Due diligence in Latin America: 14 countries

Carlos Ibarra-Fernández, Jones Day, Mexico

www.practicallaw.com/2-500-5044

As part of the globalisation phenomena, investing in real estate in developing and emerging economies has become an attractive choice for investors all over the world. Latin America is a place to look at, due to an array of exciting tourism destinations, a favourable climate, cultural diversity, large extensions of undeveloped land, and sophisticated legal systems that give increasing legal certainty in many of its countries. Generally, due to the global economic crisis, several real estate projects throughout the region have been suspended or cancelled. However, as the year end approaches the landscape has started to improve, with a slow recovery and joint efforts from governments and investors to reactivate the economy with infrastructure and real estate projects.

This article provides a brief summary of key points to consider when assessing a new venture into real estate in 14 countries of Latin America, along with a brief survey of market trends, contacts and recommendations from local experts.

REGIONAL SURVEY

Argentina. Low land prices, combined with high prices in commodities in international markets, are attracting foreign investors to timberland, farmland and vineyard activities in several provinces, and to tourism developments in Patagonia and the Andes. Buenos Aires has seen its sky rise with new skyscrapers due to its low prices in housing and escalating high-living standards.

Bolivia. Due to its rising inflation and a reduction of the value of the US dollar against the Bolivian currency, the Boliviano, certain commodities (like iron) have increased significantly in price, which has caused real estate prices to soar. Yet there is continuing demand in the housing sector.

Brazil. The stabilisation of inflation, coupled with new rules for real estate financing and the development of a secondary mortgage market, have made Brazil more attractive to investors. Office buildings and agribusiness still draw most investors' attention, followed by residential ventures (especially projects for the medium and low classes) and industrial facilities. North-eastern cities offer interesting opportunities for hotels and allotments. Special attention has been given to infrastructure projects (airports, subways, trains, stadia and hotels) in the context of the upcoming Brazil 2014 soccer World Cup and the Rio de Janeiro 2016 Olympic Games.

Chile. Recent stability has caused several foreign real estate investment trusts (REITs) to acquire office buildings and enter into business strip centres. Residential housing is still being carried out mainly by local real estate developers. Bank financing is strong for real estate developments, although long term financing (more than 20 years) is provided mainly through leasing agreements with life insurance companies and corporate bonds or asset-backed securities.

Colombia. Despite an improvement in national security conditions, Columbia has not yet become a favourite place for investment in tourist projects, large and expensive production plants, and other similar ventures. However, deserving special attention is the increasing number of Free Zones (*Zonas Francas*) attracting local and foreign corporations to do business, resulting from important logistic and tax benefits.

Costa Rica. During recent years the number of projects has been significant, mainly residential and located on the coast, especially at Guanacaste and Jaco. Additionally, development of residential, commercial, office and hotel complexes has been very important in the capital, San José. An interesting characteristic of Costa Rican projects is that nearly all of them have adopted an eco-friendly vision that has attracted many tourists, and can be now considered the "brand" of Costa Rica.

Dominican Republic. The real estate market has been in constant growth during the last four years. Tourism facilities continue to be a particularly reliable investment and the target of government benefits, including special tax treatments.

Ecuador. During the last four years, foreign and local investments in real estate have been made mainly in housing projects (one of the country's most serious problems). Growth of the housing sector is due to the amount of family remittances made by Ecuadorian migrants, which represents the main source of income of the economy. Private banks are encouraging the sale of houses, through credits granted at competitive and stable interest rates. The Social Security Institute is also granting credits for the acquisition of houses. Other investments in real estate are being made in shopping centre, office building and hotel projects in the main cities of Quito, Guayaquil and Manta.

El Salvador. Since the territory is small, real estate investment has been seen as a safe haven, particularly during the downturn of the capital markets. The real estate market has found a niche in areas where tourism has flourished or large government infrastructure projects are expected to be developed.

Guatemala. There is moderate growth in the development of office buildings and shopping centres, and due to the worldwide financial crisis, housing projects have practically stagnanted. However, investment in hospitality projects is expected for 2010 onwards, given the great diversity of micro-climates in a limited territory and proximity to the US market that is starting to recover, as with the rest of the region.

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HOW IS FOREIGN INVESTMENT IN REAL ESTATE GENERALLY PERMITTED? WHAT ARE THE MAIN RESTRICTIONS?	
Argentina	Foreign nationals and legal entities must obtain a prior authorisation from the federal government in order to purchase land located within 150 kilometres from the international border. In general terms, the Constitution grants to foreign citizens the same legal treatment as nationals. Further, foreign investors have unrestricted access to most economic sectors, including real estate under Article 20 of the Constitution. However, authorisation from the Antitrust Authority is needed in certain cases. In addition, the Province of Corrientes has enacted certain restrictions on the purchase of land by foreign entities or individuals.
Bolivia	In general terms, foreign investment in real estate is treated equally to local investment. According to the Bolivian Constitution, foreign investors cannot own or possess, by any means or title, directly or indirectly, individually or as a legal entity, any real estate (soil or subsoil) within 50 kilometres from any border unless a national necessity is duly declared by law. Any property affected in such a manner will be immediately transferred to the State without a right to indemnification. In addition, the Constitution states that all foreign citizens must comply with Bolivian law, without the possibility of invoking exceptional situations, appeals or diplomatic claims. In this matter, national investment is prioritised over foreign investment. The Constitution also specifies that the State has an original domain ownership of the ground and any natural riches found underground, waters or any physical force subject to exploitation. Additionally, the Constitution specifies that the State is in charge of granting individual and collective property rights over land, and those rights of exploitation and use over other natural resources.
Brazil	Foreign individuals and entities can acquire urban real properties without restrictions, except for certain public properties subject to specific legal regimes, such as the Aforamento (public emphyteusis) which depends on the prior consent of the President and/or a representative of the Ministry of Finance. For rural land, certain restrictions apply and some authorisations of law enforcement authorities are required. Individuals residing in Brazil can acquire one rural property without prior consent from the federal authorities, provided that such land is less than three Modules of Indefinite Exploitation. The measures of a module vary depending on the region of the country. Acquisition of land over three modules or a second rural property for foreign individuals requires authorisation from the National Institute of Colonization and Agrarian Reform (INCRA), the President and the National Congress, as the case may be. Acquisition of rural land over 20 modules by foreign individuals requires approval of the respective exploitation project of the land by federal authorities. Foreign entities can acquire rural properties, provided that the land will be directly linked to development of rural agriculture, animal husbandry, industrialisation or settlement, and all such projects are subject to prior approval of the Ministry of Agrarian Development and other federal agencies, depending on the specifics of the project. Any business which, directly or indirectly, implies acquiring an in rem right to rural property situated in the frontier zone (a portion of Brazilian territory measuring up to 150 kilometres in width and running along the country's land frontiers) is conditional on the prior consent of the Brazilian Defence Council, when the person acquiring this right is: a foreign individual; a foreign entity; or a Brazilian entity, in which a major stake is held, in any way, by a foreign individual, who does not reside in Brazil or by a corporate entity headquartered abroad.
Chile	Foreign investment in real estate has the same legal treatment as any other foreign investment. There are no limitations on foreign nationals owning real estate except for the following: ■ Peruvian, Bolivian and Argentinean individuals and legal entities cannot acquire real estate located in boroughs declared as Border Zones (unless a special waiver is granted by the President of Chile). ■ The strip of land of five kilometres along the front of beaches is reserved for Chileans (and, exceptionally, for a foreign person domiciled in Chile, who will require an express authorisation from the relevant authority). ■ The strip of land of 10 kilometres along the borders of Chile is reserved for Chileans.
Colombia	Foreign investment has the same treatment as national investment. Therefore, foreign investors cannot be subjected to discriminatory conditions or treatment, nor can they be given preferential treatment over national investment. Under current regulations foreign investment in real estate is authorised with no limitation on companies whose business is the purchase and sale of real estate, or on securities issued by means of securitisation of real estate or construction projects.
Costa Rica	Foreign investment is treated no differently to national investment. Additionally, foreign nationals do not need to have any form of residence visa to invest in companies or purchase land. (Although to live in the country for more than their tourist visa restriction, they need some form of resident visa.) However, there is a general restriction on all investment in the country's maritime zone land, which is the area covered by a strip of land running parallel to the coastline and measuring 200 metres (650 feet) inland from the high-tide watermark. The law provides that although any company can invest in maritime zone land developments, over 50% of the entity's shares must belong to Costa Rican nationals, who will therefore be the majority holders of the maritime zone land.

HOW IS FOREIGN INVESTMENT IN REAL ESTATE GENERALLY PERMITTED? WHAT ARE THE MAIN RESTRICTIONS?	
Dominican Republic	Under Dominican Law, foreign nationals have the right to own land in Dominican territory without any restriction based on origin. Therefore, foreign nationals have national treatment relating to real estate ownership in the Dominican Republic.
Ecuador	Under the constitution passed by Congress in 1998, foreign nationals receive the same treatment as Ecuadorians. However, foreign nationals cannot acquire, under any title for economic exploitation, land or concessions in the national security area.
El Salvador	Foreign investment is treated in the same way as national investment in relation to real estate. There are only two restrictions that foreign investors must consider: ▪ The maximum rural area that can be owned by a single individual or a single legal entity under the Constitution is 245 acres. ▪ Reciprocity for Salvadoran citizens is required for rural real estate purchases in the country of origin of the foreign investor (entity/individual), except to set up industrial facilities.
Guatemala	The national territorial reserve is three kilometres from the seashore, 200 metres along lake shores, 100 metres from each side of navigable rivers, and 50 metres from populated water sources. There are two exceptions to the national reserve: land located in urban zones and registered rights over property recorded in the Official Registry before 1 March 1956. Foreign nationals can acquire property located in both exceptions with an authorisation from the Execution Branch, however from a practical perspective, there is no restriction on foreign entities or persons acquiring such property through a local company.
Mexico	The Constitution specifies a strip of land of 50 kilometres along the coast and 100 kilometres on the borders known as the Restricted Zone. Foreign nationals cannot hold direct ownership over real estate property located in it. The incorporation of a Mexican company or a trust agreement is required for holding such title (in both cases the investor must adopt the Calvo Clause as the by-laws or trust agreement respectively). Additional restrictions may apply depending on whether the land is to be used for commercial or residential purposes. For real estate not located in the Restricted Zone, a foreign national files for an authorisation which in practice operates as an automatic permission. The Constitution also sets out certain limits for individuals or companies acquiring land for agribusiness activities, that is, 100 hectares per individual and/or 2,500 hectares per company (where members cannot exceed in proportion the individual threshold). Companies holding agricultural land issue a special class of shares (T shares) representing such real property in its capital stock. Foreign nationals cannot own more than 49% of Series T shares in a company.
Nicaragua	Foreign investment has no particular restrictions or differences from national investment. The Constitution states that individuals have equal rights, except for political rights that are only granted to Nicaraguan nationals. This constitutional principle, which has been developed by the Foreign Investment Law, sets out the basis for equal treatment of foreign investors, abolishing any distinction between local and foreign investment. Foreign nationals (whether companies and/or natural persons) have national treatment relating to their investment in real estate.
Paraguay	Paraguay does not grant privileges as it gives equal treatment to national and foreign investors, unless there is an international agreement providing otherwise. The main requirements are compliance with the: ▪ Immigration Law, if the foreign investor is a director. Foreign nationals without residency permits cannot perform lucrative activities in Paraguay. Therefore, they must file for a permanent or temporary residency permit. ▪ Zoning Law, which stipulates that foreign investors from bordering countries (Argentina, Brazil and Bolivia) cannot purchase real estate within 50 kilometres from national borders, unless a prior authorisation is granted by the Executive Branch based on public interest. The investor does not need to obtain governmental authorisation to carry out investments through contracts or companies as vehicles. The only condition is to meet certain formal requirements in order to obtain tax benefits or exemptions. There are no limits or restrictions on the percentage of foreign capital in different types of companies. The only requirement is that the company be composed of a minimum of two partners or shareholders.
Uruguay	In general terms there is no discrimination between foreign and national investments in Uruguay, and there are no differences relating to ownership of real estate by foreign investors as against national investors. Real estate in Uruguay can be owned by legal entities or individuals, nationals or foreign nationals, without differences or restrictions. Rural real estate must be owned by individuals or legal entities, whose shares are nominal and owned by individuals, unless a particular exception is obtained from the Executive Branch based on specific grounds (such as companies listed in reputable stock exchanges and/or companies that, due to their nature, cannot be owned by individuals or it is not possible to identify individual owners).

QUICK REFERENCE ON DUE DILIGENCE FOR 14 COUNTRIES IN LATIN AMERICA*		
Country	**Relevant matters to review in a stock acquisition**	**Relevant matters to review in an asset acquisition**
Argentina	The company should be currently operating and registered at the corresponding company registry; and Absence of liens over its stock/shares.	Review liabilities of the seller and observe rules for the transfer of commercial establishment (including publications in the Official Gazette if the transfer corresponds to an ongoing concern) to limit the buyer's exposure for liabilities associated with the assets for future debts of the seller; Evidence of title of assets being transferred and compliance with all formalities to accomplish the transfer, regardless of the SPA; and Fulfilment of tax and labour obligations; request tax certificate from the tax agency and prevent labour contingencies.
Bolivia	Corporate documentation, current by- laws and registration with the Public Registry of Commerce (*Fundempresa*); Certificates of good standing issued by *Fundempresa*, the National Controller Office and the Tax Administration; and Price value of the stock as against estate value and to determine possible capital gains and tax obligations.	Seller's title to the asset. Public or private documents evidencing ownership; Encumbrances or liens affecting the asset (mortgages or pledges) pending conditions or price balance, pending litigation over the asset, as well as existing tax debts; and Existence and validity of all required licences and approvals for certain assets and verification of outstanding obligations of the seller and good standing of the seller.
Brazil	Labour contingencies; Tax contingencies; and Regulatory and corporate matters.	Existence of liens and encumbrances; Obligations of the owner of the assets; and Labour and tax contingencies related to the assets and the seller.
Chile	Good standing of the issuer, the seller's ownership over the stock and encumbrances affecting the stock; and Major legal aspects of the issuer of the stock (corporate governance, assets, liabilities, relations with clients and suppliers, labour, tax, environmental and other regulatory matters).	Seller's title to the assets; Encumbrances or liens affecting the assets, pending conditions or price balance, pending litigation over the assets; Tax contingencies (whether the sale triggers payment of VAT); and Existence and validity of all required licences and approvals for certain assets.

Relevant due diligence matters on real estate	Commonly used contracts and vehicles to develop/operate real estate	Nutshell recommendations for real estate due diligence
Study chain of title of the real property covering transfers for the last 10 or 20 years. Verify the agreed-on prices and that there are no outstanding balances; Study and verification of survey background (maps), registration numbers, surface, and delimitation of the property as per the blueprint; Request registry information in connection with: the property (that the certificate's inscriptions coincide with chain of title inscription) and the different title holders during the last 10 or 20 years (attachments, restrictions, validity of powers of attorney and so on); and Control and payment of taxes for the transfer of the real property.	Real estate trust with administration and development purposes. Stock company (*sociedad anónima* or SA). Sale and purchase agreement, lease agreement.	Perform title study; and Gather reports from the Registry of the Property.
Public deeds affecting the property, title certificate review and verification; also a site plan issued by a Certified Surveyor ideally retained by the buyer; Title history of the asset (including the last 30 years) at the Real Estate Office along with a certificate of liens, encumbrances or rights of way, existence of litigation, as well as a certificate by the Municipal Government evidencing any pending tax liabilities; and Verify that the property's title does not conflict with property rights issued by the National Agrarian Reform in 1952; this reform reverted private lands to the communities and unfortunately in some cases these rights overlie private property rights.	Corporations, limited liability companies, shared risk contracts operation and/or service agreements.	Extensive review of the ownership titles, title history in the Real Estate Office - compare this information with the property information filed with the Municipal Government; and Review possible conflicts with National Agrarian Reform titles and verify litigation in local courts.
Existence of any liens or encumbrances; Tax obligations related to the real estate and the owner; Social Security obligations of the owner; Existence and validity of all required licences and approvals; Regularity of constructions; and Zoning aspects of the activity to be developed in the real property.	Limited liability companies, corporations, real estate investment funds and partnership investment funds.	Review of all tax, labour and social security obligations of the owner; Review of title records, deeds and contracts in relation to the real estate; and Review of compliance with all legal requirements for existence and maintenance of the real estate (registrations, authorisations, licences and so on).
In addition to the matters to review under any asset acquisition, for real estate the following is also reviewed: Tax obligations related to the real property; and Zoning.	Limited liability company, corporations and, in the last few years, real estate trust or fund.	Perform thorough analysis of the legal and physical condition of the property; Prepare effective purchase and sale contract; and Tax planning depending on the purpose of the real estate and term of the investment.

Cross-border

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Country	**Relevant matters to review in a stock acquisition**	**Relevant matters to review in an asset acquisition**
Colombia	Certificate of Existence and Legal Representation (issued by the Chamber of Commerce of the Corporate Domicile) which contains essential corporate data: legal representatives, board members and so on; By-laws; and Shareholders Registry Book, which also shows liens, attachments and other useful observations.	Certificate of Existence and Legal Representation; Financial Statements for the last five years (at least); and Documents evidencing title to personal property.
Costa Rica	By-laws and all relevant corporate documentation; Financial statements, and certificates issued by the Social Security Administration in connection with social security benefits payment compliance; Threatened or pending claims and lawsuits against the companies; Outstanding obligations (loans, indentures, financing, guarantees or indemnity undertakings and so on); and Material information or documents provided to both stockholders and directors for the past two years.	Threatened or pending claims, lawsuits or investigations against the company or its bodies; and All currently effective loans, indentures, debt instruments and other financing instruments, and all related material documents that could affect any real estate property to which the companies are a party.
Dominican Republic	Certificate of Mercantile Registration, issued by the Chamber of Commerce of the entity's jurisdiction of incorporation, which also evidences current legal standing; Tax authority certificate of standing, which evidences tax liabilities of the company; Certificate of status from the labour ministry, to reduce any or all of the potential labour liabilities; and Certificate of pending litigation in the courts of the entity's domicile.	Depending on the nature of the asset in issue, verify if the asset is subject to registration and the effects of such registration (ownership transfer, publicity, and so on); Confirmation that the asset(s) has not been used as collateral for any transaction (credit or simple guarantee) by the owner or third party; Financial statement of the owner, to determine accounts payables and creditors; Unequivocal protection clauses by the seller in the event of third party liabilities relating to the asset(s) sold; and Legal or contractual restrictions on the transfer of assets (that is, contractual rights, concessions rights, permits or licences).

Relevant due diligence matters on real estate	Commonly used contracts and vehicles to develop/operate real estate	Nutshell recommendations for real estate due diligence
Certificate of Tradition and Freedom issued by the Office of the Registry of Public Instruments of the place of the real property in which title history is recorded as of inception; Public deeds affecting the property granted during the last 20 years, and the corresponding regulations for the case of realty organised in horizontal property; Peace and Releases of Real Estate Taxes and/or payment receipts for them, which are required for granting the transfer deed; and Concept of the Urban Guardianship (Bogotá) or municipal planning (other cities) relating to the use of land for the property and main regulations and restrictions relating to them.	Commercial companies and autonomous estates or fiduciary entrustments (both deriving from a trust agreement).	Review at least the above documentation; and Request legal advice and legal opinions from field experts.
Review property title's history of origin as well as existence of liens and encumbrances; Verify the respective Municipality's land use restrictions (land use and zoning); Verify land use restrictions with Environmental Agencies (MINAE and SETENA); Cadastral survey showing possible overlaps and actual surface; and Compliance and/or restrictions under Maritime Zone Laws (concessions, private property and forest areas administered by MINAE).	Corporation (Sociedad Anónima), Limited Liability Company (Sociedad de Responsabilidad Limitada), trust agreement, joint venture and Real Estate Development Investment Funds (REDIF's). Costa Rican Limited Liability Companies can elect to be treated as a disregarded entity for US tax purposes.	Conduct a due diligence of the real estate properties and request legal advice.
Title certificate review and verification; Certificate of liens and encumbrances issued by the relevant Title Registry and property chain of transfer record; Certificate by Tax Authorities to review the tax liabilities standing on the land in question; Investigation before the Land Courts, of any litigation initiated or pending affecting any rights (property or accessory) related to the land (including the proprietor and its spouse if it is under a personal name); and Site plan issued by Certified Surveyor ideally retained by the acquirer.	Direct acquisition. Limited liability companies through contribution-in-kind agreements and later share transfers. Joint ventures.	Review at least the above documentation; and Request legal advice and support from field experts.

QUICK REFERENCE ON DUE DILIGENCE FOR 14 COUNTRIES IN LATIN AMERICA*		
Country	**Relevant matters to review in a stock acquisition**	**Relevant matters to review in an asset acquisition**
Ecuador	Registration and good standing of the company, governance structure, directors and officers; Assets and liabilities of the company, that is, tax and labour liabilities, financial commitments and obligations and pending litigation; Major contracts and agreements with main suppliers and contractors of the company; and Books, records, stock certificates and ledgers to verify if shares are free from encumbrances or liens.	Title of property and confirmation of whether the assets are unencumbered; Legal standing and capacity of seller to transfer asset and compliance with tax obligations; Pending litigation affecting owner or property, as well as contracts, agreements or commitments on or relevant to the ownership, operation, financing, and maintenance, of the asset; and Zoning reports and regulations and permitted uses of the property.
El Salvador	Articles of incorporation/by-laws; Company's books (stock records/shareholders meetings/ board minutes); Company's compliance with tax laws; Shareholders agreements; company's financial statements of the (last 5 years); List of all outstanding loans; Company's annual permit to conduct business activities issued by the Registry of Commerce; and Any pending legal claims.	Evidence of ownership; and Conduct a search before the Registry of Commerce for any pledge or encumbrance levied on the asset. Any real estate purchase over US$28,571.43 (about EUR20,300) is subject to Real Estate Transfer Tax of 3%. For the real estate transaction to be registered, the seller and the buyer must have clearance from the tax authorities.
Guatemala	Restrictions or special authorisations in the by-laws, and corporate resolutions regarding subscription and payment of new stock; Amount of paid-in capital of the company (stock actually paid), shareholders or voting agreements; and Notice of the issuance of stocks delivered to the General Mercantile Registry of Guatemala.	Public or private documents evidencing ownership; Outstanding obligations of the entity that owns the assets/ compliance with any law, regulation or any legal provision that the entity owner of the asset or the asset itself could be subject to; Existence of any liens or mortgages over the assets, requiring a thorough investigation at the Public Property Registry; and Issuance and review of public certifications, in case of assets properly recorded.
Mexico	Articles of incorporation, current by-laws, powers of attorney and their due inscription before the Public Registry of Commerce; Mercantile folio, issued by the Public Registry of Commerce; and Corporate books and financial statements.	Documents evidencing title to personal property, such as invoices, bills and contracts; Compliance of tax, labour and social security obligations; and Absence of liens (pledge or attachment) and contracts associated with the assets.

Relevant due diligence matters on real estate	Commonly used contracts and vehicles to develop/operate real estate	Nutshell recommendations for real estate due diligence
Review of property title. If the owner is a company, review the certificate of good standing of the company conferred by the Superintendency of Companies, by-laws, and appointments of officers or legal representatives of the company; Certificate at the Registry of Property to verify history of title and verify whether asset is free from encumbrances, easements or liens; Verify payment of property taxes and other taxes, through certificates of tax payments granted by the Municipality as well as utilities; and Zoning regulations and reports.	Corporations and real estate trusts.	Verify property title; Verify and determine tax consequences of the transactions; Conduct survey for the premises and verify zoning regulations; and Retain local counsel.
Official summary of the property in the local Real Estate Office; Conduct title research; Clearance from the Tax Office (needed to purchase/ transfer and/or impose a lien on the real estate).	Purchase and lease agreements. Real estate investments are mostly made by local companies (SA de CV) as El Salvador does not yet have legislation regulating special purpose vehicles such as trusts or partnerships.	Retain proper legal counsel; Conduct title research; and Request from the seller clearance from the Tax Office.
Public or private documents evidencing title; Existence of any mortgages, right of ways or registered rights affecting the property, requiring a thorough investigation of the public records of the property; Issuance and review of public certifications. Location of the assets in order to determine any specific restriction or the execution of any further local effort; Evidence of payment of the real estate taxes and public registered value of the property; and Powers granted to the legal representative of the buyer appearing in the sale of assets agreement.	Commercial entities, such as trusts or corporations.	Proper and thorough research and analysis of the public records of the property, including investigation of any prior registrations and review of documentation supporting such registries (legitimacy of all the transactions previously recorded).
Property title (formalised in a public deed issued by a notary public), duly recorded at the Public Registry of Property; Certificate of liens and real folio (when available) or chain of title for the last 20 years, issued by the Public Registry of Property; Absence of agrarian claims from adjoining parcels. All contracts, deeds, covenants (for example, condominiums, easements and so on) affecting the property; and Land use and zoning certificates and licences.	Stock companies; Limited liability partnerships; and administration and guaranty trust agreements. Operation and/or service agreements.	Perform thorough analysis of the legal and physical conditions of the property; and Prepare an effective purchase and sale contract and include representations and warranties relating to the legitimate use and possession (that is, lack of criminal activities) of the real property.

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Country	**Relevant matters to review in a stock acquisition**	**Relevant matters to review in an asset acquisition**
Nicaragua	A thorough review of the company's structure must be executed. Including an examination of the company's registration and corporate books; Labour contingencies must be examined, as well as tax and judicial contingencies, including regulatory matters, if applicable.	Review the seller's title to the asset. Perform a registration analysis to determine the origin of the title. If the title originates from an agrarian reform title, further analysis must be done to determine that the previous owner has been duly compensated; For purchases of real estate based on an agrarian reform title, special solvency must be granted by the Attorney General's Office before recording the property; Analysis to detect any encumbrances or liens over the property; Important to determine the fiscal solvency of the property.
Paraguay	By-laws and their amendments; Copy of the public deed, history and its registration; Directors, managers, officers; Certificate of stocks and book of shareholders to verify if the shares are subject to any encumbrances and/or liens, and corporate books and company records; Pending litigation, encumbrances and liens; Contracts and agreements; Tax and labour considerations; and Financial matters.	A copy of the registration is required depending on the nature of the asset; Verify if the asset is affected as collateral or is subject to any encumbrance and/or lien; Pending litigation; Documents proving just/fair title of the asset; Seller's legal capacity to transfer; and Tax and labour obligations.
Uruguay	Due incorporation and valid existence of the company and due appointments of representatives. Verification of by-laws and request a good standing certificate from the Public Registry; and Verify that the shares are not pledged or subject to any lien; Confirm absence of legal or contractual restriction for their transfer, both in the corporate books and through Public Registry certificates.	Review of seller liabilities and observe rules for the transfer of commercial establishment (including publications in the Official Gazette, and registration of the share purchase agreement (SPA) with the Public Registry) in order to limit the buyer's exposure for liabilities associated with the assets for future debts of the seller; Evidence of title of assets being transferred and compliance with all formalities to accomplish the transfer, regardless of the SPA; and Fulfilment of tax and labour obligations; request tax certificate from the tax agency and prevent labour contingencies.

Relevant due diligence matters on real estate	Commonly used contracts and vehicles to develop/operate real estate	Nutshell recommendations for real estate due diligence
Examination of the titles to the property(ies) in the transaction; Determine their origin and any possible contingencies relating to previous owners; Review titles to the property and examine their 30 year history, to determine if title originates in agrarian reform, confiscation, and so on; Determine necessary authorisations needed for any development, if applicable; Review tax issues and the existence of any liens and/or encumbrances over the properties.	Main vehicle to develop real estate is a corporation. An initial memorandum of understanding is executed by the parties to determine the general conditions of the transactions. The transaction may conclude with a sale purchase agreement; Servicing and operations agreement; and Management contract.	Perform thorough investigation of the properties and their titles. Strongly recommended to review registration history over the past 30 years. Determine and assess any possible material contingencies.
Research of the property title and its history (the last 20 years) in the Real Estate Public Registry; Certificate issued by the Real Estate Public Registry office relating to the existence of any encumbrance and/or lien that may be pending; Judicial or private measurement; Any environmental licence or governmental authorisation previously granted; Tax payment certificate; and Environmental regulations.	Contracts and/or vehicles can be used by an individual or by legal entities which can be: Corporations (SA), limited liability company (SRL), joint ventures, trusts, branches, subsidiaries, agencies and representations.	Review and verification of all corporate, tax, labour and financial documents; History and documents of the property title; Pending litigation, encumbrances and/or liens; Environmental regulation; Border restrictions; Legal and financial expert assistance.
Study chain of title of the real estate covering transfers for the last 30 years. Verify that the corresponding letters of payment have been granted for the agreed prices and that there are no outstanding balances; Study and verification of background survey (maps), registration numbers, surface, and delimitation of the property as per the blueprint; Request registry information in connection with the property (the certificate's inscriptions coincide with chain of title inscription) and the different title holders during the last 30 years (attachments, validity of powers of attorney and so on); and Control and payment of taxes for the transfer of the real estate.	Stock companies, trust agreements or management contracts.	Perform an exhaustive study of the property titles (and title background) of the real property in order to prevent the absence of an essential element (consent, capacity, purpose and motive) and comply with legal and contractual formalities; and Make a proper request of the registry information in connection with the property and its current and past owners.

Cross-border

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Mexico. The slump of the US real estate market has affected the hospitality sector and particularly the demand for vacation facilities. Despite this economic downturn, the last quarter of the year reports a recovery with some activity in industrial, retail and office spaces, and an increasing (though slow) demand for mixed-use complexes. 2010 presents interesting opportunities for infrastructure projects in light of the federal government's recent actions towards fostering reforms that will allow financing resources from the Retirement Savings System and the introduction of Public-Private Associations, among other commitments.

Nicaragua. Real estate transactions have entered into a brief slump over the past two years as the credit crunch has affected new projects. However, abundant land at relatively low cost is still appealing for new projects. While tourism and residential developments have decreased, agro-industrial deals involving real estate have not been affected as in other sectors.

Paraguay. Even though the real estate market is not yet fully developed, it has become an attractive choice for foreign investors in light of current low market prices. As the economy witnesses a slow recovery, prices of real estate properties have gradually regained their usual value.

Uruguay. The country is facing a construction boom of luxury premium buildings, housing and offices, and resorts in Punta del Este. In addition, foreign investment inflows have been quite significant in relation to real estate transactions in rural areas. Among the main agricultural growth industries are soybeans, wheat, rice, cattle, dairy products, citrus and forestry.

CONTRIBUTOR DETAILS

ARGENTINA (Buenos Aires)
Juan Pedeflous
Perez Alati, Grondona, Benites, Arntsen & Martínez de Hoz
E *JP@pagbam.com.ar*
W *www.pagbam.com.ar*

BOLIVIA (La Paz)
Mauricio Dalman
Guevara & Gutiérrez SC – Servicios Legales
E *mdalman@gg-lex.com*
W *www.gg-lex.com*

BRAZIL (São Paulo)
Thiago V Flores and Wagner G Botelha
Felsberg e Associados
E *thiagoflores@felsberg.com.br*
wagnerbotelha@felsberg.com.br
W *www.felsberg.com.br*

CHILE (Santiago)
Cristián Eyzaguirre
Carey y Cia Abogados
E *ceyzaguirre@carey.cl*
W *www.carey.cl*

COLOMBIA (Bogotá)
Edwin Cortés Mejía
Cuberos, Cortés y Gutiérrez Abogados
E *ecortes@ccgabogados.com*
W *www.ccgabogados.com*

COSTA RICA (San José)
Manuel E Lizano and Edgar Solís
Arias & Muñoz
E *mlizano@ariaslaw.co.cr*
esolis@ariaslaw.co.cr
W *www.ariaslaw.com*

DOMINICAN REPUBLIC (Santo Domingo)
Luis Miguel De Camps
De Camps Vázquez & Valera Abogados
E *lmdecamps@dcvlex.com*
W *www.dcvlex.com*

ECUADOR (Guayaquil)
Roxana Chang
Estudio Jurídico Chang Durango
E *Roxana_Chang@hotmail.com*

EL SALVADOR (San Salvador)
Javier Mejia
Mejia Escobar & Asociados
E *javierm@mejiasvlaw.com*
W *www.mejiasvlaw.com*

GUATEMALA (Guatemala)
Juan Sebastián Soto
A.D. Sosa & Soto
E *ssoto@adsosasoto.com*
W *www.adsosasoto.com*

MEXICO (Mexico City)
Carlos Ibarra-Fernández
Jones Day
E *cibarra@jonesday.com*
W *www.jonesday.com*

NICARAGUA (Managua)
Ernesto Rizo Pallais
Nuñez Rizo Zambrana
E *erizo@nrzlaw.com*
W *www.nrzlaw.com*

PARAGUAY (Asunción)
Laura Cabrera and Sandra Noguera
Vouga & Olmedo
E *lcabrera@vouga-olmedo.com.py*
snoguera@vouga-olmedo.com.py
W *www.vouga-olmedo.com*

URUGUAY (Montevideo)
Andres Duran Hareau
Hughes & Hughes
E *aduran@hughes.com.uy*
W *www.hughes.com.uy*

Most contributors are proud LL.M. alumni from Georgetown University Law Center, Class 2002

*Compiled by Carlos Ibarra-Fernández, Jones Day, Mexico.