

SUMMARY OF ALTA CONFERENCE HELD FROM MAY 5-7, 2011

CONFIDENTIAL & PRIVILEGED BUSINESS INFORMATION

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This was the second conference of the Affiliated Lawyers of the Americas (ALTA) after the successful re-activation and conference held on June 2, 2010 in Union City, New Jersey. The Executive Board voted to host the 2011 conference at the Caribe Hilton in San Juan, Puerto Rico, so as to build and facilitate relationships and provide meaningful information to all attendees regarding business opportunities in Puerto Rico and the Caribbean. This year's conference was attended by over 60 attendees, which included a diverse group consisting of attorneys, accountants, business owners, paralegals, and investors from throughout the United States, Puerto Rico and the U.S. Virgin Islands.

The conference got off to a great start at the Welcome and Networking reception held at the Pina Colada Restaurant at the Caribe Hilton. The opening event provided great networking opportunities and introductions. It also set the tone for the conference.

This summary was prepared by Sigfredo Rivera, Esq., Of Counsel to Rivera & Colon, LLP, along with ALTA Conference volunteers Terri Otto (Legal Assistant), Erin R. Andersen (Legal Intern), Mudassir Hussain (Law Student), Tiffany Lebron (Law Student), and Nicole Rodriguez (College Student). The summary was edited by ALTA Co-Founders and Executive Committee Members Walter Rivera, Esq, and Juan J. Laureda, Esq.

Introductory Remarks [Presenter: Juan J. Laureda, Esquire]

The genesis of ALTA was in the late 1980's, when a group of attorneys in the United States envisioned an organization to help foster the free exchange of marketing and business development ideas among its members.

Over the years, ALTA has consisted of a diverse group of attorneys whose practices have included such areas as:

complex civil litigation in federal and state courts;
criminal defense;
business and corporations law;
administrative law;
immigration and naturalization law;
real estate transactions;
commercial lending law;
zoning and licensing matters;
employment law;
civil rights law;
education law;
family law;
entertainment law;
multi-district litigation; and
public and private international law.

The individuals who have contributed to ALTA's development have come from a variety of backgrounds and are representative of diverse ethnic and racial groups. As noted on ALTA's Web site at www.affiliatedlawyers.org, ALTA has had the benefit of attorneys and other professionals which have included retired military officers, WWII and Vietnam veterans, graduates of highly respected and recognized law schools and business schools, former federal, public, and private sector lawyers, corporate officials, business leaders, former members of the judiciary and special masters, educators, and community leaders.

ALTA members are admitted to practice in various jurisdictions within the United States, and have litigated cases and represented clients throughout the U.S., the Caribbean and Latin America.

Through ALTA, its members have had the opportunity to form litigation teams with highly skilled and experienced attorneys from different jurisdictions to effectively represent clients in English and Spanish speaking courts and forums and delivered highly professional legal services at very competitive and reasonable billing rates.

As a result of the creativity and experience of the ALTA membership, ALTA has been able to formulate a comprehensive set of objectives to allow its diverse international network of professionals to maximize their collective potential. ALTA mission is as follows:

To promote the growth, expansion, business development, trade relations, international alliances and continuing legal education of ethnically diverse law firms through collaborations and partnerships with each other and alliances with major regional, national and international law firms and

associations that represent or seek to represent clients in the Americas, including for profit and not for profit corporations.

The conference was honored with the presence of a number of highly respected and world renowned individuals in the fields of law, economics and economic development. The speakers shared their experiences, knowledge and vision. The first speaker was Professor Antonio Fernós.

Economic Development, Social Responsibility & the Rule of Law
[Presenter: Professor Antonio Fernós, Inter American School of Law]

Professor Fernós began his presentation with the maxim “Fairness must be the Rule!” He noted that the Constitution of the United States of America does not expressly contain the words “fairness and equality.” While the Constitution of the United States proclaims that we should be able “to provide for the general welfare,” this “has not been the case for the last 30 years.” He further stated, “economic development lost all sense of its social responsibility.” He recognized that we are all responsible for the “inside job” of “protecting private capital’s luxuries and greed in investing.” “Economic development,” he stated, “was supposed to mean the development of national economies, not using profit levels of several economic sectors while bringing ruin to others and to the general populations.”

In criticizing the lack of social responsibility, Professor Fernós queried “What policy or governmental directive created such a failure? Why did our leaders abandon ‘multisectorial development’? When agriculture was our means, it was a diversified agropecuarian activity with parallel industrial ones geared to national economic development. That meant “crear riqueza,” which means to create wealth. Why did we abandon this model?” Professor Fernós recognized that Richard A. Posner, a judge on the United States Court of Appeals for the Seventh Circuit, has noted “the failure of government policies, i.e., statutes [and] regulations, to check on the condition that created the depression to stay and even develop!” Judge Posner, he stated, “signals to policies that created ‘moral hazard’ (the tendency to engage in risky behavior . . . if one is insured - or thinks he is - against consequences of these risks materializing).”

Professor Fernós essentially cautioned the audience as to the effect of greed in the creation of wealth. In noting that Boards of Directors and Trustees have shown contempt for the very idea of “trust,” (the trusteeship agreement is basic to the agent and principal relationship), Professor Fernós stated that many directors, such as those in Enron and Arthur Anderson, have shown more loyalty to management than to the shareholders of the companies. Their actions showed a lack of ethical responsibility and a lack of social responsibility in the board room. In this context, Professor Fernós called for a “trusteeship responsibility [to] return

. . . in government, in business, in advertising, in media, in society.” In assessing the present dilemma that faces our society when addressing or attempting economic development, Professor Fernós pointedly reminded the audience of the important realities and challenges of the 20th Century which have resurfaced in the 21st Century:

The only reason for government in a constitutional democracy to promote economic policies is to provide for the general welfare. Its only legitimate objective must be the development of a strong national economy for “We, the people.”

Social responsibility is thus everyone’s responsibility. It is responsibility for the collective self.

And yet for 30 years we have failed. We have failed because the general went its way, and welfare ceased to mean to fare well!

“Welfare” has meant instead handouts to calm social unrest caused by industrial and financial greed, by inequality.

The powers that be have been successful in backdropping this western or America’s way, to the reckless days of laissez-faire and the roaring twenties. Back then, the Depression came, and it came again. It is here and it is going to stay with us unless things change again as with the New Deal Order of the thirties. The New Deal saved the stability of the Constitutional Order.

Referencing the Nobel-winning economist Amartya Sen’s “The Idea of Justice,” Professor Fernós further elaborated on fairness being the basis of justice, and, in fact, that fairness precedes justice. Professor Fernós also referenced Adam Smith’s “The Theory of Moral Sentiments” and “The Wealth of Nations” in connection with his emphasis on the importance of “fairness, justice” and, as Mr. Sen has stated, the recognition of a “strong perception of manifest injustice”, which requires the moral imperative to face “redressable injustice.”

Doing and Creating Jobs and Business in Puerto Rico, a Market Share Economy [Presenter: José Joaquín Villamil, Economist]

Puerto Rico is going through a very serious economic crisis, which has called into question many of the practices of the past decades in the realm of economic development. As of March, 2011, Puerto Rico has reported a 16.8% unemployment rate among a 44% workforce. However, if you look at the statistics for Puerto Rico, some of the numbers are impressive: exports are at \$42 billion and imports are at \$21 billion. It was not always this way. The economy of Puerto Rico has 3 huge buffers: federal transfer payments, government employment (currently at 30%), and a very large underground economy (roughly 28% of the

formal economy).

Puerto Rico functions like a regional economy in the United States. The risk environment of doing business in Puerto Rico is not like that of doing business in another country; there are no political risks, no foreign exchange risks, and no legal risks because the legal framework is very much within that of the United States. Despite the recent economic crisis, over the years Puerto Rico still represents remarkable economic stability.

There have been major changes in the institutional framework of Puerto Rico. The new Public Private Partnership legislation is considered as one of the most advanced in the United States, and we should begin seeing the benefits from it in 3-4 years. A new law simplifies the permit process and makes it more efficient. Tax reform was approved in 2011. Additionally, labor and energy market reforms are forthcoming.

In the education sector, Puerto Rican universities have expanded abroad and are providing educational services to students in the entire region. Private and public universities have excellent programs in engineering, medicine and sciences. In regards to the health sector, important competitive advantages have been identified in areas such as: orthopedics, cardiovascular surgery and oncology. There are new developments in construction related services as well. Management of complex construction projects is a capability of the construction sector and Puerto Rican firms have exported construction management services to various countries. There is particular expertise in infrastructure related construction, such as the design of engineering plants. Professor Villamil expects that Puerto Rico's gross national product should get back to growth soon. The island is well positioned to become a knowledge-based economy.

Entrepreneurship in Puerto Rico & the Caribbean [Presenters: Bartolomé Gamundi, Tom Bolt, Esquire, & José Burgos]

In order for successful entrepreneurship in Puerto Rico, the island must look to new sources of foreign investment, such as Chile, Brazil, Argentina, Mexico and Peru where the economic growth has been greater than 6%. Networking and sharing with these countries and using their economies as models for Puerto Rico's economy are critical in inspiring changes in Puerto Rico. Another issue Puerto Rico is faced with is the current division of Puerto Rico into 78 different municipalities. This division creates economic obstacles and disunion among the people of Puerto Rico. In order to maximize the island's economic growth, it would be more effective to create five regions rather than depend on the municipalities.

Puerto Rico has the resource of having highly trained people whose skills can be marketed abroad. Puerto Rico's use of incubators among the various regions has proven effective in such areas as Intellectual Property. These

incubators have enabled people to contribute ideas and efficiently maximize the potential of a trained workforce. In addition, partnering with other islands in the Caribbean also enables economic growth within Puerto Rico and the Caribbean.

As with any problem one must first address the causes. There are many causes for the lack of entrepreneurial success in Puerto Rico: a lack of incentives for Puerto Rico business owners, lack of support, and overall confusion about what it really takes to create a successful business in Puerto Rico. These issues combine to create an environment that discourages the Puerto Rico people from attempting to pursue their business ideas. A number of things can be done in order to address these issues including creating easier ways for Puerto Ricans to access the information necessary for starting a business. As Mr. Gamundi stated, the creation of more public business education programs along with supporting idea sharing and creating incentive programs for the Puerto Rican people will have a sizable positive impact on the community.

Entrepreneurs represent people turning ideas into opportunities. Innovation and education, along with support from the community and collaboration among entrepreneurs, are necessary in order for success in entrepreneurial endeavors. Capitalizing on Puerto Rico's strengths like tourism, but taking it a step further and pursuing branding and infrastructure support, is important in order to incubate successful businesses in Puerto Rico. Pursuing scientific, mathematical, and technological innovations will help Puerto Rico establish itself in the forefront of economic competition globally.

Moving forward, Puerto Rico should focus on unification, not only in Puerto Rico but also throughout the Caribbean. Reducing dependence on imported goods and services will help strengthen the economy and further help create an environment for Puerto Ricans. The only way to truly transform an economy is through ambitious goals created by ambitious leaders, backed by ambitious communities.

Looking to the East (Virgin Islands), as Mr. Bolt stated, is a great way for Puerto Rico to improve its current economic environment and assist in developing entrepreneurial opportunities and success. The economy of the U.S. Virgin Islands is extremely diversified and has been able to create many employment opportunities. The U.S. Virgin Islands' economy is able to export the majority of their products and offer aggressive incentives for business owners. They also have a residency requirement, which helps address the issue of overwhelming their market with foreign investors. The U.S. Virgin Islands provide small business owners with a small business program that helps support new startup businesses (which have the highest failure rate). Puerto Rico's future rests on strategic business planning and focusing on exporting service while limiting imports.

The United States Commercial Services provides information, for those who can access it, about country commercial guides and legislation, market

research reports, customized market analysis and flexible market research. One is also able to conduct an international partner search, utilize Gold Key services and review international companies' profiles. Mr. Burgos suggests these tools can aide in the sharing Mr. Gamundi referenced in his earlier presentation. In order for entrepreneurial success in Puerto Rico, industrial parks and their structure and role in the regions they inhabit must be re-addressed. In addition to re-addressing industrial parks, looking at permit requirements will most likely have a positive impact on business in Puerto Rico.

Current Incentives & Tax Advantages of Conducting Business in Puerto Rico & How to Structure a Business in PR [Presenters: Luis J. Torres-Llompart, CPA & Frank Sánchez-Ruiz, CPA, and Sylvia Reyes, CPA]

The presentation of Conducting Business in Puerto Rico & Current Incentives was broken into four parts: Legal Entities, Establishing a Business in Puerto Rico, Puerto Rico's Tax System, and Tax Incentive - ACT 73. Legal Entities encompassed the types of businesses in Puerto Rico and the liability that surrounds each type of business. The legislation encompasses both domestic and foreign businesses in order to completely monitor all business activity on the island. Business liability ranges from full liability, featured in a sole-proprietorship, to almost no liability, featured in a non-profit organization. The pro's and con's of the different types of businesses offer a new business owner a wide range of liability and tax options enabling them to make the best decision possible for their business.

In order to establish a business in Puerto Rico or complete business transactions in Puerto Rico, a business must first request an Employer Identification Number and a Merchant's Registration Certificate. Additionally, merchants looking to take part in trade or business transaction must register with the Registry of Businesses at the Puerto Rico Treasury Department thirty days prior to commencing business operations. It is important to note that any merchant who acquires taxable items for resale or any manufacturing plant may request a certificate of exemption of the sales and use tax. All businesses that operate in Puerto Rico are required to register yearly with the Compulsory Business Registry.

The tax system in Puerto Rico varies depending on filing status. Individual income taxes for residents range from 7 - 33%. They factor in certain dividends, long term capital gains and certain obligations. Non-resident US citizens and non-resident aliens who have done any business over \$1,300.00 (if single) and over \$3,000.00 (if married) must pay the Puerto Rico income tax unless it was withheld during the business transaction. Corporations are taxed based on their net taxable income with a base rate of 20%, which increases once the net taxable income exceeds \$750,000.00. Source of Income stipulations include, personal services, rents and royalties, sale of real property, and sale of personal property. Services performed within Puerto Rico are subject to 7% withholding. Typically a business

is subject to an income tax, municipal license tax, 7% sales and use tax, personal property tax, and the business must file a corporate annual report.

ACT-73 was created for pre-existing businesses in Puerto Rico and to offer an incentive for people interested in starting a business in Puerto Rico. Eligible businesses for ACT-73 are industrial units engaged in producing a manufactured product, services designated for export, fundamental services, as subcontractor, to an exempt business that it is part of a high economic impact cluster, services as a key supplier of an exempt business, a property designated for industrial design, strategic projects, specified recycling projects, value added activities in connection with a number of ports throughout Puerto Rico, development of software to be marketed on a commercial scale and construction of social interest housing.

A major requirement to qualify for ACT-73 is the business must have an employee ratio of 80% or more of Puerto Rican workers. The application for ACT-73 operates through a tax decree which is issued for a 15 year period. To obtain a decree an application with materials and fees must be submitted to the Office of Industrial Tax Exemption. ACT-73 also designates a variety of services to those who are eligible such as: distribution centers, marketing and public relations centers, connections in consulting in a number of different areas, connections to key suppliers offering specialized services, to name a few. The actual tax incentives include, but are not limited to, special income tax rates ranging from 0 - 12%, tax rate reductions, exemption for certain parties on distribution of dividends or profits.

In addition, tax credits will be provided for purchasing products manufactured in Puerto Rico, for jobs created during the first year of operations, for investment in research in development, machinery and equipment for generation and efficient use of energy, and strategic projects. A tax credit of 3% of the electricity payments will be given as well. ACT-73 offers real and personal property tax incentives, municipal license tax and other municipal tax incentives, and state excise tax and sales and use tax incentives. ACT-73 is opening doors for businesses and business owners across Puerto Rico. It is an attempt to address the economic crisis with which Puerto Rico is currently faced.

Business Opportunities in Cuba in View of Cuba's Economic Opening & Changes in U.S. Policy [Presenters: Antonio Zamora, Esq., & Antonio Martinez, II, Esq.]

The speakers discussed the U.S. embargo which began in the early 1960's and is rooted in the 1917 Trading with the Enemy Act. The embargo, which began with the expropriation of U.S. property in Cuba by the Cuban government, is at the discretion of the President. The largest monetary amount of claims against Cuba is approximately \$150 -200k and the claimants, essentially, do not want to

be paid but rather want concessions. The Claims Commission states, essentially, that persons seeking compensation for expropriated properties should be compensated but the Cuban tax valuations must be addressed.

There are three main laws that Congress passed that apply to Cuba. The Torricelli Act, enacted in 1992, attempted to encourage Cuba to go through an Eastern Europe type of transformation. The Helms-Burton Act, enacted in 1996, attempted to normalize relations with Cuba and provide the right for a Cuban-American to file a lawsuit against Cuba for compensation for the use of property and it denied the trafficking of expropriated properties. Finally, the Trade Sanctions Reform and Export Enhancement Act (TSRA) of 2000 allowed certain agricultural products to be sold to Cuba.

A person can travel to Cuba but must follow Title 31 CFR 515. The travel to Cuba must be “purposeful;” you are able to do whatever the Treasury Department has authorized. Cuban Americans can also travel to Cuba.

Cuba is coming into an economic opening. As successor to Fidel Castro, Raul Castro has created substantial economic changes with few political changes. There will, however, be a substantive change because the ruling party is over 70 years of age while the average age in Cuba is under 35.

Currently the Cuban government is reducing bureaucracy in the government. It is reducing or eliminating economic subsidies and welfare policies, closing down or consolidating non-performing government companies, and preparing for massive layoffs for government employees over the next few years with a number of about 1.5 million workers.

Some economic policies have already been implemented by legal changes and government actions. Right now, a noncitizen cannot get title to property but this might change. The U.S. has also shown changes towards the embargo, which, while not dramatic, are important. President Obama changed the previous administration’s policy by now enabling Cuban Americans to readily travel to Cuba. The policy also allows for remittances to Cuba.

There are five major industries that will see a change when the Cuban embargo is lifted. The five industries are tourism, cruise ships, financial services, construction, and healthcare/technology. Tourism, which accounts for approximately 2.5 million tourists per year, is the second largest industry in Cuba, which largely comes from Canadians (approximately 900,000 per year), U.S. citizens (approximately 400,000 per year), Spaniards and Italians (equally approximately 200,000 per year). Cruise Ships are a large business in Cuba and countries such as Spain and Russia allow for travel to Cuba. Currently, U.S. cruise ships cannot travel to Cuba. Therefore, an opening of this industry to the U.S. may hurt the cruise business in Puerto Rico.

The Financial Services industry in Cuba provides for minimal credit. Mortgages are legal but no mortgage financing exists. There are professional services that a person can do in Cuba such as trademarks and patents. The Office of Foreign Assets Control (OFAC) of the U.S. Department of Treasury gives licenses to lawyers to work within Cuba. In addition, under the “49/49 Rule,” OFAC has essentially allowed U.S. companies to have a non-controlling interest in a non-U.S. company in Cuba, so long as less than 50% of the company’s revenue is derived from sources other than Cuba.

It was noted that there are two types of law firms in Cuba, those who represent Cubans and those who represent foreigners. Although not common, some foreign law firms have been allowed to open offices in Cuba. However, they are limited to representing only foreigners. Accounting firms have done more work in Cuba than legal firms.

Construction is the future in Cuba and will boom because of infrastructure and tourism. The two largest construction firms in Cuba are Bouygues Batiment International and Odebrecht.

Healthcare/Technology is another industry that will be affected by the opening of U.S. and Cuban relations. The pharmaceutical industry will show growth because there is a market for development of medicine, vaccines and “medical tourism” to Cuba.

Strategies for Expanding Opportunities for ALTA Members [Round Table Discussion Presenters: John Herbert, Esquire, & Michael Rivera, Esquire]

ALTA would like to expand its reach and there might be a possibility through ALTA members and affiliates of doing work in Cuba.

1. Group Participatory Discussion: What can/should ALTA do?
 - To enhance business development in the Americas; and collaborate in the development of business and strategic alliances among and between ALTA members
 - To provide practical continuing education and resources to keep members informed of business developments projects/activities in the region
 - Coordinate meetings between regional leaders and ALTA members
 - To influence the development of business in the region

- Promote and assist in trade advocacy for ALTA members and their clients
 - Assist in the identification of regional partners to provide business advantages
 - Promote ALTA firms by practice areas
2. ALTA's goal is the development of business, promoting the rule of law, and building bridges.
 - Tom Bolt suggestions: Of counsel agreements, a blog on the Web site, developing other ways of increasing networking opportunities. There is no program in place that brings together lawyers in the Caribbean, so we are in a unique position for this.
 3. We want to influence fairness in the regions we operate—to influence governments, in terms of the laws, governance, rulings passed.
 - We will be better off as a global entity if we are treating people in a fair and consistent manner in each sector of the world.
 4. Comment from Richard Morris, Esq. of Herrick Feinstein (NYC): Coming from a larger firm, they may not have the experience to be able to understand how to communicate culturally with someone from a different region, so its very beneficial if you have someone you can work with in that region.
 5. Non-Attorney Members
 - Opportunities are huge for those in different services, because clients are going to be in need of different services.

Luncheon Presentations:

Business Incubation Program, INOVA-INTECO [Presenter: Zamia Baerga-Torres]

Zamia Baerga-Torres, MBA, INTECO's Technology Incubator Program Manager, described the concept and utilization of INOVA's business incubation program in Caguas, Puerto Rico. Members of the ALTA's Executive Committee toured the incubator site prior to the start of the conference.

INTECO is a non-profit organization whose mission is to promote economic development in the Eastern Central Region (consisting of nine

municipalities) through the market of new technologies and innovative products. INTECO's vision is to help develop and grow a multi-sector model worldwide, recognized as an instrument of excellence for the continued socio-economic transformation of the Eastern Central Region of Puerto Rico. The aim is achieving global competitiveness through entrepreneurial innovation and optimum quality of life for all its members.

INTECO's business incubation program, INOVA, 1) promotes the creation of innovative products and services in the areas of science and technology, and 2) supports the creation and development of small businesses and provides them support in their early stages. INTECO has helped develop more than 120 jobs in Puerto Rico in the last two years, with an average salary of \$60,000.00

University of Puerto Rico School of Law [Presenter: Professor Roberto Aponte-Toro, Immediate Past Dean]

As a former Dean of the University of Puerto Rico School of Law, Professor Aponte-Toro shared ideas as to how to develop the law program, such as through advancing areas involving patent law, construction law and tourism law. Professor Aponte-Toro helped establish the Center of Intellectual Property Law. In addition, he suggested that Puerto Rico would be an excellent place for business arbitration, beginning with business between the United States and the Virgin Islands, and then expanding to other places such as the Dominican Republic.

Closing Remarks [Presenter: Richard Schell Asad, Esquire]

It is our hope that the information and ideas presented in this conference will help you in your profession, and assist you in networking and developing contacts.

Thanks to everyone who attended the ALTA Conference. It was agreed that ALTA would hold further meetings in Puerto Rico to facilitate and implement the ideas promoted at the conference.