ARGENTINA

- **New Regulation on Advertisements Broadcast**
- **The Law on Promotion of Registered Employment and Prevention of Labor Fraud**
- **New Dispute Resolution System Regarding Consumer Claims**

BRAZIL

- **Regulation Under Health Surveillance**
- **New Environmental Regulation for Onshore Wind Farms**
- **Privacy - Brief Observations on the Evolution of Brazilian Legislation**
- **Ratification of Titles of the Border Zone**
- **Mandatory Registration of Information Regarding Real Estate Properties in Brazil**

GUATEMALA

- **Protection of New Varieties o Plants Law (LEY PARA LA PROTECCIÓN DE OBTENCIONES VEGETALES)**
- **Cooperation Agreement in Labor Law between the Republic of Guatemala and the United Mexican States**
- **International Convention on the Harmonized Commodity Description and Coding System**

MEXICO

- **Federal Regulation of Occupational Health and Safety**

**CONTRIBUTING FIRMS:**

- **Almeida Advogados** ([www.almeidalaw.com.br](http://www.almeidalaw.com.br))
- **Campos Mello Advogados** ([www.camposmello.adv.br](http://www.camposmello.adv.br))
- **Consortium** ([www.consortiumlegal.com.gt](http://www.consortiumlegal.com.gt))
- **De Luca, Derenussion, Schuthoff & Azvedo Advogados** ([www.ddsa.com.br](http://www.ddsa.com.br))
- **Opice Blum, Bruno, Abrusio e Vainzof Advogados Associados** ([www.opiceblum.com.br](http://www.opiceblum.com.br))
- **Counselors International Abogados** ([www.sbustamantecounselors.com.mx](http://www.sbustamantecounselors.com.mx))
NEW REGULATION ON ADVERTISEMENTS BROADCAST

On September 1, 2014, significant restrictions on advertisements broadcast through national television signals imposed by the Federal Audiovisual Communication Services Authority (Autoridad Federal de Servicios de Comunicación Audiovisual or AFSCA) became effective.

Such restrictions refer to the amendments to Law No. 26,522 (hereinafter, the “Media Law”) and its Regulatory Decree No. 1225/10 (hereinafter, the “Regulatory Decree”) that were introduced by Resolutions No. 983/13 and No. 596/14 issued by the Board of Directors of the Federal Audiovisual Communication Services Authority (hereinafter, “Resolution No. 983” and “Resolution No. 596”, respectively).

1. Nationality of advertisements

Reference is made below to the regulations in force as amended by Resolution No. 983 and Resolution No. 596.

1.1. National Production Advertisements

Broadcasting of national production advertisements is permitted in all cases. They are defined as advertising programs or messages produced entirely in the national territory. We will call these advertisements “National Production Advertisements”.

1.2. Co-produced Advertisements

Co-produced advertisements are also permitted. They are defined as advertisements produced in Argentina under the form of a co-production with foreign capitals, in which at least sixty percent (60%) of the total cast comprises Argentine authors, artists, actors, musicians, directors, journalists, producers, researchers, technical experts, announcers and advertising agencies or Argentine residents. We will call these advertisements “Co-produced Advertisements.”

Resolution No. 596 has extended the scope of this definition to include those advertisements that, in spite of having started with a foreign cast, were supplemented, under the form of a co-production, with the participation of Argentine authors, artists, actors, musicians, directors, journalists, producers, researchers, technical experts, announcers and advertising agencies or Argentine residents, in a percentage equal to or higher than sixty percent (60%) of the total cast involved in the production.

1.3. International Production Advertisements

These types of advertisements are permitted only if they have originated in a country offering reciprocity conditions for the broadcast of advertising audiovisual contents. The interested agency or advertiser shall invoke and provide evidence of such reciprocity. We will call these advertisements “International Production Advertisements”.

Resolution No. 596 has contemplated a quota for the broadcast of International Production Advertisements in Argentina which may not exceed forty percent (40%) of the total national production advertisements reported the Registry of Audiovisual Advertising for Television (see item 2 below) during the year next preceding the then current year.

As regards the nationality of International Production Advertisements, Resolution No. 596 has clarified that it will be defined according to the nationality or country of residence of the authors, artists, actors, musicians, directors, journalists, producers, researchers and technical experts, considering for such purpose the nationality of sixty percent (60%) of the total cast involved. If sixty percent (60%) of the total cast involved does not have a common nationality or country of residence, then it shall be understood that the advertisement
belongs to the State with the largest cast percentage.

2. Registration of Advertisements

Resolution No. 983 created the Registry of Audiovisual Advertising for Television (hereinafter, the “Registry”) and established as an obligation that all advertisements to be broadcast by free-to-air television or by national television signals shall be previously registered therein.

The obligation to register advertisements shall be discharged by advertising agencies, direct advertisers and/or advertising production companies, which shall file, in the nature of a sworn statement, the Advertising Production Technical Specifications (hereinafter, the “Specifications”) of each advertisement to be broadcast.

In connection with Co-produced Advertisements, a copy of the advertising co-production agreement signed between the national company and the foreign company shall be filed together with the Specifications.

As regards International Production Advertisements, in addition to the Specifications, it is necessary to file the regulations that evidence reciprocity for the broadcasting of the relevant advertising audiovisual contents.

Under Resolution No. 596, the registration of audiovisual contents advertised by foreign governments, international nonprofit agencies, official world sports organizations, advertisements promoting motion pictures or advertisements of official sponsors of sports and/or cultural activities of the Argentine government is exempted from the obligation to evidence reciprocity.

Resolution No. 596 exempts national production digital plates with static, non-animated content which do not include animation or actors/actresses as well as artistic advertisements intended for self-promotion of licensees from the registration obligation in the Registry.

3. Contents Obligations

Resolution No. 983 also establishes the obligation that all advertisements broadcast as from March 1, 2014 shall have a legend on screen that includes the following phrase: “Aviso Publicitario de Producción Nacional” [National Production Advertisement], followed by the Registration Number of the Specifications and that all non-national advertisements should include, as from March 1, 2014, a legend on screen that includes the following phrase: “Aviso Publicitario de Producción Extranjera” [International Production Advertisement], followed by the Registration Number of the Specifications.

4. Penalties

Resolution No. 983, as amended by No. Resolution 596, contemplates the imposition of penalties:

(i) On television channels and signals that broadcast an advertisement that is not registered in the Registry or that fails to meet the contents obligations established in 4 above. In this case, the penalties shall be those established in the Media Law (admonition, warning, fine, suspension of advertisement or lapsing of the license or registration), and

(ii) On advertising agencies, direct advertisers or advertising production companies that fail to file the Specifications with the Registry or that produce advertisements in conditions other than those stated therein. Penalties may include the suspension from the Registry for a period ranging from one month to one year and, in case of second offenses, the lapsing of the registration.

5. Conclusion

As may be seen in the referred regulations, the restrictions introduced have a significant impact on the day-to-day hiring of advertising plans.
The intent of the amendments introduced is in line with the regulations that entail a greater intervention by the government in the local market as shown in other parliamentary initiatives promoted by this government.

Clearly, the new restrictions introduce a significant bureaucratic barrier for the broadcasting of advertisements of foreign advertising agencies and/or producers and for advertisements produced abroad, allegedly for the benefit of national advertisements. Also, for the purpose of increasing national production, these regulations impose clear restrictions on the right to free trade and industry and on the right to property.

In such regard, we believe it will be important (especially during the initial application of the new regulations) that those who must comply with such regulations be aware of the manner in which they are applied, since depending on that, we will be facing a new and more complicated and bureaucratic methodology or the beginning of a period of administrative and/or judicial challenges against the new system.

Contributor: Sebastián Álvarez, Brons & Salas, Buenos Aires. For further information, please send an e-mail to salvarez@brons.com.ar.

1. Public Registry of Employers with Labor Penalties (REPSAL)

1.1. Penalties included in the REPSAL

The REPSAL is a registry created to include and publish the different penalties imposed on a Firm for the following infringements:

- non-registration of the employer (before the Ministry of Labor, Employment and Social Security);
- non-registration of employees (before the Ministry of Labor, Employment and Social Security, provincial authorities, City of Buenos Aires authorities and Argentine Tax Authority);
- obstruction of the inspectors’ duties;
- non-registration of rural employers or workers (before the Register of Rural Employees and Employers);
- final judgments establishing that the plaintiff is an employee under an employment relationship disowned by the employer or bearing a date which is different from that alleged; and
- penalties imposed for infringement of the Law on Child Labor and Protection of Teen Workers, once they are final and have been reported by the acting court to the Ministry of Labor, Employment and Social Security.

1.2. Duration of Registration in the REPSAL based on penalties and compliance therewith

Penalties are registered in the REPSAL for a maximum term of 3 years, and its duration is based upon: (i) situation; and (ii) duration of registration in the REPSAL.

1.3. Consequences of being registered in the REPSAL

Those employers that are entered in the REPSAL may not:
have access to programs, welfare or promotion actions, benefits or subsidies managed, implemented or financed by the National Government;

- have access to loans granted by public banks; and

- enter into sales agreements, supply agreements, service agreements, leases, consultancy agreements, lease-option agreements, barters, concessions for the use of public and private property owned by the National Government executed by jurisdictions and entities falling within the scope thereof. Neither may they participate in public works, concessions of public works, utilities concessions and licenses.

In the event the same infringement which gave rise to the registration in the REPSAL is committed for a second time within a term of three (3) years counted as from the first resolution which ordered the imposition of the penalty:

a) The employers that adhere to the Simplified System for Small Taxpayers shall be excluded therefrom by operation of law, as from the time at which the penalty for such second infringement has become final;

b) Those employers registered in connection with the taxes included in the General Regulations, while they remain in the REPSAL, shall be prevented from deducting labor costs (for employees, workers or manual workers) for income tax purposes.

1.4. Certificate

Through the website of the Ministry of Labor (http://repsal.trabajo.gob.ar/), it is possible to obtain the certificate evidencing registration or not in the REPSAL.

2. Special Systems for the Promotion of Registered Employment

Moreover, the Law has contemplated that certain benefits will be granted to those employers whose employees are correctly registered and that are not included in the REPSAL. Two systems have been created depending on whether the Company has less than five employees or up to eighty employees.

Contributor: Javier Fernández Verstegen, Brons & Salas, Buenos Aires. For further information, please send an e-mail to jverstegen@brons.com.ar.

NEW DISPUTE RESOLUTION SYSTEM REGARDING CONSUMER CLAIMS

Defending consumers' interests has been one of Argentina's priorities during the past two decades. Several regulations -including an amendment to the National Constitution- have been enacted in order to pursue said purpose. On September 19, 2014, Law No. 26,993 (the “Law”) was enacted, providing for a new dispute resolution system regarding consumers' claims. The Law creates: (i) the “Service for Pre-trial Conciliation for Consumer Affairs” (“COPREC” for its acronym in Spanish); (ii) a later administrative stage carried out by an “Audit for Consumer Affairs”; and (iii) a new jurisdiction for consumer affairs called “National Justice of Consumer Affairs”.

Service for Pre-trial Conciliation for Consumer Affairs

COPREC shall be the first national administrative authority to attend. Only claims of up to 55 minimum wages may be submitted before said authority (which is to say AR$ 242,000 or approximately US$ 28,400).

It is a mandatory conciliatory stage intended to allow consumers to meet with companies' representatives on a fast and accessible manner. If an agreement is reached it shall need to be approved by the authority in charge (still not specified). A fine shall apply to those companies who inexcusably fail to assist to the conciliatory hearing.

Audit for Consumer Affairs
After COPREC’s stage is concluded (if parties fail to arrive to an agreement or if the company fails to attend providing no valid excuse) the consumer will be allowed to claim before the Audit for Consumer Affairs (the “Audit”). Auditors will be designated by the executive (the “Auditor/s”). They will be in charge of exercising the Audit’s functions.

The Audit will only intervene on claims of up to 15 minimum wages (AR$ 66,000 or approximately US$ 7,750). The Auditor will summon the parties to a public and oral hearing where they will present their arguments and produce evidence. The Auditor shall issue a resolution in the hearing, instantly. Said resolution can be appealed before the National Justice of Consumer Affairs.

National Justice of Consumer Affairs

The National Justice of Consumer Affairs is a new jurisdiction which will receive claims related to consumer affairs. Its intervention shall be limited to those claims of up to 55 minimum wages (AR$ 242,000 or approximately US$ 28,400).

In order to make the process faster the Law establishes novel and specific procedural guidelines such as the absence of previous exceptions, inability to inexcusably challenge an appointed judge and inability to present counter claims. Every term will be of three business days except from the five-day term established for responding the initial claim.

Parties will be summoned to a hearing in which the judge will instantly rule judgment. The process shall not exceed a maximum of 60 business days. Rulings ordering payments of up to 5 minimum wages (AR$ 22,000 or approximately US$ 2,590) will not be appealable.

Legal amendments

Lastly, the Law has amended other consumer related acts.

For instance, Law No. 24,240 (Consumer Law) provided for a maximum compensation for direct damages which has been removed by the Law. Law No. 22,802 (Fair Trade Law) was also amended, increasing the maximum amount of fines to AR$ 5,000,000 (approximately US$ 586,860). Moreover, other penalties are included such as loss of licenses and closure of the business for up to 30 days. Most importantly, the Law establishes that the previous payment of the fine is mandatory in order to be allowed to appeal a resolution which imposes a monetary sanction.

Contributor: Adrián Lucio Furman (h) and Delfina Quetto, M. & M. Bomchil, Buenos Aires. For further information, please send an e-mail to Adrian.Furman@bomchil.com.

REGULATION UNDER HEALTH SURVEILLANCE

1. Introduction

In the field of health surveillance, the state uses regulation to protect public health. In pursuit of this goal, the state controls the production and consumption of goods and services which have an impact on public health. These regulations also contribute to the smooth functioning of the economy by creating a predictable, transparent and stable environment for economic growth.

In order to standardize the licensing systems for establishments engaged in health surveillance activities, the National Agency of Sanitary Inspection of Brazil (“ANVISA”) established criteria for obtaining the company’s Operating Permit (“AFE”) under law 6,360/76 and the company’s Special Authorization (“AE”) under ANVISA Order Nº 344/98.

Although these regulations affect a broad list of products, in this note, we will highlight only methods to license the commercialization of medicines, drugs and pharmaceutical inputs.
2. Company’s Operating Permit

The granting of AFE is a discretionary act of ANVISA. For each specific company performing activities related to the listed products in Law 6,360/76 - medicines, drugs, pharmaceutical raw materials, toiletries, cosmetics, perfumes, household cleaners, and products for aesthetic correction - there are different procedures for obtaining the AFE.

In particular, the procedure for obtaining an AFE to market medicines and correlates is primarily conducted online. The procedure is based on the sanitary license issued by the state or municipal health agency where the company is located, containing permission for operation of the establishment. Additionally, ANVISA may require information on the number of employees, conditions of the premises, proceedings involving the products which will be manufactured, distributed, imported or sold, as well as any information it deems necessary to ensure the state-of-art conditions of the company.

In addition to the sanitary license, regular enrollment in the Regional Pharmacy Council is also required for the validity of AFE, pursuant to Article 15 of Law No. 5,991/73.

3. Company’s Special Authorization

Institutions and agencies that already have the AFE and intend to work with the extraction, production, processing, manufacturing, fractioning, handling, packaging, distribution, transportation, repackaging, import, and export of medicinal products containing the ingredients listed in Order No. 344/98 of ANVISA must get and AE prior to initiating its activities. Such ingredients include, among others, narcotics, psychotropics and retinoids.

For the AE, the technical officer of the applicant company must file a petition with the local health authority. The local health authority then shall inspect the applicant company’s property in accordance with pre-established official roadmaps to assess the technical and sanitary conditions of the establishment.

After assessing, the local sanitary inspector delivers its opinion to ANVISA and, if accepted, ANVISA issues the Certificate of Special Authorization to the company.

Both the AE and the AFE are valid for 1 (one) year from the publication of the act granting the respective authorization in the Official Gazette. Therefore, they must be renewed every year. The renewal proceeding is, in most cases, likely to be an automatic proceeding.

4. Conclusion

Sanitary surveillance is instrumental in protecting the population from individual, collective, and environmental health hazards. The protection of the public health through control of sanitation in both the production and sale of products is fundamental to preserving the public’s welfare.

Contributor: Natalie Yoshida and Andre de Almeida, Almeida Advogados, São Paulo. For further information, please send an e-mail to nayoshida@almeidalaw.com.br or almeida@almeidaadvogados.com.br.

NEW ENVIRONMENTAL REGULATION FOR ONSHORE WIND FARMS

The National Environment Council (“Conama”, in Portuguese) recently approved Resolution No. 462, which sets new simplified licensing procedures for onshore wind farms. It complements Resolution No. 279/2001, which was the government’s first step to reduce licensing procedure’s time and bureaucracy for these activities. This was an overdue request of investors, mainly the foreign ones, who complained of a burdensome and complex process to obtain the environmental licenses.

Resolution No. 462 brings important modifications regarding the presentation of environmental impact studies. First, it simplifies the proceeding whenever the wind
It has frequently been noted in international circles that the relationship between Brazilians and the Internet represents a complex topic inside Brazil. The natural sociability of its people and their constantly growing use of social networking has resulted in legal practitioners being required to deal with an ever widening range of legal problems in relation to privacy.

It became apparent through the practice of applying the then existing legislation that these rules needed to be adapted in order that they could be more effective in preventing bad practices.

In the area of Criminal Law, although Decree No. 2848/1940 of the Brazilian Criminal Code already provided applicable legislation it was considered more satisfactory to have a specific law to punish those that violated the information privacy of others, this was satisfied through the entry into statute of Law No. 12,737/2012.

However, prior to the introduction of this measure the legal system had resolved the need to deal with cases of the much feared disclosure of sensitive government information. In this sense, Law No. 7,170/1983 takes care of situations detrimental to national security.

Moving to consumer protection, Brazil has implemented a much praised Consumer Protection Code (Law No. 8,078/1990), it requires that suppliers of goods and services (including those online) provide clear information to its customers, with systems to resolve issues in relation to damaged or defective goods. In 2013, Decree No. 7962/2013 was passed, which brought into force regulations to simplify communications via the web, it being, for instance, obligatory to provide clear summaries of contracts and to offer effective customer service channels.

Finally, in 2014, after years of debate in the legislature, Law No. 12,965, the Internet Legal Framework or Marco Civil da Internet as it is known in Brazil was passed. The law defined amongst other things basic principles

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**Contributor:** Terence Trennepohl, Ana Carolina Cerqueira Duque and Georgia Oliveira Diederichsen, Campos Mello Advogados. For further information, please send an e-mail to terence.trennepohl@camposmello.adv.br or ana.duque@camposmello.adv.br or georgia.oliveira@camposmello.adv.br.

**PRIVACY – BRIEF OBSERVATIONS ON THE EVOLUTION OF BRAZILIAN LEGISLATION**
of privacy protection. Although it did also include some controversial provisions, it is clear that the law reaffirms the right to freedom of expression and seeks to protect privacy on the basis that it is protected under the Brazilian Constitutional right to human dignity.

Contributor: Renato Opice Blum, Opice Blum, Bruno, Abrusio & Vainzof, São Paulo. For further information, please send an e-mail to renato@opiceblum.com.br.

Ratification of Titles of the Border Zone

A significant part of the origin of the private real estate ownership and the occupancy of the areas on the Border Zone and on the National Security Zone along the boundary line of the eleven Brazilian Frontier States occurred when the Constitution of 1891 came into force, by means of the transfer of real estate deeds by the States.

Such transfers from the State to private owners occurred, in the majority of the cases, in violation of the Law, in what concerns the observance of the domain and control of the Federal Government over said zones; or yet without the proper consent of the Superior Council of National Security (“CSSN”).

In this sense, the process of ratification, as provided for and governed by Decree-Law No. 1,414/75, represents an important instrument of land regularization, bringing legal certainty to the original transfer and, consequently, to the thousands of properties that are in such situation, due to the transfer and concessions of land made in the manner described above.

To begin, we clarify that (i) the Border Zone, which is the domain of the Federal Government, originally created by Law No. 601 of 1850, Imperial Land Law, with 66 km as from the frontier line towards the Brazilian territory, had its extension expanded with the enactment of Law No. 2,597/1955 to its current 150 km; and (ii) the National Security Zone was created upon the Constitution of 1934, at that time, with 100 km long, thus encompassing the Border Zone, later it was expanded to 150 km upon promulgation of the Constitution of 1937. The States were forbidden to make any land concession on this National Security Zone without previous consent of the CSSN.

Interestingly, from 1934 to 1955, both the Border Zone and the National Security Zone co-existed; the first with 66 km, in relation to which the Federal Government had solely powers to provide title and concession of land, and the latter with 100 km at first and 150 km, which required the prior consent of CSSN for the granting of any land title and concession, together with the federal or state concession, as the case might have been.

With the enactment of Law No. 2,597/1955, these two zones were unified according to their current configuration, to 150 km of length as from the frontier line towards territory, which represents approximately one quarter of the total area of the Brazilian territory.

The ratification procedure was first addressed by Law No. 4,947/66, which introduced the possibility of ratification of the concessions and provisions of titles made by the States on vacant land of the Federal Government, as long as said occupancies could be consistent with the principles and rules established by the Land Law, mainly to what concerns the social purpose of the property.

Thus, it was incumbent upon Decree-Law No. 1,414/75 to regulate this matter and specifically provide for the process of ratification of the concessions and disposals of vacant land on the Frontier Zone, and for the corresponding administrative proceeding, according to the purpose and function of the rural property set forth by the Land Law.

Accordingly, considering the provisions of Decree-Law No. 1,414/75 and INCRA (National Settlement and Agrarian Reform Institute) Normative Ruling No. 63/2010, the transfers and concessions of vacant land made by the States may be ratified in the following situations:
(i) on the range that is up to 66 km wide as from the frontier line, entered into in the period from the date of effectiveness of the Constitution of the Republic of the United States of Brazil of February 24, 1891 to the date of effectiveness of Law No. 4947 of April 6, 1966; and

(ii) on the range that is 66 to 150 km wide as from the frontier line, entered into in the period from the date of effectiveness of Law No. 2,597 of September 12, 1955 to the date of effectiveness of Law No. 4,947 of April 06, 1966.

Likewise, the transfers and concessions of vacant land made by the States without the prior consent of the CSSN may be also ratified:

(i) on the range that is 66 to 100 km wide as from the frontier line, entered into in the period from the date of effectiveness of the Constitution of the Republic of the United States of Brazil of July 16, 1934 to the date of effectiveness of Law No. 2,597 of September 12, 1955;

(ii) on the range that is 100 to 150 km wide as from the frontier line, entered into in the period from the date of effectiveness of the Constitution of the Republic of the United States of Brazil of November 10, 1937 to the date of effectiveness of Law No. 2,597 of September 12, 1955.

It is also important to point out that, under Law No. 10,787/2003, the term for the holder of a property located on the frontier range, originated from a title transferred by the States or without the consent of the CSSN, as the case may be, to request the ratification thereof to INCRA, as provided for by Decree-Law No. 1,414/75, expired on December 31, 2003, which was the deadline for filing the request for implementation of the administrative ratification proceeding. Therefore, under the applicable law, the domain title shall solely be ratified if its administrative ratification proceeding was filed with the INCRA on or before December 31, 2003. According to INCRA there are 25,000 requests ratification pending analysis in the INCRA superintendents in the border states.

Bill No. 90/2012, currently pending before the Brazilian House of Representatives, seeks to reopen the aforementioned term for the purpose of enabling the holder of a title of disposal or concession of land made by the States on the Border Zone under the domain of the Federal Government to request the benefit of ratification of its title.

The procedure of ratification of the titles applicable to the Border Zone is an important, or perhaps the only instrument of land regularization applicable to titles granted by the States on land of the Federal Government located on the Border Zone and/or without the prior consent of the CSSN on the National Security Zone, and enables to recover the legal certainty and security in relation to the real estate ownership. Given that there is not any administrative procedure for the ratification of the titles in force, rural properties located at the Border Zone, which are not subject to the ratification procedure before INCRA, are in risk of being reverted to Public Domain, with consequent annulment of relevant titles. Also, owners may also experience obstacles for transferring or mortgaging such properties, which diminishes the ability of operating the land, preventing the proper social use of the property.

Thus, the reopening of the ratification procedure, which is the purpose of Bill No. 90/2012, thus responding to the demand and expectation of thousands of rural producers and providing legal certainty to the properties that are in this situation.

Contributor: José Davi Lós Reis Fidalgo, De Luca, Derenusson, Schuttoff and Azevedo Advogados. For further information, please send an e-mail to josefidalgo@ddsa.com.br.

Mandatory registration of information regarding real estate properties in Brazil

Congress has enacted Law 13,097/2015 (the “Law”), which, among other measures (such
as reduction of import taxes, extension of tax benefits etc), introduces an important new concept that modifies habitual due diligence in real estate transactions.

According to Article 55 of the Law, all relevant information concerning the property must be disclosed in the relevant Real Estate Registry Office’s enrollment, being similar to the Torrens System used in some U.S. States.

Therefore, it dictates that any information regarding restrictions to the property’s use or lawsuits in connection thereto, the existence of any foreclosure proceeding against its owner or any other matter that may cause the insolvency of the latter shall be concentrated in the property’s enrollment. Also, the rule determines that only those bona fide acts described in the enrollment will be enforceable against third parties (including buyers or holders of in rem guarantees in connection with the property).

Currently, the market practice is to conduct an extensive due diligence of the real estate property, its owners and the owners’ partners/shareholders (if legal entity) and previous owners. For such purposes, several certificates have to be presented for evaluation by the buyer and, depending on the transaction, this process could take months.

From now on, each creditor of a right that may affect a real estate shall have the obligation to duly record the debt/ongoing dispute upon the Real Estate Registry Office’s enrollment. If not, the debtor can sell its property at any time and creditor has no right to oppose or prevent such transaction. Thus, the buyer shall only be required to analyze one certificate (and eventually other documents to obtain further information on the debts therein reported), which shall contain all main issues pertaining the property. For debts existing prior to the Law, creditors have a two-year term to provide such registration otherwise their claims will be unenforceable against third parties.

The Law raised quite some debate in the market. The “ratio legis” or the Government’s intention was to reduce the bureaucracy in real estate transactions and also to protect buyers or interested third parties in good faith and financing agents. However, many critics affirm that this will excessively burden creditors and encourage contractual breaches and indebtedness. Despite these critics, the analysis of only one certificate by buyer, as intended by the Law, should occur only in 2017, at the end of the two-year period for recordeation of any credits or claims before the Real Estate Registry Offices.

**Contributor:** Ana Beatriz Barbosa Ponte, Campos Mello Advogados. For further information, please send an e-mail to ana.barbosa@camposmello.adv.br.

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**Guatemala**

**Protection of New Varieties of Plants Law (Ley para la Protección de Obtenciones Vegetales)**

The Guatemalan Government joined the International Union for the Protection of New Varieties of Plants, dated September 19th, 2000, as part of the political commitment acquired in the DR-CAFTA, Chapter 15, Article 15.5, in order to guarantee the existence of a system of protection of rights of plant breeders through intellectual property rights, whose verification will be assigned to the Ministry of Agriculture, Livestock and Food. Throughout the months of July and August 2014, numerous disputes from several agriculture sectors and representatives sought to annul this law (Decree 19/2014). The Congress made its final decision and the law was definitely rejected by Decree 21/2014.

**Contributor:** Rafael Alvarado-Riedel and María Isabel Briz, Consortium, Guatemala City. For further information, please send an e-mail to ralvarado@consortiumlegal.com.gt or mibriz@consortiumlegal.com.gt.

**Financing Agreement between the European Union and the Republic of Guatemala for the**
DEVELOPMENT OF “THE PROGRAM FOR SUPPORT OF SECURITY AND JUSTICE IN GUATEMALA”

The Guatemalan government signed the agreement in Brussels, Belgium on June 17th, 2011. This agreement was ratified in September 24th, 2014 in order to comply and apply the recommendations and obligations contained in such agreement. This represents an investment of twenty two million Euros, which will be in part co-financed by the Guatemalan Government throughout seventy-two months. Through January 2015, two addendums have been ratified in between the United Nations and the Republic of Guatemala in execution of the signed agreement.

Contributor: Rafael Alvarado-Riedel and María Isabel Briz, Consortium, Guatemala City. For further information, please send an e-mail to ralvarado@consortiumlegal.com.gt or mibriz@consortiumlegal.com.gt.

COOPERATION AGREEMENT IN LABOR LAW BETWEEN THE REPUBLIC OF GUATEMALA AND THE UNITED MEXICAN STATES

The Republic of Guatemala, through its Ministry Labor and Social Security, and the United Mexican States through its Secretary of Labor and Social Security signed this cooperation agreement in order to obtain social and economic progress adopting the necessary adoption of Labor regulations that encourages the legal, just and transparent contracting of temporary legal immigrants in between countries.

Contributor: Rafael Alvarado-Riedel and María Isabel Briz, Consortium, Guatemala City. For further information, please send an e-mail to ralvarado@consortiumlegal.com.gt or mibriz@consortiumlegal.com.gt.

INTERNATIONAL CONVENTION ON THE HARMONIZED COMMODITY DESCRIPTION AND CODING SYSTEM

The Government of the Republic of Guatemala, having examined the regulations contained in the International Convention on the Harmonized Commodity Description and Coding System given in Brussels on June 14th, 1983 and its amendment protocol given in Brussels in June 24th, 1986, by Agreement No. 840 ratified its decision to accede to the Convention and comply and apply its regulations.

Contributor: Rafael Alvarado-Riedel and María Isabel Briz, Consortium, Guatemala City. For further information, please send an e-mail to ralvarado@consortiumlegal.com.gt or mibriz@consortiumlegal.com.gt.

BASIC COOPERATION AGREEMENT OF TECHNICAL, SCIENTIFIC, EDUCATIONAL AND CULTURAL COOPERATION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF GUATEMALA AND THE REPUBLIC OF EL SALVADOR

The Government of the Republic of Guatemala and the Republic of El Salvador, aiming for the Central American region integration and in order to promote projects and programs of technical, scientific, educational and cultural cooperation in order to improve and implement specific development of areas such as culture, sports, health, agriculture, tourism, gender equality, local governments, environment and other areas that both parties consider important.

Contributor: Rafael Alvarado-Riedel and María Isabel Briz, Consortium, Guatemala City. For further information, please send an e-mail to ralvarado@consortiumlegal.com.gt or mibriz@consortiumlegal.com.gt.

Mexico

FEDERAL REGULATION OF OCCUPATIONAL HEALTH AND SAFETY


Purpose
This Regulation is of public order and social interest and of general observance in all of Mexico and aims to establish provisions in matter of Health and Safety at Work to be observed in the Workplace areas, in order to: have the conditions that can prevent hazards and, guarantee the workers the right to perform their activities in environments that ensure their life and health, based on what the Federal Labor Law ("LFT") outlines.

Jurisdiction and Inspection

The application and inspection of this Regulation is responsibility of the Ministry of Labor and Social Welfare ("STPS") who will be aided by the labor authorities of the Federal Entities and the Federal District, with regards to activities under state jurisdiction.

Which are the Relevant Aspects of the Regulation?

The inclusion of new Concepts such as:

1. Occupational Health and Safety Diagnosis at work: The identification of unsafe or hazardous conditions; physical, chemical or biological agents or the ergonomic or psychosocial risk factors capable of modifying the conditions or the work environment; of the dangers surrounding the Workplace, as well as the legal requirements in matters of occupational health and safety that are applicable.

2. Favorable Organizational Environment: A filing regarding an organization among the workers; formation for the adequate performance of the tasks for which they are made responsible; the precise definition of responsibilities for the members of the organization; the proactive participation and communication among the members; the adequate distribution of work responsibilities, with regular labor shifts and the Evaluation and Review of performance is promoted.

3. Ergonomic Risk Factors: Those that can imply physical stress, repetitive movements or forced postures in the work performed, with the consequent fatigue, errors, Occupational Accidents and Illness derived from the design of the installations, machinery, equipment, tools or job position.

4. Psychosocial Risk Factors: Those that can cause anxiety disorders, non organic disorders of the sleep-wake cycle and serious stress and adaption disorders derived from the nature of the work position functions, the type of work shift and the exposure to severe traumatic events or acts of labor violence, from the work performed.

5. Workplace: All those places, such as buildings, establishment, installations and areas where activities of exploitation, utilization, production, commercial distribution, transport and warehousing or the rendering of services, are performed in those in which individuals subject to a labor relation are working.

6. Workers with Disability: Those that, for congenital reasons or by acquisition, present one or more deficiencies of physical, mental, intellectual or sensorial character, whether of a permanent or temporary nature.

7. Labor Violence: Those acts of harassment, sexual harassment or bad treatment to the worker that can damage his/her integrity or health.

Which are the Employers’ Obligations?

- Have an Occupational Health and Safety Diagnostic, as well as Studies and Analysis of Risk required by this Regulation and the corresponding Standards.

- Integrate an Occupational Health and Safety program based on the Occupational Health and Safety Diagnostic.

- To prepare specific programs, manuals and procedures, that orientate the performance of labor activities and processes under safe and emergency conditions.

- To promote the incorporation of Health and Safety Commission and guarantee the
rendering of the Preventive Services of Occupational Health and Safety at Work.

- To include in visible places of the Workplace the warnings or signs and colors to inform, warn and prevent Risks.

- To carry out the actions of assessment, evaluation and control of contaminants of the work environment, for the purpose of conserving the Environmental Conditions of the Workplace within the exposure limit values.

- To apply the Occupational Health and Safety measures stipulated in this Regulation and in the Standards.

- To order the application of medical examinations for Occupationally Exposed Personnel required by this Regulation and the Standards;

- To provide the workers with the personal protective equipment according to the risks to which they are exposed by their work.

- To inform the workers with respect to the Risks related to the activity they are carrying out.

- To qualify and train the workers on the prevention of Risks and the attention to emergencies.

- To qualify the personnel of the Workplace that is part of the Health and Safety Commission and the Preventive Services of Occupational Health and Safety and, when applicable, to support the updating of the persons responsible for the Internal Preventive Services of Occupational Services.

- To issue the authorizations for the performance of hazardous activities or tasks that are detailed in this Regulation and specific Standards.

- To maintain the administrative records, printed or electronic, established in this Regulation and the Standards;

- Give Notice in writing or by electronic means of the labor accidents that may occur, as well as the deaths that occur for reasons of work risks within 72 hours of becoming aware of them.

- To file the Notices related to the functioning containers subject to pressure, cryogenic containers and steam generators or boilers, that are included in the Regulation.

- To have the official documents, reports of results and compliance certificates in matters of Occupational Health and Safety.

- To order and facilitate the exercise of the duties of inspection and oversight on the part of the Labor Authority.

Which are the Employees’ Obligations?

- To observe the preventive measures of Occupational Health and Safety provided in this Regulation and the Standards, as well as those established by employers for the prevention of Risks.

- To comply with submitting themselves to the medical examinations determined by this Regulation and the Standards.

- To participate in the qualification and training that, in matters of prevention of Risk and attention to emergencies are imparted by the employer or by the persons designated by the employer.

Which are the General Provisions for Occupational Safety?

General provisions of Safety that must be observed, among others, in the following matters:

A. Buildings, Premises, Sites, Installations and Work Areas.
B. Prevention and Protection from Fires.
C. Utilization of Machinery, Equipment and Tools.
D. Handling, Transportation and Storage of Materials.
E. Handling, Transportation and Storage of Hazardous Chemical Substances.
F. Driving Motorized Vehicles.
G. Working at Heights;
H. Working in Confined Spaces;
I. Containers Subject to Pressure, Cryogenic and Steam Generators or Boilers.
J. Static Electricity and Prevent Effects of Atmospheric Discharges.
K. Welding and Cutting Activities.
L. Maintenance of Electrical Installations.

Which are the General Provisions of Health in the Workplace?

A. Noise.
B. Vibrations.
C. Illumination.
D. Ionizing Radiations.
E. Non-Ionizing Electromagnetic Radiations.
F. Elevated or Abated Thermal Conditions.
G. Abnormal Environmental Pressures.
H. Chemical Agents Capable of Altering their Health.
I. Biological Agents Capable of Alterate their Health.
J. Ergonomic Risk Factors.
K. Psychosocial Risk Factors.


Provisions that must be observed, among others, the following:

I. Health and Safety Commissions
II. Occupational Health and Safety Preventive Services
III. Preventive Services of Labor Medicine
IV. Selection and use of Personnel Protective Equipment;
V. Employment of Occupational Health and Safety Signs and the Identification of risks from fluids conducted in pipes;
VI. Identification and Communication of Hazards and Risks from Hazardous Chemical Substances; Have the safety data sheets (SDS or MSDS) in Spanish for all the Hazardous Chemical Substances that are used in the Workplace and make them available to the workers;
VII. Administration of Safety in the Critical Processes and Equipment where Hazardous Chemical Substances are handled, and
VIII. Promotion of a Favorable Organizational Environment and Prevention of Labor Violence, establishing certain obligations on employers such as:

- Defining policies for the promotion of a Favorable Organizational Environment and the prevention of the Labor Violence.

- Adopting the pertinent preventive measures for combating the practices opposed to the Favorable Organizational Environment and acts of Labor Violence.

Specialized Dispositions for the Occupational Health and Safety in the Workplace

I. Protection of Pregnant or Nursing Women

The provisions have the purpose of protecting the physical integrity and the health of the women that are pregnant or nursing, and the product of conception.

- It is prohibited to assign pregnant women the performance of several jobs.

- The women that perform their labors must inform the employer that are found pregnant, immediately after having knowledge of the fact, for the purpose of relocating them temporarily in other activities that are not hazardous or unhealthy.

- The work of nursing women must not be used in labor in which the exposure to Hazardous Chemical Substances exists capable of acting on the life and health of the nursing baby or interrupting said process.

II. Protection of Workers that are Minors

The object is to protect the physical and health integrity of the minor workers (from 15
and younger than 18 years with a maximum workday of 6 hours).

III. Protection to Workers with Disability

- In the Workplace where Workers with a Disability work, employers must:
  - Perform the analysis of Risk to determine the capability of the job position to be filled by Workers with Disability.
  - Have adequate installations for the access and carrying out of activities of the persons with disability, in the Workplaces that have more than 50 workers.

IV. Field Workers

The purpose is to protect the physical and health integrity of the field workers.

- For the execution of jobs related to agricultural, ranching, aquaculture, forest or mixed activities.
- Inform the workers on the Safety Instructions for the activities that they carry out, in their language or dialect, or through graphic images pictograms.

V. Promotion of Health and Prevention of Addictions in the Workplaces

The STPS will orientate the Workplaces on the actions and programs for the promotion of the health and the prevention of addictions that will have to be incorporated into the Occupational Health and Safety Program. For such purposes, it will issue and maintain up to date the Guide of Recommendations for the Promotion of Health and the Prevention of Addictions in the Workplaces.

Administrative Sanctions

STPS makes adjustments in the tabulation imposed in setting penalties and fines for violations to the provisions established in the Regulation.

Fines from 50 to 5,000 days of the general minimum daily wage in force in the Federal District. $3,505.00 pesos (approximately $250.00 dollars); $350,500.00 pesos (approximately 25,000.00 dollars).

Contributor: Sergio B. Bustamante, Counselors International Abogados, Chihuahua. For further information, please send an e-mail to sbustamante@counselors.com.mx.