

### Law and Business Review of the Americas

Volume 20 | Number 2

Article 1

2014

## Front Matter

Follow this and additional works at: https://scholar.smu.edu/lbra

#### Recommended Citation

Front Matter, 20 Law & Bus. Rev. Am. i (2014) https://scholar.smu.edu/lbra/vol20/iss2/1

This Front Matter is brought to you for free and open access by the Law Journals at SMU Scholar. It has been accepted for inclusion in Law and Business Review of the Americas by an authorized administrator of SMU Scholar. For more information, please visit http://digitalrepository.smu.edu.

# Law and Business Review of the Americas

VOLUME 20 SPRING 2014 NUMBER 2

#### TABLE OF CONTENTS

Articles	
Corruption, Constitutions, and Crude in Latin America Scheherazade S. Rehman and Frederick V. Perry	163
Rebalancing Law and Politics in the WTO: A Case Study in Subsidies Negotiations Ada Bogliolo Piancastelli Siqueira	209
Cross-Cultural Deal Mediation as a New ADR Method for International Business Transactions Garrick Apollon	255
Equity in MERCOSUR: The Use of Estoppel in a Customs Union Created for and by Countries of the Civil System of Law	
Jessica M. Guevara	303
CASE NOTE & COMMENT	
Foreign Land Ownership on Mexico's Coasts: The Proposed Amendment to Article 27 of the Mexican Constitution Jeff Veteto	325
¡Ahora Dicen Que Los Guatemaltecos Somos Genocidas!  Now They Will See Us as Genocidal!—When Due Process, Justice, and International Consensus Collide in Guatemala Tony Godfrey.	335
UPDATES	
Freedom of Expression, the Right to Privacy, and Grasping for a Middle Ground John J. Kappel	351
Brazil's Landmark Anti-Corruption Law Michelle Richard	357
American Trade News Highlights for Spring 2014: Promises Kept & Promises Broken-NAFTA at Twenty Vanessa Humm	363

#### **Editorial and Submission Policies:**

This journal is a quarterly, professional peer-reviewed publication produced by the Southern Methodist University Dedman School of Law's International Law Review Association (and its Law Institute of the Americas), as well as the Section of International Law and Practice of the American Bar Association). The journal relies on the ongoing cooperation of the SMU School of Business, the SMU Departments of Economics and Political Science, and the London Forum of International Economic and Financial Law at the Centre for Commercial Law Studies at Queen Mary College, University of London.

#### **Aims and Publication Policy:**

This journal addresses the legal, business, economic, political and social dimensions of Western Hemispheric integration efforts (e.g., NAFTA, FTAA, MERCOSUR, etc), their implementation, their future evolvement and expansion, and their overall impact on doing business in the Americas. The journal will combine practical and polimplications of these integration processes. As such, it will cover not only matters of immediate concern and interest, but also matters respecting reform of legal, business, economic, political and social structures (including human rights, gender, labor, and environmental issues) within the various countries in the Western Hemisphere. Subject matter concerning other regional integration efforts in the world and various other comparative topics in the international trade and investment areas will also be addressed, from time to time.

However, topics of particular concern to the journal will include: (1) free trade, direct investment, licensing, finance, taxation, labor, environmental, litigation and dispute resolution, and organizational aspects of NAFTA and other specific integration efforts and their specific implementation. For practical reasons, English is used as the language of communication; (2) subject matter involving economic, legal, political and social integration, and reform effects in Latin and Central America and in the Caribbean Basin; and (3) FTAA implications.

#### **Article Submission:**

The editors will consider for publication manuscripts by contributors from any country. Articles will be subjected to a professional peer-review procedure. Authors should ensure that the significance of a contribution would be apparent to readers outside the specific expertise. Special terms and abbreviations should be clearly defined in the text or notes.

Accepted manuscripts will be edited, if necessary, to improve the journal's effectiveness of communication. If editing should be extensive, with a consequential danger of altering the meaning, the manuscript will be returned to the author for approval before type is set. Alternatively, the manuscript may be returned to the author to address the deficiencies. In all events, the editors reserve the right, after discussion with the author, to change its acceptance decision, or to move a publication from one issue to a later or earlier issue. The editors will not accept unsolicited student-written submissions, nor will they consider articles or reports that have been, or are to be, published elsewhere, or materials prepared for one's clients or business promotion.

Manuscripts submitted for publication should be submitted in duplicate with a cover letter summarizing the contents to:

Editor-in-Chief Law and Business Review of the Americas Southern Methodist University Dedman School of Law P.O. Box 750116 Dallas, Texas 75275-0116 eic-lbra@smu.edu.

At the time the manuscript is submitted, written assurance must be given that the article has not been published, submitted, or accepted elsewhere. The author normally will be notified of acceptance, rejection or need for revision within 8-12 weeks.

Manuscripts may range from 6,000 to 10,000 words (approximately 20-30 pages in length). However, longer articles are accepted based upon topic, quality, and space availability. The title of the article should begin with a word useful in indexing and information retrieval. Text and endnotes should be double-spaced. All endnotes should be numbered in sequential order, as cited in the text. Unless for good reason acceptable to the editors, endnotes for legal articles should conform to The Bluebook, Uniform System of Citation (18th ed, 2005; online version 2008). For non-legal articles, the citations should be internally consistent within the given article. Authors should submit short biographical data, including his or her affiliation; an abstract summarizing the manuscript (not to exceed 150 words).

#### THE INTERNATIONAL LAW REVIEW ASSOCIATION

An Association of The International Lawyer and Law and Business Review of the Americas SOUTHERN METHODIST UNIVERSITY DEDMAN SCHOOL OF LAW

#### 2013-2014 STUDENT EDITORIAL BOARD

#### BROOKS CASTON President

The International Lawyer

Law and Business Review of the Americas

MAX METZLER

KENDAL PAYNE

SARAH WILSON

JOHN FAUBION

Editor-in-Chief

Managing Editor

Editor-in-Chief

Managing Editor

Associate Managing Editors JENNIFER ARNEL **BRYAN ASSINK** ALLIE SHOWALTER ROBINSON SAMMY TRAKHTENBROIT HEATHER VENRICK

Contents Editor TYLER HOKANSON Case Note & Comment Editors RYAN GRANEY KATY JOHNSON ALEX PRESCOTT

ALLIE SHOWALTER ROBINSON

Senior Note & Comment Editor JACOB BERGMAN

Canada Reporter JOHN KAPPEL

NAFTA Reporter VANESSA HUMM

Latin America Reporter

Technology Editor

Citations Editors

Administrative

MICHELLE RICHARD

**BRAD WILLIAMS** 

**BRYAN ASSINK** JAKE BROWN

Managing Editor HELEN HUTTON

RACHELMICHAELWICZ

Articles Editors

MICHAEL ANDREWS ZACH BURNETT MOIRA CHAPMAN LAUREN CHASE FIDAA ELAYDI **COURTNEY EUDY** JAMES 'JT' GAGE

MICHAEL HEWITT KIRSTEN JENSEN RACHEL KAKURES KAITLIN KAUFMANN LYNDA MAJOR ANNE MORETTI

SOO NAM **CODY PERLMETER** KELSEY POLLARD PHILLIP POOL NICOLAS SHEMIK **RACHEL THEBEAU** ADAM TUNNELL

Staff Editors

ALEX ALLEN DARYOUSH BEHBOOD JAMIE BROOKS CHRISTOPHER CORNELL LAUREN CROUCH **JACOB CRUMRINE** KATHLEEN CRUZ JASMINE CULPEPPER JERI LANE D'AURELIO **GREGORY FIJOLEK** COURTNEY FLOYD MASHHOOD GHASSEMI NEERAJ GILANI ANTHONY GODFREY ROXANNE HAJIKHANI

DAMIEN HAKERT

MICHAEL HANSON ANDREW HATCH JODY LYNN HOLM KRISTEN JACKSON JACOB JOHNSON CHRISTINA KEARNEY **BRYANNA KROUGH** DIVYESH LALLOOBHAI JANET LANDRY SAMER LAWAND JUSTIN LEE TYLER LIVINGSTON DANIEL LUNSFORD ANN MARTIN LESLIE MCCOMBS

AUSTIN MERCER ANNABEL PEDRAZA IAN PHILLIPS SAM PONDROM LEV PRICHARD **NATALIE SEARS CLAYTON SMITH** JOHN SMITHEE **BARBARA STAFFORD BEN STEPHENS** ANGEL TORRES MAI TRAN JEFFERY VETETO STEPHANIE VITIELLO JORDAN WYNN

JIBRAEEL ZAIDI

TALIBRA FERGUSON Administrative Assistant

—Editorial Base— Southern Methodist University Dedman School of Law Dallas

#### THE INTERNATIONAL LAW REVIEW ASSOCIATION

An Association of The International Lawyer and Law and Business Review of the Americas SOUTHERN METHODIST UNIVERSITY DEDMAN SCHOOL OF LAW 2014-2015 STUDENT EDITORIAL BOARD

#### IAN PHILLIPS President

The International Lawyer

Law and Business Review of the Americas

MAI TRAN

BENJAMIN STEPHENS

LESLIE MCCOMBS ROUSSEV ANN MARTIN

Editor-in-Chief

Managing Editor

Editor-in-Chief

Managing Editor

Associate Managing Editors ALEX ALLEN JAMIE BROOKS KATHLEEN CRUZ ROXANNE HAJIKHANI

**CLAYTON SMITH** ANGEL TORRES JIBRAEEL ZAIDI

Senior Note & Comment Editor Case Note & Comment

Canada

NAFTA

LAUREN CROUCH

Editors COURTNEY FLOYD Reporter

Reporter CHRISTOPHER CORNELL NATALIE SEARS

MIMI GHASSEMI JACOB JOHNSON BARABRA MACKOWIECKI

> JOHN SMITHEE JEFFREY VETETO JORDAN WYNN

Latin America Reporter ANTHONY GODFREY

Citations Editors NEERAJ GILANI GREG FIJOLEK ANDREW HATCH JERI D'AURELIO Administrative Managing Editor KRISTEN JACKSON

Articles Editors

JACOB CRUMRINE JASMINE CULPEPPER JODY LYNN HOLM BRYNNA KROUGH DIVYESH LALLOOBHAI

JANET LANDRY SAMER LAWAND JUSTIN LEE TYLER LIVINGSTON

DANIEL LUNSFORD AUSTIN MERCER ANNABEL PEDRAZA SAMUEL PONDROM LEV PRICHARD

ALYSON ALFORD-GARCIA CLIFTON BEECH ADAM BELL WALTER CARDWELL IV JULIA DANESHFAR JERI LANE D'AURELIO KATHERINE DEVLIN CORY EDEN

**NATALY ELBERG** VIENNA FLORES JUSTIN HANNA BRITTNEY HERSON CORTLAND HOGE JAMISON JOINER KRIS KEARNEY

Staff Editors NADIA KHALID ZAINAB KHAN WILLIAM KYLE MARIO A. LAMAR ELISE LEGROS AMY MAHER AUSTEN MASSEY JENNIFER MCCOY DIANA MINEVSKI KATHERINE MITCHELL **CHARLES NORTH ABBY PARMELLY** FORREST ROBERTS BRANDT ROESSLER **BEN SCHWARTZ** RYANSEAY

SYDNIE SHIMKUS RYANSNOW MICHAEL STEVE MATTHEW STRINGER **CHRIS VALENTINE** DAVID VILLARREAL KAMRAN VORA CAMILLE WALKER TAYLOR WILLIS PHILIP WORAM WALKER YOUNG WARREN YOUNG LIANG YUE LEPING ZHANG MEI ZHANG

TALIBRA FERGUSON Administrative Assistant

-Editorial Base-Southern Methodist University Dedman School of Law Dallas

### Law and Business Review of the Americas

Honorable Editor-in-Chief PROFESSOR ROBERTO MACLEAN President, SMU - LIA

Co-Editors-in-Chief

JOSEPH J. NORTON SMU-Dallas

DIEGO C. BUNGE **UBA-Buenos Aires** 

Associate Editors-in-Chief

MAURICIO BAQUERO-HERRERA Colombia

MARTIN L. CAMP SMU-Dallas

MARCOS AURÉLIO P. VALADÃO Brasil

#### **—BOARD OF SENIOR PROFESSIONAL EDITORS—**

RODRIGO OLIVARES-CAMINAL OMAR GARCIA-BOLIVAR

JORGE A. GONZALEZ

London

Washington D.C.-Caracas

Dallas

ROSARIO SEGOVIA-HEPPE SMU-Dallas

GABRIEL GARI London-Montevideo ANTONIO PEÑA

LAWRENCE B. PASCAL SMU-Dallas

CHRISTOPHER MALCOLM

Miami

West Indies

VIRGINIA TORRIE Toronto

GERARDO VÁSOUEZ CÓMEZ Mexico City

NARA PORTO Dallas-Brasil

CLAUDIA CARBALLAL-BENAGLIO Mexico-Dallas

#### -SMU FACULTY ADVISORY BOARD-

Chair LUIGI MANZETTI (POLI.SCI.)

GAIL M. DALY (LAW) CHRISTOPHER H. HANNA (LAW) MICHAEL LUSTIG (POL.SCI.) MARC I. STEINBERG (LAW) JOHN S. LOWE (LAW)

GEORGE MARTINEZ (LAW)

DANIEL J. SLOTTJIE (ECON.)

THOMAS OSANG (ECON.) PETER WINSHIP (LAW)

#### —ADVISORY BOARD—

#### —ABA Representatives—

#### Chair GLENN P. HENDRIX

Canadian
Committee
JOHN W. BOSCARIOLI
MARCELA B. STRAS

International Investment &
Development Committee
JEAN PAUL CHABANEIX
DANIEL MARIN MORENO

International Trade
Committee
KRISTY L. BALSONEK
MATTHEW ROBERT NICELY
AMY STANLEY

Latin American & Caribbean
Committee

JEAN PAUL CHABANEIX
MARCOS RIOS

International Corporate Counsel
Committee
CAROL BASRI
RICHARD T WALSH

Mexico
Committee
PATRICK DEL DUCA
ALEJANDRO SUREZ

#### -External Representatives-

DR. ERNESTO AGUIRRE Washington D.C.

DR. CARLOS GERSCOVICH

Buenos Aires

PROF. ANA MACLEAN

Lima

MR. LEE BUCHEIT

New York

PROF. BENJAMIN GEVA

DR. HECTOR MAIRAL

Buenos Aires

ALBERTO SALAZAR VALLE PROF. MICHAEL W. GORDON

Toronto Gainesville

PROF. ANTONIO BORGES

Brasilia

LOUIS CAPIN

Mexico City

PROF. LUIS MÉJAN Mexico City PROF. RICARDO OLIVERA-GARCIA

Montevideo

PROF. EM. BEVERLY MAE CARL
Santa Fe

DR. EVA HOLZ

Montevideo

DANA G. NAHLEN

Dallas

PROF. MARSHA ECHOLS Washington D.C.

HON. MIGUEL OTERO
Santiago

PROF. JULIO FAUNDEZ

Warwick

ANTONIO FRANCK

Mexico City

PROF. BORIS KOZOLCHYK

Tucson

PROF. JOEL P. TRACHTMAN

Boston

MANUEL GALICIA

Mexico City

PROF. ROSA LASTRA

PROF. STEVEN T. ZAMORA

DR. ALEJANDRO M. GARRO New York PROF. RAUL VINUESA
Buenos Aires

# OFFICIAL CITATION Law & Bus. Rev. Am. Spring 2014

Nothing herein shall be construed as representing the opinions, views or actions of the American Bar Association unless the same shall have been first approved by the House of Delegates or the Board of Governors or of the Section of International Law and Practice of the Association unless first approved by the Section or its Council.

# Southern Methodist University Dedman School of Law's Law Institute of the Americas

(formerly SMU Centre for NAFTA and Latin American Legal Studies)\*

Established in 1952, the Law Institute of The Americas at Southern Methodist University Dedman School of Law was originally designed to promote good will and to improve relations among the people of the Americas through the study of comparative laws, institutions and governments respecting the American Republics, and to train lawyers in handling legal matters pertaining to the nations of the Western Hemisphere. Today, in reviving the institution, the Law Institute of the Americas comprises meaningful academic research, teaching and programs pertaining to the "NAFTA/FTAA processes" and other Western Hemispheric integration efforts; to Latin and Central American law and judicial reform, particularly focusing on Argentina, Brazil, Chile, Guatemala, Mexico, Peru and Venezuela; and to a more limited extent, to Canadian legal issues, particularly as they interrelate to the NAFTA/FTAA. The Law Institute of the Americas also is concerned with increasing (regional and hemispheric) legal and economic interconnections between the "NAFTA/FTAA processes" and European and Asia-Pacific integration activities.

The officers of the Institute are as follows: the Honorable Roberto MacLean, President; Professor Joseph J. Norton, Executive Director; and Professor George Martinez, Associate Executive Director. The Institute is also supported by distinguished group of Professorial Fellows, Senior Research Scholars, Professional Fellows, and Student Research Fellows.

As the Institute focuses primarily on issues pertaining to the North American Free Trade Agreement and the pending Free Trade Area of the Americas, and the broader economic, political, legal, and social integration processes underway in the Western Hemisphere, Law and Business Review of the Americas is one of the International Law Review Association of SMU. Other parties of the journal are the Cox School of Business, the SMU Departments of Economics and Political Science, the London Forum, and the American Bar Association Section of International Law and Practice.

<sup>\*</sup> From 1952 through the early 1970's, the name was the Law Institute of the Americas: in 1993, it was reactivated as the Centre for NAFTA and Latin American Legal Studies; and in 1998, it returned to its original name. For further detailed historical information on the Law Institute of the Americas, please refer to the Law Institute of the Americas' website at http://www.law.smu.edu/lia.





