



The International Distribution Institute Project

THE IDI PROJECT

The main purpose of the IDI Project is to set up, develop and keep updated **a website (www.idiproject.com)** on international distribution, where those who are engaged in establishing distribution networks and in drafting, negotiating and managing distribution contracts:

- can find all the **legal information** they need for doing their job, and
- can exchange views and **share experiences** with other people having the same problems.

The term «**International Distribution**» intends to cover **all types of agreements** regarding the cross-border distribution of goods or services, and in particular:

- **commercial agency** (including sales representatives and similar agreements);
- **distributorship** (cessionnaires, exclusive importers, and the like);
- **franchising, selective distribution**, etc.;
- **occasional intermediaries**, brokers and similar contracts.

THE SERVICES OFFERED

The **main services** provided through the IDI website are the following:

- Domestic, EU and international **legislation** on distribution and related matters;
- High quality **model contracts**;
- International **arbitration case law** regarding distribution;
- **Bibliography**;
- **Country reports** drafted by selected experts;
- **European and national case law**;
- **News** on matters concerning distribution (legislation, national case law, international conventions, initiatives of international bodies, court and arbitration cases, etc.);
- **CVs** of IDI country experts and Council members;

- **Discussion forum** on specific topics regarding international distribution agreements.

In addition, IDI organizes each year an **Annual Conference** on a topical issue: the first annual conference took place in **Paris** on **May 13, 2005** and dealt with **agency and distribution contracts within the enlarged EU**.

The **2006 Annual Conference** took place in **Venice**, on **June 22**, and dealt with a number of topical and actual issues regarding distribution agreements, and, namely:

- **choice of law and forum clauses** in agency and distribution contracts;
- new laws on **franchising**;
- **European antitrust rules** on distribution; and
- **minimum turnover clauses**.

The **2007 Annual Conference** has been held in **Vienna**, on **15-16 June** and dealt with the critical topic of **termination of agency and distributorship agreements**.

The **2008 Annual Conference** has been held in **Torino (Italy)** on **6-7 June, 2008**. The main topic has been **Internet and distribution agreements**.

Laws of various countries

The aim of the IDI Project is to put on the website the laws on distribution of all countries of the world and keep them updated.

This means that also for countries where no country expert has been appointed, information is provided about the respective laws regarding distribution, possibly with the full text of such laws.

The legislation section of the IDI website covers **140 countries**. More than **400 laws** are available in English, or other commonly used languages (i.e. French, German, Spanish etc.) concerning commercial agents, distributors, franchising as well as other related matters (i.e. applicable law, jurisdiction and arbitration).

The IDI Model Contracts

The model contracts are one of the **most innovative aspects** of the IDI Project which makes it radically different from other similar initiatives.

The basic idea is to provide, particularly for the two major contracts used in international distribution, commercial agency and distributorship, a **uniform model** that can be used **world-wide** (with the additions and adaptations suggested by

the country reports for specific countries). This is an important step forward if we consider the widespread use of models influenced by a particular national law and drafted according to the local traditions of a specific country.

Although our starting point is a «universal» model, the basic idea is that this uniform model should be **adapted to the legislations of the various countries** to the extent necessary to comply with the local law.

So, the country experts are required to indicate which clauses of the model do not conform to their national law and to propose alternative solutions. This means that the users will have, for each country for which a country report exists, the necessary information for drafting a contract that follows the familiar scheme of the «universal» model, but contains at the same time the necessary adaptations to warrant compliance with the law of such country.

In order to be easily adapted to the needs of the parties the IDI models have been prepared in three different versions: one in favour of one party, the other in favour of the other party and a third one which tries to offer more balanced solutions.

So, we have, for the agency and distributorship contracts, **three models** with a different balance:

- Principal/Supplier-friendly
- Agent/Distributor-friendly
- Balanced.

This solution is in conformity with the purpose of the IDI Project, i.e. to offer support to all those who are engaged in the field of distribution, without distinguishing on which side. Since it is normal that each party tries to work out contracts which adequately protect its own interests, it appeared appropriate to give each side a model that takes into due account its position, together with a balanced model for those who prefer to use a more neutral text.

However, even in the «un-balanced» models the attempt has been made to **avoid too extreme solutions**, believing that even contracts favouring one of the parties should not go beyond certain limits of fairness. Of course, the three types of model are available together so that the differences can be easily seen by the users. This can also help parties to better understand the position of the other party and the reasons for certain proposals, and thus to look for acceptable alternatives.

Since the purpose of the extended agency and distributorship models is also that of serving as a guide for drafting contracts and for making sure that the country reports deal with all major issues of the contract, the models are **necessarily long and detailed**. They tend to deal with all substantial issues while in an individual context many of these issues may not be relevant in the specific case.

Consequently, the «long forms» should mainly be used by experienced professionals **as a basis for drafting a «tailor-made» contract** through the choice of clauses and alternatives which better correspond to their needs. In order to help the users, many clauses have comments explaining the respective clause and suggesting possible alternatives.

For parties who wish to have a **ready-made contract** or, at least, a model that requires the smallest possible number of adaptations, IDI has worked out a series of **short forms**. These forms are by definition incomplete, because they deal only with the major issues. However, they can be a very useful tool for those who do not want to work out a detailed contract covering all aspects of the relationship and prefer to focus only on the essential issues.

The models are written **in English**, but the short form balanced agency and distribution models are also available in several different languages: for instance, **Arabic, Chinese, Dutch, French, German, Hungarian, Italian, Polish, Portuguese, Russian, Spanish, Turkish**.

The model contracts currently available in the IDI website are those on **commercial agency, distributorship** and **occasional intermediary**.

As regards **franchising**, considering that these contracts are rather different from case to case, the IDI Council will decide if we should prepare a model or a guide with suggested clauses.

The Country Reports

The case-law and information section for each country («Country report») is based on a **«country report form»** containing a precise list of questions the country expert must answer. All the questions contained in the report form are repeated in the country report itself (in red).

The establishment of a very **complete and precise report form** for each type of contract is another very important characteristic of the IDI Project. Our purpose is to determine in advance which are the issues to be treated, in order to avoid purely theoretical questions and to make sure that all important aspects are dealt with. In order to make the approach as actual as possible, the reports have a close link with the respective model contract, i.e. the expert is asked to check the various issues in relation with the model clauses.

The report forms are currently updated and improved **with the cooperation of the country experts**, who indicate possible missing issues or unclear questions.

At present, the IDI website publishes country reports on **commercial agency** and **distribution** contracts for nearly **40 different countries**, but the number of the

countries covered is constantly increasing and one of the future tasks for the country experts will be to prepare also a report on franchising contracts.

Some of the national pages of the report section also contain the text of the most important **national case-law**, in original language, with an abstract in English.

Reports on particular issues

There are some issues of a more general nature which must be treated independently from the country reports, in order to avoid to have them repeated for each country.

This is why we have prepared a general report on «**Choice of law and jurisdiction** in agency and distribution agreements» which deals with the problems of applicable law and jurisdiction/arbitration in general terms, trying to give a general overview of the problems encountered when choosing the applicable law and jurisdiction.

A similar report has been made with respect to the **antitrust rules of the EU** in the field of distribution.

International conventions and model laws

The main international **conventions** and **model laws** regarding commercial agency, franchising, applicable law, jurisdiction, arbitration and recognition of foreign judgments are available in the IDI website, together with the relevant **status of ratification**, constantly up-to-date.

EU section

The IDI website provides the main sources of **hard law** and **soft law** enacted by the European institutions in the field of distribution.

Some of these rules, such as the EC Regulations, are directly applicable within the territory of the European Union. Other rules, particularly the EC 653/86 Directive on commercial agents, have been implemented by each Member State.

Between the sources of "soft law", the European Code for Franchising can be found in this section of the IDI website.

In addition, the EU section contains a **database**, with **the main decisions of the EC Court of Justice, Tribunal of First Instance and EC Commission** on distribution agreements (also on **antitrust** issues regarding distribution contracts).

You will find in this database not only the reference, but also **the text of each judgment or decision**.

Bibliography

More than 600 references to articles and books on commercial agency, distribution, franchising and similar contracts are contained in the bibliography database.

Reference is made to the main international legal reviews: a list of abbreviations is available.

It is possible to search bibliography references in the databases by author, title, country (when domestic laws are concerned) or type of contract (e.g. commercial agency or occasional intermediary).

Arbitration case law

The IDI website makes available about **100 abstracts of international arbitral awards** issued in the field of distribution by several national and international arbitral institutions.

In addition to the commonly used tools for searching (i.e. case number, date, type of contract) we provide specific keywords, which acknowledge the legal terms used in distribution law (e.g. Contractual relationship / *Del credere* clause; Priv. Int. law. / Characteristic performance).

Monthly Newsletter

An important service provided through the IDI website is the survey of information («news») regarding distribution: new laws, cases, conventions, etc.

News can be found in the home page of the website as well as in the respective archive and in a monthly newsletter, sent by e-mail to IDI subscribers, Country Experts and other practitioners willing to be always up-to-date on distribution issues.

Exchange of information between members

We are currently setting up a mailing list where all IDI members wishing to exchange information with other IDI members can be included (if they wish so). This will enable those who are on the mailing list to communicate with all other members of the list, and thus circulate information within the group.

In addition, the IDI website has just created a **discussion forum**, accessible from "Forum" section of the website, **where everybody (not only IDI subscribers) is allowed to exchange views and experiences in distribution matters**. The first topic discussed within the forum **concerns franchising agreements and sales through the Internet**, and deals with the possible application of antitrust rules to such sales.

TERMS AND CONDITIONS FOR SUBSCRIPTION

All information and documents provided through the IDI website are available against payment of an **annual subscription fee**.

The 2009 subscription fee is € 800.

Italian subscribers have to add 20% VAT to their payment.

Subscription to the website is expressly restricted to the personal use of the subscriber only. The annual fee for **additional subscribers** within the same premises of the same organisation (i.e. having same address and VAT code as first subscriber), is **€ 200** (plus 20% VAT if they are in Italy).

Besides having access to all the contents of the IDI website, subscribers become ordinary **members of the International Distribution Institute Association** (the relevant Memorandum and Articles of the Association are available in the IDI website) and thus can participate to the annual meeting and are given the opportunity to express their views and discuss them with the Council members.

FUTURE IMPROVEMENTS

The IDI Project is a **work in progress**. While the general information about the laws regarding distribution already covers a very large number of countries, the country reports – prepared by experts of each country – have been limited to a number of selected countries and are gradually extended to further jurisdictions, with the purpose to cover within some years all countries of major importance.

Besides the updating of all the information contained in the website, our aim is to add each year new services and information, such as, for instance, answers to frequently asked questions (FAQ), on line legal advice on specific requests, etc.

In 2006 a new **occasional intermediary** model contract has been prepared. The model **contracts** on agency and distribution have been **translated in several languages**. Furthermore, the EU section has been implemented with a database containing **decisions of the European Court of Justice**, of the Court of First Instance and of the EC Commission regarding distribution.

Further developments of the website will regard **franchising** contracts. During the 2007 annual conference, a special commission on franchising has been appointed, which is now working on the preparation of a report form on franchising, that will be used for drafting **National Country Reports on franchising agreements**. The first country reports on franchising agreements for Italy and UK have been published in the IDI website in December 2008.

SUMMARY OF BASIC INFORMATION

IDI Website:	www.idiproject.com
Annual fee:	€ 800
Additional subscribers:	€ 200
Subscription details:	On the IDI website under "Subscription"
Annual Conference:	On the IDI website under "Conference"