions for each of the following activities comprising the production of a product:

C4a. Fabricate/process refers to producing food from one or more ingredients, synthesizing, preparing, treating, modifying or handling foods, including harvested products and ingredients; for example, cutting, peeling, washing, applying waxes, bottling, labeling or packaging.

C4b. Packaging/packing entails placing food or products in containers or packages, without changing the food’s form for end user purchase.

C4c. Store/Retain. Food storage regulations apply to warehouses, cold storage facilities, grain elevators or liquid storage tanks. No product may enter the United States if the facility in which it was processed, packed or stored is not registered with the FDA. Producers wishing to begin to export to the United States after December 12, 2003, must register their facilities before beginning processing, packing, or storing.

In addition to registering facilities, foreign companies must appoint an agent in the United States to act as a channel of communication between the company and the FDA.

The following shall be excluded from registration:

- Private residences of individuals, even if they manufacture and/or process, pack or retain foods.
- Establishments and structures for the collection and distribution of non-bottled potable water, such as municipal water supply systems.
- Transport vehicles that retain food only during the normal course of their operations as transporters.
- Agricultural operations: according to the USDA, an agricultural operation is a physical facility dedicated to growing plants or raising animals (including fish and shellfish), or both.
- Washing, cutting outside leaves and cooling fruits and vegetables is considered part of harvesting. The term “agricultural export” includes facilities that manufacture and/or process foods when they are consumed in the same agricultural operation or another operation belonging to the same owner. A store run by the agricultural operation that sells the food directly to consumers would be exempted from registration since it is considered a retail food sales facility.
- Restaurants: These are facilities that prepare and sell foods directly to consumers for immediate consumption, for example, dining rooms and kitchens in hospitals, rest stops, nursery school facilities, (and similarly, animal shelters, dog shelters and veterinary facilities that offer food directly to animals).

C5. Facilities regulated solely and entirely by the Department of Agriculture of the United States include those that only handle meat, poultry products, or eggs.

C5a. Fishing vessels/boats catch and transport fish and may remove heads or entrails, or freeze fish to prepare the product to retain or store on board: they are not required to register as facilities.

C5b. Non-profit Facilities/Establishments are charitable organizations that prepare or serve food directly to consumers, for example, food banks, shelters, open cafeterias.

C5c. Retail Food Sales Establishments/Facilities’ primary function is to sell food directly to consumers. They may fabricate, process, pack, package and store foods, if they are delivered directly to the consumer, for example, supermarkets, box stores, food vending machines.

C5d. Foreign Facilities. In cases of overseas facilities that manufacture and/or process, package/pack, store or retain foods to be sent to other facilities abroad, for manufacturing and/or processing or packaging, before the food is exported to the United States, only the latter facilities must be registered. Nevertheless, both facilities must be registered if the latter facilities perform minimal activities, such as labeling. Similarly, all facilities abroad that package or retain food for a previous manufacturer and/or processor must be registered.

C6. Procedure for Registering Facilities or Establishments. The FDA has an electronic system at <http://www.fda.gov/furls> that is available 24 hours a day, 7 days a week. A facility is considered to be registered as of the moment when the FDA transmits confirmation and the facility's registration number.

Although it is possible to register by fax or regular mail, these methods are not recommended since the confirmation and the facility registration number can be received immediately using the electronic option, while with fax or regular mail, one must wait for the FDA to enter the data into its database and respond to the interested party by the same means as that used to deliver the registration (fax or regular mail).

Registration is free, needs doing only once, is not transferable, and, if the facility closes or changes ownership, the registration must be canceled and registered again with the new ownership data.

The FDA has prepared a manual regarding how to fill out the registration form, which is available only in English at the official FDA web site:
<http://www.cfsan.fda.gov/~furls/ins3537.pdf>.

C7. Person Responsible for Registration. The owner, operator or agent responsible for a facility that produces, processes, packages or stores the food, is the person who should carry out the registration.

C7a. Facility Registration Form. The registration form has 13 sections, some of which are optional. It is only available in English, and asks for the following types of data:

Section 1: Type of registration, for example, domestic or foreign facility, update of registration or new registration.

Section 2: Facility Information: name, mailing address, country, telephone number, fax number and email address (the last two items optional).

Section 3: Other address for the facility. This section is optional for those facilities that have an address other than that registered in Section 2, for example, a production plant of in a rural area may prefer to receive correspondence at the company headquarters in the city.

Section 4. Information on the parent company, if the facility is a subsidiary.

Section 5. Emergency contact information within the facility. The FDA has specified that for foreign facilities, this section is optional, because the FDA will contact the facility's agent in the United States, unless a different emergency contact is designated in this section.

Section 6. All trade names and marks used by the facility.

Section 7. Information on the facility's agent in the United States: name, mailing address and telephone (email address, fax number, and title optional).

Section 8. Information on seasonal facilities with their operating dates (optional section).

Section 9: Type of activity conducted by the facility (packing, storage facility, labeling center, an optional section).

Section 10: Type of storage, for example, ambient temperature, refrigerated, frozen (optional section).

Section 11: Categories of food products intended for human consumption and the corresponding codes, for example, alcoholic beverages, seafood, coffee, seasonings, bread, and candy. Category of products intended for animal consumption (optional section).

Section 12: Information on the owner, operator or agent responsible for the facility: name, mailing address, country, telephone number (fax number and email address optional).

Section 13: Statement of accuracy and authenticity of data.

C8. Consequences of Non-registration or Erroneous Registration. The FDA shall retain products until registration is processed or processed correctly, but the following consequences may also result:

C8a. Transfer of the Goods. If the FDA determines that there are security issues or a lack of space at the port of entry, it may transfer the goods to a storage facility or other safe location.

C8b. Payment for Transfer and Storage. The transfer and storage of the goods shall be billed to the account of the exporter.

C8c. Customs Sanctions. In the event that registration is not received once the goods are retained, the US Customs Service may impose sanctions.

C8d. Destruction of the Goods. If six months pass after arrival of the goods and official entry has not occurred, the FDA will consider the goods abandoned and may dispose of them.

C9. Prior Notice of Import. According to the provisional final standard, the FDA must be notified by electronic means of the arrival of any food product. If prior notice has not been submitted and receipt confirmed, the product will not be permitted to enter the United States.

C10. Products Requiring Prior Notice of Import. The prior notice of import shall be applicable to all foods for humans and animals that are imported or offered for import into the United States for use, storage or distribution.

The foods that must be notified in advance of their arrival include the following products: dietetic ingredients and supplements, baby foods, drinks including alcoholic drinks and bottled water, fruits and greens, fish and shellfish, milk products, frozen and canned foods, bread products, candies, and pet foods.

In addition, foods for gifts and trade and quality control/quality assurance samples, foods for transfer through the United States to another country, foods for future exports and foods for use in the US Free Trade Zone shall also be included.

C11. Products Exempt from Notification are as follows:

- Foods entering for the personal use of travelers.
- Meat products, eggs and processed poultry, which are regulated by the USDA.
- Export products that have not left the port of departure and are reexported.
- Foods prepared by an individual in his/her personal residence and sent as a gift to another person in the United States.

C12. Prior Notification Form. The prior notification form asks for information including:

- Identification of the party making the shipment (shipper), name, telephone numbers, fax, email address, name and address of the facility.
- Identification of the transporter (if other than the shipper), name, telephone numbers, fax, email address, name and address of the facility.
- Type of entry (consumption, reexport, transshipment).
- Product identification.
- Complete FDA product code.
 - Name of the product on the market.
 - Estimated quantities.
 - Presentation of the product.
 - Identification of the manufacturer of the product.
 - Identification of the agricultural producer, if known.
 - The country of origin of the product.
 - Identification of the loader, except for foods imported via international mail
 - The country from which the product was sent; if the food is imported via international mail, the anticipated date of arrival of the shipment.
 - Anticipated arrival information: location, date and time; food imported via international mail must include the name and address of the addressee(s) in the United States.
 - Identification of the importer, owner, and final recipient, except for foods imported via international mail or transshipped through the United States.
 - Identification of the transporter or means of transport, except for foods imported via international mail.
 - Information on the scheduled itinerary for the shipment, except for foods imported via international mail.

C13. Consequences of Failure to Provide Notification. The failure to provide prior notification, or inaccurate or incomplete notification, shall result in the product being retained at the port of entry, and it may warrant transfer of the goods until notification is made.

The exporter is responsible for prior notification, although the importer, the agent or broker may make notification if authorized.

If notification is made by another person, the exporter must ensure that the importer, agent, or broker is aware of the liability arising from this standard and that such person has information needed to make notification.

C13a. Forms of Presenting the Prior Import Notice. The prior import notice must be submitted to the FDA by electronic means, and submission must be confirmed by the FDA for review, as follows:

- If the food item arrives by ground, by road, no later than two hours before its arrival at the port of arrival.
- If the food item arrives by ground by railroad, no later than four hours before its arrival at the port of arrival.
- If the food item arrives by air, no later than four hours before its arrival at the port of arrival.
- If the food item arrives by ocean, no later than eight hours before its arrival at the port of arrival.
- The time corresponding to the type of transport used, when transported by an individual, if the food is subject to prior notification (the food will be accompanied by FDA confirmation).
- Shipments by international mail must have their prior notice received and confirmed electronically by the FDA before being sent, and the package must be accompanied by a receipt confirming notification.

C14. Need to Maintain Records. All domestic and foreign facilities that produce, process, package or store products for consumption in the United States must maintain detailed records regarding the next, previous, and subsequent source of foods used for their operations.

C14a. Time Frame for Maintaining Records is one year following the date product was produced for perishable foods not intended for transformation into non-perishable foods.

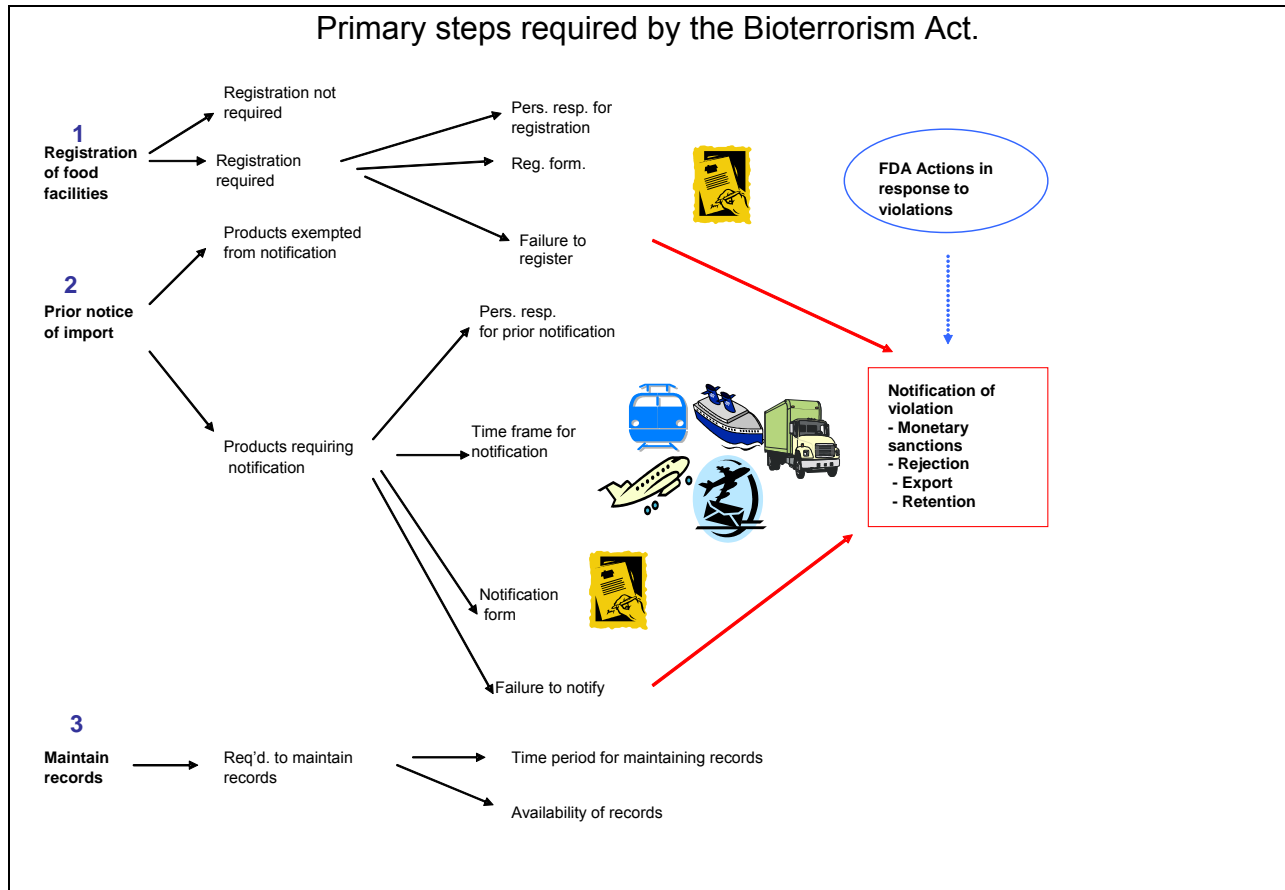
- Perishable food: food that has not been treated using heat, freezing or preservation by any other process.
- Foods for animals.
- For all other foods, two years following the date created.

The FDA may request records, which must be made available within four hours (if the request is received during business hours) or within eight hours (if the petition is received outside of office hours).

C15. Aspects to be considered by importers of foods to ensure entry into the United States. It is important that the business person be sufficiently familiar with the regulations of the FDA.

In order to comply with this regulation, it is important that the company prepare and maintain the infrastructure and personnel to keep records for at least two years, notify in advance and on time specified times for entry of products, designate an agent for registration and communication with the FDA, and to disseminate the FDA's Bioterrorism Act to all operators in the distribution and product supply chain.

Personnel will make contact with customers in the United States to develop a process for shipments to comply with the Bioterrorism Act, develop a procedure with the importer in accordance with the conditions of the international sales agreement for cases in which the shipment is assigned administrative hold, meaning: What to do and who will shoulder the costs and operations necessary in the event of an administrative hold by the FDA at the ports or airports of entry to the United States. It is important to implement best production practices and systems to manage the safety and quality of products and to control safety for companies along the logistics chain that support compliance with food security regulations of the FDA.



C16. Sources of Information on the Bioterrorism Act.

- FDA official web site. <http://www.fda.gov/default.htm>.
- Bioterrorism Act Web Site: <http://www.fda.gov/oc/bioterrorism/bioact.html>.
- Information in Spanish regarding Administrative Holds, published by the FDA: <http://www.cfsan.fda.gov/~dms/sfsbta10.html>.
- Information in Spanish regarding the Establishment and Maintenance of Records, published by the FDA. <http://www.cfsan.fda.gov/~dms/sfsbtac9.html>.
- Information in Spanish regarding the Registration of Facilities, published by the FDA. <http://www.cfsan.fda.gov/~dms/sfsbta12.html>.

- Information in Spanish regarding Prior Notification, published by the FDA:
<http://www.cfsan.fda.gov/~dms/sfsbta13.html>.

SECTION XV

SECTOR PROFILE OF THE US MARKET

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A. Food and Beverages Sector

A1. Market Size. The food and beverage industry in the United States is one of the most dynamic activities, not just because of the number of jobs it generates, but also because it is one of the largest sectors in foreign trade, ranking the United States as the largest exporter and importer in the world.

Approximately 255,000 facilities sell food and beverages at the retail level, of which 32,500 sell in excess of \$1 million dollars. Currently, food consumption in the United States has been affected by the recovery of the economy and national security after the events of September 11. Since then, American families spend more time at home, which has allowed the consumption of foods in some categories to increase, such as prepared foods and foods that are frozen or easy to prepare.

The great diversity of ethnic groups living in the United States, with diverse customs and cooking methods has supported the import of products from Europe and Latin America.

Even though the United States is a major producer of fresh and processed foods, it needs to import a range of products to satisfy a population of 288 million. Products that have increased imported numbers during the past several years are: processed meat, fresh fish, some types of shellfish, fruits and greens both fresh and packaged, foods classified as ethnic foods or food product types identified with consumer types, product lines for Asian communities, for African peoples, Middle Easterners and Latin American communities.

The consumption of fresh foods fruits and fresh greens has increased, creating a growing market in the United States. Consumers are more aware of what they eat and the population is increasingly concerned with its eating habits.

In terms of revenue, the restaurant industry was one of those most affected by the events of September 11, recording a decline in consumer expenses. At the same time however, certain trends are growing quickly in patterns of consumption where families consider the following:

- Reflection on values and what is important, a sense of identity, and greater interest in having a better quality of life in terms of health. This trend has resulted in a return to prepared meals and the desire to spend more time at home cooking for the family and one's friends and gourmet-type food begins to show a significant trend.
- Due family budget cuts, the consumer looks for lower prices in products, and buys more products in bulk.

A2. Hispanic Foods Market. The consumption of Latin-type food and Saxon consumer preferences to go to restaurants where Hispanic-style food is served has become very

popular, in particular since it is a type of food that has been adjusted to the tastes of Americans. For example, in Southern California, food stores sell more than \$23 million annually in Hispanic-style foods.

The popularity of Latin foods, based on a greater influence of Hispanic population in American society, has encouraged the import of products and foods of Latin American origin.

With regard to the second and latest generations of Hispanics, there are no major differences in consumption habits compared to American consumers. Hispanic families in general are larger than the traditional American family, in addition to falling in the low income range. Hispanic buyers tend to save increasingly more, however they spend more on supplies each week than other buyers. One hundred seventeen dollars per week compared to 87 dollars that Saxon families or single persons are estimated to spend.

Hispanics in the United States number 38 million, comprising 12.5 percent of the total US population.

The Caucasian population looks for exotic, fresh and interesting tastes. Demand for a great variety of ethnic products has significantly increased, including those of Hispanic origin attractive to this type of consumer.

A3. Marketing Framework. The food and beverages industry consists of three sectors: Manufactured food and drinks are sold as follows:

- Wholesalers
- Retail sales outlets
- Companies serving food (restaurants, cafeterias, fast food establishments)

A4. International Events. Participation in international events is a promotional tool that benefits the exporter with market knowledge, knowledge of the competition, trends, prices and market potential. Sources of information on the food and beverages market:

- www.foodinstitute.com www.fmi.org (Food Marketing Institute)
- www.itf.org (Institute for Food Technologies)
- www.iafis.org (Institute Association of Food Industry Suppliers)

A5. Products with market potential in the United States. Unlimited possibilities exists for all types of food products in the US market, nevertheless, products must be adapted to the niche market targeted. The same product may enter through various sales channels depending on its presentation, nutritional content and price.

The products of Latin origin with the highest demand include sweets, salsas, canned peppers, tamales, canned beans, chocolate candies, canned fruits, tortillas and tostadas, pastas, spices, prepared frozen foods, carbonated and alcoholic beverages.

Market penetration of these types of foods is increasingly strong, and American companies are increasingly breaking into their production, therefore product brands made in Texas, California and Illinois may be found in supermarkets. Competition between brands is increasingly intense with this growing popularity of this type of food; therefore it is necessary that business persons be prepared to enter the market. The exporter must be familiar with the marketing and sales mechanisms in the market. There are practically no tariff barriers for food products; nevertheless, there are regulations for exporting to this market.

The US government entities responsible for regulating and applying packaging, labeling and handling standards for food products and beverages are the FDA and the USDA.

A6. Organic Products. Another interesting market opening up opportunities is “organic” products. Consumers are buying more fortified foods and organic agricultural products with an estimated six out of ten consumers feeling they may significantly reduce their risk of certain diseases by eating healthy. Three fourths feel that it is a way of managing illnesses (instead of taking medication).

Consumers read and analyze the labeling looking for nutritional aspects more often, and they are always looking for new, healthy products. Fifty-two percent read the nutrition data on labels when buying a product for the first time.

B. Automobile and Automotive Parts Sector

B1. Market Status. The metro Detroit area, known as the “Automotive Capital of the World,” produces more automobiles and trucks than any other region of the United States. One-third of total automobile production is carried out in this zone, in the surrounding 112 km area. Of the largest 150 plants that produce original automotive equipment, 63 are located in this region. In addition, an increasing number of centers for administrative and technological research and development are located in this area, which confirms its importance in the globalization of the automotive industry.

The largest world automotive industry companies, such as General Motors Co., Ford Motor Co., Daimler-Chrysler Co. and Volkswagen America, have their headquarters in the metro Detroit area, like original equipment manufacturers such as: Delphi, Visteon Automotive Systems, Dana Corp., Lear Corp., Magna Intl. Inc., TRW Inc. and Budd Co., among others.

B2. Products with Potential. Products that present the greatest potential for import into the United States in the automotive sector are:

- Spark plugs and ball-bearings
- Springs and suspension components
- Automotive harnesses and cables
- Aluminum casings and heads for engines
- Transmission gears and axles
- Transmission housings

- Automotive windshields
- Drums and disks for automotive brakes

B3. Sources of Information and Publications.

NAME	PUBLICATION	SUBJECT	AUTHOR
Automotive News	Weekly	Automotive Industry	Crain Communications
US Automotive Export News	Monthly	International Automotive Market	US Automotive Exporter, Inc.
Crain's Detroit Business	Weekly	Businesses in Detroit	Crain Communications
Automotive Industries	Monthly	Automotive Industry	Cahners Business Co.

Web sites of interest:

NAME	WEB SITE
American Automobile Association	http://www.aaa.com
Auto	http://www.auto.com
Detroit Regional Chamber	http://www.detroitchamber.com
US-Mexico Chamber of Commerce	http://www.usmcc.org
Automotive Aftermarket	http://www.aaol.com
Automotive Marketing	http://www.am.chilton.net
Motor Magazine	http://www.motor.com
Automotive Aftermarket National Associations	http://www.aaol.com
US Department of Commerce	http://www.ita.doc.gov
Automotive Service Association	http://www.asashop.org

B4. Sector Activities and Events. The MEMA/APPA/ASIA Show is an event held in November. It is the largest event for the automotive replacement parts and accessories market segment and is held at the Sands Expo Center in Las Vegas, Nevada.

C. Hardware Sector

C1. Market Size. The retail hardware industry (hardware stores, home centers and lumber/building materials outlets) is highly fragmented, and a distinction is made between family-owned businesses and large chains.

There are approximately 20,000 hardware stores in the United States, which generally handle hardware products for home repair and maintenance, under the do-it-yourself concept. Three-quarters of their sales are direct to consumer sales. Although identified as small stores, some of them may have a surface area of 1800 square meters, and they may have annual sales in excess of \$1 million.

Hardware stores are generally independent; nevertheless, some of them are affiliated with groups of wholesalers that offer support programs. Some of these groups are: TruServ Corp, Ace Hardware Corp, Do-it Best Corp., Handy Hardware Wholesale, Inc. and United Hardware Distributors, Corp.

Chains or home centers manage hardware, construction and woodworking products. There are approximately 10,300 distribution units in the United States, including those operated by large corporations. The size of these stores is between 5,000 and 10,000 square meters, with a range of annual sales by store of from \$5 million for small chains up to \$30 million for the large chains. Their sales are distributed as follows: 50 percent to consumers and 50 percent to contractors.

The 25 largest chains of hardware stores in the United States cover approximately 32 percent of the sales on this market, and the other two-thirds correspond to hardware and independent construction stores, as well as small do-it-yourself stores (home centers).

Although sales in the hardware and construction sector in the United States have increased by approximately six percent in the past decade, there is a trend toward consolidation of large hardware and construction materials chains, and among independent retailers since the strongest are growing at the cost of other stores that close or declare bankruptcy.

C2. Products with Potential. There are nine main categories of products that until a decade ago accounted for 88 percent of retail sales, and currently account for 95 percent of total sales:

- Hardware items
- Hand tools
- Power tools and accessories
- Electrical products
- Plumbing, heating and air conditioning items
- Painting and home decoration
- Gardening items
- Wood and wood products
- Construction materials

C3. Marketing Framework. The structure of the hardware and construction industry comprises more than 44,800 stores, of which a majority are private stores and stores operated by families or individuals (hardware stores).

Small stores operated by families or individuals purchase their products through “wholesalers with a complete hardware line,” “specialized distributors” and/or directly from the “manufacturers.” Independent stores, which account for the majority of the industry, tend to be part of “store identification programs” offered by wholesalers; they buy approximately 60 percent or more of their goods through these wholesalers, who offer them marketing assistance. These wholesalers include: Cotter & Company (True

Value), TruServ Corp, Ace Hardware Corp, Do-it Best Corp., Handy Hardware Wholesale, Inc., and United Hardware Distributors, Corp.

Chains of hardware and construction materials stores or home centers generally purchase their products directly from the manufacturer, and in some cases through wholesale distributors, although they do not use marketing assistance programs that they offer. These chains have specialized buyers for the domestic as well as the import market.

Wholesalers buy directly from the manufacturer and like hardware chain stores, they have buyers specializing in domestic as well as imported goods.

The markup margin for hardware stores on average is 35 to 40 percent; for hardware store chains (home centers) the profit margin is approximately 30 percent, and for D-I-Y stores and lumber yards, the margin is estimated at 25 percent.

C4. Sources of Information.

- American Hardware Manufacturers Association www.ahma.org.
- National Association of Home Builders info@NAHB.com; www.nahb.org.
- National Retail Hardware Association and Home Center Institute www.nrha.org.
- Builders Hardware Manufacturers Association www.buildershardware.com.
- U. S. Mexico Chamber of Commerce E-mail: usmexico@ais.net.
- Underwriters Laboratories (UL) (for certification of electrical products) www.ul.com.

C5. Fairs and Related Activities

- Annual Convention and Builders Show, a specialized event for construction materials, held in January in Las Vegas
- International Housewares Show, an event held in January in Chicago, specializing in home decoration and maintenance products.

D. Construction Materials Sector

D1. Market Size. The North American market offers an interesting opportunity for all exporters in the construction industry for placing their products in various regions, primarily in Florida, Texas and Georgia.

In the case of Florida, the sector has shown constant, dynamic growth, primarily in the construction of new developments of considerable scale.

For the sixth year in a row, in the construction sector, world production of construction materials has shown a positive balance. During the past five years, trends have been upward, causing increases in world production on the order of 60 million tons, and with foreign trade of 19 million tons. Due to this impressive production capacity, economies of scale and a decrease in costs have occurred, with the corresponding increase in competitiveness.

In the construction industry, which has been one of the pillars of economic activity in the United States, there are mixed signals, since although the residential environment continues to be strong. That is not the case in commercial construction, which on the other hand has shown weakness.

Attractive interest rates continue to influence sales of houses, supported by the refinancing of financial commitments, now with the lowest rates in 40 years. Demand has been so strong that in some regions of the United States prices of homes are hitting very high levels. In regions of the United States, small contractors and distributors of construction materials continue to be interested in purchasing products from the rest of America, which has boosted the opening of distribution centers, primarily in the city of Dallas. This has encouraged exporters, since it allows them to offer products directly where they are needed, in addition to being able to offer more appropriate prices.

D2. Sector Activities and Events. Some of the largest events are held in the United States, the Dominican Republic, and Puerto Rico, which present opportunities for this type of products are:

- Home Design and Remodeling Show (February) Coconut Grove, Florida
- US Ft. Lauderdale Home Design (May) Ft. Lauderdale, Florida
- Miami Home Design & Remodeling Show (September) Miami Beach, Florida
- Hardware/Housewares & Building Materials Show of the Caribbean (February), San Juan, Puerto Rico
- Nacional Ferretera [National Hardware Fair] (February) in Santo Domingo, Dominican Republic
- International Hardware Show in Chicago, Illinois

D3. Marketing Framework

D3a. Home Improvement Centers. In order to solidify operations, volume and on-time delivery must be guaranteed, as well as competition on price. Sales to home centers are primarily achieved by delivering the product on-time, transferring the inventory cost directly to the manufacturer or distributor. These wholesale sales allow the manufacturer to sell large volumes to a single customer, which will mean savings in terms of promotional efforts, processing, and personnel. Nevertheless, there are certain circumstances to consider:

- Quality control of products must be very strict.
- Their selling price will be as low as possible, and generally credit is requested from the business at 60 days or even 90 days.
- The post-sales service must be negotiated.
- This system creates a high degree of manufacturer dependence on the customer. Likewise, only companies that produce large volumes at competitive prices and have multiple customers are recommended to be used.

D3b. Wholesale Distributors. The risk/cost of entering the market must be shared. Distributors may be a good strategy for exporters, since they purchase products for resale to retailers or other intermediaries. Their benefits are as follows:

- Knowledge of the market.
- They promote and sell products through their own means.
- They have warehouses.
- They manage collections.
- They design products according to the tastes of the end user.
- They participate in specialized fairs.
- They receive returns, improving the product image for post-sales service.
- They have the entire sales and post-sales infrastructure.
- Terms of sale by the manufacturer to distributors in the Southeast United States are 60 to 90 days.
- In general, there are two types of distributors:
 - a) Pure wholesalers, who never sell retail to the consumer, but who at times sell retail to contractors
 - b) Independents (or large specialized stores) that sell retail and to contractors, in addition to selling to retail sales outlets.

Large specialized stores capture the highest number of sales and demonstrate flexibility and adaptation of its products and services to meet consumers' needs.

D3c. Retail stores. Sales to stores that manage small volumes offer certain benefits to the manufacturer, in particular small manufacturers, since this type of sales allows gradual growth and diversification of customers.

Nevertheless, retail stores require greater promotional efforts and customer service, as well as the services of an agent providing sales support, and in some cases post-sales support. Thirty to 60 days' credit is customary.

Construction projects (commercial/offices/shopping centers), architects, interior decorators. In order to consider this option, one must:

- Guarantee deliveries within the negotiated time-frame.
- Guarantee the quality and technical specifications of the project.
- Advertise expenses in architectural catalogs.

D3d. Importers/Brokers. This sales channel purchases large volumes and has many wholesale clients. This channel ensures on-time delivery of the product, as well as a high capacity for negotiation. The company must be able to ensure delivery on-time and compete on price and volume.

Contractors/individual customers have the support of an office or a distribution center in place.

Consolidators in the country of origin, it is necessary that the manufacturer

- Deliver on-time.

- Improve quality for export.
- Offer competitive prices.

The key to success to enter established distribution channels is to understand the standards and norms reflecting the needs of the consumer or end user of the product, and having the flexibility required to meet them.

Lastly, product availability is recommended. A contractor cannot wait two or three weeks for the distributor to deliver the product. Distributors of all types that can offer a higher value added on support and post-sales services can compete more favorably in the market.

In the case of imported products, distribution centers are needed near the market that can guarantee delivery of orders on time and offer post sales services. The United States is a country so vast that distribution centers at the regional level are recommended. There are several possible alternatives:

- a) A regional distribution center with sales stores or offices.
- b) Importer co-investment with manufacturers or distributors to take advantage of established distribution channels
- c) An exclusive distribution agreement between importer and distributor in the United States or Canada.
- d) Direct sales to home centers or to their buying agents.
- e) Sales through agent-representatives in a specified territory for distributors.

E. Metallurgical Sector.

E1. Market Size. The three-year program to protect the US steel industry enacted by President Bush in March of 2002, which imposed high countervailing duties on the import of thousands of steel products, has resulted in recognition of US inability to meet its own steel needs. Therefore, after one year of this program, steps were taken to facilitate entry of steel products with an estimated decrease in the import duty rates for 1,022 of these products, which met industry needs.

The Department of Commerce declared that the United States is not self-sufficient in the production of steel plates, stainless steel, ducts, profiles and pipe.³³ Increasing numbers of US businesses recognize the benefits of subcontracting to other countries the manufacture of component parts and/or metallic pieces. Thus the metallurgy industry in the United States represents a market where a large portion of the demand may be met by countries abroad.

E2. Products with Potential. Products with greater sales potential are semi-finished products, wide hot-rolled strip, cold-rolled sheet and plate, zinc coated sheet and strip, hot-rolled plate, coiled rod and bars, welded pipe, reinforcing rods and heavy hot-rolled sections, in that order.

³³ Commerce Department and Office of the U.S. Trade Representative, Washington Associated Press, D.C. March 2003.

The primary products requested are metal structures (pipe, profiles, angle pieces), sheet, iron castings, stainless steel and carbon steel, aluminum, forgings; machined, stamped, cut-fold-weld, galvanized and electrostatic painted pieces.

E3. Marketing Framework. The United States presents a high demand for metallurgical products, processes and semi-finished products, which range from finishing processes to finished components such as trailers, gymnasium equipment, and machinery with various parts, processes, assemblies and/or finishes subcontracted out.

Distribution channels vary according to the needs of each niche, so major sales chains such as Home Depot or Lowe's is a market of great interest given a population of 230 million people. Popular goods include finished products such as flexible indoor water supply hoses (refrigerators, sinks, dishwashers) boxes and accessories for electrical installations and irrigation systems, plates, channels, brackets, or anything for remodeling, expansion and maintenance of houses and buildings

There is a market for organizers, such as Container Store that offers the public a large variety of metal containers and racks. The display industry also has a significant presence/demand in the United States.

In construction, large market niches are also present for metal structures, iron products, hardware, profiles, and conduits through major distributors and sales outlets.

Finished products and parts have potential in the United States within the automotive industry, from hitches for trailers, to mixers and platforms, and all parts and accessories. Diverse industries such as petrochemistry, oil and gas exploitation and extraction, and processors present another option for metallurgy in products such as pressure tanks, containers for the food industry, heat exchangers, structure, and others.

One sales option for US companies is subcontracting out custom-fit parts and semi-finished products made to customer specifications. Companies range in requirements from small volumes to very large volumes of large or small products made of various materials using different processes. Products range from accessories for mounting grids to parts for lightning arrestors, and include filters for waste recycling, parts for printing presses, racks for motorcycles, pet cages, steel boxes for electronics, and streetlights.

There are various ways to subcontract products, broken down into four major types:

- The first method is assembly, where a foreign company establishes a subsidiary, contracts with another company, makes a joint investment or contracts out the assembly of certain product(s), providing the parts or components through those companies or from companies in other parts of the world.
- A second method is to subcontract shared production; this occurs when two or more companies manufacture between 30 and 70 percent of a product in another

country or countries through subsidiaries or other domestic or foreign companies, which offer lower tariffs and cheaper labor.

- The third method for supply is subcontracting — more commonly in international trade relationships — by small and medium-sized companies looking to reduce production costs or replace their vendors with others closer to their country. One company, through a confidentiality agreement, requests that one or several companies produce a supply or component. These companies may assemble one or several components, complete the finished product, and sell it at more competitive prices. In brief, the customer is provided with a product and service according to subcontract specifications.
- The fourth method is mass production of products in which the manufacturer provides products or product components for assembly to another company, which will then ship them to markets through specialized distributors. This method aims to produce top quality goods fast and at low cost.

E4. Competition from other countries. The major competitors:

- In Atlanta, companies face competition from Canada, China, Korea and Taiwan.
- In Chicago and Dallas: Canada, Korea and China.
- In Houston: Italy and India.
- In Los Angeles: China, Korea and Taiwan.

F. Furniture Sector

F1. Market Size. The home furniture industry in the United States is comprised of manufacturers of wooden furniture, upholstered furniture, metal furniture, cushions, ready-to-assemble furniture, and office furniture.

Increased imports from other countries have had impact the furniture industry, motivating large companies to formulate new strategies for production and product promotion. This has often led them to close some plants.

Others have had to declare bankruptcy as a result of the slow-down in the sector. Faced with a depressed market, many US companies have had to seek out new production systems and establish strategic alliances to survive. Increasing numbers of US manufacturers are sending a portion of their production to China and Asian countries to decrease production costs, while supervising quality and delivery times.

Latin America has ample possibilities to increase their share of the furniture market in the United States, despite the growing presence of low price Chinese products as well as a greater number of consumers. Manufacturers can strengthen their presence by overseeing quality control, packing and delivery times for products, thus improving their competitive advantage over products not only from China, but from Taiwan, Indonesia, Malaysia and Thailand, all of which are showing continued growth in this market.

F2. Products with Potential. Countries that present a greater threat to Central America, the Caribbean, and South America are China and Taiwan, which have increased their share of the US market. US productivity indices in the furniture industry are an important factor in the continued competition with Asian products. US manufacturers are looking to develop joint strategies or joint ventures with countries to make products that have ceased to be competitive otherwise. Low price furniture is produced on large scale, look good, and have a useful life of no more than three years. Some of them are thus in fashion. This market is dominated by Asian countries and some factories for US products. For medium- and high-priced furniture, Italy and Canada are the primary suppliers, in addition to domestic manufacturers.

F3. Lines of products with the greatest opportunities

- Wooden furniture, Early American, French and British styles
- Wooden replicas of antique furniture
- Contemporary style wooden furniture
- Furniture and accessories made of cast iron, aluminum and metal (primarily outdoor furniture).

F4. Technical Safety Standards. Some products must comply with technical or non-tariff restrictions established by the Consumer Product Safety Commission (CPSC). The Upholstery Furniture Action Council (UFAC) and the Flammable Fabrics Act (FFA) have established standards for upholstered furniture.

F5. Sources of Information on the Sector

www.HomeAccentsToday.com; www.furnituretoday.com. www.FurnitureStyle.com.
www.HomeDecorBuyer.com.

F6. Marketing Framework. A company must establish an adequate and efficient sales system that corresponds to its market niche. The most common sales channels in the US market for furniture are described below:

- **Exporter/Retail Sales.** The exporter sells directly to the retail sales agent in the destination market that has two variants:
 - Small wholesalers, selling small volumes
 - Discounts on large purchase, for volume sales
- **Exporter/Intermediaries.** This distribution channel employs sales representatives who promote products in a specific area of influence through display centers or independent sales agents; and their distribution percentage is between 15 and 20 percent of the orders.
- **Distributors/Wholesalers** acquire goods directly from the manufacturer and promote them directly between intermediary agents.
- **Manufacturers/Distributors** have well-defined systems for distribution; therefore they normally negotiate directly with foreign suppliers and manufacturers.
- **Purchasing Agents** are specialized personnel that make direct purchases for large stores, chain department stores, and retailers that handle large

volumes. They are responsible for the entire process, from the selection and purchase of products to delivery at the final destination.

- **Catalog Sales.** A very popular direct to consumer distribution system that often requests exclusivity of models or parts, based on specifications.

G. Clothing Textiles Sector

G1. Market Status. The textile and clothing sector in the United States is a very important market for Central America, the Caribbean and South America. Even with Asian competition, products enjoying greatest opportunities have the highest value added and attract more sophisticated customers. It is thus imperative that the exporter company relocate in a niche where it is competitive within the price range while still higher than prices as low as China's.

Geographic proximity to the textile and clothing market should be leveraged where quick response product supply represents product value added. US companies try to keep low inventories and hope that their supplier is both flexible and efficient. Here, countries from the rest of the Americas offer a benefit over Asian countries, in terms of distance, delivery times, and service.

G2. Marketing Framework. In the United States, sales channels are classified in accordance with the volume of the product, price and type of consumer targeted. This behavior corresponds to the characteristics of end user demand as well as that of retail stores (point of sale).

The primary point of sale for clothes are discount stores, which represent 51 percent of the market (Kmart, Wal-Mart, Target); these stores are followed by specialized stores with 37 percent (GAP, The Limited, Eddie Bauer) and third place is held by department stores such as Bloomingdale's, J.C. Penney, Macy's, Hudson's Bay and Eaton's, among others, with 31 percent.

The channel used by exporters in the North American market has been influenced based on the exportable supply, price and now the sophistication of the product.

G3. Subcontracting Exporters The type of services offered by subcontracting exporters are: identification of suppliers, purchases of raw materials, complete manufacturing process, labeling, packaging. Their competitiveness lies in achieving productivity and developing export engineering, machine technology, familiarity with the handling and development of production plants, learning systems and procedures, maintaining consistent quality, and having a healthy logistics operation.

This subcontractor is not necessarily the final exporter, nor does it have direct contact with the distribution, such subcontractors to Phillip Heusen, GAP, The Limited, banana republic, and other companies that leave their country of origin to subcontract their production in whole or in part for distribution of their products in North American markets.

G4. Contractors are companies that contract out production in order to meet its customers' needs but maintain responsibility for transport, processing shipments through customs, and delivering it to the customer's warehouse.

Contractor customers may be department stores, discount stores or specialized stores. The contractor can also work with distributors that sell at the same point of sale and have a larger distribution structure.

G5. Private Label Developers. The importer or the buyer works with a company that subcontracts production worldwide under its own label. Import agents may be hired by department stores, discount stores or chains of specialty stores. These agents identify suppliers that handle a particular brand. Here the subcontractor may have direct contact with the sales channel, but be limited to the private label product.

G6. Complete Package Exporter offers development of prototypes and financing of clothing, efficient financial and credit capacity of suppliers, graduation and tracing by computer, and delivery of finished products placed for export. Exporters to North America manage the customer's brand and work with any distribution channel, since they offer integrated service and facilitate distribution.

The current trend in the US market is to work with complete package providers who can reduce operating costs, take better advantage of customs benefits, and allow better quality control of the product.

G7. Direct Representation. The exporter in this classification has achieved a degree of maturity in exports such as knowledge of the market that allows a direct presence in the market.

G8. Converters. This channel is used by companies dedicated to the production of textile products. They are individuals or organizations that purchase "raw" fabrics and sell them as a finished product to cutters, wholesalers, retailers and others; converters provide a fine finish for the fabric, and may bleach, dye, or imprint drawings, according to the specifications of the producers.

SECTION XVI

CONSIDERATONS FOR NEGOTIATIONS

SECTION XVI

CONSIDERATIONS FOR NEGOTIATIONS

A. Insurance

The insurance contract is where one of the parties, called the insurer, in consideration of a premium, agrees to pay compensation or an amount to the other party, called the insured, or to a third party, in the event that an uncertain event or risk occurs to the insured property.

A1. Types of Insurance. There are various types of insurance available, which differ from country to country based on exporters' needs. The most used types are:

A1a. Short-term Export Credit Insurance. Generally covers periods not to exceed 180 days. Pre- and post-shipment stages are covered by this insurance, and it protects against commercial and political risks.

A1b. Medium- and Long-term Export Credit Insurance. This type of insurance is issued for long-term credits – up to three years (medium-term) or longer. It provides coverage for financing of the export of capital goods and services or construction costs in foreign countries.

A1c. Investment Insurance. In this type of policy, guarantees are offered to exporters that invest in foreign countries.

A1d. Foreign Trade Insurance. This insurance is applicable to goods that are not shipped from the country of origin and are not available in many developing countries.

A1e. Exchange Risk Insurance. This insurance covers losses caused by fluctuations in the types of exchange with respect to domestic currencies of the importer and the exporter during a specified period.

A2. Benefits of Credit Insurance. Credit insurance on exports offers benefits to the exporter by:

- Obtaining payment insurance on credit operations
- Increasing competition in the market
- Offering customers the option of acquiring products or services on credit
- Facilitating expansion of sales into new customers abroad
- Granting credit terms to new customers and/or to customers who make cash purchases
- Protecting sales made by subsidiaries to third parties

A3. Other Mechanisms for Avoiding Non-payment on Exports. In order to avoid or decrease the risk of non-payment, aside from export credit insurance, it is advisable to

use the following mechanisms and instruments to minimize risk and foster development of international trade.

- Use an "Irrevocable" and "Confirmed" Letter of Credit
- Pay in cash or in advance (as the best alternative to the Letter of Credit)
- Guarantees
- Have information on buyers (latest balance sheets, bank references, commercial references)
- Diversify buyers (so as not to focus risk on a single buyer)
- Execute an International Purchase/Sales Agreement (CCI)
- Protect with a security or pledge
- Variants of compensated exchange (mechanism in which an exporter agrees to accept as partial or total payment for its exports, the delivery of goods of the importer)
- Work with first-line banks
- Leasing (for temporary export of goods with a purchase option by the importer, ensuring the ownership of the goods)
- Credit to countries (government to government)
- Use sophisticated insertion strategies (joint venture)
- Factoring (sale of assets, accounts receivable or notes to a financial institution at a discount)

The exporter must evaluate these options since each one has different costs and procedures. It is recommended having commercial and financial references from the importer so as to reduce the possibility of non-payment.

A4. Transport insurance. International trade involves movement of goods from one country to another by various means of transport; however, this involves a level of risk vis-à-vis the integrity of the exported goods since they are susceptible to incorrect handling and accidents. For this reason, insurance protects the exporter from the economic burden from a loss of the goods in whole or in part.

This type of insurance ensures the goods are exported in order to compensate the insured for losses or damages to the goods when they are in transit, whether by a single means or a combination of means (multimodal transport).

Transport insurance on exports is contracted in accordance with the type of cargo, the risks to be covered, the transport mode or modes and the transport route in question. Insurance is formalized by means of a policy which, depending on the movement of the goods, may be an Individual policy or floating policy.

An individual policy insures goods throughout their specified path, and it covers a single shipment from the moment it is loaded at the shipping point, including any transshipment when so specified in the insurance contract. In order to be covered, the insured must request insurance before initiating the corresponding risk, meaning before beginning transport, and it must disburse the amount of the premium at the time the insurance is contracted.

Global or floating policies cover all operations of the insured, subject to communication of the departure of the goods. This latter method is normally used by those companies that regularly export and/or import.

Contracting for insurance is for the account of the exporter or the importer based on the conditions agreed upon (Incoterms). Normally the insurance will be contracted by the party that assumes the risk of loss of the goods during transport, unless agreed otherwise, as in the case of CIF or CIP conditions, in which case the seller is required to contract insurance in spite of the risk being transferred to the buyer before transport begins.

A4a. Maritime Insurance insures ships and material related to navigation and to goods. The insurance will be contracted with insurers or with an insurance company with a good reputation and, in the absence of an express agreement otherwise, it will comply with the minimum coverage of the "Institute Cargo Clauses" of the Institute of London Underwriters.

The clauses most often used for this type of insurance are:

ICC "C". Institute Cargo Clauses "C" covers damages to the goods in case of fire or explosion, grounding, shipwreck, collision of the vessel with any object, offloading of the goods at home port, general damages and unloading of cargo. It does not cover fraudulent conduct, spills and natural losses of weight or volume, defective packaging, intrinsic defects or the nature of the insured goods, delay, insolvency of the assemblers or operators of the ship, navigability of the vessel, political and social risks, for example war and strikes. The insurance takes effect the moment the goods leave the warehouse, continues during the trip and expires either on delivery at the destination warehouse, or if this cannot be done for any reason, 60 days after unloading at the destination ocean port.

ICC "B" covers the same cases as the above, as well as any accidental risk at sea that may damage the goods. Exclusions are the same as "C" and the term is identical.

ICC "A" provides the greatest coverage since it covers all risks of damage to the insured goods, with few exceptions.

A4b. Land. Ground transport insurance requires specification of the manner of transport whether by rail or by truck, the vehicle, and type of cargo.

Unlike ocean transport, where risks are not covered if not specifically spelled out, with ground transport insurance, whether by road or railroad, whatever risk that is not specifically excluded is covered. With regard to policies and clauses, road transport insurance coverage is based on maritime insurance, without references to damage or other risks specifically maritime in nature.

Vehicles are insured under policies from the Automotive Division, drafted to cover “all risks” or third party damages. The most frequently used policy on goods covers fire, radiation, flood, landslides, flooding of bridges and roads, collision, waterfall, theft by a gang. Risks not covered are earthquakes, volcanoes or seismic events, war and strikes, transport in uncovered trucks, breakage of fragile goods, spillage and losses, tears in sacks, inherent defects of the goods, loss of bundles, delays, defects in packaging, transport of live animals, fault of the shipper, theft, damages while loading and unloading. There are some “special risks,” such as transport in uncovered vehicles, transport of live animals, loading or unloading by the shipper that may involve additional coverage in exchange for payment of a premium surcharge.

A4c. Air. Insurance on aircraft and transported goods are ICC “Air” (Institute Cargo Clauses “Air”), which are very similar in structure to ICC “A”, since it covers all risks of loss or damage to the injured goods, except for exclusions, that are practically the same as those of ICC “A”. This policy takes effect from the moment goods leave the warehouse at the point of departure, continues in force during travel, and ceases either upon delivery to the destination warehouse, or 30 days after it is unloaded at the airport where it arrived.

A5. Term of the Insurance. The coverage time of the policy for exports begins the moment the primary transporter receives the goods until their arrival at the final destination, or after 30 days following its loading or 30 days after unloading, whichever occurs first.

A6. Aspects to Consider for Evaluation of the Cost of Insurance. Risk is the fundamental element with the greatest effect on insurance premiums; in determining the final cost of coverage, other items are considered in addition to the degree of risk involved, such as:

Class and type of goods

Means of transport and characteristics

- Name of the ship and the country’s flag under which it sails
- Age of the means of transport
- Construction material
- Tonnage

The trip

- Route of travel
- Intermediate transshipments
- Conditions of the ports and locations of shipment and destination
- Layovers and storage

Dates of shipment

A7. Insurance on the Goods. At the express request of the customer, coverage may be expanded to additional risks (theft, contact with other cargo, stains, spills, breakage, and oxidation).

A8. Civil Liability Insurance. There is another type of insurance intended to protect the company, in the event that the exported product causes damage to third parties. The businessman may be protected against damage or injury to third parties arising from a failure to place warnings on the product.

A9. How to Contract Insurance. When contracting insurance to protect exports, it is helpful to contact a company with foreign representation and with good legal support to help confront any contingency that may arise in this process.

On the other hand, it is important to underline that all insurance companies will make certain requirements in order to approve the insurance application, including history of the company, description of the products to be exported and destination country, for example.

Lastly, export and civil liability insurance are purchased by package, meaning from a single company. In addition to considerably reducing the cost of the insurance, integrated services provide quality control and production advice.

A10. Insurance Claims. In order to make a claim for insured goods, the following information must be submitted:

- A claim letter to the transport company within the term indicated
- Report on the loss to the insurer as soon as possible, and in any event within the term specified in the policy
- Supporting document for the value of the product (commercial invoice)
- Copy of the insurance policy or certificate
- Transport document
- Certificate of proof of damage or theft indicate value
- Copy of the status or receipt for the goods, showing the claim to the transporter, due to the damage or loss
- For losses that occur abroad, a report filed by the corresponding expert.

To the extent possible, the documents submitted must be originals.

Subsequently, insurance companies will assign liability, set compensation, and obtain approvals. During this phase the participation of experts, called damage auditors, expert adjusters or claims liquidators, is of great importance. Experts in technical, commercial and legal aspects of transport study the accident, its causes and effects, and define the liability of each of the parties in light of the policies and the applicable legislation.

B. Commercial References

When promoting and selling the product, the businessman must choose and contact the client directly, therefore it is important to investigate and verify persons or companies that will buy the products.

It must be kept in mind that the development of international trade, as any business, is based on trust between parties, to conduct commercial transactions in an agreeable manner. This is the reason that the business person must gain the trust of the other party in order to establish stable relationships abroad.

When a first export transaction is carried out, whether with a new customer or in a new market, it is important that to have prior information to help qualify and estimate the risk of the transaction in order to make the correct decision and take preventive measures required.

Commercial references provide financial, accounting, commercial and credit status (who are or have been the creditors of the customer, what type of credit transactions has the customer conducted or credit limits obtained, current balances of futures transactions that are active, terms of late transactions, classification in terms of payment history) and other data of interest regarding the customer.

B1. Ways to Obtain Commercial References

- Request them directly from the customer
- Bank references requested by the exporter through its bank
- Commercial references through the Chambers of Commerce, associations, directories, embassies, commercial advisors
- Contracting with specialized companies
- Use of the Internet to obtain further information regarding customers.
There are specialized pages where commercial and financial information may be obtained on companies, such as:
- http://www.dnb.com/us/dbproducts/risk_management/index.html?CMID=1OG200044
- <http://www.hoovers.com/free/?abforward=true>
- http://www.infousa.com/credit_reports.htm
- <https://secure.businesscreditusa.com/index.asp?si=28160145094656&VendorID=200000>

B2. Benefits of Obtaining Commercial References

- They are of great help for the business person in constructing a foreign sales strategy, because they give a detailed picture of customers' commercial, financial and accounting structure
- With commercial references, the business person can make decisions within the company and conduct business with new customers on a reliable basis
- These reports save time and money in searching for information on a potential customer.
- The business person may verify and compare the information provided by the customer with the information obtained from the commercial references.
- The more information the company has on its customer, the better decisions the exporter can make. Do not forget that there is always a risk; therefore the exporter must adopt all preventive measures to minimize it.

This Web site provides information on support and services offered by the US government for the development of international businesses, as well as access to a database to contact potential buyers for your products. www.business.gov

C. Cultural Considerations

C1. Culture in Business. Globalization is not only a question of language, but rather a series of issues that will allow much more effective communication, and understanding in business. Logic or reasoning systems, and other aspects of US culture, must be considered so that the negotiation process does not come up against obstacles that could cause the negotiations to fail or fall stagnant.

C2. Meetings. Normally the pace of negotiations is fast. Generally meetings begin after a brief, informal chat.

"Time is Money" is a phrase that reflects the way of thinking of US business people; punctuality is a very serious matter, negotiations go quickly and get straight to the point. It is very important to arrive on time for appointments and to have sufficient information to answer any question when negotiations are conducted. Normally the trend is analytical and the primary points will come up quickly. The policy of the company is always respected, regardless of who is conducting negotiations.

Americans seek to reach good agreements and their negotiations focus on finalizing details and setting a fair price. They regularly include small reciprocal concessions on each of the details, nevertheless they do not like to have to negotiate substantial reductions in price, therefore before negotiating, determine the export price and terms in advance. Business persons in the United States like to take advantage of good opportunities, and frequently they are open to taking risks.

In the United States it is customary to formalize agreements through written agreements, which clearly set forth the liability assumed by each of the parties. In addition, possible future differences in interpretation are avoided.

Americans will always believe what the negotiator is promising. For them statements regarding times and quantities must be clear and accurate. For this reason, it is very important that when setting quantities and delivery terms, keep in mind all the factors involved (suppliers, transport, customs) in order to be 100 percent compliant.

C3. Clothing. It is helpful to always dress formally for business meetings. On the West coast of the United States, business people tend to dress more informally than on the East coast. Nevertheless, the business person will never feel out of place when wearing a suit. When there is a question, a suit is the best option.

C4. Language. It is important to avoid using language that is too colloquial (slang). When you meet a person for the first time, we recommend using their title (Dr., Ms. Miss, Mr.) followed by their surname, until the other person invites you to use their given

name. Often Americans insist on using the given name practically immediately. Rather than a sign of closeness, this is more a cultural norm. Greet each other by a handshake, and always look in the eyes of the other person.

The role of women in the business environment is greater than in other countries; it is important to refrain from making sexist jokes, and women are greeted with a handshake.

C5. Appointments and Business Cards. A prior appointment is always necessary. Punctuality is extremely important in particular for business matters. Read business cards handed out so that during the meeting, the cards can be arranged in the same order in which people are seated, so that they can be called by name.

C6. Commercial Practices. In orders, requests and communications with Americans, be brief, concise and to the point. When contacting a company for the first time, calling by phone is more effective than sending a letter. A letter can be forgotten on a desk under a pile of papers by a very busy person, who in the end does not respond.

Communication by email is helpful only after having made first contact. Communication by fax is also very widespread. Answer faxes from the United States within one day. In the United States a lack of response is interpreted as a lack of interest.

Business meetings in the United States must be coordinated with sufficient advance notice to ensure that key personnel are available and can work the meeting into their ever changing agendas. Business breakfasts, lunches or dinners are frequent. Extending an invitation of this type is recommended. If the business person is invited to a business meal, it is very important to be punctual.

C7. Weights and Measures. The use of the decimal metric system is not widespread in the United States, although it is gaining acceptance little by little, in particular in scientific and industrial applications.

The system of weights and measures prevailing in the country is the US Customary System or the American Standard, based on the British Imperial System of Great Britain.

Since the units of measure correspond to the Anglo-Saxon model and not the decimal metric system, problems may arise when trying to make a purchase or calculate a measurement. The following tables show the units of measure used in the United States, together with the corresponding decimal metric equivalent.

UNITS OF LENGTH

1 inch (in) = 25.4 mm

1 feet (ft) = 30 cm

1 yard (yd) = 0,9 mt

1 mile (ml) = 1,6 km

UNITS OF VOLUME

1 fluid ounce (fl oz) = 30 ml

1 pint (pt) = 0,47 lt

1 quart (qt) = 0,95 lt

1 gallon (gal) = 3,8 lt

UNITS OF SURFACE AREA1 square inch (in²) = 6,5 cm²1 square feet (ft²) = 0,09 mt²1 square yard (yd²) = 0,8 mt²1 square mile (ml²) = 2,6 km²**UNITS OF WEIGHT**

1 ounce (oz) = 28 gr

1 pound (lb) = 0,45 kg

Source: Table prepared by ARAUJO IBARRA & ASOCIADOS S.A.

C8. Currency. The US dollar (USD) is the currency most used in international trade.

C9. Time Zones. There are four time zones in the United States.

- EST (Eastern Standard Time)
- CST (Central Standard Time)
- MST (Mountain Standard Time)
- PST (Pacific Standard Time)

Each of these time zones has a different time from the next zone, therefore, when it is 7 PM EST, it is 6 PM CST, 5 PM MST and 4 PM PST. There is a total difference of three hours between the West coast and the East coast of the United States.

In the United States Daylight Savings Time (DST) is used. This means that clocks are set ahead one hour in the Spring (first Sunday of April at 2 a.m.) and they are set back by 1 hour in winter (last Sunday of October at 3 a.m.), to take advantage of more hours of sunlight. The abbreviations for the time zones during this period are as follows: EDT (Eastern Daylight Savings Time), CDT (Central Daylight Savings Time), MDT (Mountain Daylight Savings Time) and PDT (Pacific Daylight Savings Time).

The service at <http://www.timeanddate.com> offers a comparative table showing the current time in the primary cities of the United States, which can be consulted at: <http://www.timeanddate.com/worldclock/custom.html?sort=1&low=c>

The same service offers a table with the current time of the primary cities of Latin America, which can be consulted at: <http://www.timeanddate.com/worldclock/custom.html?&continent=samerica>

C10. Business Hours. Business and government offices are open eight hours per day, from Monday through Friday. The working schedule varies between 8:00 a.m. and 6:00 p.m., with one-half hour for lunch around noon.

Bank hours also vary, but most banks are open from 9:00 a.m. to 3:00 p.m., Monday through Friday; some are also open on Saturdays.

Stores generally serve the public between 9:00 a.m. and 6:00 p.m., although some stay open until 9:00 p.m., Monday through Saturday, and Sundays from 11:00 a.m. to 5:00 p.m.

C11. National Holidays. Each State legislature establishes holidays to be celebrated in that state, but there are some for the entire country.

- **January 1.** New Year's Day. Celebration of the New Year begins on the night before (December 31).
- **3rd Monday of January.** Martin Luther King Day remembers the Rev. Martin Luther King Jr. (1929-1968), a civil rights leader who received the Nobel Peace Prize in 1964.
- **3rd Monday of February.** President's Day honors of the presidents of the United States. The date was selected to commemorate the birthdays of Abraham Lincoln and George Washington.
- **February 14.** Valentine's Day is not an official holiday but has been set aside to celebrate love and romance.
- **Last Monday of May.** Memorial Day commemorates those fallen in battle in wars in which the United States participated.
- **July 4th** Independence Day commemorates the signing of the Declaration of Independence.
- **1st Monday of September.** Labor Day commemorates the day of the worker.
- **Last Thursday of November.** Thanksgiving Day was initiated by the Pilgrims, one of the first groups to populate the current area of North America.
- **December 25** Christmas.

If a holiday falls on a Saturday or Sunday, businesses are normally closed on the following Monday. Many companies also close on the Friday after Thanksgiving Day. Some New York markets close early or do not open to the public on Jewish holidays (dates change every year). Before traveling to the United States, it is important to verify with customers that there is no government or religious holiday that would interfere with travel.

SECTION XVII

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SECTION XVII

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APPENDIX A

LAW NO 16-95 REGARDING FOREIGN INVESTMENT IN THE
DOMINICAN REPUBLIC

APPENDIX A

LAW NO 16-95 REGARDING FOREIGN INVESTMENT IN THE DOMINICAN REPUBLIC

“THE NATIONAL CONGRESS, ON BEHALF OF THE REPUBLIC”

WHEREAS: The Dominican Government recognizes that Foreign Investment and the transfer of technology contribute to the economic growth and social development of the country, inasmuch as they encourage the generation of employment and foreign currencies, they promote the process of capitalization and contribute efficient methods of production, marketing and administration,

WHEREAS: The convenience that investors, whether foreign or domestic, have similar rights and obligations in regard to investments,

HAS ENACTED THE FOLLOWING LAW

Art. 1. For the purposes of this law regarding foreign investment, the following definitions shall be used:

a) Direct Foreign Investment:

Contributions coming from abroad, from foreign individuals or legal entities, or from Dominican Republic nationals (individuals) residing abroad, to the capital of a company operating in domestic territory.

b) Foreign Reinvestment:

Foreign investment carried out in whole or in part with the profits coming from a Registered Foreign Investment in the same company as the one that generated the profits.

c) New Foreign Investment:

Foreign investment carried out in whole or in part with the profits from registered direct foreign investment in a company other than that which generated the profits.

d) Foreign Investor

The owner of a duly registered Foreign Investment.

e) Domestic Investment. An investment made by the Government, municipalities and domestic legal entities, domiciled or residing in national territory, as well as those made by foreign individuals residing in national territory that do not meet the conditions for obtaining a foreign investment certificate.

f) Banco Central:

Banco Central de la República Dominicana;

g) CEI-RD.

Dominican Republic Export and Investment Center (*Centro de Exportación e Inversión de la República Dominicana*)

(Section incorporated by Article 10 of Law 98-03, dated June 18, 2003, creating the Dominican Republic Investment and Export Center (CEI-RD) and repealing Law 137 dated May 21, 1971, creating the Dominican Export Promotion Center (CEDOPEX) and other provisions).

Art. 2. The Foreign Investment may assume the following forms.

a) Contributions in freely convertible currency, exchanged at a financial intermediary institution and/or exchange agent that is duly authorized by the Monetary Board to carry out exchange brokerage.

(Section incorporated by Article 11 of Law 98-03, dated June 18, 2003, creating the Dominican Republic Investment and Export Center (CEI-RD) and repealing Law 137 dated May 21, 1971, creating the Dominican Export Promotion Center (CEDOPEX) and other provisions).

b) Contributions in kind, such as industrial plants, new and reconditioned machinery, new and reconditioned equipment, spare parts, parts and pieces, raw materials, intermediate and finished products, as well as intangible technological contributions, and

c) The financial instruments that the Monetary Board assigns to the category of foreign investment, except for those that are the product of contributions or entry of a Dominican foreign debt reconversion transaction.

Paragraph I – Independent of the investments considered in Item b) above, technology transfer agreements may be executed with foreign individuals or legal entities, in the form of technology license agreements for technical assistance, technical services, basic and detail engineering.

Paragraph II – Intangible technological contributions are understood to be the resources coming from technology, such as fabrication marks, samples of industrial or service-related processes or products, technical assistance and technical knowledge, management assistance and exemption assistance. The applicable enabling legislation of this Law will determine the general regimen that will be applicable to technology, including areas in which the capitalization of intangible technological contributions shall be permitted.

Art. 3 - Destinations of Foreign Investment

a) Investments in the capital of an existing or new company, in accordance with the provisions set forth in the Commercial Code of the Dominican Republic, including the

establishment of branches, in accordance with the conditions determined by law.
Foreign Investment in joint stock companies must be represented by registered shares.

b) Investments in immovable assets located in the Dominican Republic, with the current limitations applicable to foreigners, and

c) Investments intended for the acquisition of financial assets, in accordance with the general standards in this regard issued by monetary authorities.

Art. 4 - (Amended by Article 12 of Law 98-03, dated June 18, 2003, creating the Dominican Republic Investment and Export Center (CEI-RD) and repealing Law 137 dated May 21, 1971, creating the Dominican Export Promotion Center (CEDOPEX) and other provisions).

Any foreign company or investor, upon making the investment, must be registered with the Dominican Republic Investment and Export Center (CEI-RD). For these purposes the following documents must be deposited:

a) Registration application, containing all information related to the capital invested and the area where the investment was made,

b) Proof that the foreign currency or the physical or tangible assets have entered the country, and

c) Organizational documents of the commercial company or authorization of operation of branches by establishment of domicile.

Paragraph I – Upon compliance with the document deposit requirements, the CEI-RD shall immediately issue the Certificate of Direct Foreign Investment Registration to the applicant.

Paragraph II – Foreign reinvestment and new foreign investment described in Art. 1 of Law 16-95 shall also be recorded with the CEI-RD, complying with the requirements set forth by the applicable regulation.

Paragraph III – In the event that companies operating in industrial duty-free zones, registration and delivery of the information shall be carried out with the National Council of Duty-free Export Zones, which must immediately inform CEI-RD of the same.

Paragraph IV – The CEI-RD shall be required to permanently provide to Banco Central de la República Dominicana, all information related to the registered companies, in accordance with the provisions of the Monetary and Financial Act.

Art. 5 - No foreign investments shall be permitted in the following categories:

- a) Disposal and discarding of toxic, hazardous or radioactive waste not produced in the country.
- b) Activities affecting public health and the environmental balance of the country, in accordance with the corresponding standards'.
- c) Production of materials and equipment directly related to national security and defense, unless expressly authorized by the Executive Branch.

Paragraph I - When the foreign investment affects the ecosystem in its area of influence, the investor has to submit a draft with the provisions that may recover any ecological damage that may occur.

Paragraph II – The competent authorities related to the matter in question shall be responsible for compliance with the provisions set forth in this article.

Paragraph III - Foreign investments shall be made in each area of the national economy, in accordance with the conditions and limitations required by laws and regulations that govern each of said areas.

Art. 6 - Investors and companies or corporations in which foreign investors have a stake, or of which they are the owners, shall have the same rights and obligations as the laws grant to domestic investors, notwithstanding the exceptions set forth in this law or in special laws.

Art. 7 – Individuals or legal entities who carry out investments as specified in Article 1 of this Law shall be entitled to remit abroad, in freely convertible currencies, without prior authorization, the total amount of the Capital invested and dividends declared during each fiscal year, up to the total amount of the net current profits of the period, subject to payment of the Income Tax, including Capital Gains realized and recorded in the books of the company in accordance with generally accepted accounting principles. They may also repatriate, under the same conditions, the obligations arising from Technical Services Agreements in which fees are established based on the transfer of technology and/or contracts for the local manufacture of foreign marks including royalty clauses, provided that said contracts and the corresponding amount of procedures for payments have been approved in advance by the Dominican Republic Investment and Export Center (CEI-RD).

(Paragraph amended by Article 13 of Law 98-03, dated June 18, 2003, creating the Dominican Republic Investment and Export Center (CEI-RD) and repealing Law 137 dated May 21, 1971, creating the Dominican Export Promotion Center (CEDOPEX) and other provisions).

Art. 8 - (Amended by Article 14 of Law 98-03, dated June 18, 2003, creating the Dominican Republic Investment and Export Center (CEI-RD) and repealing Law 137

dated May 21, 1971, creating the Dominican Export Promotion Center (CEDOPEX) and other provisions).

Within 60 days, the foreign investor must communicate to the Dominican Republic Investment and Export Center (CEI-RD), so that it may forward the following items to Banco Central de la República Dominicana.

- a) Profit and loss statements for the fiscal year duly certified by an authorized public accountant, specifying the percentage of said profits that was referenced.
- b) Documentary verification of the balance of tax commitments.

Art. 9 - (Amended by Article 14 of Law 98-03, dated June 18, 2003, creating the Dominican Republic Investment and Export Center (CEI-RD) and repealing Law 137 dated May 21, 1971, creating the Dominican Export Promotion Center (CEDOPEX) and other provisions).

Failure to comply with this obligation shall carry with it the applicable sanctions contained in the Monetary and Financial Act, which establishes the mandatory nature of supplying all the information required by Banco Central de la República Dominicana.

The Dominican Republic Investment and Export Center (CEI-RD), must annually report to the National Congress all matters related to foreign investment flows into the Country.

Art. 10 - Article 12, which was added by Law 622, dated December 28, 1973, was amended to Law 173 dated April 6, 1966, to hereafter read as follows:

“Art. 12 – Foreign individuals and legal entities, as with domestic once, may be involved in the Dominican Republic in the promotion or management of imports, the sale, rental r any other form of transiting or using goods or products of foreign provenance that are produced abroad or in the country, whether acting as agent, representative, broker, exclusive distributor, concession holder or under any other name. Nevertheless, if the individual or legal entity to be involved in this activity has maintained a commercial relationship with local concession holders, it must agree and deliver, in advance and in writing, to equitably and fully repair all damages caused by the same, based on the factors and in the manner described in Article 3 of this Law.”

Art. 11 – This Law repeals Law no. 861, dated July 22, 1978, and Law No. 138 dated June 24, 1983. Furthermore, it repeals Item d) of Article 3 of Law No. 251, dated May 11, 1964, regarding International Funds Transfers.

Art. 12 - (Amended by Article 14 of Law 98-03, dated June 18, 2003, creating the Dominican Republic Investment and Export Center (CEI-RD) and repealing Law 137 dated May 21, 1971, creating the Dominican Export Promotion Center (CEDOPEX) and other provisions).

Revaluation gains recorded on capital accounts of companies that have revalued their assets shall not be considered to be foreign investments for the purpose of repatriation of capital, except when these revaluation benefits are converted into liquid assets by sale to third parties not related to the company.

Art. 13 – This law repeals any other express legal provision that runs counter to it.

EXECUTED in the Session Hall of the Chamber of Deputies, National Congress Building, in Santo Domingo de Guzmán, National District, Capital of the Dominican Republic, on the twenty-fourth day of October, Nineteen hundred ninety-five, the 152nd year of Independence and the 133rd year of the Restoration. (SIGNED)

José Ramón Fadul Fadul
President

L. Altagracia Guzmán Marcelino
President

Nelson de Js. Sánchez Vásquez,
Secretary

EXECUTED in the Session Hall of the Senate, National Congress Building, in Santo Domingo de Guzmán, National District, Capital of the Dominican Republic, on the eighth day of November, Nineteen hundred ninety-five, the 152nd year of Independence and the 133rd year of the Restoration.

AMABLE ARISTY CASTRO
President

ENRIQUE PUJALS
Secretary

RAFAEL OCTAVIO SILVERIO
Secretary

JOAQUÍN BALAGUER
President of the Dominican Republic

In exercise of the authority granted me by Article 55 of the Constitution of the Republic, I HEREBY ENACT this Law, and order that it be published in the Official Gazette, for its dissemination and compliance.

EXECUTED in Santo Domingo de Guzmán, National District, Capital of the Dominican Republic, on the twentieth (20th) day of November, Nineteen hundred ninety-five, the 152nd year of Independence and the 133rd year of the Restoration.

Joaquín Balaguer

APPENDIX B

PROCEDURE TO OBTAIN REGISTERED DOMICILE

APPENDIX B

PROCEDURE TO OBTAIN REGISTERED DOMICILE ³⁴

Although compliance with this formality is not mandatory from a legal point of view, and certain foreign companies operate in the Dominican Republic without having obtained authorized domicile, this procedure is highly recommended for various reasons:

- It allows the branch to enjoy the same rights granted to companies organized in the country;
- It guarantees government organizations that the foreign company is operating within a legitimate and transparent framework in conducting its commercial activities.
- It is one of the requirements for obtaining National Taxpayer Registration (RNC) for payment of the company's tax obligations.
- It eliminates the risk to the company, in the event that any civil or commercial lawsuit is filed, that imposes the payment of a Judicatum Solvi bond as specified by Article 16 of the Civil Code and Articles 166 and 167 of the Code of Civil Procedure. Said bond consists of a type of guarantee issued by the court at the request of the Dominican or foreign party with an established domicile, in order that, if the foreign party loses said process, the Dominican party would not be without protection for transit abroad.
- Lastly, obtaining an authorized domicile is one of the conditions required for certain administrative proceedings, such as registration of foreign investment with the Central Bank.

The procedure for establishing the domicile of a foreign company is not covered by a special law. Nevertheless, by analogy the provisions set forth in Article 13 of the Civil Code and Article 55 of the Constitution are applicable thereto.

The proceedings, with the participation of the Executive Branch, the Secretary of State for the Interior and the Legal Counsel of the Executive Branch, may last from two to six months, and the following steps must be followed:

1. The interested company shall submit a request for application to establish domicile to the President of the Republic through the Secretary of State for the Interior and Police. Said application shall be made in writing, in the form of a letter. It may be signed by an official of the company or a local representative authorized to do so. The letter must include the following information:
 - Name of the company and address of its main office;
 - Country or state of incorporation or organization;
 - A brief description of the type of business that this branch will carry out in the Dominican Republic;
 - An inventory of the documents accompanying the petition.

³⁴ Commerce Department and Office of the US Trade Representative, Washington Associated Press, DC, March 2003.

2. Once the application letter has been drafted, the following items and documents must be attached thereto.
 - Approval from the next-higher entity of the company through which the application to establish domicile in foreign territory is authorized;
 - Certification of commercial registration or similar institution that certifies the registration of the company in accordance with its original legislation. This certification or authorization, at times called a “Certificate of Good Standing” or a “*Certificado de Buena Fama*,” must be legalized with the nearest Dominican consulate to the shipping point and by the Secretary of State for Foreign Relations in the Dominican Republic in order to certify the signature of the Dominican Consul that legalized the document;
 - A copy of the corporate bylaws, duly certified as a true and accurate copy of the original, by an authorized public official. This document must also be legalized in the Dominican consulate nearest the shipping point and by the Secretary of State of Foreign Relations in the Dominican Republic in order to certify the signature of the Dominican official that legalized the document.
 - Duly certified Financial Statements;
 - Special power of attorney of the representative acting on behalf of the company;
 - Domestic income seals in the following amounts: Four seals of RD\$ 6.00 each;
 - Two seals of RD \$0.25 each, one seal of RD\$ 20.00 and another of RD\$ 10.00.
 - One (1) receipt for Internal Income in the amount of RD\$ 10.00 (Publication in the Official Gazette);
3. The applicant must file the application letter, accompanied by the documents specified above, with the Secretary of State of the Interior and Police. The application is submitted internally to the Department of Correspondence and then to the Legal Department of the Ministry of State of State of the Interior and Police. Once the documentation has been reviewed, the Secretary of State of the Interior and Police shall issue a memo containing its opinion and/or no objection to granting the authorization;
4. The Legal Counsel of the Executive Branch shall study the file and submit it in turn to the Executive Branch;
5. The Executive Branch shall authorize the establishment of domicile by Decree;
6. The file shall be submitted to the Administrative Secretary for publication in the Official Gazette.
7. The file shall be conveyed to the Ministry of the Interior and Police for registration;
8. The Ministry of the Interior and Police shall deliver an approval form to the interested party.

- The start-up of commercial activities. - Branches shall be governed by the same requirements applicable to Dominican companies to start up their commercial activities.

APPENDIX C

LAW NO 84-99 REVIVAL AND PROMOTION OF EXPORTS

APPENDIX C

LAW NO 84-99 REVIVAL AND PROMOTION OF EXPORTS

WHEREAS: In the framework of the gradual process of opening and reintegrating the economy into international markets, it is necessary to eliminate the anti-exporter bias that originated from the payment of customs tariffs on the goods incorporated into export products, given the fact that the same reduce competitiveness of the exportable supply of the country.

WHEREAS: The current policy instruments supporting export activity are inadequate pursuant to the current situation and trend of the international economy.

WHEREAS: It is in the interest of the Government to establish new mechanisms and modernize those in existence in order to bring about a revival and sustained expansion of exports of goods and services, and therefore, of national economic growth.

HAS ISSUED THE FOLLOWING EXPORT REVIVAL AND PROMOTION LAW:

Article 1. The export support system shall consist of the following mechanisms: 1) Reintegration of Customs Duties and Fees; 2) Simplified Repayment of Customs Fees; and 3) the Temporary Entry Regime for Active Manufacturing.

TITLE I

Repayment of Customs Duties and Fees

Article 2. The repayment of Customs Duties and Fees paid on raw materials, supplies, intermediate goods, labels, packaging and packing material imported by the exporter or by third parties (indirect) is hereby established, when the same have been incorporated into goods for export, or in the case of those products that are reshipped abroad in the same condition in which they entered Dominican customs territory.

Paragraph I: In any event, the amount of the reimbursement shall not exceed the amount of customs fees paid.

Paragraph II: Goods exported temporarily for the purpose of repair, improvement or similar operations shall be exempt from payment of the duty on the benefits for the Repayment of Customs Duties and Fees.

Paragraph III: Goods on which, in spite of any penalty as a result of the violation of the Law at the time of import, shall be exempt from the benefits of Repayment of the Customs Duties and Fees.

Article 3. The Repayment of the Customs Duties and Fees shall be called by Registered Check and/or Compensation Bond and for this purpose the Tax

Compensation Bonds were created, expressed in domestic currency, issued by the Ministry of State for Finance, not subject to calculation as income subject to the payment of Income Tax and with a term of no more than six (6) months as of the date of issue.

Paragraph (TRANSIENT): The Executive Branch, through the National Budget Office (ONAPRES), shall make the relevant arrangements in terms of the effects that the same may have on the current Government Expenditures Act.

Article 4. The Dominican Export Promotion Center (CEDOPEX) shall be responsible for determining the quantities of raw materials, intermediate goods and supplies incorporated, directly or indirectly, into obtaining treatment, manufacture or production of a final exported good, and for estimating, based thereon, the corresponding amount of reimbursement per Article 2 of this Law.

Article 5. The interested party must submit an application for reimbursement of Customs fees to the Dominican Export Promotion Center (CEDOPEX), on a form prepared to this end, and must prove the requirements specified in this regard. CEDOPEX must qualify the petition within a term of no more than three following business days, and shall notify the Secretary of State for Finance, through the Customs Service and by justified Resolution.

Paragraph I: If the application is denied or has been approved but the results do not match those estimated by the applicant, the applicant may file an appeal for reconsideration with the Dominican Export Promotion Center (CEDOPEX) within the next three business days. Said appeal must be resolved within a term of three business days following the date of receipt.

Paragraph II: After verifying the authenticity of the export documents and determining the amount of the reimbursement, the Dominican Export Promotion Center (CEDOPEX) shall authorize the Department of Finance to issue the Registered Checks and/or Tax Repayment Bonds within no more than five (5) business days following the submission of the application.

Paragraph III: Once notification of the authorization to issue the Registered Checks and/or Tax Repayment Bonds has been received, the Department of Finance shall have a term of no more than five (5) business days from receipt, to comply with the delivery of the same to the interested parties.

TITLE II

Simplified Compensation of Customs Duties

Article 6. Owners of export companies that export goods (whether individuals or legal entities, domestic or foreign), shall be entitled to repayment of the customs duties paid in advance in an amount not to exceed the equivalent of three percent (3.0 percent) of

the free on board (FOB) value of the exported goods, which shall be called by delivery of the Registered Checks and/or Tax Repayment Vouchers (Article 6).

Paragraph I: The simplified repayment percentage for duties shall be determined by Executive Order, within a range of 0 percent to 3 percent of the FOB value of the exported goods, in accordance and in direct relation to the variations that may occur in the average customs tariff rate. The percentage determined in principle must be reviewed every 12 months thereafter.

Paragraph II: The amount of compensation or repayment referenced by this article must not, under any circumstances or under any name, exceed the amount of the customs fees paid in advance.

Article 7 – Parties interested in obtaining Tax Repayment Bonds must submit an application to the Dominican Export Promotion Center (CEDOPEX), on a form prepared to that end.

Paragraph I: Also in the case of simplified compensation of fees, the same procedures and terms shall be observed for the authorization, issue and delivery of Registered Checks and/or Tax Repayment Bonds, described in Article 5, Paragraphs II and III of this Law.

TITLE III

Regimen of Temporary Entry for Active Perfection

Article 8 - For the purposes of this law, “temporary entry” shall be understood to mean “the entry of certain goods into Dominican customs territory, with suspension of the import rights and duties and coming from abroad or from duty-free export zones, in order to be reexported within a term of no more than eighteen months counted after 30 days following the entry of goods into domestic customs territory” (Article 8).

Paragraph I: All export products shall enjoy the benefits of the temporary admission regimen.

Paragraph II: The following goods may enter Dominican customs territory through the Temporary Admission Regimen:

- a) Raw materials, supplies, intermediate goods,*
- b) Labels, packaging and packing material, and*
- c) Parts, pieces, molds, dies, utensils and other devices when they complement other devices, machines or equipment used to prepare export goods.*

Article 9 – Parties interested in participating in the Temporary Entry Regimen must submit an application to the Dominican Export Promotion Center (CEDOPEX), on a form prepared to that end. CEDOPEX shall qualify the application within three business

days following its filing, and shall issue a decision in this regard by means of a justified resolution.

Paragraph I: The Resolution issued by the Dominican Export Promotion Center (CEDOPEX) must be submitted to the Customs Service for the corresponding purposes.

Paragraph II: Exporters benefiting from the Temporary Entry Regimen submit a bank bond or bond from an insurance company to the Customs Service to cover the total amount of customs duties and taxes that may derive from their definitive import.

Article 10. Exporters who participate in the temporary entry regiment may transfer and/or receive goods entered and/or prepared under said Regimen, from and to other companies benefiting from the same, and also from and to the Duty-free Export Zones Regimen. Transfers of goods shall be subject to the procedures established by the Customs Service.

TITLE IV

General Provisions

Article 11. The Dominican Export Promotion Center (CEDOPEX) shall issue an Exporter Registration booklet to individuals and legal entities working or planning to work in export activities. Said booklet must only be presented in those proceedings where it may be required by several public institutions for the purpose of control and follow-up.

Paragraph: Any interested parties must submit their application to the Dominican Export Promotion Center (CEDOPEX) on the forms prepared to this end and accompanied by the supplemental documents required, which were filled out under oath.

Article 12. The reimbursement of the Industrialized Goods and Services Transfer Tax (ITBIS) and the Selective Consumption Tax are hereby established, to be paid upon the acquisition of raw materials and intermediate goods, whether imported or domestically produced, when they have been incorporated into export goods.

Paragraph: Domestic producers of raw materials, supplies, packages and labels shall be considered indirect exporters for the purpose of receiving benefits under this Law, subject to the procedures established in the Enabling Legislation of this Law.

Article 13. Sales of products coming from domestic customs territory to companies located in industrial duty-free export zones shall be considered in-situ exports in order to receive the benefits of this Law.

Paragraph (TRANSIENT): Sales of raw materials, supplies, intermediate goods, packing and labels by companies that enjoy customs tariff exemptions in virtue of special agreements with the Dominican government shall be granted the benefit of this

Law, provided that the same fall within the goods authorized in said agreements, and only during the term of force of the same agreements.

Artículo 14. Companies that are classified and that operate under the Temporary Entry Regimen of Law No. 69, regarding Export Incentives dated November 16, 1979, shall be automatically transferred to the new Temporary Entry Regimen for Active Perfection of this Law, and they may opt for another of the alternative mechanisms that this Law sets forth, once the commitments to said regimen have been settled.

Article 15. As means of compensation, Tax Repayment Bonds shall be used indistinctly for the Repayment of Customs Duties and Fees, and for the mechanism of Simplified Compensation of Customs Fees, established in this Law.

Paragraph I: Tax Reimbursement Bonds may be used by the beneficiary to offset any debt or commitment vis-à-vis the Government, arising from the payment of any national tax, such as taxes, fees and similar items, the payment and settlement of domestic taxes such as income tax and advances on the same, the selective consumption tax and any other national tax, and the bond may be consigned as a credit in its signed return for the year of issue of the bond, for which purpose they must be accepted by the Tax Collection and Payment Offices.

Paragraph II: The Secretary of State for Finance shall be responsible for printing Tax Repayment Bonds, which shall be prepared on special forms numbered sequentially, in original and four (4) copies, and the items considered relevant.

Article 16. Individuals and legal entities benefiting from the prescribed Customs Duty and Fee Reimbursement Regimen or the Temporary Entry Regimen may not benefit from the Simplified Customs Duty Repayment instrument specified in this Law.

Article 17. Any exporter who fraudulently receives the benefits indicated in this Law shall be penalized with the sanctions established in the Customs Act and shall be immediately and irrevocably excluded from access to said benefits, without prejudice to the judicial sanctions applicable in virtue of the provisions of other current Laws.

Paragraph: When the exporter is a legal entity, the sanctions shall be applied to any party claiming representation of the same, whether as its president, administrator, manager, director or any other relevant title.

Article 18. The Executive Branch shall issue the regulations necessary for the application of this Law, within a term of forty-five (45) days following the date on which it is enacted.

Article 19. This Law repeals Law No. 69 dated November 16, 1979, regarding Export Incentives, Decree No. 1609 dated March 13, 1980, regarding the Enabling Legislation of said Law, Decree No. 1460, dated October 5, 1983, regarding amendment of the

referenced Enabling Legislation, as well as any other provision that may be counter to this Law.

EXECUTED in the Session Hall of the Senate, National Congress Building, in Santo Domingo de Guzmán, National District, Capital of the Dominican Republic, on the sixteenth day of March, Nineteen hundred ninety-nine, the 156th year of Independence and 136th of the Restoration. EXECUTED in the Session Hall of the Chamber of Deputies, National Congress Building, in Santo Domingo de Guzmán, National District, Capital of the Dominican Republic, on the twentieth day of July, Nineteen hundred ninety-nine, the 156th year of Independence and the 136th year of the Restoration. EXECUTED in Santo Domingo de Guzmán, National District, Capital of the Dominican Republic, on the sixth (6th) day of August, Nineteen hundred ninety-nine, the 156th year of Independence and the 136th year of the Restoration.

APPENDIX D

SAMPLE INTERNATIONAL PURCHASE/SALE AGREEMENT
FOR GOODS

APPENDIX D

SAMPLE INTERNATIONAL PURCHASE/SALE AGREEMENT FOR GOODS³⁵

This International Purchase/Sale Agreement for Goods is entered into by _____, represented in these proceedings by _____, identified by (NIT, CIF) _____, the party of the first part,
and _____, represented by _____, domiciled at _____, identified by (NIT, CIF) _____, the party of the second part,
who shall hereinafter be referred to as "The Seller" and "The Buyer" respectively, in accordance with the following representations and warranties:

REPRESENTATIONS

REPRESENTATIONS OF THE SELLER

- I. That it is a company lawfully organized in accordance with the laws of the Republic of _____, as verified by the instrument _____ or Chamber of Commerce Certificate dated _____.
- II. That its corporate purpose includes, but is not limited to, the fabrication, sale, import and export of _____.
- III. That it has the capacity, knowledge, experience and personnel necessary to carry out the activities referenced by the preceding representation.
- IV. That Mr. _____ is its authorized representative and as a result is duly authorized to execute this instrument so as to bind his principal in accordance with the terms hereof.
- V. That it has its domicile at _____, which domicile it selects for all corresponding legal purposes.

³⁵ Sample contract, prepared by ARAUJO IBARRA & ASOCIADOS S.A., taking into consideration the U.N. CONVENTION REGARDING AGREEMENTS FOR THE INTERNATIONAL SALE OF GOODS, EXECUTED IN VIENNA ON APRIL 11, 1980, and based on the books by ESPUGLES MOTA, Carlos, "Contratación Internacional," Editorial Tirant lo Blanch, Valencia, 1999, GUARDIOLA SACARRERA, Enrique, "La compraventa internacional, Importaciones y Exportaciones," Bosh casa editorial, Barcelona, 1994.

REPRESENTATIONS OF THE BUYER

I. That it is a company organized in accordance with the laws of the Republic of _____ and that it is involved in activities related to the sale and import of products referred to in Representation II of the "Seller," among other activities.

II. That it is familiar with the features and specifications of the products which are the subject of this Agreement.

III. That Mr. _____ is its authorized representative and is authorized to execute this Agreement.

IV. That it has its domicile at _____, which domicile it selects for all corresponding legal purposes.

BOTH PARTIES HEREBY REPRESENT:

That they are interested in conducting commercial transactions as described by this agreement, in accordance with the foregoing representations and the following provisions.

CLAUSES

DEFINITIONS

LANGUAGE

For all legal purposes, the official language of this agreement shall be _____.

PURPOSE OF THE AGREEMENT.- The "Seller" hereby agrees to sell and the "Buyer" agrees to purchase the goods described below.

Description of the goods (including data, if applicable, relative to the required quality level, certificates and the country of origin) _____.

Quantity (including unit of measure).

Total quantity _____

In partial deliveries _____

Margin of tolerance: _____ % less or more

Each of the items listed above must be delivered in accordance with all the technical specifications, drawings, catalogs and manuals in _____ (language).

PRICE: The price of the goods covered by this agreement which the "Buyer" agrees to pay _____ for, in the currency and within the time frame specified in this agreement.

Both parties agree to renegotiate the price agreed upon above, when it is affected by changes in the international market or due to extreme economic, political and social conditions in the country of origin or at the destination, to the prejudice of the parties.

DELIVERY TERMS. The goods shall be delivered subject to _____ conditions (INCOTERMS 2000); therefore the parties accept said commercial term as contractual content. The parties shall respectively comply with the obligations they assume according to the referenced commercial term and they shall bear the risk in the manner distributed by that term.

DELIVERY DATE "The seller agrees to deliver the goods as specified by the commercial term accepted by the parties within _____ days following the date of written confirmation of the request and having agreed upon the payment system specified in Clause _____.

The Seller must deliver the goods as specified by the commercial term agreed upon by the parties no later than _____.

PAYMENT TERMS.- The "Buyer" agrees to pay the "Seller" the price agreed upon in the preceding clause, by means of _____ (letter of credit, submission of document, to the Seller's domicile) against delivery of the following documents:

(-Commercial Invoice

- Bill of Lading.

- Insurance Certificate

- Certificate of Origin

.....)

In accordance with the provisions of the previous paragraph, the "Buyer" agrees to carry out the corresponding actions, in order to perform the processing necessary for payment of the same under the specified conditions.

Any expenses arising from the opening and handling of the payment conditions specified above shall be for the account of: _____.

INTEREST. The parties agree to pay interest in the event that the price or any other amount owed is not paid. The interest shall be _____, without prejudice of any action for compensation of damages owed pursuant to the contract.

PACKING AND PACKAGING OF THE GOODS. The "Seller" agrees to deliver the goods specified in this contract, at the location specified in Clause _____, by complying with the following specifications: _____

The "Buyer" agrees to carry out all those actions necessary so that the seller may carry out delivery and shall take responsibility for the goods once the Seller performs delivery.

CONDITION OF THE GOODS As long as the Seller has disposal of the goods, it must take reasonable measures to preserve them until they are delivered to the Buyer, and the Buyer must adopt the same measures once the goods are received in order to be able to exercise the right of rejection of the same according to the provisions of this agreement.

INSPECTION AND NOTIFICATION: Once the goods have been received the Buyer shall have a term of _____ to examine and notify the seller of any anomaly or non-conformity that may have been found in relation to the same. Once this term has passed, without the buyer having notified the seller, the goods shall be understood to be in conformity with the provisions of this agreement.

(In the event that the inspection is not directly carried out by the "Buyer), [illegible] or Inspection of the goods (when inspection is required, specify, as applicable, the data on the organization responsible for inspecting the quality and/or quantity, location and the date/term of the inspection, and the party responsible for the costs of the inspection).

PATENTS AND MARKS. The "Seller" represents and the "Buyer" acknowledges that the products covered by this agreement are duly registered under Patent

_____.
Furthermore, the "Buyer" agrees to notify the "Seller" as soon as it becomes aware of any violation or undue use of said patent or mark, in order that the "Seller" may exercise the corresponding legal rights.

TERM OF THE AGREEMENT. Both parties agree that once the "Seller" has delivered all of the goods specified in Clause _____ and the "Buyer" has complied with each and every one of the obligations set forth in this Agreement, it shall be considered terminated.

GUARANTEE OF PAYMENT. The Seller shall remain the owner of the goods until they are paid for by the Buyer.

In the event that the agreed upon price is not paid, it is agreed that the Seller may, at its discretion, claim ownership of the goods sold or require payment of the price, and compensation of damages incurred in both cases.

INDEMNIFICATION FOR DAMAGES. If either of the parties fails to comply with the obligations set forth in this agreement, the other party shall be entitled to request compensation for damages produced as a result of the non-performance. Such compensation shall include the value of the loss incurred and the gain not received, as a result of the non-performance.

The party citing non-performance of the agreement shall adopt the measures that are reasonable, given the circumstances, to reduce losses, including lost profits, arising from the non-performance. If these measures are not adopted, the other party may request that the compensation of damages be reduced by the amount corresponding to the due reduction of the loss.

LIMIT OF CONTRACTUAL LIABILITY. Both parties agree that liability arising from acts of God or force majeure shall be attributable to either of them, and they agree to suspend the rights and obligations set forth in this agreement, which may be resumed by mutual agreement when the grounds for the suspension are abated, provided that these are conditions described in this clause.

RESCISSION DUE TO NON-PERFORMANCE. Both parties may rescind this agreement in the event that one of them fails to perform its obligations and refuses to take the measures necessary to remedy the non-performance within _____ days following notification, notice or requirement by the other party to remedy the non-performance in question.

The party exercising its right to rescission must give notice to the other party, in accordance with the term referenced in the previous clause.

BANKRUPTCY. Both parties may terminate this agreement, early and without the need for a judicial declaration, in the event that one of them declares bankruptcy, suspends payments, initiates a meeting of creditors or any other type of insolvency proceedings.

PERSISTENCE OF OBLIGATIONS. The rescission or termination of this agreement shall not in any manner affect the validity or enforceability of the obligations contracted previously, or those already formed that, by their nature, or by provision of law, or by the desire of the parties, must be deferred to a later date; as a result the parties may require even after the rescission or termination of the contract, that these obligations be respected.

TRANSFER OF RIGHTS AND OBLIGATIONS. Neither of the parties may transfer nor assign in whole or in part, the rights or obligations arising from this agreement, unless agreed otherwise in advance and in writing.

APPLICABLE LAW. For all matters agreed upon and as expressly specified, this agreement shall be governed by the current laws of the Republic of _____, specifically the provisions of the United Nations Convention on Agreements for the

International Sale of Goods," and if the same is silent, by the commercial practices and customs recognized by the same.

JURISDICTION. For all matters that arise between the parties in relation to this agreement, performance or non-performance of the obligations set forth herein, the Courts of _____ shall have sole competent jurisdiction. In the event that the buyer has delivered bills of exchange or any other payment instrument, the Seller may choose to select the Courts of the country where those bills of exchange must be paid.

ARBITRATION. The parties agree to submit to mediation and arbitration for foreign trade as it exists in the exporting country for the interpretation, performance and fulfillment of the clauses of this contract, and for the resolution of any disagreement arising herefrom.

NOTIFICATIONS.

Any information or notification that must be made or that arises between the parties to this agreement must be made in writing, by mail, fax or mail [sic]. All notifications shall be made to the contractual domiciles indicated below:

SELLER

BUYER

This contract was executed in the city of _____ on the _____ day of _____, _____.

"THE SELLER"

"THE BUYER"

APPENDIX E

INCOTERMS

APPENDIX E

INCOTERMS

Incoterms are international rules for interpreting trade terms established by the International Chamber of Commerce. The word “INCOTERM” comes from the English contraction of: International Commercial Terms (*Términos de Comercio Internacional*)

Incoterms govern:

- The distribution of documents.
- The conditions for the delivery of goods.
- The distribution of the costs of a transaction.
- The distribution of the risks of a transaction.

Incoterms do not govern:

Legislation applicable to items not reflected in Incoterms.

The payment terms for the transaction.

Form for drafting Seller’s and Buyer’s obligations.

- For each INCOTERM, the obligations of the seller and the buyer are grouped into 10 double clauses.
 - Seller’s obligations: A1. A10.
 - Buyer’s obligations: B1, ...B10
- “Mirror” clauses: Seller’s obligation **A1** corresponds to Buyer’s obligation **B1**.

OBLIGATIONS OF THE PARTIES ³⁶	
SELLER (A)	BUYER (B)
<i>A1. Supply goods from</i>	<i>B1. Payment of the price in accordance with the contract.</i>
<i>A2. Licenses and authorizations.</i>	<i>B2. Licenses and authorizations.</i>
<i>A3. Contracting transport and insurance.</i>	<i>B3. Contracting transport and insurance.</i>
<i>A4. Delivery.</i>	<i>B4. Acceptance of delivery</i>
<i>A5. Transfer of risks.</i>	<i>B5. Transfer of risks.</i>
<i>A6. Distribution of expenses.</i>	<i>B6. Distribution of expenses.</i>
<i>A7. Notice to the buyer.</i>	<i>B7. Notice to the seller</i>
<i>A8. Proof of delivery</i>	<i>B8. Proof of delivery</i>
<i>A9. Verification, packaging, marking.</i>	<i>B9. Inspection of the goods.</i>

³⁶ www.reingex.com

A10. Other obligations.**B10. Other obligations.**

- In addition to the 10 pairs of clauses, each INCOTERM contains an introduction.
 - Definition
 - Primary obligations
 - Recommended uses of the respective INCOTERM.

Transfer of risks and expenses:

INCOTERMS very clearly define the points at which risks and costs are transferred from the seller to the buyer.

- Risks are transferred as of the moment when the delivery of the goods takes place.
- Clause A4. Point of delivery.
- Clause A5: Transfer of risk.
- From the delivery point, the risks of loss or damage are transferred from the Seller to the Buyer.

Classification of Incoterms³⁷:

Incoterms may be broken down into four groups, based on the following table:

<i>THE 2000 INCOTERMS ARE BROKEN DOWN INTO 4 GROUPS</i>	
<i>GROUP</i>	<i>DESCRIPTION</i>
E	→ Exit. The Seller makes the goods available to the Buyer at the Seller's domicile.
F	→ No payment of primary transport. The Seller delivers the goods to a means of transport selected by the Buyer.
C	→ Payment of primary transport. The Seller contracts transport, but without assuming the risk of loss or damage to the goods or additional costs due to events that occur after their shipment and clearance through customs.
D	→ Arrival. The Seller must bear all expenses and risks necessary to bring the goods to the destination country.

³⁷ www.reingex.com

In turn, each group has the following Incoterms, based on the tables shown below:

INCOTERMS 2000		
<i>GROUP</i>	<i>ABBR.</i>	<i>DESCRIPTION</i>
Group “E”	EXW	EX WORKS (... named place) → EX WORKS
		FREE CARRIER (... named place) → FREE CARRIER
Group “F”	FCA	FREE CARRIER (... named place) → FREE CARRIER
	FAS	FREE ALONGSIDE (... named port of shipment) → FREE ALONGSIDE SHIP
	FOB	FREE ON BOARD (... named port of shipment) → FREE ON BOARD

INCOTERMS 2000		
<i>GROUP</i>	<i>ABBR.</i>	<i>DESCRIPTION</i>
Group “C”	CFR	COST AND FREIGHT (... named port of destination) → COST AND FREIGHT
	CIF	COST, INSURANCE AND FREIGHT (... named port of destination) → COST, INSURANCE AND FREIGHT
	CPT	CARRIAGE PAID TO (... named place of destination) → CARRIAGE PAID TO
	CIP	CARRIAGE AND INSURANCE PAID TO (... named place of destination) → CARRIAGE AND INSURANCE PAID TO

INCOTERMS 2000		
<i>GROUP</i>	<i>ABBR.</i>	<i>DESCRIPTION</i>
Group “D”	DAF	DELIVERED AT FRONTIER (... named port of destination) → DELIVERED AT FRONTIER
	DES	DELIVERED EX SHIP (... named port of destination) → DELIVERED EX SHIP
	DEQ	DELIVERED EX QUAY (... named port of destination) → DELIVERED EX QUAY
	DDU	DELIVERED DUTY UNPAID (... named place of destination) → DELIVERED DUTY UNPAID
	DDP	DELIVERED DUTY PAID (... named place of destination) → DELIVERED DUTY PAID

Classification of Incoterms according to the type of transport used:

The Incoterms may be grouped by the various means of transport, i.e.³⁸:

- **For all types of Transport:**
 - EXW - FCA - CPT - CIP - DDU - DDP
- **For ocean and inland water transport:**
 - FAS - FOB - CFR - CIF - DES - DEQ
- **For transport by road:**
 - DAF

Analysis of Incoterms:

Each of the Incoterms is described below, indicating the corresponding definition:

1.- EXW (ex works - en fábrica):

Means that the seller delivers the goods when they are made available to the buyer at its facility or at another location as agreed upon (plant, workshop, warehouse, etc.).

This term must not be used when the buyer cannot complete the formalities (customs processing) for export either directly or indirectly. Under these circumstances, the term FCA should be used.

Description of Expenses:

- The Buyer:

The Buyer shall be responsible for:

- a. Selection of the means of transport from the seller's plant or warehouse.
- b. Assuming all costs and risks involved in acceptance of the goods at the seller's facility.
- c. Assuming freight and transfer expenses for the goods (domestic and international).
- d. Contracting insurance (domestic and international transport).
- e. Assuming risk and expenses for customs expenses at the port of shipment (agent and permits and taxes).
- f. Handling for unloading, loading and stowage at the point of shipment.
- g. Expenses incurred after arrival of the goods at the destination port, until they arrive at the agreed upon location (buyer's plant, workshop or warehouse).

³⁸ <http://www.bancoex.com>

2. FCA (Free Carrier At - Libre Transportista en...)

This Incoterm means that the seller shall deliver the goods, cleared for export, to the transporter named by the buyer at the location agreed upon in the sales agreement.

INCO 2000: If the seller delivers the goods to the transporter at its warehouses, the transporter must load the goods onto the means of transport; if this is done at any other site, the seller shall not have this obligation.

Description of Expenses:

- The Seller:

The Seller shall be responsible for:

- a. Assuming freight and transfer expenses for the goods (domestic).
- b. Contracting insurance for the goods (domestic transport).
- c. Assuming customs expenses (agent and permits and taxes) at the point of shipment.

- The Buyer:

The Buyer shall be responsible for:

- a. Selection of the means of transport from the seller's plant or warehouse.
- b. Handling for unloading, loading and stowage at the point of shipment.
- c. Assuming the cost of transport (primary freight and insurance for the goods for international transport).
- d. Expenses incurred after arrival of the goods at the destination port, until they arrive at the agreed upon location (buyer's plant, workshop or warehouse).

3.-FAS (Free Alongside Ship - Libre al Costado del Barco...)

This Incoterm means that the seller shall deliver the goods when they are placed alongside the ship at the agreed upon port of shipment.

INCO 2000: The obligation of export customs processing becomes a responsibility of the Seller. This represents a complete change with respect to prior versions of the INCOTERMS that formerly required the buyer to oversee export customs processing.

Description of Expenses:

- The Seller:

The Seller shall be responsible for:

- a. Assuming freight and transfer expenses for the goods (domestic).
- b. Contracting insurance for the goods (domestic transport).
- c. Assuming risk and expenses for customs expenses at the port of shipment (agent and permits and taxes).
- d. Expenses incurred in handling for unloading, loading and stowage at the point of shipment.

- The Buyer:

The Buyer shall be responsible for:

- a. Selection of the means of transport from the seller's plant or warehouse.
- b. Assuming the cost of transport (primary freight and insurance for the goods for international transport).
- c. Assuming the costs and risks of loss or damage to the goods from the moment of delivery.
- d. Expenses incurred after arrival of the goods at the destination port, until they arrive at the agreed upon location (buyer's plant, workshop or warehouse).

4.- FOB (Free On Board - Libre a Bordo...)

This Incoterm means that the seller fulfills its delivery obligation when the goods are on board the ship, at the agreed upon shipping port.

If the parties have not strictly agreed that the delivery of the goods has been fulfilled "crossing the rails of the cargo vessel" (on board the ship), the term FCA must be used.

Description of Expenses:

- The Seller:

The Seller shall be responsible for:

- a. Assuming freight and transfer expenses for the goods (domestic).
- b. Contracting insurance for the goods (domestic transport).
- c. Assuming risk and expenses for customs expenses at the port of shipment (agent and permits and other taxes).
- d. Handling for unloading, loading and stowage at the point of shipment.

- The Buyer:

The Buyer shall be responsible for:

- a. Selection of the means of transport from the seller's plant or warehouse.
- b. Assuming the cost of transport (primary freight and insurance for the goods for international transport).
- c. Expenses incurred after arrival of the goods at the destination port, until they arrive at the agreed upon location (buyer's plant, workshop or warehouse).

5.- CFR (Cost and Freight - Costo y flete...)

This Incoterm means that the seller completes delivery when the goods are on board the ship, at the agreed upon shipping port.

If the parties have not strictly agreed that the delivery of the goods has been fulfilled "crossing the rails of the cargo vessel" (on board the ship), the terms CPT or CIP must be used.

Description of Expenses:

- The Seller:

The Seller shall be responsible for:

- a. Selection of the means of transport from the seller's plant or warehouse.
- b. Assuming freight and transfer expenses for the goods (domestic).
- c. Contracting insurance for the goods (domestic transport).
- d. Assuming risk and expenses for customs expenses at the port of shipment (agent and permits and taxes).
- e. Handling for unloading, loading and stowage at the point of shipment.
- f. Assuming transport costs (primary freight).

- The Buyer:

The Buyer shall be responsible for:

- a. Assuming contracting and costs of the insurance for the goods during international transport.
- b. Expenses incurred after arrival of the goods at the destination port, until they arrive at the agreed upon location (buyer's plant, workshop or warehouse).

6.- CIF (Cost, Insurance and Freight - Costo, seguro y flete...)

This Incoterm means that the seller fulfills its delivery obligation when the goods are on board the ship, at the agreed upon shipping port.

If the parties have not strictly agreed that the delivery of the goods has been fulfilled "crossing the rails of the cargo vessel" (on board the ship), the terms CPT or CIP must be used.

Description of Expenses:

- The Seller:

The Seller shall be responsible for:

- a. Selection of the means of transport from the seller's plant or warehouse.
- b. Assuming freight and transfer expenses for the goods (domestic).
- c. Contracting insurance for the goods (domestic transport).
- d. Assuming risk and expenses for customs expenses at the port of shipment (agent and permits and taxes).
- e. Handling for unloading, loading and stowage at the point of shipment.
- f. Assuming transport costs (primary freight).
- g. Assuming the contracting and costs of insurance for the goods for the minimum coverage, and payment of the premium (international transport).

- The Buyer:

The Buyer shall be responsible for:

- a. Expenses incurred after arrival of the goods at the destination port, until they arrive at the agreed upon location (buyer's plant, workshop or warehouse).

7.- CPT (Carriage Paid To - Transporte Pagado hasta...)

This Incoterm means that the seller accomplishes delivery of the goods when they are at the disposal of the carrier designated by the seller.

Description of Expenses:

- The Seller:

The Seller shall be responsible for:

- a. Selection of the means of transport from the seller's plant or warehouse.
- b. Assuming freight and transfer expenses for the goods (domestic).
- c. Contracting insurance for the goods (domestic transport).
- d. Assuming risk and expenses for customs expenses at the port of shipment (agent and permits and taxes).
- e. Handling for unloading, loading and stowage at the point of shipment.
- f. Assuming transport costs (primary freight).

- The Buyer:

The Buyer shall be responsible for:

- a. Assuming contracting and costs of the insurance for the goods during international transport.
- b. Expenses incurred after arrival of the goods at the destination port, until they arrive at the agreed upon location (buyer's plant, workshop or warehouse).

8.- CIP (Carriage and Insurance Paid to - Transporte y Seguro Pagado hasta...)

This Incoterm means that the seller has the same obligations as under CPT, with the additional obligation of contracting insurance during carriage against the risk, borne by the buyer, of loss or damage to the goods during transport.

Description of Expenses:

- The Seller:

The Seller shall be responsible for:

- a. Selection of the means of transport from the seller's plant or warehouse.
- b. Assuming freight and transfer expenses for the goods (domestic).
- c. Contracting insurance for the goods (domestic transport).
- d. Assuming risk and expenses for customs expenses at the port of shipment (agent and permits and taxes).
- e. Handling for unloading, loading and stowage at the point of shipment.
- f. Assuming transport costs (primary freight).
- g. Assuming contracting and costs of the insurance for the goods (international transport).

- The Buyer:

The Buyer shall be responsible for:

- a. Expenses incurred after arrival of the goods at the destination port, until they arrive at the agreed upon location (buyer's plant, workshop or warehouse).

9.- DAF (Delivered At Frontier - Entregado en la Frontera...)

This Incoterm means that the seller has fulfilled its delivery obligation when the goods, cleared through customs for export, [are delivered to] the point and location agreed upon at the frontier, but before passing through customs of the adjacent country.

This term may be used indistinctly for any mode of transport, when the goods must be delivered at a land border point. When the delivery of the goods must occur at a destination port, on board the vessel or on the dock, the terms DES or DEQ must be used.

Description of Expenses:

- The Seller:

The Seller shall be responsible for:

- a. Selection of the means of transport from the seller's plant or warehouse.
- b. Assuming freight and transfer expenses for the goods (domestic).
- c. Contracting insurance for the goods (domestic transport).
- d. Assuming risk and expenses for customs expenses at the port of shipment (agent and permits and taxes).
- e. Handling for unloading, loading and stowage at the point of shipment.
- f. Assuming transport costs (primary freight).

- The Buyer:

The Buyer shall be responsible for:

- a. Assuming contracting and costs of the insurance for the goods from the point of loading (international transport).
- b. Expenses incurred from the arrival of the goods at the destination port to the agreed upon point.

10.- DDU (Delivered Duty Unpaid - Entregado, derechos no pagados...)

This Incoterm means that the seller must deliver the goods at the location agreed upon in the importer's country, and must cover the expenses and risks up to that point.

Description of Expenses:

- The Seller:

The Seller shall be responsible for:

- a. Selection of the means of transport from the seller's plant or warehouse.
- b. Assuming freight and transfer expenses for the goods (domestic).

- c. Contracting insurance for the goods (domestic transport).
- d. Assuming risk and expenses for customs expenses at the port of shipment (agent and permits and other taxes).
- e. Handling for unloading, loading and stowage at the point of shipment.
- f. Assuming transport costs (primary freight).
- g. Assuming the contracting and costs of insurance for the goods for the minimum coverage, and payment of the premium (international transport).
- h. Expenses incurred from the arrival of the goods at the destination port to the agreed upon point.

- The Buyer:

The Buyer shall be responsible for:

- a. Assuming risk and expenses for customs expenses at the destination port (agent and permits and taxes).
- b. Expenses for transfer of the goods to their final destination (buyer's plant, workshop or warehouse) and the insurance on the same for domestic transport.

11.- DDP (Delivered Duty Paid - Entregado, derechos Pagados...)

This Incoterm means that the seller has fulfilled its obligation to deliver the goods when they have been made available to the buyer at the location agreed upon in the importing country. All expenses and risks, as well as taxes and duties for import processing must be borne by the seller.

Description of Expenses:

- The Seller:

The Seller shall be responsible for:

- a. Selection of the means of transport from the seller's plant or warehouse.
- b. Assuming freight and transfer expenses for the goods (domestic).
- c. Contracting insurance for the goods (domestic transport).
- d. Assuming risk and expenses for customs expenses at the port of shipment (agent and permits and taxes).
- e. Handling for unloading, loading and stowage at the point of shipment.
- f. Assuming transport costs (primary freight).
- g. Assuming contracting and costs of the insurance for the goods (international transport).

- The Buyer:

The Buyer shall be responsible for:

- a. Assuming contracting and costs of the insurance for the goods during international transport.
- b. Expenses incurred from the arrival of the goods at the destination port to the agreed upon point. (Buyer's plant, workshop or warehouse).

12.- DES (Delivered Ex Ship - Entregado sobre el Buque...)

This Incoterm means that the seller has fulfilled its delivery obligation when it has made the goods available to the buyer on board the ship, at the destination port specified, without processing the goods through customs for import.

Description of Expenses:

- The Seller:

The Seller shall be responsible for:

- a. Selection of the means of transport from the seller's plant or warehouse.
- b. Assuming freight and transfer expenses for the goods (domestic).
- c. Contracting insurance for the goods (domestic transport).
- d. Assuming risk and expenses for customs expenses at the port of shipment (agent and permits and other taxes).
- e. Handling for unloading, loading and stowage at the point of shipment.
- f. Assuming transport costs (primary freight).
- g. Assuming the contracting and costs of insurance for the goods for the minimum coverage, and payment of the premium (international transport).

- The Buyer:

The Buyer shall be responsible for: Expenses incurred from the arrival of the goods at the destination port to the agreed upon point. (Seller's plant, workshop or warehouse).

13.- DEQ (Delivered Ex Quay - Entregado sobre el Muelle...)

This Incoterm means that the seller has fulfilled its delivery obligation when it has made the goods available to the buyer on the dock, at the destination port specified, without processing the goods through customs for import.

INCO 2000: This term required the buyer to process the goods through customs for import, and to pay all fees, duties, taxes and other charges required for import. This represents a change with respect to prior versions, wherein the seller was responsible for customs processing for import.

Description of Expenses:

- The Seller:

The Seller shall be responsible for:

- a. Selection of the means of transport from the seller's plant or warehouse.
- b. Assuming freight and transfer expenses for the goods (domestic).
- c. Contracting insurance for the goods (domestic transport).
- d. Assuming risk and expenses for customs expenses at the port of shipment (agent and permits and other taxes).
- e. Handling for unloading, loading and stowage at the point of shipment.

- f. Assuming transport costs (primary freight).
- g. Assuming the contracting and costs of insurance for the goods for the minimum coverage, and payment of the premium (international transport).
- h. At the destination point, the seller shall be liable for costs incurred for handling, loading and stowage.
- i. The buyer and the seller shall be responsible for expenses required to transport the goods to their final destination and insurance on the same for domestic transport.

- The Buyer:

The Buyer shall be responsible for:

- a. Assuming risk and expenses for customs expenses at the destination port (agent, permits and import taxes).
- b. The buyer and the seller shall be responsible for expenses required to transport the goods to their final destination and insurance on the same for domestic transport.