



## Latin America update

SEPT 2024

Alliuris is characterized by providing, through its members around the world, a close and excellent business legal service. Our Latin American firms from Brazil, Argentina, Chile and Perú are not alien to the alliance's push and from their own countries they make new links possible and consolidate their own prestige and that of Alliuris. Now we are proud to send you our second issue of our *LatAm Group Quaterly News*, which has been prepared by our associated offices. We hope you find it of interest.

### Brazil

#### Carbon Credits and Environmental Taxes in Brazil

Brazil still works on its necessary market regulation with governmental Agencies to better define and harmonize public policies, carry out incentives, set quotas, and license emissions by sectors. Certificates for remotion and reduction are still voluntary, but soon, Brazil shall have rules to certify, register, and control the efficiency and reduction targets. This regulation might benefit foreign companies' investment in the country through Art. 6 of the Paris Agreement, enabling international transfer and corporate offsetting of credits. Brazil's main stakeholders from the private sector are currently exchanging impressive hedge methodology and setting criteria for fighting deforestation. These tools can trigger performance bonus standards to be spread and multiplied soon.



Environment taxes in Brazil are aligning with European standards, with the principle that companies polluting more should pay more, thereby stimulating a more environmentally friendly and efficient approach in the long term. Currently, there are ICMS and IPI tax incentives to foster recycling. The approved tax reform also includes a provision for

selective taxes aimed at increasing the tax burden on products and services that damage health and the environment. However, the regulation of these taxes is still pending. It is crucial for

foreign investors to closely follow these developments and seek appropriate legal advice, as the implications of these regulations could significantly impact their operations in Brazil.

## Argentina

### **Law 27.742- “Ley de Bases” (published on July 8<sup>th</sup>, 2024)**

Law N° 27.742 (the “Law”), referred as “Bases and Starting Points for the Freedom of Argentines”, set forth a very large, broad and varied set of provisions and amendments to current legislation, being the following the most relevant:

#### 1) Declaration of Emergency and Reform of the State:

i.- Declaration of public emergency regarding administrative, economic, financial and energy matters for a period of one (1) year. ii.- Delegation of powers from Congress to the Executive Branch regarding said matters, for the a) improvement of the State, b) reduction of the oversized structure of the State in order to reduce the deficit of balance of public accounts, and c) ensure internal control of the national public administration in order to guarantee transparency in the administration of public finances.

#### 2) Privatization:

Certain public and majority owned public companies provided therein shall be subject to privatization, within the limitations and conditions also provided therein.

#### 3) Incentive Regime for Large Investments (RIGI):

i.- The Law brings up a chapter that deals with major investments (“RIGI”), which are qualified as those performed in excess of USD 200 million or such higher figure (up to 900 million) that the Executive Branch may require for specific projects. The Law seeks for large investments in the areas of oil & gas, infrastructure, mining, tourism, technology, energy, steel and forestation. Companies that want to apply, need to form a special purpose vehicle (“VPU”) that can only be involved with the specific project approved by the government and can apply within a term of 2 years counted as from the date the regime is in force and effect. If an already existing company wishes to apply, it may do so through the creation of a branch (“Dedicated Branches”) which shall have the same rights and obligations as a VPU.

ii.- The incentives granted to the RIGI VPUs consist of significant tax (i.e. reduction from 35% to 25% on income tax), foreign trade, foreign exchange and fiscal stability benefits, as provided in the Law and subsequent regulation. These granted benefits are qualified by the Law as property rights, which are protected by Argentine National Constitution.

iii.- There are certain conditions that an applicant must meet to qualify as a RIGI (i.e. it must be a long-term investment) but it will be the Executive Branch the one enabled to determine whether a project is qualified or not in order to enjoy the benefits of the RIGI regime.

#### 4) Energy:

i.- Amendments to Hydrocarbons Law N° 17.319, including -among many others- the following: A) adding as one of the principal objectives of the law, the maximization of the income obtained from the exploitation of the resources; B) enable companies to freely market, transport and industrialize hydrocarbons.

ii.- Amendments to Gas Law N° 24.076, including -among many others- , the guarantee the freedom of gas exportation.

iii.- Amendments to Law N° 26.741, by -among others-: A) abrogating “self-supply” of hydrocarbons as one of the main principles of the national hydrocarbons policy, referring instead just to the “supply”; B) abrogating reference to “price” of hydrocarbon’s derivatives from state protection; C) inclusion of “export” of hydrocarbons as one of the main principles of the national hydrocarbons policy.

iv.- Empowers Executive Branch to collectively celebrate with Provinces a harmonized environmental legislation regarding exploration, exploitation and transport of hydrocarbons activities.

#### 5) Public Contracts and Concessions:

The National Executive Branch shall be entitled, as per the declared emergencies acting herein as force majeure, to renegotiate or terminate public construction, concessions or service contracts exceeding the amount equivalent to 10 millions units celebrated before December 10<sup>th</sup>, 2023, as long the purpose of the contract have not reached at least 80% of completion; excluding contracts celebrated under privatization process Law 23.696 or celebrated under any activity promotion or investment regime.

#### 6) Public Employment:

Among others, amendments to Law N° 24.185, by providing that public officer’s right to strike shall be subject to a discount on their salaries proportional to the time out of work.

#### 7) Final Provisions:

The Law invites the provinces to issue all necessary regulations for establishing the procedures consistent with the purposes of the Law and provides that regulations to the Law shall be issued within a 90-day term.



## Chile

### Freeport reports an investment of US\$ 7.5 billion

Freeport and CODELCO are associated in the El Abra copper project with 51% and 49% respectively. On July 23, the North American company indicated the expansion of the El Abra project by this historic sum. The president of the Freeport board of directors indicated that "President Boric's tone has changed significantly since his initial electoral period." Both will meet in Peru at APEC in November. After the permitting process, the operation is expected to begin in 2033, more than tripling the mine's current copper production.

### Tianqi files an appeal regarding the SQM-CODELCO agreement

On July 26, the Chinese company Tianqi, a shareholder with 22% of SQM, filed a judicial appeal against the resolution of the Financial Market Commission (CMF) that indicated that it was not necessary to go through the shareholders' meeting of the company to approve the Association Agreement between SQM and CODELCO regarding lithium.

Although the appeals court remains to rule on the merits of the matter, a Supreme Court ruling has just refused to suspend the mentioned association. Likewise, the State Defense Council has assumed the representation of the CMF in this process, indicating that there has not been any alienation of an important asset and that Tianqi's request is inadmissible given that it seeks judicial interference being the jurisdiction of the CMF.

### Anti-avoidance project

After the agreement between the ruling party and the opposition, said project continues its progress in the Chilean Senate. The Minister of Finance has maintained that in the face of evolving evasion and avoidance, tax regulations must also naturally be updated. The idea of the agreement reached is regarding evasion to decisively combat it and regarding evasion to confront it as a particular form of distortion in the horizontal and vertical equity of the tax system.

### Personal Data Protection project

The processing of this project has taken seven years, updating a 1999 law. Congress just passed the Personal Data Protection project into law, which creates the Data Protection Agency. The

future legislation is in line with international standards, such as the EU's GDPR General Data Protection Regulation. The regulation that will be promulgated - and that will full entry into force after two years of its publication in the Official Gazette - seeks to regulate the processing of this information and establishes fines, some of them very high, depending on the seriousness of the infraction.

#### Decree No. 10 of August 2, 2024

Modifies the Regulations of the Mining Code and that, among others, indicates when the extension of the exploration concession is appropriate and establishes reduced patents if certain hypotheses are proven.

Bustamante Sinn  
Abogados

## Perú

### Business News

#### Green hydrogen: the Arequipa case.

Phelan Green Energy, a South African company, is set to launch Peru's inaugural green hydrogen production plant. The project, slated to cost USD 2.5 billion, will occupy a 4,000-hectare site in La Joya district, strategically positioned near the Interoceanic Highway.

The project aims to replace fossil fuels like oil to improve the local population's quality of life. Moreover, it will create around 2,600 jobs, benefiting not only Arequipa but also neighboring regions in southern Peru. The official launch is scheduled for July 2025. (Source Proinversión).

#### Port of Chancay.

Perú's geographic location provides strategic access to markets in North America, Asia and Europe. This is the main reasons of the construction of the Multipurpose Port of Chancay. With this new navigation infrastructure, Peru will become a regional trade hub, allowing an easy and less cost comercial exchange with Pacific coast countries and improve connectivity with Asian countries.

The inauguration of this new port has been schedule for Novermber 2024 during the **APEC** reunion to be held in Lima.

### Jorge Chavez International Airport .

LAP has reported that the testing period of the new terminal will begin in December 2024. According to Prom Perú *its expansion will allow it to serve approximately 30 million passengers per year, improving the travel experience and opening new investment and trade opportunities.* According to LAP the terminal will have 5 different levels of customer services, 4 floors and a basement.

### **Legal News**

#### Legislative Decree N° 1626.

On August 15, 2024, the Government enacted Legislative Decree No. 1626°, which aimed to modify articles 2033, 2037, 2038, 2040 and 2042 of the Civil Code. These modifications will simplify the territoriality requirements for the registration of titles in the Registry Offices around the country.

The new law eliminates the territoriality requirement established for the registration of titles before the National Superintendence of Public Registries (SUNARP) referring to the Personal Registry, Registry of Mandates and Powers, Registry of Wills and Registry of Intestate Successions.

With the elimination of territoriality requirements, it will now only be enough to indicate in the application the Registry Office in which you decide to register the power of attorney, the will, or the intestate succession. These modifications will allow registry services to be more agile, as well as reduce the time and costs that the petitioner must incur.

#### Legislative Decree N° 1623.

On August 4, 2024, the Government enacted Legislative Decree No. 1623, which aimed to modify the General Sales Tax and Selective Consumption Tax Law (also known as VAT) regarding the use of digital services in the country and the import of intangibles goods through the internet.

The purpose of the modification is that natural persons who do not conduct business activity and who use digital services provided by non-domiciled companies, are taxpayers of the General Sales Tax (VAT).

Therefore, as of October 1, 2024, streaming services and other digital services will begin to withhold 18% of the VAT.

### **Political News**

#### APEC 2024

Perú has been selected for third time to host APEC 2024. From November 10 to 16, 2024, the APEC Economic Leaders' Week will take place, in which the leaders of the 21 economies of the Asia-Pacific Economic Cooperation (APEC) are expected to visit Perú. For Perú and the rest of the

20 Asia-Pacific economies, it is expected to promote economic growth and strengthen the alliance among its members. Particularly for Perú, it is an opportunity to improve its international image and its global presence.

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