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(SERVICIOS FIDUCIARIOS, S.A.)

Established 1981
Professional Business Services

Trust, Foundation and Corporate Management
Business Administration

30th Anniversary
1981-2011

CorporateINTL
GLOBAL AWARDS
WINNER 2014

STEP
Society of Trust and
Estate Practitioners

**LATIN PRIMER:
A PRACTITIONER'S PERSPECTIVE**



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INTRODUCTION

After more than 30 years in business in Panama we have become very familiar with the country and the region, so offering an experienced guide for foreigners who find themselves in virgin territory is an immense help. Being in, but not of, Panama is important because we understand many of the pitfalls you might face. Importantly, besides international business affairs, TRUST SERVICES, S.A. offers special administrative services to foreign companies conducting business in Panama looking for local tax, secretarial, banking, accounting and administrative assistance. Our first language is English and we take a leading role in supporting both the British Embassy and the British Chamber of Commerce Panama in promoting, in particular, British businesses in Panama. We welcome your enquiries which will be dealt with in complete confidence.

Meanwhile, it is to be hoped that the previously published commentaries which follow will prove to be useful and include a look at Latin America's history and culture. The author, our Managing Director, has been Treasurer of the British Chamber of Commerce Panama, a member of the former Latin America and Caribbean Banking Commission, as well as an offshore banking, trust company and insurance regulator. He has some 50 years international private and public sector experience in the financial services industry about which he has written extensively and our website provides a broad range of related essays including every issue of his Latin Letter column which has appeared in *Offshore Investment*, a British professional magazine, since 2003. And don't forget our illuminating newsletter, *Offshore Pilot Quarterly*, published since 1997.



A PHILOSOPHY FOR OFFSHORE ESTATE PLANNING

Oscar Wilde said: “The only thing to do with good advice is to pass it on. It is never of any use to oneself”. I believe I am doing just that and I would recommend this compact cornucopia to anyone who is dipping their toe into offshore financial waters for the first time.

“There are only two qualities in the world: efficiency and inefficiency, and only two sorts of people: the efficient and the inefficient”. Certainly in the case of business I would agree with George Bernard Shaw and most of my readers need to be mindful of this fact when choosing who will assist them with their offshore endeavours. Sometimes, however, it is not as straightforward as Shaw suggests because the efficient can derail themselves and lose their hard-earned reputations by failing to recognise the need to strike the right balance between capability and capacity; so don’t rely on a reputation earned in years past because it might be all that they’re trading on.

Following the car manufacturer’s problems with safety failures in 2010, Akio Toyoda, president of Toyota Motor Corporation, made two statements which have universal application, whatever the widget might be. Firstly, he said: “We pursued growth over the speed at which we were able to develop our people and our organisation” and, secondly, that in future he would see to it that “members of the management team actually drive the cars”. Despite the Japanese philosophy of “kaizen” (constant improvement through small, positive steps) quality in this instance, notwithstanding the skill of the workers, played hostage to quantity; proficiency was sacrificed for profit.

If a provider has proven competence, but his service is inefficient, then more often than not, as Mr. Akio Toyoda put it, there is a miss-match between growth and the ability to deliver.

This is a classic case of those at the top not knowing what is going on beneath them; the frightening thought is that Toyota is just one example – albeit an international high-profile case – of what is happening right across the board in business and which contributed significantly to the



woes of the Great Recession. Consider that when Lehman Brothers went under in 2008 it was almost impossible to know who the debtors and the creditors were as a result of the way business had been conducted: management had lost its way. You had a situation where departments, whether dealing with credit default swaps or currency forward transactions, were using different technological systems that didn't integrate with each other; to compound the confusion, the regulators did not have a grip on either the activity or exposure levels present in the over-the-counter derivatives market (not to mention large parts of structured finance); worryingly, the face value of derivatives was over US\$600,000 billion in June 2009.

What I find is a spoon-fed approach to offshore business; people need to spend time and study facts, unfortunately in an age where speed has taken hold of the way we communicate. There is the constant need to analyse, listen and read; the quality of the information source in all three cases is key to the process because if it's of a high standard it puts the odds in your favour, provided the decisions you make are evidence-based. The conundrum for the public is this: the capable (Toyota) can still produce a service inefficiently and the incompetent (where do I start?) can be efficient in what they do. We all remember how efficient those lenders, helped along by commission-driven brokers, appeared to be in providing mortgages that have brought misery to many borrowers and fuelled the dismal economic state the United States of America found itself in.

Remember, too, that the need to balance the books can lead a business into uncharted waters, straying from core services into new areas of (hopefully) profit but which, without thorough knowledge and attention to detail, can have the effect of diluting the overall quality of the company's business, besides making its operations more complex. Doing business in general has become more complicated and while Henry David Thoreau, a philosopher whom Ralph Waldo Emerson described as the bachelor of thought and Nature, urged us to "simplify, simplify, simplify" this belief has frequently been replaced with the doctrine of "mystify, mystify, mystify" – particularly the unsuspecting client.



Bearing all that in mind, when choosing offshore service providers a key quality to look for is enthusiasm, which is usually accompanied by a desire to continually improve the service, both of which are the hallmarks of craftsmanship. Titian, the Venetian painter and 16th-century master, even at the age of 90, believed that he was still learning his craft. Craftsmanship, much like the need for simplification, is an important aspect of business but it is too often overlooked. This is a pity because what I think business needs more of today is just that.

A proponent of craftsmanship is Richard Sennett, professor of sociology at the London School of Economics, who lectures on the subject; it takes far longer to acquire than academic qualifications and not everyone with a qualification necessarily achieves it. What the professor wonders about is whether or not a dedication to craft, and the desire to do it well, can survive in the 21st century, especially, it must be said, in large organisations where there often seems to be an inverse effect: the larger the company, the more this element is diluted.

Qualifications, as with craftsmanship, must be tailored to the job at hand. An MBA qualification, for example, is a useful general business tool but I also recognise that dentistry calls for special skills and even if an MBA degree will help a dentist and his partners perhaps manage their very large thriving practise better, it is not fundamental to the skills needed by each of them. It is no coincidence that following one financial faux pas after the other, banking regulators in the UK have asked if it should be necessary for senior staff at banks to possess Chartered Institute of Bankers qualifications. A ridiculous question if the subject was doctors, but consider the damage bungling bankers have caused to the health of global economies this century. Managing debt, like dentistry, demands particular skills.

Walter Bagehot, whose 1873 book, Lombard Street, is considered by many as a masterpiece on central banking should be read by every aspiring banker. In those days Lombard Street was the 19th-century London equivalent of New York's Wall Street. Bagehot provided sage views, one of which was that the "amateur element" of central banking must be diminished and, at the same time, the trained banking element has to be increased. Unfortunately, more than 130 years later



we find that his opinions, such as those on lending and strengthening the banking system, went unheeded or were forgotten in the hyped, hectic days of banking before, as I describe it, the Great Fall this century.

Trust practitioners like myself who have regulated trust business, drafted trust laws, as well as administered trusts and liquidated deceased estates, will tell you that the source of the problem, nine times out of ten, is the non-professional practitioners and salesmen (the roles are often combined) who promote asset protection trusts (the acronym for them being APTs but which should also stand for Aggressively Promoted Trusts) without fully appreciating that the intent of a real trust (where assets will no longer be controlled by the donor) is first created in the mind of the settlor and then subsequently brought to life in written form.

One of the cornerstones of business was lost in the new banking era, and which had been identified back in the 1930s by the late Henry Grunfeld, co-founder of S.G. Warburg & Co., the merchant bank, a man described as one of the principal architects of the City of London's revival after the Second World War. Mr. Grunfeld, upon arrival in London as a refugee from the Gestapo, spoke of the presence of an ethos of trust in the City; this essential commercial commodity runs in tandem with everything I have written about up to this point and it should be at the forefront of your mind when picking the offshore professional who will manage your international affairs. Ethics, efficiency, ability and craftsmanship make up the quartet to ponder, whether the skill calls more for the hands or the head and, of course, the practitioner with them does not need to understand Latin to live instinctively by the ancient code, *Dictum Meum Pactum* – my word is my bond.

But how do you licence or obtain a qualification in honesty? Although I advocate training for your trade and preparation for your profession, there are instances where extremes arise and when judgement is bullied by bureaucracy. As I will always argue, however, some skills flow from common sense alone. Philosophy is a fine case in point and which only became a profession during the last few centuries; each one of us, in fact, is a philosopher according to the late Austrian



philosopher, Karl Popper. Both Socrates and Baruch Spinoza were neither professors nor tenured dons, anymore than England's ecclesiastical courts, applying the virtues of equity, were peopled by lawyers. The measured judgements required were to be undertaken by men who emulated Aristotle and Spinoza and possessed to some degree a combination of common sense and tolerance which, together with a compassion for the human condition, infused their thought.

Despite an outbreak of foundation fever around the Caribbean in recent times, as that civil law animal is introduced into the common law habitat, trusts still remain the backbone of succession planning in common-law offshore jurisdictions, whether or not foundations adapt to their new environment. This has been so for more than 50 years and yet time after time professional surveys (including those from the Society of Trust & Estate Practitioners) show that trust companies have difficulty in finding competent fiduciaries. Why is this? You would imagine that after more than half a century skilled offshore trustees would be in plentiful supply. It is because, in my opinion, there is more to it than acquiring a formal qualification in the fundamental mechanics of trust practice. Checklists are easy to follow (pilots do so before take-off) but decision-making calls for a very special set of skills which cannot be taught in the lecture hall (any more than ethics can) and which needs no formal qualification.

Trustees must be equipped for a role which involves financial and family affairs, calling for careful management of both assets and relationships with families and others. The trust is an ancient tool which has been continually adapted to changing times and its application in financial structures is, like its potential benefits, manifold. But it is also a tool that never changes shape, unlike car models do, although attempts are being continually made to do just that. Often its activities are necessarily secretive, but when these take place offshore this can add intrigue to the mix. Be that as it may, the central business today of these offshore trust companies is to provide a range of services centred around the management of not only trusts but companies and foundations too, so the activities become less defined than other offshore activities such as insurance, for example.



It follows from this that there is much to think about before and after one becomes involved in the business of professional trust management and which reminds me of what Alexander Pope observed: “A little learning is a dangerous thing, drink deep, or taste not the Pierian Spring”. Those wishing to administer trusts as a profession need to acquire a real thirst for the work – and slake it generously.

As in the case of small family businesses (Germany comes to mind) it does not always follow, as I have frequently said, that size bears any correlation with competence. Quality training is key which requires skilled mentoring. Ask the legions of disgruntled customers of some banks with an international reach not dissimilar to that of Coca-Cola but whose general service record is abysmal.

Many a family-owned business, like my own firm, with management and ownership intertwined, offers a powerful advantage. In our case, we have imported British fiduciary values into a civil law environment coupled with old-fashioned standards that have stood the test of time and just as it is fractured logic to reason that “all cows are animals, therefore all animals are cows”, as one practitioner put it, so it is foolish to assume that the expertise of all trust companies is the same. A family trust company means that you are dealing with the shareholders and not just employees. Shareholders have a vested interest in the well-being of the business and understand what contribution clients make to it.

Tax mitigation has been supplanted by litigation for many individuals when civil lawsuits turn out to be anything but civil and which force an innocent defendant who cannot find protection within his own system of justice to seek sanctuary beyond his country’s borders. Nowhere on earth illustrates the point more than the US. I observed many years ago the symbolic irony that America’s Statue of Liberty is, in fact, located offshore, a place where the protection needed can often be found.



It was the late British judge, Lord Denning, in his 1983 judgement in the Smith Kline & French Laboratories Ltd. v. Bloch case, who put it best for me: “As a moth is drawn to the light, so is a litigant drawn to the US. If he can only get his case into their courts, he stands to win a fortune. At no cost to himself; and at no risk of having to pay anything to the other side”. Many years have passed since those words were spoken and it’s only got worse. Ask BP plc.

Most countries are proud of their legal system, and back in 1996 William Rehnquist, then Chief Justice of the US Supreme Court, declared America’s courts a model for other countries; he also spoke of an independent judiciary as being “one of the crown jewels of our system of government”. Yet jewels can be flawed and still sparkle. H. L. Mencken, curmudgeon and master of mot juste, once gave his own perspective on the law: “The penalty for laughing in the courtroom is six months in jail; if it were not for this penalty, the jury would never hear the evidence”.

Crucially, for those setting up offshore structures it is most important to understand that competence comes at a cost. Parsimony, as opposed to prudence, can be false economy if the sticking point is fees; if the only difference between two professionals is costs, then who wouldn’t take the lower fees? It seems, however, that often the research does not go beyond comparing fee schedules, which would account for many of the casualties of bad planning out there. These misguided souls I describe as the walking wounded.

Professor Richard Sennett has written a book entitled “The Craftsman” dedicated to those whom he describes as having “the desire to do a job well for its own sake”. The title conjures up thoughts of men with grey hair and sleeves rolled up as they work at their trade rather than, for instance, bankers or lawyers in both smart suits and offices. If only. By definition, however, to become a craftsman you must be dedicated to specialising in a particular field and be continually striving to improve the necessary skills, which can only be achieved by years of constant application. Such ability must be paid for.



There is a gardening tip that reveals how to produce perfect asparagus: “first dig a trench three years ago”. Skilled people have been subjected to years of training whereas Sir Allen Stanford, the billionaire banker indicted for fraud a few years ago, certainly did not dig many (if any) trenches other than a hole for himself. His investment committee included one member whose business experience was in cattle ranching and car sales; and Laura Pendergest-Holt, in her thirties, who was also the chief investment officer of Stanford Financial Group, had no previous financial services or securities experience. One infamous fraudster in Panama had a motor mechanic as a senior executive in his financial services business.

I am continually surprised when I study the background of some senior financial service executives who are clearly acquiring their skills as they go along. Shoemaking is a craft and the Greek artist, Apelles, who lived in the time of Alexander the Great, made a mistake in his drawing of a shoe; the fault was brought to his attention by a shoemaker. He appreciated that, but then the shoemaker criticised the way Apelles had painted the subject’s legs. The artist reminded him to keep to his trade: “you know about shoes but not anatomy”. From this tale, incidentally, the well-known admonition “stick to your last” was derived.

There are many wise craftsmen who stick to their last. Look at Faber-Castell pencils with a reputation for quality since 1856; Vincent van Gogh extolled their virtues. This old-fashioned family firm has needed no outside financial stimulus or diversification from its core business – and presumably would never dream of commenting on how Vincent van Gogh drew with its pencils. The firm has stayed within its sphere of confidence and has not strayed into businesses that it does not understand.

Professionalism and the personal touch: you just can’t beat it. As an exclusive watchmaker once remarked: “... it is more of a pleasure to do 250 watches [a year] than 2 million because, with those numbers, you no longer have any contact with the individuals who buy watches or the people who make them”.



Those fortunate enough to be able to identify what's important in offshore financial business relations will always have a head start on those who only want things presented in an attractive package, a fast-food approach, if you will. It's when you untie the pretty bow, however, remove the colourful wrapping paper and peer inside the box that the trouble can start. Poorly trained professionals are dangerous and, as Johann Wolfgang von Goethe, Germany's 16th-century natural philosopher observed: "There is nothing more frightening than ignorance in action".

In closing, I am reminded of T.E. Lawrence and his book, entitled *Seven Pillars of Wisdom*, a title inspired by the Bible's Book of Proverbs. Lawrence of Arabia, as he came to be known, devoted his book to the momentous events surrounding the Arab uprising at the turn of the last century and his words were shaped by experience. I certainly have also lived through momentous events in the parallel world of financial services during a career spanning half a century and although I do not share Lawrence's wisdom, intelligence or ability, I do hope you will find several pearls, if not pillars, of wisdom in what you have read. If you are now a little wiser and more cautious than Oscar Wilde, as he inevitably did, will have made his point.



The following article first appeared in the June, 2013, issue of Offshore Investment.

THE MAGICAL HISTORY TOUR

In the March Latin Letter (The BRICs and The Beatles, issue 234) I mentioned the error of bundling countries – and therefore their cultures – together, especially regarding the deep cultural, intellectual, religious and social differences between the nations which comprise the acronym, BRIC. We ignore such issues at our peril and history is strewn with illustrations of how misconceptions can lead to conflict; what began with a war of words can end in just war. This is a subject which I have often covered but it does no harm to remind readers about it; particularly when it comes to Latin America as we watch its transformation into an important economic region.

Last month the United States of America's president visited Central America, recognising both its significance in his country's future regional policy and at the same time its economic progress (see my April column "Sunny Weather", issue 235). Barack Obama spoke of strengthening economic ties, referring also to getting away from misconceptions about Central America. Hopefully, the president's message will translate into positive action, despite the presence of two shades of leftism, better described perhaps as being either Brazilian or Cuban in origin, that he has encountered.

Slavery and sugar may connect Cuba and Brazil historically, but politically they are opposites. Jorge Castañeda, the Mexican intellectual, has written of a pragmatic left which includes the governments in Brazil, Perú and Uruguay, each of which display an international view, willingness to reform and have an open mind. Then there is the shade seen in Cuba, Venezuela, Ecuador and Bolivia (with Argentina perhaps on the borderline) which Jorge Castañeda has described as being the product of times past in which the long tradition of Latin American populism prevails and by which nationalism and closed-mindedness combine in a stultifying pact.



But change is afoot for the traditionalists, with the death of their flag-bearer, Hugo Chávez; not just because of that, however. The influence of the region's two economic blocs, the southern Mercosur trade pact (Brazil and its partners) and the free-trading Pacific economies (México, Colombia, Perú and Chile), are bound to have an increasingly positive effect.

In Monte-Carlo this month, and again in September at the Offshore Investment Oxford Symposium, I will be talking about the importance of culture as a sine qua non to understanding the Latin American client and there is no better place to start than the continent's history. The (partly) fictional fantasy written by Gabriel de la Concordía García Márquez entitled "Cien Años de Soledad" (One Hundred Years of Solitude) offers a good insight; perhaps (with apologies to The Beatles) you could describe it as a "magical history tour" which provides a background of how the fascinating South American continent developed. Its author, a Colombian, received the Nobel Prize for Literature in 1982 in recognition of his body of work.

The theme of the book illustrates how history moves in cycles as well as circles. It is the history of Macondo, a small town in an unnamed region of South America, and its founders; it is, of course, a narrative on South America. The story covers seven generations of the family and the rise and fall of Macondo; from an innocent paradise the town becomes exposed to the outside world, including the invasion of foreign imperialism. Massacres and bloodshed follow and the town disintegrates, with older family members lost in nostalgia. Eventually, the town is abandoned.

From being isolated and introspective – what has been compared to the equivalent of the Japanese "Galapagos Syndrome" – the region's peoples have emerged from tumultuous times which have left an indelible impression on their character. The novel reminds us how the thriving population of Aztecs and Incas were confronted by the European explorers who brought with them technology and capitalism. It was written in 1967 and reflected the politics of the day with frequent changes in government because countries seemed unable to produce one that was stable; this state of affairs became the spawning ground of dictatorships. It tracks the histories of civil war, plantations and labour unrest midst the struggles with colonialism which have shaped



the views and attitudes of Latin Americans. They live with the ghosts of their past and it is not hard to understand why they have never completely trusted their governments, often transferring assets to other countries for safekeeping fearing expropriation and political instability.

“Extrovert”; “talkative”; “inquisitive”; “impatient”; these are some of the descriptions given when referring to Latins. The American workaholic model is certainly eschewed; Latins are both cautious and fatalistic given a history of wars and uncertainty and it remains true that the Latin view of life centres on living it fully with one’s family; Europeans with centuries of turmoil themselves can appreciate this. An understanding of what motivates others is helpful in both business and diplomacy; we should, however, indulge in some introspection too. Robert Burns, the Scottish poet, mused about some power being able to give us the gift to see ourselves as others see us and doubtless a lot less strife in this world would have surely been the result if more of us possessed it. More reason to hope that President Obama’s May visit to Central America (perhaps with a dash of introspection) will go some way to alleviating tensions, not just there but in the US where those with Latin American roots are the largest minority group in the population.

During my talks and also in my writings I have reflected on the economic times that we are passing through and once again I’m drawn to the words of that sage of the cinema, Woody Allen: “More than any other time in history, mankind faces a crossroads. One path leads to despair and utter hopelessness, the other to total extinction. Let us pray we have the wisdom to choose correctly”. With much of Europe in economic enervation there comes the news from the US Census Bureau that an estimated 50 million Americans are living in poverty; that is one in 6 of the population and not since the mid-1960s, when President Lyndon Johnson tried to launch a war on poverty, has such a situation existed.

Eric Hobsbawm, the late British historian, once wrote that “Nobody who discovers South America can resist the region, least of all if one’s first contact is with Brazil”. The Brazilian author, João Emanuel Carneiro, says “The US is returning to extremes of rich and poor while Brazil is going in the other direction. Brazil is becoming more Americanised while America is becoming more



Brazilianised”. Besides bringing its level of inequality down over the last 10 years (it’s 8 per cent lower now than at the start of the 1990s) the country has transformed itself during the last 30 years from being a food importer into an important food exporter. Already the world’s largest producer of sugar and orange juice – as well as the second-largest beef producer – by next year it could become the world’s largest soya producer, overtaking the “big five” grain producers, namely, the US, Australia, Canada, Argentina and the European Union.

Certainly Woody Allen’s despair and hopelessness do not apply to South America. It is destined to play a more international role in years to come so understanding the South American client will become increasingly relevant for both businessmen and those professionals providing services to them.

The late Hugo Chávez once handed President Obama a copy of “Las Venas Abiertas de América Latina” (Open Veins of Latin America) which was written by the Uruguayan, Eduardo Hughes Galeano. The sub-title of the book sets the book’s tone: “Five Centuries of the Pillage of a Continent”. President Obama suffered no such embarrassment on his Central American visit in May, but this is not to say that the book’s sentiments (and indeed those of Gabriel de la Concordía García Márquez) do not resonate in many quarters. (Next month I will return to the Uruguayan author and his country.)

Brazilians use the word “grandeza”, or greatness, to describe their country (which by some estimates is the world’s sixth-biggest economy) seeing itself destined for empire. The remaining collection of countries may not seek empire but they are equally proud of their separate identities. It only takes time, not solitude, to understand the Latin culture and the tour offered by the Colombian Nobel Prize winner is certainly worth the trip.



**THE LATIN AMERICAN CLIENT:
JESUS COLLEGE, OXFORD, SYMPOSIUM 2013 WORKING PAPERS**

As background to my talk I offer this commentary which, in my view, touches upon the key aspects which help towards understanding the South American client; this requires an appreciation of history, conflict and character. It has been written for those with minimal knowledge of the region and my observations are confined to those countries where the official language is either Spanish or Portuguese.

To a large degree both “South America” and “Latin America” are interchangeable descriptions and so both will be used. Panama, despite being part of Central America, has been included for reasons which I give later on.

A Backward Glance

It is a continent that has endured authoritarian rulers, domestic and foreign. Hernán Cortés and Francisco Pizarro were two conquistadores, for example, whose goals were personal glory and gain as well as to secure the secular authority of the king of Spain and the spiritual influence of the Roman Catholic Church. In time parts of the continent had large swathes of land that was owned by Spanish, as well as Portuguese, colonists; indigenous populations were either massacred or treated like slaves.

The draw of possible wealth (especially in Argentina, Brazil and Venezuela) attracted foreign immigration on a large scale and today South America has a plethora of foreign nationalities. Although Spain and Portugal are predominant by language and cultural influences, Argentina has had a president of Syrian origin, one Peruvian president was an ethnic Japanese and past presidents of Paraguay and Chile have had, respectively, Hungarian ancestors and British blood.



The French immediately warmed to the expression “Latin America” when it was first used because it distinguished the region from the United States of America at a time when France was trying to establish its own sphere of influence. This eagerness would lead to the disastrous attempt by Louis Napoleon to install Maximilian, a Habsburg prince, as emperor of Mexico. Like Panama, Mexico shares a special relationship with the US.

Brazil can relate to France’s 19th-century motives and when reflecting on doctrines of American exceptionalism, one should also think of Brazil; many Brazilians don’t even feel part of Latin America. This sense of separateness and proud independence has led Brazil to assert that it is entitled to a permanent seat on the United Nations Security Council. The country is now taking a more international view, contrary to its former more passive stance; as long ago as 2011 it became possibly the world’s fifth largest economy with gross domestic product of US\$2.2 trillion, overtaking Britain and France. To have been selected to host the Olympic Games in 2016 is a triumph that Brazilians will speak about for many years to come; being selected to host football’s World Cup next year is just cream on the cake. I will return to the subject of Brazil.

Beginning in 1819, South American independence under Simón Bolívar (whose revolution was helped by Britain to thwart the Spanish) meant that the previous dictatorial control enjoyed by Spanish and Portuguese colonial administrations came to an end. With the crumbling of the old order a vacuum was created which was exploited by US President James Monroe who, in 1823, boldly declared that henceforth the US (which had suffered itself under the yoke of colonialism) would protect all territories south of its border from threats against their sovereignty from nations outside the hemisphere. This was a time when the US only had regional ambitions and whose own war of independence against England had been fought less than 50 years beforehand. Thus the Monroe Doctrine was born: “The American continents, by the free and independent condition which they have assumed and maintained, are henceforth not to be considered as subjects for colonisation by any European powers”. Although some time would pass before it became apparent, this set the stage for animosity to develop between South America and the US, with a



deepening resentment on the part of the former, especially following US activities in Central America.

Critics of US policy have frequently observed that it was not the European powers, ultimately, that Central and South America would find had posed the greatest threat. More on this subject later but suffice it to say that Latin America's story (especially in Central America) has strands of America woven into it.

Panamá could be considered an experiment where American and Latin cultures forged a state – if you are of the school that argue that Panamá is the house that Ted (Roosevelt), rather than Jack, built. This may account for the fact that, like Brazil (but for different reasons), Panamá does have a sense of being apart from the rest of Central America. The little republic has its place in this commentary for two reasons: firstly, following the completion of its canal part of the country physically separated from Central America with two major bridges linking the country's two parts; secondly, it is an important trade and banking centre serving the economic interests, in a vital way, of South Americans.

The US influence was felt particularly in 1903 when it encouraged Panamá to break away from Colombia (which it had elected to become a part of when Spanish rule ended in 1821). By this time the US was stepping out on to the world stage and its motives in this instance centred on Washington's realisation that completion of a failed French canal project linking the Atlantic and Pacific oceans would have immense military and commercial benefits; the lack of a quick passage between those two oceans had exacerbated the US navy operations during its successful 1898 war with Spain. The background to Panamá's independence, with its chicanery and intrigue, has been written about extensively, as have Washington's motives vis-à-vis the canal, and perhaps the words of Jean de La Bruyère, the French satiric moralist, are most apt: "Even the best intentioned of great men need a few scoundrels around them; there are some things you cannot ask an honest man to do". It is a pronouncement that applies equally to many parts of Latin America.



US regional involvement had not become significant in any measure for several decades after Monroe's presidency and in the intervening period that role was left mainly to resilient and talented British businessmen, particularly in Argentina, Bolivia, Brazil and Uruguay. It was the British who would build much of the infrastructure in South America, including railways and public utilities, and it wasn't until the second world war that British influence dwindled and continued to do so as its former empire was dismantled. Meanwhile, between the 1898 Spanish war (America's first international adventure) and its entry into the first and second world wars, the US was emerging as a world power; by the end of the second world war Europe was devastated and crippled with debt, and with the US dollar becoming the dominant currency, America proceeded – despite the cold war – to evolve into the world's superpower, a word coined by an American political scientist, William Fox, in 1944.

During the intervening period between the first and second world wars the US had started to make its presence felt in Latin America's affairs (notably in Nicaragua). Today, however, it finds itself experiencing, like the British before it, the gradual decline of its own influence, especially in Latin America. Fu Mengzi, a professor at the China Institutes of Contemporary International Relations, which is a Beijing think-tank, believes that US power has been noticeably on the wane since 2000. He adds, however, that the subsequent financial crisis "has made it seem more and more obvious".

The former British prime minister, Margaret Thatcher, once said that the US was unlike any other country because it was founded upon an idea rather than upon a culture. In South America culture is key to understanding its peoples and for those dealing with countries south of the Rio Grande this becomes very important as Latin America assumes a prominence not known before.

China's influence, unlike America's, is palpable in the region (as well as Africa) with its "peaceful rising" policy and it has been suggested that November, 2004, will be viewed by future historians as the seminal moment when China's economic power changed the global political balance. That was when Hu Jintao, the president of China, toured South America on a commodities shopping



spree and, at the same time, made alliances with some regional governments not politically close to the US. China, in fact, is replicating the approach adopted by the US that helped create successful economies in Taiwan, South Korea and Chile where sound institutions were established despite harsh dictatorships. China's involvement in South America is taking root with substantial investments in the region's infrastructure indicating that the Chinese are in for the long haul.

Although the three issues that have primarily concerned the US about its southern neighbours have been immigration (some 50 million Latin Americans live in the US, perhaps 20% of them illegally), trade and drugs, the administration in Washington is also aware of the political challenges caused by the presence of both liberal democracy and populism.

Chile has a left-wing government today and following Augusto Pinochet's right-wing rule (but partly due to it) the country became South America's financial superstar ahead of Brazil. The smooth transition to democracy along with responsible policymaking by elected politicians played, of course, a significant role and Chile has an enviable reputation for the quality of its political, legal and regulatory institutions; it is South America's only member of the OECD although talks, which will hopefully lead to membership, are planned for 2015 with Costa Rica. This makes Chile a reliable partner and, therefore, an attractive proposition for business. As I will mention in my talk, the frailty of other countries' institutions presents problems.

Two Languages: One Purpose

Today, however, one cannot ignore the (and sometimes rogue) elephant in the room: Brazil. Although its peoples speak a different tongue: Portuguese, to the rest of the continent, it shares a common purpose with the whole of Latin America: to gain recognition and respect. All have endured centuries of conflict and, to a very great extent, isolation, and like John le Carré's spy, they feel that they have spent too long in the cold.

Despite democracy's global progress, however, in large parts of Latin America we can see moves afoot in some quarters to bring about even greater control in fewer, albeit not military, hands; we



need look no further than the late president of Venezuela, Hugo Chávez, whose bid in December, 2007, to change the constitution in significant ways failed. One of the key changes would have allowed the indefinite re-election of the president and an increase in his powers. It would seem that his chosen successor, Nicolás Maduro, is cut from the same cloth.

Venezuela's influence has had its greatest impact on the presidents of Bolivia and Ecuador, both left-wing allies. Following the grounding of the Bolivian president's jet in Austria in July which was searched for the American fugitive, Edward Snowden, relations with the US and Bolivia have gone from bad to worse. The incident has not gone down well across Latin America. Countering this minority bloc, however, are significant countries such as Brazil, Mexico and Chile and it is my view that their influence is likely to gradually gain the upper hand – especially if Perú, with its economic clout, openly joins them.

Brazil's democratic development is unique in Latin America and Perú would be wise to study it and learn from its mistakes. When Napoleon Bonaparte invaded Iberia it was the British who arranged for the Portuguese king and his entourage to be sent to Rio de Janeiro. This transplant of titular sovereignty meant that Brazil was instantly endowed with an administrative infrastructure that included courts, a national bank and schools of both medicine and law. Once hostilities in Europe were over, King João VI returned to Lisbon, leaving behind his eldest son as regent and when Brazilian independence was declared in 1822, a year before President Monroe's famous doctrine declaration, the monarchy still remained intact for some time to come. Brazil is destined to influence the region greatly and it will play a significant part in loosening ties with Washington.

Culture of Confianza

It is difficult to go into any real detail and cover the countries of South America without producing a novella, so permit me to highlight two extremes. I have drawn Panamá into the fold for the reasons I have already given; it is a unique workshop of two cultures, American and Latin American. If Brazil is the continent's economic giant, Panamá, linking Central and South America,



is a comparative midget but is still the region's banking centre. Brazil is as large in area as the Continental US whereas Panamá's population of just over 3 million represents less than 2% of Brazil's.

Brazil has been the past benefactor of a boom in the demand for commodities as well as an inflow of Foreign Direct Investment funds. On the other hand, it is a canal, not commodities, that is Panamá's economic force. Despite the stark contrasts, and even although one country speaks Portuguese and the other Spanish, they both share a common language: that of business. Already there is recognition that Brazil, which already has a banking presence in Panamá, is set to increasingly use the region's main banking centre.

If Brazil has concentrated on mineral wealth, then minuscule Panamá, besides shipping, is developing specialisation in managing wealth, which besides banking often involves trusts, foundations and captive insurance (it was the first Latin American country to enact a captive insurance law). It should be noted, however, that Panamá has recently started developing its mining industry following discoveries of huge copper deposits in particular.

Privacy-conscious Latins whose environment is a culture of *confianza* are attracted by Panamá's strict confidentiality laws plus a territorial tax system (unlike Brazil) that does not count income earned beyond its borders. As I will again emphasise in my talk, Latin Americans' conservative culture is steeped in privacy of an individual's affairs where only a tight-knit group of *confidantes* (usually family) are invited into the circle. Where hype, hard-sell and glitter are often the chosen route to attracting business in many countries, more judgement is placed on character and personal relations.

It is worth noting that Panamá, similar to places such as Jersey in the Channel Islands, had its tax system in place long before "offshore centre" was part of everyone's vocabulary (now being steadily replaced with the nomenclature International Financial Centre, or IFC), so for this reason it does not see itself in the same mould as manufactured offshore centres created for the sole



purpose of generating income via filing cabinets with scarce alternative revenue sources; I have sometimes referred to such centres as Disney Islands.

Panamá has never relied on traditional offshore financial services for its main source of revenue any more than it has, until recent times, focused on tourism; more than half the banking business today is domestic and although traditional offshore banking and related services make their contribution, they are not the economy's driving force. Consequently, because it need not rely on a diet of banking confidentiality for its survival, it continues to sign Double Tax Agreements and Tax Information Exchange Agreements. This does not mean that flagrant examples of secrecy available in the US state of Delaware do not smart. (See the Working Papers accompanying my separate talk on Latin American taxes.) Such double standards reinforce the Latin American belief that family, not governments, can be trusted. And although Adam Smith spoke of the "frequent visits and the odious examination of the tax gatherers" we must understand that co-operation and not conflict (with proper guidelines that respect an individual's privacy) is the only real long-term policy for Panamá, regardless of sensitivities.

Panamá is only one of seven countries in Latin America that has an investment grade rating from Standard and Poor's (the others being Colombia, Chile, Mexico, Perú, Brazil and Uruguay) whereas in 2008 there were only two investment-grade countries: Chile and Mexico; so there has been much progress. The rating agency expects growth of 3.4 per cent for Latin America this year and the British government has Panamá on its list labelled the Magnificent Seven; these are countries which it will target for business development (the others being Argentina, Brazil, Chile, Colombia, Perú and Mexico).

Dark Past, Bright Future

"No nation is fit to sit in judgement upon any other nation". US President Thomas Woodrow Wilson's sentiment is certainly one shared by South Americans. The North American Free Trade Agreement, for example, signed by Mexico and the US is not seen by the continent's leading



economy, Brazil, as a unifying step for all of the Americas; quite the opposite and Brazil prefers to encourage unity within South America itself. That is why back in 2000, when Fernando Henrique Cardoso was the Brazilian president, he hosted the first summit of South American presidents. The inspiration for this was Simón Bolívar, South America's iconic figure of the 19th century and from which the late Hugo Chávez derived inspiration (even if, ironically, Chávez's philosophy was poles apart from his hero's). Subsequently, in November, 2004, when 11 South American countries (including Guyana and Suriname) met in Cusco, the former Inca capital in Perú, a South American Community of Nations was proclaimed. The ultimate goal is to have both a common passport and currency and whether or not this European Union ideal is achieved is not the issue: it is this declared desire for an independent identity, encouraged by Brazil, that is significant and underscores a region of the world wishing to display its own unique identity, following so many upheavals throughout history.

Brazil's attendance at meetings in Yekaterinburg in Russia back in 2009, together with the leaders of the six-nation Shanghai Co-operation Organisation, an alliance which includes Russia and China, is a clear illustration of change. The gathering discussed mutual aid which would lead to trade between the countries being conducted in their own currencies; pointedly, US officials who had wanted to attend as observers were not allowed to.

Brazil and China will continue to move towards using their own currencies, rather than the US dollar in future trade transactions, a policy, as we know, not confined to themselves. It is true that the US currency will continue to be the world's reserve currency for a long time to come, but no one can deny the discernible shift that is taking place. There are several reasons why the greenback's prominence should be questioned, a status that was established from the remnants of the Bretton Woods system created after the second world war. Today the dollar isn't fixed to gold and the US is no longer the world's largest creditor (China is); there are those who argue that it is an empire that can only maintain the upper hand by military, rather than economic, strength. One



cannot but speculate if, at the end of the day, it will be sheer force of economic dominance that will prevail; China is destined to possess it.

According to Jorge G. Castañeda, a former Foreign Minister of Mexico, and Stephen Haber, a professor of political science at Stanford University in the US, Latin America (despite political pockets of resistance which I have referred to) is entering a phase of unprecedented political and economic stability which is amply illustrated by the degree of progress being made in countries such as Brazil, Chile, Costa Rica, El Salvador, Mexico, Panamá, Perú and Uruguay. In varying, but nonetheless positive, degrees these countries have pursued good macroeconomic policies that have effectively fought inflation; they have opened their markets and encouraged investments. Pity about tax collection, which most businessmen describe as organised chaos; this and related issues will feature in my talk on taxes in Latin America.

The resulting and significant shift towards more economic opportunity, social mobility and political democracy is encouraging whilst recognising that a handful of countries, with Venezuela (for now) leading them, have failed to break with the past. Regardless, as the world reflects on the effects of the Great Recession, Brazil, South America's proxy, is securing its place at the head table of nations. There will be other new faces as well, as the structure of world economies and strongly-held beliefs (up to now) are radically altered.

Even though the shadow of the US remains cast across Latin America, countries such as Russia, India and China will continue to become more vocal and influential. Latin America will do well to bear this in mind as its economic and political thinkers project 50 years or so ahead. The continent is perhaps a curate's egg, a phrase made popular in 1895 by a Punch cartoon; but in this case the egg has more good parts than bad and in this instance any nervous Catholic as opposed to English, curate in Latin America should not be afraid to tell his bishop so; doubtless he would get a sympathetic hearing from the one in Rome. Such reality is something that all those looking to do business in South America should be cognizant of.



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