

September 1996

Introduction

Jose A. Santos

Follow this and additional works at: <https://scholarship.law.ufl.edu/fjil>

Recommended Citation

Santos, Jose A. (1996) "Introduction," *Florida Journal of International Law*. Vol. 11: Iss. 1, Article 1.
Available at: <https://scholarship.law.ufl.edu/fjil/vol11/iss1/1>

This Article is brought to you for free and open access by UF Law Scholarship Repository. It has been accepted for inclusion in Florida Journal of International Law by an authorized editor of UF Law Scholarship Repository. For more information, please contact kaleita@law.ufl.edu.

PROCEEDINGS OF THE NINTH ANNUAL CONFERENCE ON LEGAL ASPECTS OF DOING BUSINESS IN LATIN AMERICA: NEW APPROACHES: LOOKING TO THE TWENTY-FIRST CENTURY

I. SUCCESSFULLY FINANCING OPERATIONS AND PROJECTS	3
A. <i>Recent Developments in Project Financing</i>	3
1. The InterAmerican Investment Corporation	4
2. Government Support and Risk Mitigation	12
B. <i>The Programa Bolivar of the InterAmerican Development Bank</i>	17
C. <i>Securitization in Latin America: Real Property, Equipment, Intangibles, and Other Assets</i>	20
D. <i>The Emergence of a Factoring Market</i>	32
II. EXPLOITATION OF NATURAL RESOURCES AND ENVIRONMENTAL CONCERNS	38
A. <i>Resurgence of Mining Operations and Legal Reform</i>	38
1. Argentina	39
2. Chile	43
3. Brazil	46
4. Mexico	55
B. <i>Electrification Efforts in the Region: Characteristics of the Regional Power Market</i>	65
III. CIVIL LAW COMPARISONS	69
A. <i>General Overview</i>	70
B. <i>Historical Perspective</i>	72
C. <i>Contract Formation and Commercial Relationships</i>	79
D. <i>Corporations and Similar Entity Law</i>	82
E. <i>Notarial and Other Registration Systems</i>	85

OPENING REMARKS

JOSE A. SANTOS:

My name is Tony Santos, and I will be chairing this proceeding. I want to welcome you to the Ninth Annual Conference on Doing Business in Latin America. It is a testament to the organizers of this conference that you are here today in this city. The conference was first conceived approximately ten years ago as a means of bringing forth for discussion an analysis of the latest legal developments in Latin America. At that time, there was no doubt that today we would be looking at Latin America from a wholly different perspective. We like to say that the magazine, *U.S.-Latin Trade*, took our idea and improved upon it. But frankly, the current development in Latin America has been a long time in coming, and the changes are going to continue. A problem in one country, may be an opportunity in another. There are thirty-four distinct nations in the region, and if you lump them together, saying, "This is the Americas," then you are making a terrible mistake.

Although the United States is Latin America's top trading partner, comprising about half of the region's total trade, it is not its only trading partner. A variety of opportunities for doing business have arisen in Latin America, and they have been seized by Europeans, who account for about twenty percent of the region's trade. Asian countries account for eleven percent. Of course, if you go to countries, such as Costa Rica and Chile, they account for an even larger share of trade. Additionally, the Latin American nations are trading with each other at unprecedented levels. The United States needs to maintain its leadership position in Latin American trade. If we have learned anything over the past one hundred years in Latin America, it is that the region benefits when the United States benefits and vice versa.

I would like to take a moment to thank the steering committee for this conference. They include Jay Andrews, of Hunton & Williams in Raleigh, N. C.; Ariel Bentata, of Bentata, Hoet & Associates; Salvador J. Juncadella, of Morgan, Lewis & Bockius; Josh Markus, from Popham, Haik, Schnobrich & Kaufman in Miami; Paul Mason, who is the first President of the Commercial Dispute Resolution Center of the Americas, a summit project that is now in full swing; and Janá Sigars, who will be our moderator this morning.

Janá has been an instrumental part of this program for the last three years. She is Treasurer of the International Law Session of The Florida Bar and is rapidly ascending in its ranks. Janá is counsel to the law firm of Holtzman, Krinzman, Equels, Sigars & Furia, in Miami. She has devoted herself to international commercial transactions and business law, including

Santos: Introduction

foreign and domestic licensing and distribution, intellectual property, product development and technology transfer, foreign trade, and other related matters. Janá is a graduate of the University of Wisconsin. She studied international and comparative law at the Pontifícia Universidade Católica in Rio de Janeiro, Brazil, and received her law degree from Cleveland Marshall College. She gained international legal experience working in Brazil. Her experience is something from which we all can benefit, as she has lectured and written for diverse groups throughout the region.

I. SUCCESSFULLY FINANCING OPERATIONS AND PROJECTS

A. *Recent Developments in Project Financing*

MODERATOR — JANÁ SIGARS:

Two components of international business and trade are trade and investments. Investment, which involves the development and financing of large infrastructure projects, is the cement that binds different countries' interests to each other. It can be more powerful than conventional politics, and in fact, it can motivate the political system to operate to the economic advantage of all.

My political friends tell me that one of the first lessons of politics, whether international or domestic, is to follow the money. That rule sets the format for many relationships. Clearly, project financing in an enabling investment environment is the engine that drives the future. Governments in Latin America are making improvements in their infrastructures that will cost billions of dollars. However, this time the bureaucracies are in the passenger seat, and the private companies are at the wheel. To the extent that we can create an investment environment in which international financing can flourish, such infrastructure projects, among others, can be completed. This will allow us to continue to enhance the growth of their economies and hopefully, free trade. As countries invest more in each others' business activities, the relationships between their political systems will grow.

We will begin with the heart and soul of international business, that is, the financing component. The panelist to speak on recent developments in project financing is Raul Herrera, General Counsel of the InterAmerican Investment Corp. of Washington, D.C. Mr. Herrera serves as a member of the senior management of the InterAmerican Investment Corporation (IIC). He sits on its credit, finance, portfolio supervision, and management committees. He leads a five-lawyer staff. Mr. Herrera hires external counsel, as well as domestic counsel, to assist the IIC. He has been involved in a transactional practice for over fourteen years, eight of which have been at the IIC. He is a graduate of George Washington University School of Law, where he also earned a B.A. in international relations with a focus on