Distribution Law Center
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Q&A on Distribution Agreements

Part I: Legislative framework

Q1. Please specify the legislative framework generally applicable to the conclusion and execution of distribution agreements (a)? Please include a link to the official publication of the applicable rules (e.g., relevant link to the Official Gazette) (b) and, if available, to the English translation of the legislative framework (c).

a. Legislative framework:

Competition Law no. 21/1996, republished and amended (hereinafter, the "Competition Law")

Romanian Civil Code – Book V, Title II, Chapter 1: The Contract

Romanian Civil Code – Book V, Title IX, Chapter 3: The Supply agreement

Romanian Civil Code – Book V, Title IX, Chapter 1: The Sale Agreement

Law no. 321/2009 regarding trade of food products, as republished and amended

Law no. 11/1991 regarding unfair competition, as amended (the "Unfair Competition Law")

There is no definition of "distribution agreement" in the Romanian legislation. However, distribution agreements fall within the scope of the general provisions applicable to agreements included in the Romanian Civil Code, more specifically the provisions on supply contracts and sales contracts. Parties can derogate from these provisions by explicit agreement.

It is worth noting that, starting August 2010, under the amendments of the Competition Law, almost all of the Romanian Competition Council's secondary legislation was repealed. Since then, the European Commission's block exemption regulations are applicable as if embodied in the national legislation. There are however specific domestic guidelines issued by the Romanian Competition Council (RCC), such as the RCC Guidelines on the definition of the relevant market and the RCC 2020 Guide on vertical agreements.

Other rules are provided in certain highly regulated business sectors, which may subject distribution activity to licencing from relevant authorities or to other conditions.

b. Link(s) to official publication

The Romanian Civil Code is accessible via this link.

The Competition Law is accessible via this link.

The Law no.321/2009 is accessible via this link.

The Law no.11/1991 is accessible via this link.

The RCC Guidelines on relevant market definition is accessible via this link.

The RCC 2020 Guide on vertical agreements is accessible via this link.

c. Link(s) to English translation

An English translation of the Competition Law is accessible via this link.

(Old version - updated at the level of October 2012)

Q2. Other than for agency agreements pursuant to Directive 86/653 (EEC) on the coordination of the laws of the Member States relating to self-employed commercial agents, are there specific rules depending on the distribution format (e.g. franchising, exclusive distribution)?

Yes.

If yes, which specific rules apply (a)? Where available, please also include a link to the official publication of the applicable rules (b) and, if available, to the English translation of the legislative framework (c).

a. Specific rules depending on distribution format:

Under Romanian law there are specific rules for franchising. Therefore, franchise agreements fall under the scope of Government Ordinance no. 52/1997 on the legal regime of franchise agreements (hereinafter the "GO on franchise agreements"). This general legal framework is also supplemented by the relevant provisions of the Romanian Civil Code, the Fiscal Code as well as the Competition Law.

When reviewing a vertical agreement from a legal point of view, the relevant authorities and the competent courts of law will also refer to the RCC's Guidelines on the definition of relevant markets and the RCC 2020 Guide on vertical agreements.

b. Link(s) to official publication:

The GO on franchise agreements is accessible via http://legislatie.just.ro/Public/DetaliiDocument/11328this link.

The Fiscal Code is accessible via this link.

c. Link(s) to English translation:

Not available.

Q3. Other than general contract law and competition law, are there other rules which may generally restrict the parties when drafting and concluding distribution agreements (e.g., rules in relation to unfair contract terms in B2B contracts, specific requirements in the context of a prohibition of abuse of economic dependence)?

Yes.

If yes, which general rules apply (a)? Where available, please also include a link to the official publication of the

applicable rules (b) and to the English translation of the regulatory framework (c).

a. General rules

1. The Unfair Competition Law

The Unfair Competition Law aims at protecting fair competition, by requiring the agreement to be drafted in compliance with fair practices and the good-faith principle, in the interest of all the parties involved, including the consumers.

The law prohibits commercial practices which are contrary to fair practices and to the general principle of good-faith, and which generate or can generate damage to any market players.

Certain unfair competition practices carried out by companies can be sanctioned with administrative fines applied by the RCC or may even amount to criminal law infringements subject to criminal fines or imprisonment.

Any market player that has incurred damage as a result of an unfair competition practice may request compensation for such damages based on general tort liability rules included in the Romanian Civil Code.

2. Law no. 321/2009

This law applies exclusively to commercial relations concerning food products and aims at offering increased protection to suppliers in their relations with larger retailers.

The law includes provisions on (i) protection against anticompetitive agreements and practices, (ii) payment obligations between the trader and the supplier of food products and (iii) special obligations of the trader (retailer).

(i) Protection against anticompetitive agreements and practices

The law includes specific prohibitions related to: (a) the parties' possibility to directly/indirectly undertake obligations to buy or sell from/to a third party, (b) the requiring, by the retailer, that the supplier pays taxes and services unrelated to their commercial relations, (c) the sale of products at a loss, and (d) the imposing of an obligation on the supplier not to sell to other retailers at a lower or similar price.

(ii) Payment obligations and other special obligations

The law stipulates amongst others that the payment term to be set in the sale agreement for fresh products cannot exceed 14 days and that the trader/retailer can agree on setting distinct shelf spaces by country of origin of the product.

(iii) Abuse of dominant position

Abusive practices by dominant market players are prohibited under the Competition Law. The dominant company must refrain from distorting competition when choosing its commercial partners and negotiating the contractual terms.

b. Link(s) to official publication

The Unfair Competition Law is accessible via this link.

The Law no.321/2009 is accessible via this link.

The Competition Law is accessible via this link.

c. Link(s) to English translation

The English translation of the Competition Law is accessible via this link.

Part 2: Pre-contractual phase

Q4. Are there mandatory provisions in relation to the disclosure of pre-contractual information prior to concluding and/or executing distribution agreements?

Yes.

If yes, which mandatory provisions apply (a) and which information must be disclosed (b)? Where available, please also include a link to the official publication of the applicable rules (c) and, if available, to the English translation of the regulatory framework (d).

a. Mandatory provisions:

Art. 2 GO on franchise agreements

b. Information to be disclosed:

Under Romanian Civil Code rules there is a general obligation of the potential contracting parties to provide accurate and complete information about the relevant and necessary aspects of the agreement. This obligation stems from the prerequisite of obtaining a clear and valid consent from the other contracting party to enter into the agreement and from the good-faith obligation generally applicable to all contracting parties.

The conclusion of distribution agreements is therefore not subject to specific formal pre-contractual conditions.

The GO on franchise agreements sets out specific obligations on the part of the franchisor regarding disclosure of information. More precisely, the above-mentioned legal provisions require a disclosure document to be drafted and to include certain information for the franchisee.

The purpose of the disclosure document is to provide the franchisee with the relevant information allowing him to make informed decisions regarding the conclusion of a franchise agreement. Therefore, the disclosure document must include general information, such as: experience and history of the franchisor; details about the identity of the franchise management; list of litigations involving the franchisor and its management; initial amount which must be invested by the franchisee; copies of the financial results of the franchisor during the previous year;

information on the pilot unit.

c. Link(s) to official publication:

The Romanian Civil Code is accessible via this link.

Art. 2 GO on Franchise Agreements is accessible via this link.

d. Link(s) to English translation

Not available.

Q5. Is there a standstill obligation linked to the requirements imposed for the pre-contractual phase?

No.

Q6. Does the relevant regulatory framework impose sanctions if the pre-contractual obligations are not (fully) respected?

Yes.

If yes, which sanctions apply (e.g., nullity of contract, penalty payment)?

As a general rule, an agreement cannot be valid and binding if the contracting parties have not consented to the terms and conditions of the agreement. It can be inferred from this that, if a party did not disclose a sufficient amount of information as to allow the other contracting parties to make a valid decision whether to execute the agreement or not, the agreement is null and void. The same applies in relation to the good-faith general principle of law. If one of the contracting parties does not carry out the negotiations in good faith, the agreement eventually executed is null and void. Compensation for the damage incurred by the other party (such as an incurred loss) may be ordered by a court of law.

The franchisor's failure to comply with its pre-contractual obligations may not trigger contractual liability, but may be subject to general tort liability and trigger a claim for damages under the Romanian Civil Code.

A dominant market player negotiating in bad faith (especially where such bad faith consists in the conducting/maintaining negotiations when such market player knows it has no intention of contracting) could also be qualified as abusive conduct falling foul of competition law.

Q7. Can a party be held liable if it terminates the pre-contractual negotiations?

Yes.

If yes, on what grounds (a); under what conditions (b); and what consequences are generally linked to such liability (c)?

a. Grounds for pre-contractual liability:

- Art. 1170, Romanian Civil Code

- Art. 1183, paragraphs 3 and 4, Romanian Civil Code

- Art. 1184, Romanian Civil Code

- Art. 6, Competition Law

b. Conditions for pre-contractual liability:

Good faith in the negotiation, execution and performance of the agreements is clearly required under Romanian law. Thus, Art. 1183 Romanian Civil Code provides for the obligation to negotiate in good-faith and the consequences of the failure to do so.

Under Romanian law, it is not the failure to negotiate, but the eventual failure to conclude the agreement that might be sanctioned, as long as the negotiation process has been conducted in bad faith.

The Romanian Civil Code expressly provides for three behaviours that may amount to pre-contractual bad-faith, namely: (i) initiating or carrying out negotiations without the actual intent to eventually sign the final agreement, (ii) unexpected termination of negotiations, and (iii) breach of the confidentiality obligation by disclosing or using for one's interest the confidential information obtained from the other party during negotiations.

Additionally, it must be underlined that the will of the other party to sign the agreement must be obtained under lawful means/circumstances by providing all the relevant information regarding the nature of the agreement, the nature of the products and services.

c. Consequences of pre-contractual liability:

According to the provisions of the Romanian Civil Code, the damaged party can recover the costs or expenses incurred in relation with the negotiations carried out in bad faith by the other party, together with the damage stemming from the rejection of other offers (loss of chance).

In case of abusive interruption of negotiations, the liability of the party is civil in nature and based on the requirements of good faith. This liability may be contractual (in the event that the negotiating parties have concluded a preparatory contract), or tortious (in the event that the pre-contractual stage has not been regulated by the parties through such preparatory contracts).

Thus, the only remedy that the court can order is the payment of the damages incurred by the other party.

The damages may refer to the expenses incurred during the negotiation phase and the loss resulted from the illicit deeds in the pre-contractual phase. It has been pointed out that this pecuniary damage may be more serious if it results from the non-extension of an existing agreement.

The missed benefit could consist in missing the chance to conclude other agreements (similar or complementary to the one subject to the negotiation), or in the refusal of existing offers, and in the failure to get the benefits expected from the negotiated agreement. The extent to which the missed benefit can be attributed to the party

acting in bad faith depends on the degree of certainty of its accomplishment. This degree of certainty is dependent on the advancement of the negotiations. Ceasing the negotiations in an advanced stage will create the premise of a higher certainty that the benefit would have accrued to the injured party. However, no matter how advanced the negotiations stage when the breakdown occurs, the missed benefit can never be equal to the whole benefit which would have accrued to the injured party had the negotiations not been broken down.

Courts of law will assess the factual background, by taking into consideration any formal negotiations, lack of intention to conclude the agreement, the status of negotiations, as well as any other external relevant circumstances. The damage must be proven in order to obtain compensation.

In the specific cases involving a refusal to supply in the context of an abuse of a dominant position, the RCC or the competent courts can order the execution of the distribution agreement under terms equivalent to the ones usually applied by the dominant company in relation with its partners.

Q8. Are there other relevant rules and/or restrictions that apply during pre-contractual negotiations between supplier and distributor?

No.

Part 3: Contractual phase

A. Form of distribution agreements

Q9. Must a distribution agreement be executed in writing to be valid and enforceable?

Only in certain instances.

If only in certain instances, please explain when a written agreement is required.

There are no formal requirements for the conclusion of distribution agreements, as they can be entered into both verbally or in writing. However, according to the Romanian Civil Code, the agreement must be concluded in writing in order to validly constitute legal proof of its content. In any case, the GO on franchise agreements provides that the franchise agreement must define in a clear and unambiguous manner each party's rights and obligations and liabilities, as well as any other clauses regarding the parties' collaboration. In that sense, the agreement must contain provisions regarding the: (i) object of the agreement; (ii) parties' rights and obligations; (iii) financial conditions; (iv) duration of the agreement; (v) conditions for amendment, renewal and termination. Thus, although not expressly provided for, the requirement for a franchise agreement to be concluded in writing can be implicitly inferred from the existing provisions of the law.

Q10. Are there any (other) requirements as to the form of the distribution agreement for it to be valid and

enforceable?

No.

B. Content of distribution agreements

Q11. Other than restrictions imposed by EU competition law (including Regulation (EU) 330/2010), do specific rules and/or restrictions apply in distribution agreements with respect to

- the territory in which or the customers to whom the goods/services will be sold;
- an exclusivity granted to the distributor;
- (exclusive) sourcing/purchasing obligations;
- resale prices;
- non-compete clauses?

Yes specific rules apply to (i) obligations of the supplier vis-à-vis the distributor, including in relation to the remuneration of the distributor and (ii) obligations of the distributor vis-à-vis the supplier or vice versa.

If yes, what do these specific rules and/or restrictions entail?

While there are no specific rules with respect to distribution agreements, the GO on franchise agreements provides for some specific obligations of the franchisor towards the franchisee (to provide the franchisee with initial training, as well as permanent commercial and/or technical assistance, throughout the duration of the contract) and of the franchisee towards the franchisor (to develop the franchise network and maintain its common identity, as well as its reputation; to provide the franchisor with any information likely to facilitate the knowledge and analysis of the performance and the real financial situation, in order to ensure an efficient management in connection with the franchise; not to disclose to third parties the know-how provided by the franchisor, both during the performance of the franchise agreement and afterwards).

C. Term and termination

1. Term

Q13. Is an oral or written distribution agreement that does not specify the term always considered to be an agreement of indefinite duration?

Yes.

Q14. Does a distribution agreement of definite duration that is continued after its expiry turn into a distribution agreement of indefinite duration?

Yes.

If yes, what is meant by ‘continuation’ (a) and what should a party do to avoid this (b)?

a. What is meant by ‘continuation’?

The possibility to continue a distribution agreement after its expiry is based on the principles of freedom to contract and freedom of form of the agreement. ‘Continuation’ means the performance of the obligations of the parties as if the term of the agreement had not expired, meaning that the parties tacitly enter into a new distribution agreement, which, absent indication to the contrary, would be seen as being of indefinite duration, under the conditions of the previous agreement. However, this new agreement must comply with all legal conditions necessary in order to be deemed valid.

b. What should a party do to avoid this?

If not contractually excluded, in order to avoid a tacit renewal of the distribution agreement of definite duration that may turn the agreement into an agreement of indefinite duration, the parties to the agreement should conclude an additional act to the agreement, expressly providing for the period for which the agreement is prolonged.

2. Termination

Termination for convenience (irrespective of any default or exceptional circumstance) of distribution agreements of definite duration

Q15. Can a distribution agreement of definite duration be terminated for convenience?

Yes.

If yes, is an express provision allowing for termination for convenience necessary?

Yes.

Q16. Must a reasonable notice period be observed in order for the termination to be valid even if the distribution agreement provides for the immediate termination for convenience?

No.

Q17. What are the consequences for the terminating party if it does not comply with prescribed (statutory, contractual, case law) rules for termination (e.g. in relation to the notice period)? Does the termination continue to have effect (a)? Will damages have to be paid and, if yes, how are those damages calculated (b)?

a. Will the termination continue to have effect?

If the termination does not comply with the mandatory agreement rules, it shall have no effect and the distribution agreement shall remain in force and maintain all of its effects.

b. Will damages have to be paid, and, if yes, how are those damages calculated?

If the terminating party does not resume the termination proceedings in a compliant manner and no longer performs its contractual obligations, the terminated party is entitled to full compensation for the loss suffered as a result of non-performance, together with other legal courses of action, such as, for example, terminating the agreement for cause, with damages or having the court order the performance of the agreement. The damages, where the agreement is deemed to have not been terminated and damages are sought for the non-performance of the contractual obligations, cover only what is the direct and necessary consequence of the non-performance of the obligation.

Pursuant to Art. 1531 Romanian Civil Code, damages comprise the loss actually suffered by the terminated party (*damnum emergens*) and the benefit of which it is deprived (*lucrum cessans*). In determining the extent of the loss, account shall also be taken of the expenses which the terminated party has incurred, within a reasonable limit, in avoiding or limiting the loss. Moreover, the terminated party is also entitled to compensation for non-pecuniary damage as well as for future damage if its occurrence is not in doubt. Damage that would be caused by the loss of an opportunity to obtain an advantage may be compensated proportionately to the likelihood of obtaining the advantage, taking into account the circumstances and the specific situation of the terminated party (Art.1532 para. (2) Romanian Civil Code).

If the amount of the damages cannot be established with certainty, it shall be determined by the court.

In case of a judicial evaluation of the damages, the court will assess the damage by taking all the above-mentioned components into account and will calculate the damages at the value accrued at the date of delivery of the judgment (if vested to do so by the claimant).

In case of conventional evaluation of the damages, the parties may agree on the amount of compensation either after the damage has occurred or prior to this moment by including a penalty clause or indemnity clause in the agreement.

Termination for convenience (irrespective of any default or exceptional circumstance) of distribution agreements of indefinite duration

Q18. Can a distribution agreement of indefinite duration be terminated for convenience even if the agreement does not provide for termination for convenience?

Yes.

If yes, must a reasonable notice period be observed?

Yes.

If a reasonable notice period must be observed, how is this reasonable notice period calculated (e.g. 1 month per year) (a)? Should a minimum notice period be observed (b), is there a maximum notice period (c)?

a. How is this reasonable notice period calculated (e.g. 1 month per year)?

Under Romanian law, the assessment of the reasonable length of the notice period is made on a case-by-case basis, depending on a number of specific circumstances such as the duration of the distribution agreement, the extent to which the contractual obligations have been fulfilled, the importance/extent of the investments made in the context of the distribution relationship, the possibility and time needed for the terminated party to conclude a replacement agreement, etc.

b. Should a minimum notice period be observed? If yes, how long is this minimum notice period and are the parties allowed to contractually deviate from this minimum notice period

Not applicable.

c. Is there a maximum notice period? If yes, how long is this maximum notice period and are the parties allowed to contractually deviate from this maximum notice period?

Not applicable.

Q19. Is a contractual notice period always legally valid and enforceable?

No.

If not, which rules of mandatory law can have an impact on this?

Pursuant to the mandatory provisions of Art. 1277 Romanian Civil Code, a reasonable notice period must be observed in case of termination of an agreement of indefinite duration. A court of law can conclude that the notice period is not reasonable and thus not legally valid and enforceable by applying the assessment criteria mentioned at Q18.a. above.

Q20. What are the consequences for the terminating party if it does not comply with prescribed (statutory, contractual, case law) rules for termination (e.g. in relation to the notice period)? Does the termination continue to have effect (a)? Will damages have to be paid and, if yes, how are those damages calculated (b)?

a. Will the termination continue to have effect?

See, Q17.a.

b. Will damages have to be paid, and, if yes, how are those damages calculated?

See, Q17.b.

Q21. Must the terminating party comply with certain formalities?

Yes.

If yes or only in certain instances, when is a written notice required (a), must the notice contain a motivation in order for the termination to valid (b) and what are the consequences if any of the formalities are not observed (c)?

a. Is a written notice required? If yes, is a registered letter (or similar) required?

The relevant legal provisions do not expressly require for the notice to be in written form. However, a written notice is recommended in order to have proof that the legal requirement of expressing the will to terminate the distribution agreement within a reasonable period of time has been met.

b. Must the notice contain a motivation in order for the termination to valid?

No, the validity of the termination does not depend on the motivation of the notice.

c. What are the consequences if any of the formalities are not observed?

There is a risk that an oral notice could not be proven by the interested party.

Q22. Can the parties stipulate the formalities in the distribution agreement?

Yes.

If yes, what are the consequences if those formalities are not observed?

Failure to comply with the stipulated formalities of the notice shall have no effect over the distribution agreement, which shall remain in force, and the subsequent non-performance of the contractual obligations by the terminating party shall render said party contractually liable for non-performance. See, Q17.a. and Q17.b.

Q23. Is the terminated party entitled to damages or another type of compensation even if the correct notice period has been observed?

Only in certain instances

If yes, does this concern goodwill compensation or another type of compensation? Do the legal consequences vary depending on the type of agreement (definite/indefinite duration; exclusive/non-exclusive; franchise etc.)?

Under Romanian law, there is no express legal provision entitling the distributor to damages or other type of compensation for termination of the agreement by the other contractual party. However, on a case-by-case basis, it cannot be excluded that the court may award damages for abusive exercise of the right of termination. In the latter case, the court will look at the type of the agreement (exclusive/non-exclusive distribution, franchise, the duration of the agreement, to what extent the terminated party has alternatives on the market or is economically dependent on the terminating party).

Immediate extrajudicial termination on account of serious breach or exceptional circumstances

Q24. Is immediate extrajudicial termination possible even if the distribution agreement does not provide for early termination?

Yes.

If yes, on what grounds (a)? Can parties exclude these grounds for immediate extrajudicial termination in their

distribution agreement (b)?

a. On what grounds?

Immediate extrajudicial termination is possible in the following cases:

i. Termination on account of exceptional circumstances: in case of impossibility of performance due to the occurrence of a fortuitous event or force majeure leading to the total and definitive impossibility of performance by the parties of the obligations assumed (important contractual obligations). In this case, the agreement is terminated automatically and without any notice, as soon as the fortuitous event occurs. If the impossibility of performance is only temporary, the termination is possible only if the non-performance is sufficiently significant.

ii. Termination on account of serious breach of contract which may operate:

- by unilateral declaration of the non-breaching party where (a) the parties have so agreed, (b) where the breaching party is legally in default, or (c) where the breaching party has failed to perform the obligation within the time fixed by the default notice. In this case, the court only establishes the occurrence of the unilateral termination, verifying only the fulfilment of the conditions laid down by law;
- by express contractual clauses relating to the termination of the agreement in case of culpable non-performance of the obligations assumed by either of the parties, obligations which are expressly mentioned in the clause. The parties shall provide that non-performance of the obligations entails termination of the agreement either (i) with the breaching party's notice of default being required, (ii) without the breaching party's notice of default being required, or (iii) without any other formality being required. Under these circumstances, the court merely finds, if necessary, that the termination has occurred.

b. Can parties exclude these grounds for immediate extrajudicial termination in their distribution agreement?

No.

Q25. Will an (extrajudicial) termination continue to have effect if the court rules that the agreement was wrongfully terminated on account of serious breach and/or exceptional circumstances?

No.

If not or only in certain instances, what are the consequences of the termination not being upheld?

When the court finds that the agreement was wrongfully terminated on account of serious breach and/or exceptional circumstances, the extrajudicial termination of the agreement will have no effect, and the agreement will be deemed never to have been terminated, being still in force. Contractual liability shall also apply for breach of contract.

Q26. Does the terminated party have a right to compensation if it appears that the agreement was wrongfully terminated or dissolved on account of serious breach and/or exceptional circumstances?

Yes.

If yes, is this right based on statute or case law (a) and how is that compensation calculated and will the terminated party have a claim for any additional compensation in those circumstances (for example, goodwill) (b)?

a. Is this right based on statute or case law and what this right entail?

The right to compensation of the terminated party in case of a wrongful extrajudicial termination is based on statute (Art. 1516, Art. 1530 Romanian Civil Code). Pursuant to the provisions of the Romanian Civil Code, the party is entitled to compensation together with other legal remedies for breach of contract by the other party, such as the right to ask for the performance of the obligation in kind, the right to termination of the agreement or to obtain a price reduction, the right to put on hold the performance of his own obligation.

b. How is that compensation calculated and will the terminated party have a claim for any additional compensation in those circumstances (for example, goodwill)?

See, Q17.b.

Q27. If a party believes that the distribution agreement has been wrongfully terminated or dissolved, can it apply to the judge in interim relief proceedings to have the effects of the termination suspended?

No.

Part. 4: Post-contractual phase

Q28. Is the supplier required to repurchase the stock that is still at the distributor's disposal when the distribution agreement ends?

No.

Q29. Are there other post-contractual obligations that generally apply to either of the parties in the context of the termination of the distribution agreement?

No.

Part 5: Dispute resolution

Q30. Do specific rules and/or restrictions apply as regards the choice of forum and/or jurisdiction?

Yes.

If yes, what do these specific rules and/or restrictions entail?

Under the Romanian Competition Law no. 21/1996, any distribution agreement that affects the Romanian territory or a part of it shall be subject to Romanian Competition Council's scrutiny, regardless of the parties' choice of jurisdiction.

Q31. Can the parties opt for arbitration?

Yes.

If yes, are there any rules and/or restrictions as regards the enforceability of arbitration clauses in distribution agreements?

No.

Q32. What is the statute of limitations applicable to claims regarding the performance of a distribution agreement?

Any claim regarding the performance of the distribution agreement is subject to a three-year limitation period, starting, depending on the claim made, (i) from the day the claimant is aware or should have been aware of its right; (ii) from the day the claimant is aware or should have been aware of the damage and the party who is responsible for it; or (iii) from the day the obligation becomes due and payable.