

DOING BUSINESS IN MEXICO:
A PRIVATE PRACTITIONER'S POINT OF VIEW

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Resumen

México es actualmente el tercer socio comercial de Estados Unidos de Norteamérica, después de Canadá y Japón. En la medida en que la actividad comercial entre México y los Estados Unidos se ha incrementado, así mismo aumentada posibilidad de que los abogados practicantes localizados en la región fronteriza suroeste tengan que atender clientes interesados en invertir o hacer negocios en o con México. El autor indica varias pautas a través de las cuales el abogado practicante de Arizona puede adquirir un adecuado entendimiento de las instituciones jurídicas mexicanas y de esta manera obtener herramientas que le permitan ayudar a sus clientes a entender y apreciar las complejidades de la ley mexicana.

Abstract

Mexico is currently the United States' third largest trading partner, following Canada and Japan. As commercial activity between Mexico and the United States has increased, so has the prospect that private practitioners located in the Southwest border region will be called upon to assist clients interested in investing or doing business in or with Mexico. The author outlines several guidelines by which the Arizona practitioner may acquire an adequate understanding of the Mexican civil law system in order to provide significant assistance in helping clients to understand and appreciate complexities of Mexican law.

It is not surprising to note increasing interest during the past several years among Arizona attorneys in assisting clients doing business in Mexico. Mexico is currently the United States' third largest trading partner, following Canada and Japan. The United States' direct investment in Mexico, according to United States Department of Commerce reports, is expected to total one and a quarter billion dollars. The United States Department of State recently reported to a congressional committee that, in 1980, oil and natural gas accounted

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for over 50% of United States imports from Mexico. The State Department report also asserted that tourism accounts for 7% of Mexico's export earnings and that United States visitors provided between 60% and 70% of Mexico's total earnings from tourism. Furthermore, the growth and impact of Mexico's border in-bond assembly plant program has been remarkable. The number of in-bond assembly plants has continued to expand by at least 10% per year. There are now approximately 600 to 700 in-bond assembly plants in Mexico, employing a work force of over 125,000 employees, exporting products from Mexico to the United States.

What impact does such economic growth have on the average practitioner? A private practitioner may be motivated to learn more about how to do business in Mexico, particularly if he or she represents clients who have investments or other business interests in Mexico. The increase in commercial activity between the other two neighbor nations will, to a major extent, concentrate along the Southwest border area. This enhances the prospect that private practitioners located in this region may be increasingly called upon to assist clients interested in investing or doing business in or with Mexico.

The practitioner, by so assisting clients, is not holding himself or herself out as practicing in Mexico. Mexico has strict residency, educational and licensing requirements to attain such status. The practitioner who has acquired an adequate understanding of the Mexican civil law system may, nevertheless, provide significant assistance in helping clients to understand and appreciate complexities of Mexican law. For example, the practitioner may assist a client in acquiring a beneficial user's interest in resort property located within Mexico's prohibited zones or may acquaint a business client with the process of incorporating and registering a 100% foreign-owned Mexican in-bond assembly corporation. The private practitioner may also assist as a liaison in seeking Mexican corporate representation of a client seeking entry of a product into the Mexican economy.

Another way of assisting clients is by establishing a network of working relationships with attorneys in Mexico. This can best be achieved by attending any of the wide range of seminars or conferences on Mexican law held in the United States and Mexico. Almost every such conference or seminar provides the opportunity to meet with Mexican national practitioners. If the practitioner plans to assist clients on Mexican law matters and has Spanish language ability, he or she also may commence to acquire a Mexican law library. Alternatively, English language versions and complete translations of Mexican law library materials may readily be purchased.

If the practitioner plans to accompany clients on business exploration trips to Mexico, the appropriate visitation permit should be obtained from either the Mexican Consul or *Gobernación*, the equivalent to the United States Immigration and Naturalization Service. A record should be kept of projects undertaken and a directory maintained of counterpart Mexican national attorneys and business contacts.

Assisting clients to do business in Mexico may also lead to representing Mexican nationals with corporate or business interests in the United States. The practitioner's Mexican national attorney contacts will frequently refer client matters involving Mexican nationals investing or doing business in or with the United States to the United States practitioner. It must be borne in mind, however, that this should be a two-way street.

The subject of how to become an international lawyer is quite an undertaking to explain in just one sitting, but if the practitioner follows some of the suggestions I have outlined, he or she may well discover a genuine interest in expanding his or her scope of practice to include international private and public law matters. This will obviously call for a great effort in terms of acquainting oneself with other countries and their laws and with the educational institutions in the United States and abroad which can prepare and qualify one as an international lawyer.

