A Legal Guide to Doing Business in South America: A Review
Romina Guarneros Galaz

The American Bar Association has done it again, this time, under the direction of three of its most active Brazilian members, Ricardo Barreto Ferreira da Silva, Paulo Marcos Rodrigues Brancher and Carla Amaral de Andrade Junqueira Canero. These lawyers joined forces in order to create the second edition of A LEGAL GUIDE TO DOING BUSINESS IN SOUTH AMERICA, which is, as the title indicates, a guide for foreign lawyers, especially American lawyers, to achieve a descriptive overview of how businesses are established and conducted in ten of the largest economies of South America: Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru, Uruguay and Venezuela.

The problem

A descriptive overview of how businesses are established and conducted in ten of the largest economies of South America

The ABA recognizes that in the globalized world in which we live, it would be irrational to ignore the fact that international commercial transactions are growing fast, and along with them, the transnational relationships between businesspeople and entities.

“As the world moves closer to a global business framework, business lawyers can no longer afford to ignore the international components of their daily practices.”

Thus, to contribute to the efforts to harmonize the legal systems that have been, in recent times, advancing around the world, the ABA Section of International Law devoted itself to the task of creating a compendium of the general aspects of commerce and business transactions in South America.

Book structure

Editors

Barreto Ferreira da Silva, Rodrigues Brancher and Amaral de Andrade Junqueira Canero, have previously worked together, not only in their law firm Barreto Ferreira e Brancher-Sociedade de Advogados (BKBG), but also in the first edition of A LEGAL GUIDE TO DOING BUSINESS IN SOUTH AMERICA, which was published in 2011.

The instant work was first conceived in the minds of the editors during the ABA Section of International Law 2009 Spring Meeting in Washington, D.C., when they put forward the project to the ABA Publications Committee.2

Country Coordinating Authors

The editors undertook a thorough selection process when recruiting the country coordinating authors to the legal guide, this in order to assure that the contributing authors were the top business lawyers of their respective countries. Fortunately, they were able to gather some of the most prepared and updated practitioners from each of the selected countries.

The authors that contributed to this book are: from Argentina, Marcelo Bombau and Pablo Ferraro-Mila; from Bolivia, Pablo Rojas; from Brazil, Ricardo Barreto Ferreira da Silva, Paulo Marcos Rodrigues Brancher and Carla Amaral de Andrade Junqueira Canero; from Chile, Marcos Ríos, Juan Pablo de la Maza, Fernanda Pardo; from Colombia, Carlos Urrutia Valenzuela and Tomás Holguín; from Ecuador, Bruce Horrowitz, María Edith Játiva and Bolívar Figueroa Martínez; from Paraguay, Alejandro Guanes Mersan; from Peru, Jean Paul Chabeneix; from Uruguay, Sandra González Vila; and from Venezuela, Fulvio Italiani, Arnoldo Troconis, Carlos Omaña and Paula Serra Freire.

Countries

The book is divided into ten general chapters, each

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one of them addressing a specific country. As previously stated, the countries addressed by the book are: Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru, Uruguay and Venezuela.

Aspects addressed

• **Country overview**: in this section the work provides an overall description of the relevant country, in which, among other issues, it covers aspects such as the country’s political system, geography, population and principal trading partners.

• **Establishing a business presence**: this section transmits to the reader all the basic information necessary legally to create a company, ranging from the kinds of legal entities available in the country, to the liabilities each one of them carries.

• **Investment issues and tax incentives**: this section has the following subsections:
  ♦ Legal Treatment of Foreign Investment, which basically identifies whether a special authorization from the government is needed in order to invest in the country;
  ♦ Treaties on Foreign Investment, in which all the diplomatic relationships the country has with other states, and the treaties ratified by the country in order to improve the efficiency of foreign investment are summarized;
  ♦ Publicly Held Companies-Capital Market Regulations, this section is not found in every chapter; however, it covers the general aspects related to the financial market, securities and the structure of the stock exchange, and;
  ♦ Alternate Investment Structures-Investment Funds, which covers aspects related to trusts, and other methods of organizing investments.

• **Operational legal environment**: foreign exchange, customs, taxation, environmental issues, labor law and intellectual property are some of the aspects that this section of every chapter covers. This is the widest subsection of the book, since it studies a variety of relevant issues for the start-up of a legal entity.

  • **Contracts and documents**: oral, in writing, tacit or explicit are some of the kinds of contracts that each of the studied countries provides in their legislation, and such contracts are briefly described in a few pages of each chapter of the book, as well as the requirements of each contract and the challenges that can be claimed in order to enforce the contract.

  • **Ending/restructuring a business presence**: In the previous sections, the book covered the issues related to the life of a company, but it could not leave behind the matters most relevant to the wind up and liquidation of a corporation. This precisely is what this subsection is about. Dissolutions, liquidations and restructurings valid for each country are summarized in this section.

• **Conclusion**: Each chapter has its own brief conclusion relative to the country, that generally describes the advantages and disadvantages of investing in the country. This section also takes up some of the aspects covered in the first section of the chapter, Country Overview, such as the legal environment of the country and how its political system can affect international business transactions.

A **LEGAL GUIDE TO DOING BUSINESS IN SOUTH AMERICA** is a well written book, easy to understand and very complete. However, it is important to state that, as the title of the book indicates, it is a guide and not legal doctrine or a treaty; thus, the reader must bear in mind that its purpose is primarily to enable a business person or lawyer new to a South American country to be better prepared to establish business relationships and relationships with legal counsel in one of the countries studied in the work.
