

PUBLIC LAW

ABOGADOS-ATTORNEYS AT LAW



Icaza
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ESTABLISHED 1920



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PUBLIC LAW

Our Public Contracts, Projects and Privatizations practice has a strong record of expert work and benefits of a team of specialists that have been involved in many outstanding deals across a spectrum of industries including energy, substantial infrastructure projects, oil, planning, property, tourism and transport. Our involvement typically could start by informing the legal structure for the process, advising on regulatory, compliance and all the related legal and commercial issues, negotiating and drafting the agreement terms, onwards to conclusion. Further value is added by the services of our capital markets specialists.

A ground breaking legal development on which we are currently advising is the redeployment of the former U.S. Air Force Howard Air Base to the private sector following the Canal Treaties. This is a project called for by the International Finance Corporation (IFC) of the World Bank Group. The objective is the development of a Special Economic Zone/ Area in the manner of Singapore, Shannon FZ (Ireland) or Subic Bay (Philippines) among others. It is a precedent setting deal for the occidental hemisphere and at this stage we are advising on the legal structuring of the process, submitting expert guidelines for the policy makers, and helping devise and implement the legal concepts which will allow for the international model to be adapted to the domestic legal frame. Throughout the process we have been working closely with the Assembly of Legislators following a long tradition of being at the forefront of the legal developments. In addition and in a different context we are responsible for the drafting of the pre-qualification requirements as they will be determined by the granting entity and have been selected to draft and negotiate the terms of the final contracts.

Free zone procedures are an important area of practice and our firm has often been involved in deals between the public and private sector for the development of initiatives within these special business environments.



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We have acted for Dell Panama (subsidiary of Dell Inc.) in what has been recognized as a key deal for the telecommunications sector, advising on all the stages that led to the establishment of their call-center in the above zone. We have been able to help our client achieve a most commercially advantageous deal, securing all public backing, negotiating property leases and licenses. We also structured the vehicles that were used to channel the financing for the development.

The privatization by private sale of the former national Electricity provider (IRHE) is another example of our expertise. In this occasion we acted for the public sector, guiding through a process that involved the segregation of the entity and its assets, including inventories and advise on property issues, pre-existing contractual obligations, procurement of title deeds, pre-qualification and structuring of the public tender, sales of shares and assets, employment contracts, as well as post-divestiture matters. In particular we helped our clients to reach amicable settlements on disputes related to pre-existing contractual obligations.

Other examples of deal structuring activity include our advising Alireza Mobil Terminals S.A. (a subsidiary of Exxon Mobil and Haji Abdullah Alireza & Co Ltd) , regarding the Bid for the concession to exploit Oil Terminals and Piers at the Rodman Naval Base. We advised the investors on all legal aspects to the deal including Commercial, Corporate, Administrative, Property, as well as Financial and Employment law issues.

We acted for the same client in a process to obtain a Petroleum Free Zone contract as well as to negotiate with the Customs Department the planning specifications.



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Further we were engaged by the consortium of Flughafen Frankfurt Main AG (Frankfurt Airport) with Flughafen Hamburg GmbH (Hamburg Airport) to support them through a public bid for the privatization of the International Airport Tocumen, involving recommendations on Commercial Free Zones and leases as well as feasibility study, due diligence and employment matters. On another occasion we acted for the private bidder for a contract for the National Lottery.



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FREE ZONES

The **ICAZA, GONZALEZ-RUIZ & ALEMAN** Free Zones specialist team, working in conjunction with the Shipping, Immigration, Tax and the Public law teams, provides guidance to clients that wish to benefit from the range of commercial and fiscal benefits offered by Panama.

SPECIAL ECONOMIC ZONE – Howard Base

A ground breaking legal development in which we are currently advising is the redeployment of the former U.S. Air Force Howard Air Base to the private sector following the Canal Treaties. This is a project called for by the International Finance Corporation (IFC) of the World Bank. The objective is the development of a Special Economic Zone/ Area in the manner of Singapore, Shannon FZ (Ireland) or Subic Bay (Philippines) among others. It is a precedent setting deal for the occidental hemisphere and at this stage we are advising on the legal structuring of the process, submitting expert guidelines for the policy makers, and helping devise and implement the legal concepts which will allow for the international model to be adapted to the domestic legal frame. Throughout the process we have been working closely with the Assembly of Legislators following a long tradition of being at the forefront of the legal developments. In addition and in a different context we are responsible for the drafting of the pre-qualification requirements as they will be determined by the granting entity and have been selected to draft and negotiate the terms of the final contracts.

COLON FREE ZONE

The Colon Free Zone is an autonomous state institution with separate capacity to allow or authorize any kind of operation, transaction, negotiation and activities directly or indirectly related to the establishment and operation of international free zones.

In order to further facilitate the necessary support infrastructure it can lease land to natural or juridical persons, nationals or foreigners, provide for the construction of buildings, ports, docks, shipyards, train stations etc. and coordinate with the corresponding governmental entity or with the regulator for the establishment and operation of public services such as water, power, gas, telecommunications.

- Activities that can be performed within the Free Zone include import, store, exhibit, pack, unpack, manufacture, mix, transform, and in general operate and manipulate any kind of merchandise, products and raw materials and any commercial goods with the only exception of restricted articles. Also incidental activities of insurance, banking, custom brokerage, and inspection of cargo, and transport of such.
- Natural or juridical persons, national or foreign, resident or nonresident can perform the above as long as they comply with the legal requirements.
- Foreign companies that are not established in the Republic of Panama can be represented in the Colon Free Zone for the sole purpose of re-exportation. The CFZ will regulate the corresponding permits.

The CFZ can also use two types of lease back or investment acknowledgment systems, for infrastructure development (streets, sidewalks, drainages and sanitary systems etc) and for improvements required for the CFZ buildings.

Fiscal benefits

Companies established in the Colon Free Zone enjoy the following fiscal benefits:

- No sales tax or production tax.
- Tax exemptions on income derived from abroad.
- No tax or duty on imports to or re-exported from the Free Zone to foreign countries.
- Income tax for companies established in the Colon Free Zone is lower than it on the national level.
- Dividends to offshore stockholders are untaxed.
- There is no capital gains tax on the sale of Free Zone assets that have been held at least two years.
- There is no capital investment tax.
- No municipal or other local taxes apply to Free Zone firms.

EXPORT PROCESSING ZONES (EPZ)

The Export Processing Zones are another example of Panama's focus to provide optimum conditions of operational efficiency and of comparative advantages to guarantee the exporting companies high levels of competitiveness in the international markets. They are defined as Duty Free Zones of Free Enterprise, specifically delimited, within which all infrastructures, installations, building, support systems and services, as well as the operating organization and the necessary administrative functions are carried out under the criterion of maximum efficiency. They are geared to the establishment of enterprises from all over the world whose activities are the production of goods and services for export.

Natural or juridical persons, national or foreign, may establish themselves within the Export Processing Zones to carry out activities for the production of goods and services in a number of

categories: manufacturing, assembly, finished or semi-elaborated products for export, services export enterprises engaged in rendering services to users abroad, in other Processing Zone or within the same Zone.

The category of services rendered abroad includes, additionally, all international services known as "offshore", and can include international marketing and commercialization, insurances, reinsurances, banking, financing, auditing, administration, brokerage, consulting and the like. Also included are services relating to telecommunications and IT.

Fiscal Benefits

The processing zones for exportation are tax-free, for that reason the companies' activities, operations, capital, transactions, purchase etc. will be 100% tax-free on direct and indirect taxes.

The Export Processing Zones are Zones of free trade and free enterprise; therefore, product prices and tariffs on services are not regulated and can be fixed by each enterprise rendering or producing them.

Employment Incentives

A variety of employment incentives have been provided for, that allow the businesses operating within an EPZ optimal use of their human resources and we are able to assist in these aspects through our employment law specialists.¹

PETROLEUM FREE ZONES (PFZ)

A Petroleum Free Zone (PFZ) is an enclosed area with its own customs and immigration control and where activities such as import, re-export, refinement, storage and export of petroleum

¹Request our Complete Relocation Guide and Immigration Department Support Services (Visas and Citizenship)



products may be carried out under special tax advantages. **ICAZA, GONZALEZ-RUIZ & ALEMAN** has dedicated lawyers in this area as well as in the shipping department that can assist clients wishing to enjoy the related benefits.

A concessionaire of a PFZ may practice a number of activities related to crude oil, semi processed oil or any other petroleum product and in particular introduce, store, manufacture, refine, barrel, mix, trade, transport, transfer, process, transform, sell or in any other way dispose in the domestic market, export or re-export. The law provisions also allow him to install or operate petroleum refineries and other facilities for the processes of his business including storage tanks; pumping installations and pipelines for petroleum, oil and natural gas, construct ports, train stations, loading and unloading facilities for vessels and airplanes, and to acquire or lease rights with respect to the property located within the PFZ.

The products that enter a PFZ are exempt from any import duties or taxes while the same exemption applies to their transfer or sale onwards as long as they are not sold to the domestic consumption. The tax free status is applicable on goods that are exported, re-exported or sold to official entities of the U.S. Government, according to the Panama Canal Treaty, or sold to vessels crossing the Panama Canal, navigating from or to a Panamanian port, or to airships using a Panamanian airport.

We have acted for key players in the field, including Shell (The Shell Co W.I Ltd), for whom we secured the concession of various PFZ areas, in ports and at the Tocumen International Airport.

Related activity includes our advising Alireza Mobil Terminals S.A. (a subsidiary of Exxon Mobil and Haji Abdullah Alireza & Co Ltd), regarding the Bid for the concession to exploit Oil Terminals and Piers at the Rodman Naval Base. We advised the investors on all legal aspects to the deal including Commercial, Corporate, Administrative, Property, as well as Financial and Employment law issues.

Further we acted for the same client in a process to obtain a Petroleum Free Zone contract as well as to negotiate the area's specification with the Customs Department.

THE CITY OF KNOWLEDGE

The City of Knowledge Foundation is a non-profit private entity whose purpose is the creation, promotion and development of the City of Knowledge. The State, through the Interoceanic Region Authority (IRA), transferred to The City of Knowledge Foundation the properties known as "Fort Clayton", free from liens and encumbrances.

The objective of the City of Knowledge is the promotion and establishment of centers of investigation and innovation in the scientific, technological, humanist and cultural fields, and to serve activities and projects such as technology parks, aiming at the achievement of excellence and the transfer of knowledge.

In consideration of this public interest purpose, the State granted to The City of Knowledge Foundation and its entities certain fiscal benefits. Other fiscal benefits are provided for the innovation technologies companies established at the City of Knowledge

Fiscal benefits

Activities, operations, transactions, procedures and the transfer of any property, purchase and importation of equipment and construction or other materials or accessories, and all goods and services as well as capital required in the course of operations within the City of Knowledge Project, will be 100% free from direct local taxes, contributions, appraisal, duties and encumbrances, including taxes on patents and licenses. In order to exercise the fiscal benefits a business entity must file the corresponding application and comply with other requirements of the law, which might be in effect at that time.