



**BG Consulting**  
*Linking two worlds*

NEWSLETTER

12

First Quarter 2006

# DOING BUSINESS IN LATIN AMERICA AND THE CARIBBEAN

## Inside this Issue:

Editorial: 2  
CAFTA Event: 2  
News  
Energy — Oil & Gas: 3  
Textile: 3  
Hotel & Tourism: 3  
Agrochemical: 4  
Telecom: 4  
Doing Business in LAC: 4  
What is BG Consulting: 5



## EDITORIAL

CAFTA-DR— creates a favorable environment for companies looking to expand operations in Central America.

Hopefully the ratification of the free-trade agreement between the United States, Central America and the Dominican Republic will facilitate the arrival of more companies which in turn will strengthen the regional economy.

Particularly in spite of the Chinese threat the textile industry is one such market that could be expanded. Companies interested on supplying the growing demand of cloth for exportable purposes might find many advantages in CAFTA-DR. Likewise, textile companies will find that Central America remains the natural solution for quick turn around demands. Thus, CAFTA-DR brings about benefits of different kind for investors that are worthwhile exploring.

Monday, February 27, 2006

### EVENTS: A SYMPOSIUM ON CAFTA AND COMMERCIAL LAW REFORM IN THE AMERICAS

Southwestern Law School  
675 S. Westmoreland Ave.  
Los Angeles, CA 90005

**Registration:** [http://www.swlaw.edu/academics/cocurricular/journaloflaw/journal\\_symposium/journal\\_symposium\\_schedule](http://www.swlaw.edu/academics/cocurricular/journaloflaw/journal_symposium/journal_symposium_schedule)

#### WELCOME AND INTRODUCTIONS - 8:30 - 9 a.m.

Dean Bryant Garth, Southwestern Law School

Ava Sadripour, Editor-in-Chief, *Southwestern Journal of Law & Trade in the Americas*

Robert E. Lutz, Professor of Law, Southwestern Law School and Faculty Advisor, *Southwestern Journal of Law & Trade in the Americas*

#### KEYNOTE SPEAKER - 9 - 9:30 a.m.

*Law and the Poverty of Nations*, Robert Cooter, Director, Berkeley Center for Law, Business, and the Economy and Professor of Law, University of California at Berkeley School of Law (Boalt Hall)

#### PANEL ONE - 9:30 - 11 a.m.

*CAFTA Overview: Regional Coordination, Harmonization and Law Reform* - Mark D. Belcher, Principal, Booz Allen Hamilton, Inc., McLean, VA

**Moderator:** Nicholas Klissas, Senior Commercial Law Reform Advisor, United States Agency for International Development (USAID)

#### Panelists:

David Gantz, Director, International Trade Law Program, and Professor of Law, University of Arizona College of Law

Veronica Taylor, Director, Asian Law Center, and Professor of Law, University of Washington School of Law

James Flanigan, Syndicated Business and Economics Journalist, formerly with the *Los Angeles Times*

#### PANEL TWO - 11:05 a.m. - 12:30 p.m.

*Property Institutions, Financing, Banks and the Invigoration of Small Business* - Dale Beck Furnish, Emeritus Professor of Law, Arizona State University, and Board Member, National Law Center for Inter-American Free Trade

**Moderator:** Judy Sloan, Professor of Law, Southwestern Law School

#### Panelists:

Hon. Samuel L. Bufford, Judge of the U.S. Bankruptcy Court for the Central District of California

Jeffrey Atik, Professor of Law, Loyola Law School

Neal S. Millard, Partner, White & Case, and Adjunct Professor of Law, University of Southern California Law School

#### LUNCHEON SPEAKER - 12:30 - 2 p.m.

*CAFTA, Legal Reform and the Political Dimension*, Hon. Xavier Becerra, Member, U.S. Congress and Former Chair, Congressional Hispanic Caucus

#### Introduction:

Bryant Garth, Dean, Southwestern Law School

#### PANEL THREE - 2 - 3:30 p.m.

*Dealing with the Shadow Economy* - Louise D. Williams, Independent Consultant for Rule of Law, Economic Development and Institutional Capacity-Building

**Moderator:** Warren Grimes, Professor of Law, Southwestern Law School

#### Panelists:

Jose Muñoz, Arias & Muñoz, San Jose, Costa Rica

David Kaye, Acting Director, Center for International and Comparative Law, and Visiting Assistant Professor of Law, Whittier Law School

#### PANEL FOUR - 3:40 - 5:10 p.m.

*Dispute Resolution Processes and Enforcing the Law* -

**Omar E. Garcia-Bolivar, President, BG Consulting Inc.**

**Moderator:** Ronald Aronovsky, Professor of Law, Southwestern Law School

#### Panelists:

Jeffrey Talpis, Professor of Law, University of Montreal Law School

Steve Andersen, Vice President, American Arbitration Association

Charles A. Schwartz, Senior Commercial Law Reform Advisor, United States Agency for International Development (USAID)

## NEWS

### TEXTILE

#### Fruit of the Loom expands in El Salvador

Fruit of the Loom initiated operations in El Salvador in 1994 with approximately 100 employees. Eleven years later, the company accounts for 10,677 jobs and seven plants, of which five are for sewing, one is for packing and one is for cutting.

The current number of jobs represents approximately 15% of the jobs in the textile and dressmaking sector of the industry

#### SARA LEE invests in El Salvador

Gerald Evans, Vice President of Sara Lee Corporation and head of the Sara Lee Branded Apparel supply chain, announced a million dollar investment, which will develop as an operational model under a supply contract with the American company.

Sara Lee will co-invest with DURAFLEX, a Salvadoran company, in a project for its textile plant which will expand the present site, create 600 new direct jobs for the country, and increase production to reach 1.2 million pounds of fabric

#### PERU MODA 2006 Show

Peru Moda is the main event of the Peruvian fashion industry, considered as one of the most important in Latin America. In this 9th edition, PERU MODA will have the participation of more than 200 Peruvian export companies of these sectors and more than 450 representatives of enterprises from United

### ENERGY

Oil companies investments will surpass US\$ 1 billion

This year oil exploration investments are expected to be greater than the US\$ 1,000 million spent in 2006, and even though the search for new reserves is a key priority for the country, it should not be a desperate search.

This is the view of the President of the Colombian Petroleum Association (ACP, by its acronym in Spanish), in defining the path that the industry he represents is to follow. In terms of investments, last year is considered one of the best in the industry, since the yearly average had remained at around US\$ 600 million for several years. According to the plans set by the main companies in the business, most of the resources would be invested in the project to expand the Cartagena refinery, new oil contracts that are to be signed, new opportunities to produce heavy crude oil in Meta, increasing production in smaller fields and drilling of around 40 exploration wells.

Much expectation surrounds the selection of a partner for Ecopetrol who would jointly develop the Master Plan of the Cartagena Refinery, and would provide the resources to carry out the project, which requires investments of US\$ 806 million



### HOTEL & TOURISM

#### American retirees and investors are moving to Nicaragua to take advantage of the low cost of living and business opportunities

Nicaragua is emerging as a vacation and retirement spot, with its beautiful coastline and relatively low-priced home sites in developments such as Gran Pacifica, envisioned with hundreds of Spanish colonial-style houses and condominiums close to shops and restaurants, a 250-room hotel and a golf course, casino and marina.

Tourism officials counted more than 500,000 visitors this year, up 15 percent from 2004, and Delta Airlines recently expanded access from the United States to Managua by announcing new direct flights from Atlanta.

Granada, a candidate to be named an UNESCO world heritage site, is experiencing a tremendous growth spurt at age 481. So too is Nicaragua's Pacific coast, where more than 20 real-estate development projects have popped up since the late '90s, most of them aimed at foreigners.



## DOING BUSINESS IN LATIN AMERICA

In our last edition we analyzed the common mistakes during the first steps of a Due Diligence (DD). In this issue we will show the need of a profound research on the business environment of the target company's country.

### **Business Environment:**

The main common characteristic of the Latin American countries (LAC) is that regulatory frameworks are complex, vaguely drafted and changing and, therefore, impose unnecessary barriers, costs, risks and uncertainty.

Some of the most striking issues are:

**Local Taxes:** it is very common in LAC to find an overlapping of taxes between national taxes and local ones. Besides, in certain rural areas, where the frontiers of local governments may not be clearly defined, or where the operations of a company may not be fully allocated to a particular place, many local governments claim their rights to tax the company activities. In many surveys done to LAC companies, dealing with local governments was the main barrier to business. Tax rules were changed constantly and the rates increased arbitrarily. Firms are usually defenseless because local courts will take many years to solve these types of problems.

**Tax Compliance Costs:** They are usually so high that small firms choose evasion to reduce them. Big firms can spend more in finding tax loopholes through creative accounting methods. Medium firms are the most affected because cannot choose any of those ways to reduce tax compliance costs.

Corruption of the tax administration is also an important informal cost. Many local firms "negotiate" informal deals with the tax administration. This is not a recommendable choice for a foreign investor.

**Treaties to Avoid Double Taxation (Double Tax Treaties or DTTs):** They are usually the best solution for tax uncertainty, complexity and compliance costs referred to national taxes. They add predictability to the tax system. Also, they mean lower tax rates, especially for withholding, and in some countries they may include an exclusion of tax on dividends. Unfortunately, not many LAC countries have signed DTTs with the U.S. and among them. Only Mexico, Venezuela, Argentina and Trinidad and Tobago have signed with the U.S. However, because they are usually the following step to FTAs, it is predictable that in the future Peru, Colombia, Ecuador and Chile, as well as the CAFTA countries will sign DTTs with the US. Brazil and Venezuela signed with China.

**Highly Regulated Industries:** Energy, transportation, financial services and telecommunications are very sensitive and therefore heavily regulated in many LAC countries. Restrictions in operations may lead to monopolies that will



## NEWS Cont.

### TELECOM

The government of Peru has invited telecom companies to bid for the new license to operate fixed telephone lines of

### AGROCHEMICAL

#### Colombian agrochemical sector attracts foreign investors

The Japanese company Arysta LifeScience purchased Coljap; the Australian firm Nufarm bought Agrogen and Fada and the Danish firm Cheminova acquired CropTech. V International Ventures, a company owned by investors from Panama and the United States, purchased Abocol.

The General Manager of Nufarm South America said that the reasons the multinational company decided to enter the Colombian market were: the security environment, the regulatory environment, the market potential and the distribution networks of Agrogen and Fada.

At the same time, Arysta said the high volume of transitory and permanent crops had captured its interest in the Colombian market. It added that following the acquisition of



BG Consulting provides services as legal counsel for Latin America. With a deep knowledge of Latin America and of its legal frameworks we are competitively positioned to assist our clients planning their businesses in the region either as **inside/outside General Counsel** managing and executing the entire legal docket of client, or as a **Transactional Advisor** on particular assignments.

Our services comprise, but are not limited to:

- ⇒ Business legal planning considering Bilateral Investment Treaties, Double Taxation Treaties and Free Trade Agreements.
- ⇒ Managing general commercial law matters in Latin America.
- ⇒ Assisting on regulatory needs consistently across borders.
- ⇒ Comprehensive due diligence.
- ⇒ Expert witness testimony on Latin American legal systems.
- ⇒ Arbitration advice on investment disputes between investors and States.
- ⇒ Export-Import planning: assistance on legal issues.
- ⇒ Opinions on non-commercial risks and legal frameworks.
- ⇒ Advocate Latin American governments.

We are supported by local lawyers for every country where hands-on-assistance is required, relieving the client from the burden of managing lawyers in many different countries.

We have the quality and efficiency international companies look for when legal counsel is needed. These are our differences:

- we provide a **single delivery point** for business and legal solutions,
- we offer **market-beating-fees** adaptable to the requests of each client and
- we bring in **resources only when needed**.

## CONTACT INFORMATION

121 South Alfred Street  
Old Town Alexandria, VA 22312  
U.S.A.

Tel. (703) 535-7577 Ext. 101  
Fax (703) 535-7998  
info@bg-consulting.com  
[www.bg-consulting.com](http://www.bg-consulting.com)